The Ontario Securities Commission

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October 3, 2013

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

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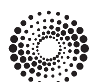

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Chapter 1

Notices / News Releases

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1.1.1 Current Proceedings Before The Ontario Securities Commission

October 3, 2013

CURRENT PROCEEDINGS

BEFORE

ONTARIO SECURITIES COMMISSION

- -

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

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SCHEDULED OSC HEARINGS

October 7, October 9-18, October 23 – November 4, November 6-12, November 14-18, November 20 – December 2, December 4-16 and December 18-20, 2013 10:00 a.m.	**Eda Marie Agueci, Dennis Wing, Santo Iacono, Josephine Raponi, Kimberley Stephany, Henry Fiorillo, Giuseppe (Joseph) Fiorini, John Serpa, Ian Telfer, Jacob Gornitzki and Pollen Services Limited** s. 127 C. Price in attendance for Staff Panel: EPK/DL/AMR
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 (also known as Peter Kuti), Jan Chomica, and Lorne Banks** s. 127 C. Rossi in attendance for Staff Panel: CP
October 9, 2013 11:00 a.m.	**Pro-Financial Asset Management Inc.** s. 127 D. Ferris in attendance for Staff Panel: JEAT
October 10, 2013 11:00 a.m.	**Kolt Curry, Laura Mateyak, American Heritage Stock Transfer Inc., and American Heritage Stock Transfer, Inc.** s. 127 J. Feasby/C. Watson in attendance for Staff Panel: JDC

October 11, 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: MGC
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: JDC
October 18, 2013 10:00 a.m.	**Heritage Education Funds Inc.** s. 127 D. Ferris in attendance for Staff Panel: JEAT
October 21, 2013 2:00 p.m.	**Children's Education Funds Inc.** s. 127 D. Ferris in attendance for Staff Panel: JEAT
October 22, 2013 3:00 p.m.	**Knowledge First Financial Inc.** s. 127 D. Ferris in attendance for Staff Panel: JEAT
October 23, 2013 10:00 a.m.	**Innovative Gifting Inc., Terence Lushington, Z2A Corp., and Christine Hewitt** s. 127 M. Vaillancourt in attendance for Staff Panel: JEAT
October 24, 2013 10:00 a.m.	**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: AJL
October 25, 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
November 4 and 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: JDC
November 4 and November 6-11, 2013 10:00 a.m.	**Portfolio Capital Inc., David Rogerson and Amy Hanna-Rogerson** s. 127 J. Lynch in attendance for Staff Panel: JEAT

November 12, 2013 10:00 a.m.	**Irwin Boock, Stanton Defreitas, Jason Wong, Saudia Allie, Alena Dubinsky, Alex Khodjaiants Select American Transfer Co., Leasesmart, Inc., Advanced Growing Systems, Inc., International Energy Ltd., Nutrione Corporation, Pocketop Corporation, Asia Telecom Ltd., Pharm Control Ltd., Cambridge Resources Corporation, Compushare Transfer Corporation, Federated Purchaser, Inc., TCC Industries, Inc., First National Entertainment Corporation, WGI Holdings, Inc. and Enerbrite Technologies Group** s. 127 and 127.1 D. Campbell in attendance for Staff Panel: VK
November 28-29, 2013 10:00 a.m.	**MRS Sciences Inc. (formerly Morningside Capital Corp.), Americo DeRosa, Ronald Sherman, Edward Emmons and Ivan Cavric** s. 127 and 127(1) D. Ferris in attendance for Staff Panel: MGC/CP
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
December 5, 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
December 17, 2013 3:30 p.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
January 13, January 15-27, January 29 – February 10, February 12-14 and February 18-21, 2014 10:00 a.m.	**International Strategic Investments, International Strategic Investments Inc., Somin Holdings Inc., Nazim Gillani and Ryan J. Driscoll.** s. 127 C. Watson in attendance for Staff Panel: TBA
January 27, 2014 10:00 a.m.	**Welcome Place Inc., Daniel Maxsood also known as Muhammad M. Khan, Tao Zhang, and Talat Ashraf** s. 127 G. Smyth in attendance for Staff Panel: TBA
February 3, 2014 10:00 a.m.	**Tricoastal Capital Partners LLC, Tricoastal Capital Management Ltd. and Keith Macdonald Summers** s. 127 C Johnson/G. Smyth in attendance for Staff Panel: TBA
March 17-24 and March 26, 2014 10:00 a.m.	**Newer Technologies Limited, Ryan Pickering and Rodger Frey** s. 127 and 127.1 B. Shulman in attendance for staff Panel: TBA

March 27, 2014 10:00 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
March 31 – April 7, April 9-17, April 21 and April 23-30, 2014 10:00 a.m.	**Issam El-Bouji, Global RESP Corporation, Global Growth Assets Inc., Global Educational Trust Foundation and Margaret Singh** s. 127 and 127.1 M. Vaillancourt in attendance for Staff Panel: TBA
March 31 – April 7 and April 9-11, 2014 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: TBA
June 2, 4-6, 10-16, 18-20, 24-30, July 3-4, 8-14, 16-18, 22-25, August 11, 13-15, 19-25, 27-29, September 2-8, 10-15, October 15-20, 22-24, 28-31, November 3, 5-7, 11, 19-21, 25-28, December 1, 3-5, 9-15, 17-19, 2014, January 7-12, 14-16, 20-26, 28-30, and February 3- 9, 11-13, 2015	**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
September 15-22, September 24, September 29 – October 6, October 8-10, October 14-October 20, October 22 – November 3 and November 5-7, 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
November 11-17, 19-21, November 25 – December 1, December 3-5, 9-15, 17-19, 2014, January 14-16, 20-26, 28-30, February 3-9, 11-13, 17-23, 25-27 and March 3-6, 2015	**Ernst & Young LLP** s. 127 and 127.1 A. Clark 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
In writing	**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: JEAT
In writing	**Bunting & Waddington Inc., Arvind Sanmugam and Julie Winget** s. 127 and 127.1 M. Britton/A. Pelletier in attendance for Staff Panel: EPK

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: AJL

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

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

David M. O'Brien

s. 37, 127 and 127.1

B. Shulman 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

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	**Garth H. Drabinsky, Myron I. Gottlieb and Gordon Eckstein** s. 127 A. Clark/J. Friedman 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	**Ernst & Young LLP (Audits of Zungui Haixi Corporation)** s. 127 and 127.1 A. Clark/J. Friedman in attendance for Staff Panel: TBA
TBA	**Jowdat Waheed and Bruce Walter** s. 127 J. Lynch in attendance for Staff Panel: TBA
TBA	**Alexander Christ Doulis (aka Alexander Christos Doulis, aka Alexandros Christodoulidis) and Liberty Consulting Ltd.** s. 127 J. Feasby in attendance for Staff Panel: TBA
TBA	**Conrad M. Black, John A Boultbee and Peter Y. Atkinson** s. 127 and 127.1 J. Friedman/A. Clark in attendance for Staff Panel: TBA
TBA	**2196768 Ontario Ltd carrying on business as Rare Investments, Ramadhar Dookhie, Adil Sunderji and Evgueni Todorov** s. 127 D. Campbell in attendance for Staff Panel: TBA
TBA	**Kevin Warren Zietsoff** s. 127 J. Feasby in attendance for Staff Panel: TBA
TBA	**North American Financial Group Inc., North American Capital Inc., Alexander Flavio Arconti, and Luigino Arconti** s. 127 M. Vaillancourt in attendance for Staff Panel: TBA
TBA	**David Charles Phillips and John Russell Wilson** s. 127 Y. Chisholm/B. Shulman in attendance Staff Panel: TBA

TBA	**Oversea Chinese Fund Limited Partnership, Weizhen Tang and Associates Inc., Weizhen Tang Corp., and Weizhen Tang** s. 127 and 127.1 H. Craig in attendance for Staff Panel: TBA

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

1.1.2 Notice of Ministerial Approval – MI 13-102 System Fees for SEDAR and NRD and Related Consequential Amendments

NOTICE OF MINISTERIAL APPROVAL OF
MULTILATERAL INSTRUMENT 13-102 SYSTEM FEES FOR SEDAR AND NRD
AND RELATED CONSEQUENTIAL AMENDMENTS

On September 12, 2013, the Minister of Finance approved Multilateral Instrument 13-102 *System Fees for SEDAR and NRD* (the Instrument) and amendments to:

- National Instrument 13-101 *System for Electronic Document Analysis and Retrieval (SEDAR)*,
- National Instrument 31-102 *National Registration Database,*
- National Instrument 55-102 *System for Electronic Disclosure by Insiders (SEDI)*, and
- Ontario Securities Commission Rule 31-509 *National Registration Database (Commodity Futures Act)*

(the Related Consequential Amendments).

The material approved by the Minister was published in the July 18, 2013 Bulletin after having been made by the Commission on June 18, 2013. A revised notice on the Related Consequential Amendments was published on August 29, 2013.

The Instrument and Related Consequential Amendments will come into force on October 12, 2013.

The text of the approved Instrument and Related Consequential Amendments can be found in Chapter 5 to today's Bulletin and on the OSC website at www.osc.gov.on.ca.

October 3, 2013

1.1.3 CSA Staff Notice 31-335 – Extension of Interim Relief for Members of the Investment Industry Regulatory Organization of Canada from the Requirement in section 14.2(1) of National Instrument 31-103 Registration Requirements, Exemptions and Ongoing Registrant Obligations in Respect of the Provision of Relationship Disclosure Information to Existing Clients

Canadian Securities Administrators   Autorités canadiennes en valeurs mobilières

CSA Staff Notice 31-335

Extension of Interim Relief for Members of the Investment Industry Regulatory Organization of Canada from the Requirement in section 14.2(1) of National Instrument 31-103 Registration Requirements, Exemptions and Ongoing Registrant Obligations in Respect of the Provision of Relationship Disclosure Information to Existing Clients

October 3, 2013

Introduction

All Canadian Securities Administrators (**CSA**) members have issued parallel orders that provide a limited extension of previously issued interim relief from the requirement to provide relationship disclosure information (**RDI**) prescribed by section 14.2(1) of National Instrument 31-103 *Registration Requirements, Exemptions and Ongoing Registrant Obligations* (**NI 31-103**) for firms that are members of the Investment Industry Regulatory Organization of Canada (**IIROC**). The relief has been extended to March 26, 2014 in respect of the provision of RDI to existing clients only (i.e. clients that were clients of the firm before March 26, 2013).

Relief

Section 14.2(1) of NI 31-103 sets out the principle that a registered firm must deliver to a client all information that a reasonable investor would consider important about the client's relationship with the registrant.

As announced in CSA Staff Notice 31-329 issued on September 28, 2011, all CSA members issued parallel orders that exempted firms that are members of IIROC from the application of the requirement of section 14.2(1) of NI 31-103, provided that after the IIROC RDI rules are approved, the IIROC member complies with them, subject to applicable transition periods. The orders were set to expire on December 31, 2013, by which time the IIROC RDI rules were expected to be fully implemented.

On March 26, 2012, IIROC announced in IIROC Notice 12-0107 *Client Relationship Model – Implementation* the implementation of, among other things, new IIROC Dealer Member Rule 3500 – *Relationship disclosure* (the **IIROC RDI Rule**). The IIROC RDI Rule sets out detailed requirements to assist registered firms who are IIROC members to comply with the general principle in section 14.2(1) of NI 31-103.

The implementation schedule for the IIROC RDI Rule provided that the provision of RDI to: (i) new clients be given a one year transition period, with an effective implementation date of March 26, 2013, and (ii) existing clients be given a two year transition period, with an implementation date of March 26, 2014.

Since the IIROC RDI Rule will not come into effect until March 26, 2014 in respect of the provision of RDI to existing clients, all CSA members have issued parallel orders that exempt registered firms that are members of IIROC from the application of the requirements of section 14.2(1) of NI 31-103 in respect of the provision of RDI to their clients that were clients of the firm before March 26, 2013. The orders will come into effect on December 31, 2013 and will expire on March 26, 2014, by which time the IIROC RDI Rule will be fully implemented.

We are publishing the orders with this Notice. The orders are also available on websites of CSA members, including:

www.lautorite.qc.ca
www.albertasecurities.com
www.bcsc.bc.ca
www.msc.gov.mb.ca
www.gov.ns.ca/nssc
www.nbsc-cvmnb.ca
www.osc.gov.on.ca
www.sfsc.gov.sk.ca

Questions

If you have questions regarding this Notice or the orders please direct them to any of the following:

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1.1.4 OSC Staff Notice 11-739 (Revised) – Policy Reformulation Table of Concordance and List of New Instruments

OSC STAFF NOTICE 11-739 (REVISED)

POLICY REFORMULATION TABLE OF CONCORDANCE AND LIST OF NEW INSTRUMENTS

The following revisions have been made to the Table of Concordance and List of New Instruments. A full version of the Table of Concordance and List of New Instruments as of September 30, 2013 has been posted to the OSC Website at www.osc.gov.on.ca.

Table of Concordance

Item Key
The third digit of each instrument represents the following: 1-National/Multilateral Instrument; 2-National/Multilateral Policy; 3-CSA Notice; 4-CSA Concept Release; 5-Local Rule; 6-Local Policy; 7-Local Notice; 8-Implementing Instrument; 9-Miscellaneous

Reformulation

Instrument	Title	Status
4	CSA Notice No. 4 – Bought Deals	***Withdrawn September 12, 2013***
2-13	Uniform Act Policy No. 2-13 Advertising During the Waiting Period between Preliminary and Final Prospectus	***Rescinded September 12, 2013***

New Instruments

Instrument	Title	Status
33-740	Report on the Results of the 2012 Targeted Review of Portfolio Managers and Exempt Market Dealers to Assess Compliance with the Know-Your-Client, Know-Your-Product and Suitability Obligations	***Published June 6, 2013***
31-103	Registration Requirements, Exemptions and Ongoing Registrant Obligations – Amendments	***Minister's approval published June 6, 2013***
11-322	Extension of Consultation Period – proposed Amendments to MI 62-104 Take-Over Bids and Issuer Bids and NI 62-103 Early Warning System and Related Take-Over Bid and Insider Reporting Issues – Proposed Changes to NP 62-203 Take-Over Bids and Issuer Bids – Proposed NI 62-105 Security Holder Rights Plans – Proposed Companion Policy 62-105CP Security Holder Rights Plans	***Published June 6, 2013***
91-506	Derivatives: Product Determinations and Companion Policy 91-506CP	***Published for comment June 6, 2013***
91-507	Trade Repositories and Derivatives Data Reporting and Companion Policy 91-507CP	***Published for comment June 6, 2013***
15-706	Update to OSC Staff Notice 15-704 on Proposed Enforcement Initiatives	***Published June 13, 2013***
81-101	Mutual Fund Prospectus Disclosure – Amendments	***Commission approval published June 13, 2013***
51-721	OSC Forward Looking Disclosure	***Published June 13, 2013***
11-768	Notice of Statement of Priorities for Financial Year to End March 31, 2014	***Published June 27, 2013***

New Instruments

Instrument	Title	Status
11-324	Extension of Comment Period – Proposed Amendments to National Instrument 81-102CP Mutual Funds, Companion Policy 81-102CP Mutual Funds and related Consequential Amendments and Other Matters Concerning National Instrument 81-104 Commodity Pools and Securities Lending, Repurchases and Reverse Repurchases by Investment Funds	***Published June 27, 2013***
43-705	Report on Staff's Review of Technical Reports by Ontario Mining Issuers	***Published June 27, 2013***
11-768	Notice of Correction – OSC Notice 11-768 – Notice of Statement of Priorities for Financial Year to End March 31, 2014	***Published July 4, 2013***
23-103	Electronic Trading – Amendments	***Commission approval published July 4, 2013***
11-739	Policy Reformulation Table of Concordance and List of New Instruments (Revised)	***Published July 11, 2013***
33-741	Report on the Results of the Reviews of Capital Markets Participation Fees	***Published July 18, 2013***
31-334	CSA Review of Relationship Disclosure Practices	***Published July 18, 2013***
81-720	Report on Staff's Continuous Disclosure Review of Sales Communications by Investment Funds	***Published July 18, 2013***
13-102	System Fees for SEDAR and NRD	***Commission approval published July 18, 2013***
13-101	System for Electronic Document Analysis and Retrieval (SEDAR) – Amendments	***Commission approval published July 18, 2013***
31-102	National Registration Database – Amendments	***Commission approval published July 18, 2013***
31-509	National Registration Database (Commodity Futures Act) - Amendments	***Commission approval published July 18, 2013***
55-102	System for Electronic Disclosure by Insiders (SEDI) – Amendments	***Commission approval published July 18, 2013***
51-340	Update on proposed National Instrument 51-103 Ongoing Governance and Disclosure Requirements for Venture Issuers	***Published July 25, 2013***
51-339	Continuous Disclosure Review Program Activities for the fiscal year ended March 31, 2013	***Published July 25, 2013***
81-101	Mutual Fund Prospectus Disclosure – Amendments	***Minister's approval published August 1, 2013***
81-102	Mutual Funds – Amendments	***Minister's approval published August 1, 2013***
58-401	Disclosure Requirements Regarding Women on Boards and in Senior Management	***Published for comment August 1, 2013***
41-101	General Prospectus Requirements – Amendments	***Minister's approval published August 8, 2013***

New Instruments

Instrument	Title	Status
44-101	Short Form Prospectus Distributions – Amendments	***Minister's approval published August 8, 2013***
44-102	Shelf Distributions – Amendments	***Minister's approval published August 8, 2013***
44-103	Post-Receipt Pricing – Amendments	***Minister's approval published August 8, 2013***
47-201	Trading Securities Using the Internet and Electronic Means – Amendments	***Commission approval published August 8, 2013***
54-401	Review of the Proxy Voting Infrastructure	***Published for comment August 15, 2013***
45-712	Progress Report on Review of Prospectus Exemptions to Facilitate Capital Raising	***Published August 29, 2013***
13-101	System for Electronic Document Analysis and Retrieval (SEDAR) – Amendments	***Revised notice published August 29, 2013***
31-102	National Registration Database – Amendments	***Revised notice published August 29, 2013***
55-102	System for Electronic Disclosure by Insiders (SEDI)	***Revised notice published August 29, 2013***
31-509	National Registration Database (Commodity Futures Act) – Amendments	***Revised notice published August 29, 2013***
81-721	Frequently Asked Questions on the Implementation of Stage 2 of Point of Sale Disclosure for Mutual Funds- Delivery of Fund Facts	***Published September 5, 2013***
23-103	Electronic Trading – Amendments	***Minister's approval published September 5, 2013***
11-323	Withdrawal of Notices and Policies	***Published September 12, 2013***
81-722	Mortgage Investment Entities and Investment Funds	***Published September 12, 2013***
11-311	Notice of Extension of Comment Period	***Withdrawn September 12, 2013***
11-315	Extension of Consultation Period	***Withdrawn September 12, 2013***
21-305	Extension of Approval of Information Processor for Corporate Fixed Income Securities	***Withdrawn September 12, 2013***
21-307	Extension of Approval of Information Processor for Corporate Fixed Income Securities	***Withdrawn September 12, 2013***
21-308	Update on the Application to Become an Information Processor	***Withdrawn September 12, 2013***
24-307	Exemption from Transitional Rule	***Withdrawn September 12, 2013***
31-312	Exempt Market Dealer Category under NI 31-103 Registration Requirements and Exemptions	***Withdrawn September 12, 2013***
31-316	Blanket Order Exempting Persons and Companies from the Requirement to Register when Trading in Short-Term Debt Instruments	***Withdrawn September 12, 2013***
31-318	Omnibus/Blanket Order exempting Mortgage Investment Entities from the Requirement to Register as Investment Fund Managers and Advisers	***Withdrawn September 12, 2013***

New Instruments

Instrument	Title	Status
31-319	Further Omnibus/Blanket Orders Exempting Registrants from Certain Provisions of NI 31-103 Registration Requirements and Exemptions	***Withdrawn September 12, 2013***
31-322	Extension of Omnibus/Blanket Order Exempting Mortgage Investment Entities from the Requirement to Register as Investment Fund Managers and Advisers	***Withdrawn September 12, 2013***
31-402	Registration Forms Relating to the National Registration Database	***Withdrawn September 12, 2013***
33-308	The CSA STO Readiness Assessment Survey Report is now available on the CVMQ Website	***Withdrawn September 12, 2013***
33-312	The CSA STP Readiness Assessment Survey Report is now available on the OSC Website	***Withdrawn September 12, 2013***
33-313	International Financial Reporting Standards and Registrants	***Withdrawn September 12, 2013***
33-314	International Financial Reporting Standards and Registrants	***Withdrawn September 12, 2013***
44-302	Replacement of National Instrument 44-101 Short Form Prospectus Distributions	***Withdrawn September 12, 2013***
51-326	Continuous Disclosure Review Program Activities for Fiscal 2008	***Withdrawn September 12, 2013***
51-329	Continuous Disclosure Review Program Activities for the fiscal year ended March 31, 2009	***Withdrawn September 12, 2013***
25-301	Update on CSA Consultation Paper 25-401 Potential Regulation of Proxy Advisory Firms	***Published September 19, 2013***
52-721	Office of the Chief Accountant Financial Reporting Bulletin – September 2013	***Published September 19, 2013***
58-701	Extension of Consultation Period – OSC Staff Consultation Paper 58-401 Disclosure Requirements Regarding Women on Board and in Senior Management	***Published September 26, 2013***
11-326	Cyber Security	***Published September 26, 2013***

For further information, contact:
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October 3, 2013

1.2 Notices of Hearing

1.2.1 Kolt Curry et al. – ss. 127, 127.1

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

AND

**IN THE MATTER OF
KOLT CURRY, LAURA MATEYAK,
AMERICAN HERITAGE STOCK TRANSFER INC.,
and AMERICAN HERITAGE STOCK TRANSFER, INC.**

**NOTICE OF HEARING WITH RESPECT TO SANCTIONS
(Sections 127 and 127.1)**

TAKE NOTICE THAT the Ontario Securities Commission (the "Commission") will hold a sanctions 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, 20 Queen Street West, 17th Floor, commencing on October 10, 2013, at 11:00 a.m. or as soon thereafter as the hearing can be held, following findings made by the Commission on May 16, 2013 and a direction of the Commission of September 12, 2013, concerning Kolt Curry, Laura Mateyak, American Heritage Stock Transfer Inc. and American Heritage Stock Transfer, Inc. (collectively, the “Respondents”);

TO CONSIDER whether, it is in the public interest for the Commission:

(a) to make an order pursuant to section 127(1) clause 2 of the Act that trading in securities by the Respondents cease permanently or for such period as specified by the Commission;

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

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

(d) to make an order pursuant to section 127(1) clause 6 of the Act that the individual Respondents be reprimanded;

(e) to make an order pursuant to section 127(1) clause 7 of the Act that the individual Respondents resign any position that the Respondents hold as a director or officer of an issuer;

(f) to make an order pursuant to section 127(1) clause 8 of the Act that the individual Respondents be prohibited from becoming or acting as an officer or director of any issuer permanently or for such period as specified by the Commission;

(g) to make an order pursuant to section 127(1) clause 8.5 of the Act that the individual Respondents be prohibited from becoming or acting as an a registrant, an investment fund manager or as a promoter, permanently or for such period as specified by the Commission;

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

(i) to make an order pursuant to section 127(1) clause 10 of the Act that the Respondents disgorge to the Commission any amounts obtained as a result of the non-compliance with Ontario securities law;

(j) to make an order pursuant to section 127.1 of the Act that the Respondents, or any of them, pay the costs of Staff's investigation and the costs of, or related to, this proceeding, incurred by or on behalf of the Commission;

(k) to make an order pursuant to section 37(1) of the Act prohibiting the Respondents permanently from calling from Ontario to any residence in or out of Ontario for the purpose of trading in any security or derivative or in any class of securities or derivatives; and

(l) to make such other order or orders as the Commission considers appropriate.

BY REASON of the Agreed Facts filed on May 15, 2013, and the findings made by the Commission on May 16, 2013;

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

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

DATED at Toronto this 26th day of September, 2013.

"John Stevenson"
Secretary to the Commission

1.3 News Releases

1.3.1 Canadian Securities Regulators Adopt Amendments for Investment Funds Transitioning to IFRS

FOR IMMEDIATE RELEASE
October 3, 2013

CANADIAN SECURITIES REGULATORS ADOPT
AMENDMENTS FOR INVESTMENT FUNDS TRANSITIONING TO IFRS

Toronto – The Canadian Securities Administrators (CSA) have completed the final step in the transition to International Financial Reporting Standards (IFRS) for investment funds and published today final amendments to National Instrument 81-106 *Investment Fund Continuous Disclosure*, its Companion Policy and related amendments. Investment funds must apply the changes for financial years beginning on or after January 1, 2014.

Initially proposed in 2009, the IFRS-related amendments to NI 81-106 were deferred and not finalized at the time securities legislation was first changed to accommodate the transition to IFRS by registrants and reporting issuers, other than investment funds, for financial years beginning on or after January 1, 2011. In 2010, the International Accounting Standards Board (IASB) recognized a potentially significant accounting issue for investment funds and made revisions in 2012 to largely resolve this issue.

To accommodate the timing of the IASB revisions, the Canadian Accounting Standards Board (AcSB) issued a deferral of the mandatory IFRS changeover date for investment funds for three years until January 1, 2014. The CSA were also of the view that it was preferable to wait for the IASB's revisions before IFRS was adopted by investment funds in Canada and issued CSA Staff Notice 81-320 *Update on IFRS for Investment Funds*.

The final amendments published today reflect comments received on the 2009 proposal, additional stakeholder consultations and further IASB developments related to investment funds. The changes impact investment fund requirements relating to the presentation of financial statements and terminology to reflect the transition to IFRS.

A copy of NI 81-106 is available on CSA members' websites.

The CSA, the council of the 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 MRS Sciences Inc. (formerly Morningside Capital Corp.) et al.

FOR IMMEDIATE RELEASE
September 25, 2013

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

AND

IN THE MATTER OF
MRS SCIENCES INC.
(FORMERLY MORNINGSIDE CAPITAL CORP.),
AMERICO DEROSA, RONALD SHERMAN,
EDWARD EMMONS, IVAN CAVRIC AND
PRIMEQUEST CAPITAL CORPORATION

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

1. The confidential pre-hearing conference will continue on October 17, 2013 at 10:00 a.m. or such other date or at such other time as set by the Office of the Secretary and agreed to by the parties.

2. The Sanctions and Costs hearing in this matter will commence on November 28, 2013 at 10:00 a.m. and, if necessary, continue on November 29, 2013 at 10:00 a.m.

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

A copy of the Order dated September 24, 2013 is available at www.osc.gov.on.ca.

OFFICE OF THE SECRETARY
JOHN P. STEVENSON
SECRETARY

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

FOR IMMEDIATE RELEASE
September 27, 2013

IN THE MATTER OF
THE COMMODITY FUTURES ACT,
R.S.O. 1990, c. C.20, AS AMENDED

AND

IN THE MATTER OF
FAWAD UL HAQ KHAN and
KHAN TRADING ASSOCIATES INC.
carrying on business as MONEY PLUS

TORONTO – The Commission issued an Order in the above named matter which provides that the confidential pre-hearing conference scheduled to take place on October 1, 2013 is adjourned to October 30, 2013 at 11:30 a.m.

A copy of the Order dated September 27, 2013 is available at www.osc.gov.on.ca.

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1.4.3 Eda Marie Agueci et al.

FOR IMMEDIATE RELEASE
September 27, 2013

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

AND

IN THE MATTER OF
EDA MARIE AGUECI, DENNIS WING,
SANTO IACONO, JOSEPHINE RAPONI,
KIMBERLEY STEPHANY, HENRY FIORILLO,
GIUSEPPE (JOSEPH) FIORINI, JOHN SERPA,
IAN TELFER, JACOB GORNITZKI and
POLLEN SERVICES LIMITED

TORONTO – Staff of the Ontario Securities Commission filed an Amended Statement of Allegations dated September 26, 2013 with the Office of the Secretary in the above noted matter.

A copy of the Amended Statement of Allegations of Staff of the Ontario Securities Commission dated September 26, 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
EDA MARIE AGUECI, DENNIS WING,
SANTO IACONO, JOSEPHINE RAPONI,
KIMBERLEY STEPHANY, HENRY FIORILLO,
GIUSEPPE (JOSEPH) FIORINI, JOHN SERPA,
IAN TELFER, JACOB GORNITZKI and
POLLEN SERVICES LIMITED

AMENDED STATEMENT OF ALLEGATIONS OF
STAFF OF THE ONTARIO SECURITIES COMMISSION

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

I. OVERVIEW

(a) General

1. The respondents Eda Marie Agueci ("Agueci"), Dennis Wing ("Wing"), Santo Iacono ("Iacono"), Josephine Raponi ("Raponi"), Kimberley Stephany ("Stephany"), Henry Fiorillo ("Fiorillo"), Joseph Fiorini ("Fiorini"), John Serpa ("Serpa"), Jacob Gornitzki ("Gornitzki") and Pollen Services Limited ("Pollen") engaged in an illegal insider tipping and trading scheme which occurred between April 2007 and February 2008 (the "Relevant Period").

2. The respondent Ian Telfer ("Telfer") did not participate in the scheme but he later facilitated other conduct by Agueci and Iacono including disguising the beneficial ownership of securities and circumventing the monitoring by Agueci's employer of her communications and trading, all of which was contrary to the public interest.

(b) The Insider Trading and Tipping Scheme

3. Agueci was employed as an executive assistant to the Chairman and to the mining group of the investment banking department of GMP Securities L.P. ("GMP"). She was a central figure in the trading scheme. She sought out and acquired, through her employment or from others, material non-public facts concerning pending corporate transactions, which she would communicate to other respondents. In doing so, she repeatedly engaged in unlawful tipping, contrary to subsection 76(2) of the *Securities Act*, R.S.O. 1990, c. S.5, as amended (the "Act").

4. Those respondents who received this information from Agueci would then:

(a) trade in securities of the reporting issuers with knowledge of material facts with respect to the reporting issuers that had not generally been disclosed, thereby engaging in illegal insider trading contrary to subsection 76(1) of the Act; and/or

(b) inform other persons, other than in the necessary course of business, of material facts with respect to the reporting issuers before the material facts were generally disclosed, contrary to subsection 76(2) of the Act; and/or

(c) recommend investing in the reporting issuers to others, contrary to the public interest; and/or

(d) make payments to Agueci in relation to their illicit trading, contrary to the public interest.

5. Agueci also purchased the securities of a reporting issuer, in her own account and in an account in the name of her mother (the "First Secret Account"), after being advised of undisclosed material facts by Gornitzki, contrary to section 76 of the Act.

6. The illegal tipping and insider trading scheme involved trading in the securities of six reporting issuers and yielded trading profits of approximately $962,000. In addition, Agueci received direct and indirect payments totalling $25,000 from Wing in relation to this trading.

7. In order to conceal the unlawful trading activity, certain respondents engaged in the following additional conduct which was contrary to the public interest:

(a) the use of deceptive techniques, including avoiding the use of stock symbols in correspondence, in order to avoid detection by GMP's compliance department; and

(b) Agueci also impersonated her mother on the telephone in order to execute trades in the First Secret Account and did not disclose that account nor her trades to GMP, as required by its compliance policies.

(c) The Second Secret Account

8. Later, Agueci's brother-in-law Iacono assisted Agueci to access and/or trade in a brokerage account (the "Second Secret Account") that was not disclosed to GMP, as required by its compliance policies.

9. Agueci's trading in the Second Secret Account included trading in securities which she was prohibited from trading because GMP had an active mandate in respect of a related transaction. Agueci and Iacono's conduct in relation to the Second Secret Account was contrary to the public interest.

10. Telfer provided Agueci with an opportunity to purchase shares that ultimately yielded substantial profits that funded Agueci's trading in the Second Secret Account. Telfer had agreed with Agueci to keep that share purchase transaction secret and to have another name (Iacono's) associated with the private share offering. He thereby enabled a transaction in which the beneficial owner of the shares was falsified. Telfer also advised and guided Agueci in avoiding detection by GMP of her email communications. His conduct was contrary to the public interest.

(d) Other Contraventions

11. In addition to the above,

(a) Agueci and Wing each materially misled Staff during compelled examinations conducted as part of Staff's investigation, contrary to section 122 of the Act; and

(b) Agueci also divulged the nature and contents of her compelled examination by Staff to others, including other respondents, despite having repeatedly acknowledged that she understood that such disclosure was prohibited. In doing so, she provided advance knowledge of Staff's investigation to others, contrary to section 16 of the Act.

II. THE RESPONDENTS

12. Agueci is a resident of Toronto, Ontario. During the Relevant Period, she was employed as an executive assistant in the mining group of the investment banking department of GMP. She has been employed in the securities industry for over 20 years. In the normal course of her employment, Agueci regularly came in contact with material non-public facts concerning proposed corporate transactions for which GMP was retained as an advisor. She had full access to the email communications of the Chairman of GMP and occasional access to the emails of other investment bankers in the mining group at GMP. In her communications with others about trading, Agueci would refer to individuals and securities by code names, and asked others not to include stock names or symbols in emails sent to her GMP email address. These practices were designed to avoid detection by GMP's compliance department.

13. Wing is a resident of Toronto, Ontario. During the Relevant Period, Wing was the president, chief executive officer, ultimate designated person (UDP), chief compliance officer (CCO) and director of Fort House Inc. ("Fort House"), an investment dealer registered with the Commission. He is a Fellow of the Canadian Securities Institute (FCSI). Wing has been registered with the Commission since January 2002 in various categories including dealing representative, officer/director (trading), CCO and UDP. His registration ended on January 31, 2012. Wing and Agueci were close friends for many years.

14. Iacono (also known as "Tino") is a resident of Toronto, Ontario. During the Relevant Period, Iacono was a partner of S.I.R. Investment Inc. ("S.I.R. Investment"), a food services distribution company. Iacono is Agueci's brother-in-law.

15. Raponi (also known as "Josie") is a resident of Toronto, Ontario. During the Relevant Period, Raponi was a school teacher. Raponi is Agueci's cousin.

16. Stephany (also known as "Kim") is a resident of Toronto, Ontario. Stephany has been registered with the Commission since May 2004 as a dealing representative of an investment dealer or as a salesperson of an investment dealer. During the Relevant Period, Stephany worked as a trading assistant, initially at Fort House and then at Brant Securities Limited. Stephany and Agueci met while previously working together at another investment firm and were close friends. In their communications

about trading, Stephany and Agueci would refer to individuals by code names, and to the fact that they could not speak about their trading because they could be overheard.

17. Fiorillo is a resident of Toronto, Ontario. During the Relevant Period, Fiorillo was the president of Research Management Group. Fiorillo has been registered with the Commission in various capacities including as a director, officer and dealing representative at an exempt market dealer/limited market dealer in the period between August 2004 and April 2010. Fiorillo and Agueci have known each other for over 20 years and were close friends.

18. Fiorini (also known as "Joseph") is a resident of Thornhill, Ontario. During the Relevant Period, Fiorini was a vice-president and director of corporate finance / investment banking with Desjardins Securities ("Desjardins"). During the Relevant Period, Fiorini and Agueci were friends who met periodically to discuss markets and trading.

19. Pollen is a company based in the British Virgin Islands ("BVI"). During the Relevant Period, Pollen maintained a trading/bank account in Switzerland. Wing directed all relevant trades on behalf of Pollen, which held assets for his offshore family trust, The Honey Trust.

20. Serpa is a resident of Toronto, Ontario. During the Relevant Period, Serpa was the president of S.I.R. Investment. Serpa and Iacono were business partners and close friends.

21. Telfer is a resident of Vancouver, British Columbia. During the Relevant Period, Telfer served in various capacities including as chairman of Goldcorp Inc. and Uranium One Inc. Telfer also acted as an advisor to, and was a significant shareholder of Gold Wheaton Gold Corp. ("Gold Wheaton") and its predecessors. Telfer is a sophisticated businessman, with extensive involvement in corporate and securities transactions. He frequently retained GMP and other investment banking firms in connection with those transactions. Telfer and Agueci were close friends who have known each other for approximately 20 years.

22. Gornitzki is a resident of Toronto, Ontario. During the Relevant Period, Gornitzki was an advisor to various corporations seeking financing or engaging in other corporate transactions. Gornitzki frequently used the offices of GMP to carry out his business activities and was in regular contact with Agueci.

23. During the Relevant Period, the respondents were in regular and frequent contact, and communicated on a regular basis about their trading and market activity.

III. TIPPING AND INSIDER TRADING

(a) <u>Nu Energy Uranium Corporation</u>

24. On or before April 12, 2007, in his capacity as a consultant to Nu Energy Uranium Corporation ("NU"),[1] Gornitzki became aware of material non-public facts concerning a proposed acquisition by Mega Uranium Ltd. ("Mega") of NU. Gornitzki was retained by NU as an advisor regarding financing and corporate transactions and was in a special relationship with NU by virtue of his involvement in this business or professional activity with and on behalf of NU.

25. By at least March 24, 2007, Gornitzki had agreed with senior management of Mega that Mega should acquire NU and had agreed to "*work on*" a senior representative of NU with a view to persuading NU to complete the transaction. During this period, senior management of Mega described Mega's acquisition of NU as "*inevitable*". Gornitzki was also aware that NU's senior management wanted to obtain a price of at least $5 per share in any takeover transaction.

26. Gornitzki was using the offices of GMP to carry out his business activities and was in regular contact with Agueci. On or before April 17, 2007, Gornitzki advised Agueci, other than in the ordinary course of business, of material facts related to the proposed acquisition of NU prior to that information having been generally disclosed.

27. On April 17, 2007, Agueci thanked Gornitzki for the tip related to NU to which he replied: "*You will not regret*" and "*Don't worry*". Immediately thereafter, Agueci's advice to her friends and family members included that they "*MUST BUY*" shares of NU, that they would not regret it, and that the "*action begins next week*", which were direct references to material undisclosed facts that Gornitzki had conveyed to her.

28. She further advised that the price of NU shares would imminently increase. Iacono advised Agueci that he had told Serpa about NU. Agueci impressed upon Iacono that he should advise Serpa and others to purchase the shares "*before Friday*".

[1] Also listed in corporate records as "NU Energy Uranium Corp.".

29. Beginning on April 17, 2007, Agueci and her friends and family members began purchasing NU shares. In particular, the following respondents (the "NU Trading Ring") bought NU shares after communicating with Gornitzki or other NU Trading Ring members by way of in-person meetings, phone calls or emails:

Name	Date of Purchase
Agueci	April 17, 19 and 20, 2007
Iacono	April 17 and 25, 2007
Serpa	April 25, 2007
Raponi	April 18 and 25, 2007
Fiorillo	April 20, 24 and 25, 2007
Wing (personally)	April 23 and 24, 2007
Fiorini	April 25 and 26, 2007

30. Agueci provided material non-public facts concerning the proposed acquisition of NU to the members of the NU Trading Ring, except Serpa who received that information from Iacono. Agueci and Iacono were in a special relationship with NU because they learned the material non-public facts from a person in a special relationship with NU.

31. When they purchased NU shares, the members of the NU Trading Ring had knowledge of material non-public facts concerning the proposed acquisition, which was provided by Gornitzki, Agueci or Iacono prior to their respective purchases. In addition to the NU Trading Ring, at least three other friends of Agueci purchased NU shares in that same timeframe.

32. Agueci also used the same material non-public facts to purchase NU shares in a brokerage account in her mother's name (the First Secret Account). She did so without the required trading authority and impersonated her mother on the telephone while giving the trading instructions. Agueci had opened the First Secret Account and signed her mother's name on the account application form. Agueci did not, at any time, report the account or her trades in the First Secret Account to GMP, as she knew was required by its compliance policies.

33. As an employee of GMP, Agueci certified, on an annual basis, that she had read and understood GMP compliance materials, which clearly stipulated that her trading accounts would be monitored by GMP and that she was further prohibited from operating or from having any "*authority*", "*financial interest*" or "*influence*" in, any trading account undisclosed to GMP's compliance department.

34. In connection with their purchases of NU shares described above:

(a) Agueci's purchases in her own account and the First Secret Account represented an amount greater than her annual gross salary;

(b) Iacono's purchase of NU shares was the largest trade in his account since he had opened it in September 2006;

(c) the purchase of NU shares was the largest securities purchase that Serpa had made in the previous 14 months;

(d) the purchase of NU shares were Iacono, Raponi, Fiorini, Wing and Serpa's only purchases of shares in April 2007;

(e) the NU shares were Raponi's only securities investment at that time; and

(f) the profitable trades by NU Trading Ring members involved trading profits ranging from 38 percent to 54 percent.

35. The "*action*" did start the following week, as disclosed by Gornitzki and Agueci.

36. On April 27, 2007, NU announced that it had entered into a binding letter of intent whereby Mega would acquire all of the outstanding shares of NU in exchange for common shares of Mega.

37. When Raponi had earlier suggested selling in order to "*play it safe*" on April 23, 2007, Agueci advised her that she had to "*wait just a little longer*".

38. As Agueci had correctly advised others, the shares of NU also did gain in value. Several members of the NU Trading Ring sold their NU shares profitably. The total trading profits of the NU Trading Ring were approximately $212,000.

39. On May 3, 2007, Agueci told Stephany that Wing wanted to buy her dinner to thank her, and stated "*I have better ways of being thanked.....$$$$$*".

40. Agueci was unable to sell the shares in her personal account profitably because NU retained GMP shortly before the announcement to provide financial advice in relation to the transaction, and the shares were placed on GMP's restricted list.

41. Agueci complained frequently about her trading loss in NU shares and repeatedly requested that GMP take the transaction off the GMP restricted list, which was necessary in order for Agueci to sell the position in her personal account. Agueci recovered a portion of her trading losses in NU shares and other trading losses from others. Later, after reading a news article quoting Gornitzki, Agueci complained that: "*[Gornitzki] said 'never invest on tips'. I wish I would have read this before I took his stock tip....*"

42. Agueci did, however, profitably sell the NU shares in the First Secret Account before NU was taken off GMP's restricted list.

43. Gornitzki's conduct in connection with NU constituted tipping, contrary to subsection 76(2) of the Act and/or was contrary to the public interest.

44. Agueci and Iacono's conduct in connection with NU constituted tipping contrary to subsection 76(2) of the Act, insider trading contrary to subsection 76(1) of the Act and/or was contrary to the public interest.

45. Agueci's conduct in relation to the First Secret Account constituted insider trading contrary to subsection 76(1) of the Act and/or conduct contrary to the public interest.

46. Raponi, Fiorillo, Wing, Fiorini and Serpa's conduct in connection with NU constituted insider trading contrary to subsection 76(1) of the Act and/or was contrary to the public interest.

(b) <u>Energy Metals Corporation</u>

47. On or before May 8, 2007, in her capacity as executive assistant in the investment banking department of GMP, Agueci became aware of material non-public facts concerning a proposed acquisition of Energy Metals Corporation ("EMC") by sxr Uranium One Inc. (now, Uranium One Inc.).

48. On May 7, 2007, the proposed transaction was placed on GMP's grey list. Listing a security on the grey list indicates that GMP had an active mandate for a corporate transaction at the time and/or that GMP has inside information.

49. On Thursday, May 10, 2007, EMC's board of directors approved GMP's retainer to act as financial advisor to EMC's special committee and to provide a fairness opinion in connection with this transaction. In connection with that mandate, GMP received transactional documents and other material non-public information concerning the proposed transaction, including that it was valued at $1.2 billion.

50. On May 11, 2007, Agueci arranged for representatives of GMP to attend a May 15, 2007 EMC Board meeting in respect of the transaction.

51. Agueci also received a copy of a draft GMP fairness opinion with a share exchange ratio of 1.15 shares of sxr Uranium One Inc. for each share of EMC.

52. Agueci was in a special relationship with EMC by virtue of her involvement as an employee of GMP in this business or professional activity with and on behalf of EMC.

53. Beginning on Monday, May 14, 2007, Agueci's friends and family members began, for the first time, purchasing EMC shares. In particular, the following respondents (the "EMC Trading Ring") bought EMC shares after communicating with Agueci or other EMC Trading Ring members by way of in-person meetings, phone calls or emails:

Name	Date of Purchase
Iacono	May 14, 2007
Serpa	May 14, 2007
Stephany	May 14 and 16, 2007
Raponi	May 17, 2007
Wing (personally and via Pollen)	May 14 and 15, 2007
Fiorini	May 14 and 17, 2007
Fiorillo	May 15, 17 and 18, 2007

54. Beginning on May 8, 2007 and before the announcement described below, Agueci advised the members of the EMC Trading Ring (except Serpa), other than in the ordinary course of business, of material undisclosed facts related to the proposed acquisition of EMC.

55. Iacono conveyed that information to Serpa prior to his trade. He did so after having asked Agueci whether she was "*sure with this*", to which she responded: "*YES!*". Iacono was in a special relationship with EMC because he learned the material non-public facts from Agueci, a person in a special relationship with EMC.

56. Stephany also used the material non-public facts to recommend that one of her clients, Client A, purchase EMC shares.

57. When they purchased EMC shares, the members of the EMC Trading Ring had knowledge of material non-public facts concerning the proposed acquisition, which was provided by Agueci or Iacono prior to their respective purchases. In addition, at least two other friends of Agueci purchased EMC shares during the same period.

58. The members of the EMC Trading Ring knew or ought reasonably to have known that Agueci had access to and obtained the material non-public facts in her capacity as an executive assistant in the mining group of the investment banking department at GMP.

59. In connection with their purchases of EMC shares described above:

(a) Pollen did not purchase any shares other than EMC shares in its offshore account in May 2007. Wing's only purchase in his personal account in May 2007 was also EMC shares;

(b) Pollen's investment in EMC shares exceeded $1.2 million;

(c) Iacono, Raponi, Fiorini and Serpa did very little buying or selling of securities in May 2007, other than EMC and NU shares;

(d) Serpa's purchase of EMC shares surpassed the value of his unusually large prior purchase of NU shares;

(e) Stephany's purchase of EMC shares was her largest securities purchase in May 2007, constituting approximately 66 percent of the value of her share purchases that month;

(f) Fiorillo's purchases of EMC shares represented 72 percent of the value of his share purchases in May 2007; and

(g) the EMC Trading Ring's profits on their EMC trades ranged from 6 to 23 percent.

60. On May 18, 2007, EMC announced that it was in exclusive negotiations concerning a potential sale of the company, following which EMC's share price rose.

61. The EMC Trading Ring sold their EMC shares, with some receiving profits. Raponi took steps to immediately sell her shares on the New York Stock Exchange on a holiday when Canadian markets were closed. The total trading profits of the EMC Trading Ring were approximately $446,000.

62. Agueci's conduct in connection with EMC constituted tipping contrary to subsection 76(2) of the Act and/or was contrary to the public interest.

63. Iacono's conduct in connection with EMC constituted tipping contrary to subsection 76(2) of the Act, insider trading contrary to subsection 76(1) of the Act, and/or was contrary to the public interest.

64. Wing, Pollen, Stephany, Raponi, Fiorini, Fiorillo and Serpa's conduct in connection with EMC constituted insider trading contrary to subsection 76(1) of the Act and/or was contrary to the public interest.

65. Wing was a person who authorized, permitted or acquiesced in Pollen's breach of s. 76(1) of the Act and, as such, Wing is, by virtue of s. 129.2 of the Act, deemed to have not complied with s. 76(1) of the Act in respect of Pollen's conduct alleged above and/or acted in a manner that is contrary to the public interest.

(c) Yamana Gold Inc, Northern Orion Resources Inc. and Meridian Gold Inc.

66. On or before May 28, 2007, in her capacity as executive assistant in the investment banking department of GMP, Agueci became aware of material non-public facts concerning a proposed three-way business combination between Yamana Gold Inc. ("Yamana"), Northern Orion Resources Inc. ("Northern Orion") and Meridian Gold Inc. ("Meridian").

67. GMP was retained to provide a fairness opinion to the board of directors of Northern Orion and, in that capacity, received transactional documents and other material non-public information concerning the proposed transaction. Each of Yamana, Northern Orion and Meridian had been placed on GMP's grey list on May 28, 2007.

68. In connection with the proposed business combination, on May 28, 2007, Agueci received a detailed presentation which had been prepared by Yamana and provided to Northern Orion. The presentation provided details of the proposed three-way business combination including a 25 percent premium to be bid by Yamana for 100 percent of the shares of each of Northern Orion and Meridian.

69. Yamana and Northern Orion then commenced negotiations of a letter agreement. GMP provided a verbal fairness opinion to the Northern Orion Board on June 13, 2007. Yamana, to the knowledge of Northern Orion and GMP, approached Meridian on June 15, 2007.

70. Agueci was in a special relationship with Northern Orion and Meridian by virtue of her involvement as a GMP employee in this business or professional activity with and on behalf of Northern Orion.

71. Beginning on June 13, 2007, Agueci's friends began purchasing securities of the above issuers. In particular, the following respondents (the "Northern Orion Trading Ring") bought Northern Orion and Meridian shares after communicating with Agueci or other Northern Orion Trading Ring members by way of in-person meetings, phone calls or emails:

Name	Security	Date of Purchase
Wing (via Pollen)	Northern Orion Meridian shares	June 13, 14, 15, 2007 June 18, 2007
Fiorini	Northern Orion shares	June 14, 2007

72. Prior to their respective purchases, Agueci advised the members of the Northern Orion Trading Ring, other than in the ordinary course of business, of material facts related to the proposed three-way business combination prior to that information having been generally disclosed.

73. When they purchased their Northern Orion and Meridian shares, the members of the Northern Orion Trading Ring had knowledge of material non-public facts concerning the proposed acquisition, which was provided by Agueci prior to their respective purchases.

74. In connection with their purchases of Northern Orion and Meridian shares described above:

(a) Pollen did not purchase any shares other than Northern Orion and Meridian shares in its offshore account in June 2007;

(b) Pollen invested almost $1.3 million in Northern Orion and Meridian shares;

(c) Fiorini purchased only three issuer's shares (including Northern Orion) in June 2007; and

(d) the percentage profits made by the Northern Orion Trading Ring ranged from 3 percent to 24 percent.

75. The members of the Northern Orion Trading Ring knew or ought reasonably to have known that Agueci had access to and obtained the material non-public facts in her capacity as an executive assistant in the mining group of the investment banking department at GMP.

76. On June 27, 2007, after the above purchases, Yamana and Northern Orion jointly announced that they had entered into a business combination agreement and a concurrent proposal had been made to Meridian with respect to the combination of the three companies.

77. Following this announcement, the share price for Northern Orion and Meridian rose and the Northern Orion Trading Ring sold their Northern Orion/Yamana and Meridian shares at a profit. The total trading profits of the Northern Orion Trading Ring were approximately $215,000.

78. Agueci's conduct in connection with Northern Orion and Meridian constituted tipping contrary to subsection 76(2) of the Act and/or was contrary to the public interest.

79. Wing, Pollen and Fiorini's conduct in connection with Northern Orion and/or Meridian constituted insider trading contrary to subsection 76(1) of the Act and/or was contrary to the public interest.

80. Wing was a person who authorized, permitted or acquiesced in Pollen's breach of s. 76(1) of the Act and, as such, Wing is, by virtue of s. 129.2 of the Act, deemed to have not complied with s. 76(1) of the Act in respect of Pollen's conduct alleged above and/or acted in a manner that is contrary to the public interest.

(d) HudBay Minerals Inc.

81. On or before July 17, 2007, in her capacity as executive assistant in the investment banking department of GMP, Agueci became aware of material non-public facts concerning a proposed acquisition of HudBay Minerals Inc. ("HudBay") by Votorantim Metals Inc. ("Votorantim).

82. HudBay had received a non-binding proposal from Votorantim on July 17, 2007 to acquire 100 percent of the issued and outstanding shares of HudBay for between CAD$30 and $32. GMP was approached to advise the special committee of the board of HudBay in respect of the proposed acquisition, and the transaction was placed on GMP's grey list on July 17, 2007.

83. In connection with its mandate, GMP received transactional documents and other material non-public information concerning the proposed transaction. GMP's work on the proposed transaction continued through the summer and early fall of 2007, and included:

(a) GMP planning further negotiations on August 10, 2007;

(b) discussions between HudBay and GMP representatives on August 23 and 27, 2007; and

(c) a two-day site visit to a HudBay site in Flin Flon, Manitoba by GMP representatives on September 6 and 7, 2007. That meeting was being planned at least by mid-August 2007.

84. Agueci was in a special relationship with HudBay by virtue of her involvement as an employee of GMP in this business or professional activity with and on behalf of HudBay.

85. Beginning on July 20, 2007, Agueci's friends and family members began purchasing HudBay shares. In particular, the following respondents (the "HudBay Trading Ring") bought HudBay shares after communicating with Agueci or other HudBay Trading Ring members by way of in-person meetings, phone calls or emails:

Name	Date of Purchase
Wing (personally and via Pollen)	July 20 and 31 and August 2, 2007
Stephany	August 3, 8 and 15, 2007
Fiorini	August 13 and September 17, 2007
Fiorillo	August 20 and September 7, 11, 12, 14 and 18, 2007
Raponi[2]	August 29, 2007

[2] Staff notified Ms. Wendy Berman, (then) counsel for Ms. Raponi, of this amendment by letter dated March 14, 2012.

Name	Date of Purchase
Iacono	September 6, 2007
Serpa	September 7, 2007

86. Beginning on July 17, 2007, Agueci advised the members of the HudBay Trading Ring (except Serpa), other than in the ordinary course of business, of material undisclosed facts related to the proposed acquisition of HudBay. Iacono conveyed that information to Serpa prior to his trade. Iacono was in a special relationship with HudBay because he learned the material non-public facts from Agueci, a person in a special relationship with HudBay.

87. Stephany also used the material non-public facts to recommend that one of her clients, Client A, purchase HudBay shares.

88. When they purchased the HudBay shares, the members of the HudBay Trading Ring had knowledge of material non-public facts concerning the proposed acquisition, which was provided by Agueci or Iacono prior to their respective purchases. In addition, at least one other friend of Agueci purchased HudBay shares during the same period.

89. The members of the HudBay Trading Ring knew or ought reasonably to have known that Agueci had access to and obtained the material non-public facts in her capacity as an executive assistant in the mining group of the investment banking department at GMP.

90. In connection with their purchases of HudBay shares described above:

(a) Pollen did not purchase any shares other than HudBay shares in its offshore account in July and August 2007. Pollen invested almost $1.4 million in HudBay shares;

(b) Wing's only purchases of securities in August 2007 were of HudBay shares;

(c) Iacono, Raponi and Serpa did not purchase any shares other than HudBay shares in the months of their respective trades;

(d) other than HudBay shares, Fiorini purchased few issuer's shares in August and September 2007;

(e) Stephany purchased only one security other than HudBay shares in August 2007, and her HudBay purchases represented 76 percent of the value of her total share purchases in August 2007;

(f) Fiorillo's purchases of HudBay shares in August and September 2007 represented 21 percent and 65 percent of the value, respectively, of his total share purchases for those months;

(g) the HudBay shares were Raponi's only securities investment at that time;

(h) Serpa's purchases of HudBay shares were the second largest purchases he had made in the period between February 2006 and September 2007; and

(i) Serpa's investment in HudBay was valued at over 66 percent of his total portfolio as at the end of August 2007.

91. Ultimately, the transaction did not go forward, but this was not known until September 19, 2007. Agueci was on vacation shortly after GMP learned that the transaction would not go forward.

92. Raponi and Stephany sold their HudBay shares shortly after September 19, 2007, after communicating with Agueci. The remaining members of the HudBay Trading Ring sold their shares after Agueci returned from her vacation, and most of them sold their shares profitably. The total trading profits of the HudBay Trading Ring were approximately $34,000.

93. Agueci's conduct in connection with HudBay constituted tipping contrary to subsection 76(2) of the Act and/or was contrary to the public interest.

94. Iacono's conduct in connection with HudBay constituted tipping contrary to subsection 76(2) of the Act, insider trading contrary to subsection 76(1) of the Act, and/or was contrary to the public interest.

95. Raponi, Stephany, Serpa, Wing, Pollen, Fiorini and Fiorillo's conduct in connection with HudBay constituted insider trading contrary to subsection 76(1) of the Act and/or was contrary to the public interest.

96. Wing was a person who authorized, permitted or acquiesced in Pollen's breach of s. 76(1) of the Act and, as such, Wing is, by virtue of s. 129.2 of the Act, deemed to have not complied with s. 76(1) of the Act in respect of Pollen's conduct alleged above and/or acted in a manner that is contrary to the public interest.

97. Also, Agueci received payments from Wing in connection with his and Pollen's profitable trades described herein. In connection with his payment to her, Wing advised Agueci to open a bank account in England and to use her "*mother's address … not your own*", advised that "*doing smaller amounts is the right way to do it*", and advised that once that account was opened "*more can be done*". He further counselled her that "*being careful is always the top priority*". The conduct of Wing in respect of these payments was contrary to the public interest.

(e) Coalcorp Mining Inc.

98. On or before January 29, 2008, in her capacity as executive assistant in the investment banking department of GMP, Agueci became aware of material non-public facts concerning a proposed acquisition of Coalcorp Mining Inc. ("Coalcorp") by an investor group consisting of Pala Investments Holdings Limited and others (the "Pala Group").

99. In particular, Agueci was aware that the Pala Group had made a non-binding proposal to make an all-cash acquisition of 100 percent of the outstanding common shares of Coalcorp for a price of $2.75 per share plus the assumption of all of Coalcorp's existing net debt.

100. GMP was retained to advise Coalcorp in respect of the proposed transaction. In connection with that mandate, GMP received transactional documents and other material non-public facts concerning the proposed transaction.

101. Agueci was in a special relationship with Coalcorp by virtue of her involvement as an employee of GMP in this business or professional activity with and on behalf of Coalcorp.

102. Beginning on January 30, 2008, Agueci's friends and family members began purchasing Coalcorp shares. In particular, the following respondents (the "Coalcorp Trading Ring") bought Coalcorp shares after communicating with Agueci by way of in-person meetings, phone calls or emails:

Name	Date of Purchase
Raponi	January 30 and 31, 2008
Stephany	January 30, 2008
Fiorini	January 30 and 31, 2008
Fiorillo	January 30 and 31, 2008

103. On January 29 and 30, 2008, Agueci advised the members of the Coalcorp Trading Ring, other than in the ordinary course of business, of material facts related to the proposed acquisition of Coalcorp prior to that information having been generally disclosed.

104. Only Fiorillo had previously invested in Coalcorp and that investment had occurred more than one year previously. When they purchased the Coalcorp shares, the members of the Coalcorp Trading Ring had knowledge of material non-public facts concerning the proposed acquisition, which was provided by Agueci prior to their respective purchases. In addition, at least two other friends of Agueci purchased Coalcorp shares during the same period.

105. The members of the Coalcorp Trading Ring knew or ought reasonably to have known that Agueci had access to and obtained the material non-public facts in her capacity as an executive assistant in the mining group of the investment banking department at GMP.

106. In connection with their purchases of Coalcorp shares described above:

(a) Raponi did not purchase any shares other than Coalcorp in January and February 2008;

(b) the Coalcorp shares represented Raponi's only securities investment at that time;

(c) other than Coalcorp shares, Fiorini and Stephany purchased few issuer's shares in January and February 2008; and

(d) the Coalcorp Trading Ring's profits ranged from 28 percent to 49 percent.

107. On February 1, 2008, Coalcorp announced that it had received a non-binding unsolicited proposal from a third party to acquire all of the issued and outstanding common shares of Coalcorp. The undisclosed third party was the Pala Group.

108. The members of the Coalcorp Trading Ring profitably sold their Coalcorp shares on or after February 1, 2008. The total trading profits of the Coalcorp Trading Ring were approximately $55,000.

109. Agueci's conduct in connection with Coalcorp constituted tipping contrary to subsection 76(2) of the Act and/or was contrary to the public interest.

110. Raponi, Stephany, Fiorini and Fiorillo's conduct in connection with Coalcorp constituted insider trading contrary to subsection 76(1) of the Act and/or was contrary to the public interest.

IV. OTHER CONDUCT CONTRARY TO THE PUBLIC INTEREST

(a) Communicating by Blackberry (PIN) to Avoid Detection

111. Telfer and Agueci were close friends over a period of many years.

112. The GMP compliance department monitored email communications of employees, including Agueci, on a regular basis. Such communications were monitored in order to ensure compliance with regulatory and other GMP requirements, including insider trading and tipping laws.

113. Telfer and Agueci were aware that email communications were monitored by GMP. As an employee of GMP, Agueci certified, on an annual basis, that she had read and understood the following provisions from GMP compliance materials, which reminded employees of GMP's monitoring procedure and the prohibition against circumvention:

> *All e-mail is filtered when it enters or leaves the GMP network. Filtering is provided for both security and Compliance purposes …*
>
> *No employee shall attempt to circumvent any filtering system …*
>
> ***Employees are reminded that the Compliance department actively monitors all e-mail communication on a regular basis.*** *(emphasis in original)*

114. Telfer advised Agueci as to how to circumvent these policies.

115. Specifically, on January 29, 2008, Telfer advised Agueci not to use emails to communicate with him. Instead, he provided her with step-by-step instructions as to how to communicate by Blackberry PIN messages in order to ensure that: "*Messages don't go to the gmp server. They go straight to blkberry*". He advised that, "*instead of emailing*", this method of communication was to be used with him and other "*very close friends*".

116. The use of Blackberry PIN messages is a technique that Agueci subsequently used to communicate with Telfer as well as others in connection with her trading activities. Telfer would repeatedly request updated PIN numbers from Agueci. Agueci would refrain from corresponding with Telfer by email due to her concern of leaving an "*email trail*".

117. By engaging in the foregoing conduct, which consisted of advising and guiding Agueci, an individual with disclosure obligations, in avoiding detection by GMP of her email communications, Telfer engaged in conduct contrary to the public interest.

(b) 222 Pizza Express Corp.

118. A few months later, in April 2008, Telfer provided Agueci with the opportunity to purchase 500,000 common shares in a private share offering in 222 Pizza Express Corp. ("222 Pizza"). Telfer was very optimistic about the prospects for these shares.

119. Agueci arranged for her brother-in-law, Iacono, to assist her in the purchase of the 222 Pizza shares, since Agueci and Telfer had agreed that the shares should not be purchased in Agueci's name in order to ensure the secrecy of the transaction.

120. In return for a fifty percent interest in the 222 Pizza shares, Iacono facilitated the transaction for Agueci by purchasing the shares in his name for $5,000. He then deposited them in the Second Secret Account. Fifty-percent of the 222 Pizza shares were held in the Second Secret Account for the benefit of Agueci.

121. Prior to this transfer, Telfer corresponded directly with Iacono, advised him of particulars of the transfer and emphasized that Iacono should "*keep this information confidential*".

122. Given his extensive experience in corporate transactions and in retaining and instructing investment banking advisors, Telfer knew, or reasonably ought to have known, that Agueci had disclosure obligations and trading restrictions as an employee of an investment banking and brokerage firm who had regular access to material non-public information. He knew or ought to have known that she was prohibited from engaging in undisclosed securities transactions.

123. The 222 Pizza shares held in the Second Secret Account yielded a return of over $500,000 following a corporate reorganization, investment in gold stream royalty agreements, and the renaming of 222 Pizza to Kadywood Capital Corp and then Gold Wheaton.

124. Iacono subsequently sold the majority of the Gold Wheaton shares and reinvested the proceeds in various other securities in the Second Secret Account over a period of three years, on his own behalf or at Agueci's direction.

125. Agueci directed trading in the following shares in the Second Secret Account while those issuers were on either the GMP grey list or the GMP restricted list: HudBay (November 2008 and January 2009) and Kadywood Capital Corp. (June and July, 2008). Listing a security on the grey or restricted list indicates that GMP had an active mandate for a corporate transaction at the time and/or that GMP has inside information.

126. Further to her secrecy agreement with Telfer, Agueci did not report her beneficial ownership of the shares held in Iacono's account, nor the transactions in the account to GMP compliance. As such, GMP's compliance department was unable to monitor trading in that undisclosed account to ensure that Agueci was not conducting trades with the benefit of material non-public information.

127. Iacono transferred funds from the Second Secret Account to Agueci or on her behalf, at her request. In order to avoid regulatory detection, Iacono paid these funds to third parties on Agueci's behalf or frequently to Agueci in allotments of less than $10,000. Over the course of three years, Agueci thereby withdrew almost $200,000 from the Second Secret Account.

128. Agueci's conduct in arranging, maintaining and failing to disclose her interest and trading to GMP in the First and Second Secret Accounts was contrary to the public interest. In addition, Agueci's ongoing trading in those accounts, as well as the manner of withdrawals from those accounts, was contrary to the public interest.

129. Iacono's conduct in assisting Agueci to maintain and illicitly trade in an account that was not disclosed to GMP, as well as the manner of withdrawals from this account, was contrary to the public interest.

130. Telfer's agreement with Agueci, a person with securities transaction reporting obligations, to keep the 222 Pizza share purchase transaction secret and to have another name associated with the private share offering enabled a transaction in which the beneficial owner of the shares was falsified. His conduct was contrary to the public interest.

V. MISLEADING STATEMENTS

(a) <u>Agueci's Misleading Statements</u>

131. During Agueci's compelled examination during Staff's investigation, she made numerous statements that, in a material respect and at the time and in the light of the circumstances under which they 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.

132. In particular, Agueci misled Staff by:

(a) failing to disclose her direct or indirect interest and involvement in other brokerage accounts, including the First and Second Secret Accounts;

(b) advising Staff that Iacono did not execute trades on her behalf in the Second Secret Account;

(c) advising Staff that she did not know what investments were in the Second Secret Account;

(d) advising Staff that she assisted her mother in trading in the First Secret Account by at all times calling the brokerage firm with her mother on the line and having her mother confirm her identity; and

(e) failing to disclose the nature and source of payments received and made by her as well as others on her behalf, including payments provided to her from the Second Secret Account.

133. These statements were materially misleading and were not corrected by Agueci until she was confronted with evidence to the contrary by Staff, or at all. These statements concealed the truth, which was that Agueci had an interest in brokerage accounts in which she was trading securities, including trades in securities while such issuers were on the GMP grey or restricted list. Furthermore, her misleading statements concealed the fact that her interest and trading in the First and Second Secret Accounts were not reported to GMP in accordance with its compliance policies.

134. Agueci's conduct in making misleading statements to Staff was a breach of s. 122 of the Act and/or were contrary to the public interest.

(b) Wing's Misleading Statements

135. During Wing's compelled examination during Staff's investigation, he made numerous statements that, in a material respect and at the time and in the light of the circumstances under which they were made, were misleading or untrue or did not state facts that were required to be stated or that were necessary to make the statements not misleading, all contrary to s. 122 of the Act.

136. In particular, Wing made misleading statements concerning his activities and involvement with offshore entities and other brokerage and bank accounts, including offshore accounts. During his first interview, Wing denied having any offshore bank or brokerage accounts, including any signing authority or beneficial interest in such accounts.

137. Staff, however, later obtained documents from other jurisdictions that revealed that Wing had power of attorney over an offshore account in the name of Pollen (the "Offshore Pollen Account"), he had directed trading and/or banking in the account, and that he also had an offshore account in his own name. The Offshore Pollen Account had 12 sub-accounts and traded securities on multiple exchanges, in numerous jurisdictions and in a variety of different currencies. The account, in particular, had also traded in several securities of concern to Staff, as noted above.

138. When Wing returned for a continued examination, he denied any knowledge of or association with Pollen, including any accounts or trades executed on its behalf. He further denied any knowledge of, association with, or role in entities (including individual representatives thereof) who created, administered, or were otherwise connected to Pollen, including Wing's family trust (The Honey Trust) and the numerous firms which provided services in relation to the Offshore Pollen Account.

139. Wing's statements were misleading and were not corrected by Wing until he was confronted with evidence to the contrary by Staff, or at all. Throughout his examinations, Wing would alter his version of events only slightly to correspond with each of the documents that he was shown, while still continuing to deny any greater involvement with the Offshore Pollen Account.

140. Wing ultimately admitted that he had established Pollen and The Honey Trust, had sole signing authority over the Offshore Pollen Account and that he had also directed trading and other activity in this account. He further admitted to having established and directed trading for Pollen in a Canadian account held at Fort House (the "Canadian Pollen Account"), despite the account having been put under a different name.

141. In making numerous misleading statements to Staff, Wing undermined Staff's ability to fulfill the Commission's statutory mandate, breached s. 122 of the Act and/or acted contrary to the public interest.

VI. CONFIDENTIALITY OF INVESTIGATION

142. During Agueci's compelled examination, she acknowledged that she understood the confidentiality of Staff's investigative process under s. 16 of the Act. However, she divulged the nature and content of her compelled examinations to others who were interviewed by Staff.

143. Agueci's disclosures to other witnesses included:

(a) particulars of the securities being reviewed by Staff,

(b) the timeframe of Staff's investigation,

(c) the documents and other information in Staff's possession, and

(d) the questions asked by Staff (together with the answers that she gave).

144. By supplying this information, Agueci provided other witnesses interviewed by Staff with an opportunity to tailor their evidence to hers. Agueci's conduct undermined Staff's ability to fulfil its statutory mandate.

145. The disclosures by Agueci concerning Staff's investigation were contrary to s. 16 of the Act and/or were contrary to the public interest.

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

DATED AT TORONTO this 26th day of September, 2013.

1.4.4 Portfolio Capital Inc. et al.

FOR IMMEDIATE RELEASE
September 30, 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 – The Commission issued an Order in the above noted matter which provides that the hearing is adjourned to a further pre-hearing conference to be held on October 9, 2013 at 2:00 p.m.

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

A copy of the Order dated September 27, 2013 is available at www.osc.gov.on.ca.

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416-593-8307

For investor inquiries:

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

1.4.5 Kevin Warren Zietsoff

FOR IMMEDIATE RELEASE
September 30, 2013

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

AND

IN THE MATTER OF
KEVIN WARREN ZIETSOFF

TORONTO – The Commission issued an Order in the above named matter which provides that this matter is adjourned to a further confidential pre-hearing conference which shall take place on October 30, 2013, at 3:00 p.m.

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

A copy of the Order dated September 27, 2013 is available at www.osc.gov.on.ca.

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1.4.6 Kolt Curry et al.

FOR IMMEDIATE RELEASE
September 30, 2013

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

AND

IN THE MATTER OF
KOLT CURRY, LAURA MATEYAK,
AMERICAN HERITAGE STOCK TRANSFER INC.,
and AMERICAN HERITAGE STOCK TRANSFER, INC.

TORONTO – The Office of the Secretary issued a Notice of Hearing with Respect to Sanctions on September 26, 2013 setting the matter down to be heard on October 10, 2013 at 11:00 a.m. or as soon thereafter as the hearing can be held in the above named matter.

A copy of the Notice of Hearing with Respect to Sanctions dated September 26, 2013 is available at www.osc.gov.on.ca.

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1.4.7 Ground Wealth Inc. et al.

FOR IMMEDIATE RELEASE
September 30, 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 pre-hearing conference scheduled for October 1, 2013 at 10:00 a.m. is adjourned and shall continue on October 11, 2013 at 10:00 a.m.;

2. The hearing in relation to the extension of the February 2013 Temporary Order scheduled for October 1, 2013 at 10:30 a.m. is adjourned and shall continue on October 11, 2013 at 10:30 a.m.; and

3. The February 2013 Temporary Order is extended to October 16, 2013, as against the respondents GWI, Armadillo Texas, DeBoer, Dunk and Smith.

A copy of the Order dated September 30, 2013 is available at www.osc.gov.on.ca.

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1.4.8 Global Consulting and Financial Services et al.

FOR IMMEDIATE RELEASE
October 1, 2013

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

AND

IN THE MATTER OF
GLOBAL CONSULTING AND FINANCIAL SERVICES,
GLOBAL CAPITAL GROUP,
CROWN CAPITAL MANAGEMENT CORP.,
MICHAEL CHOMICA, JAN CHOMICA and
LORNE BANKS

TORONTO – The Commission issued an Order in the above named matter which provides that a hearing shall take place on October 2, 2013 at 9:30 a.m.

A copy of the Order dated October 1, 2013 is available at www.osc.gov.on.ca.

OFFICE OF THE SECRETARY
JOHN P. STEVENSON
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1.4.9 FactorCorp Inc. et al.

FOR IMMEDIATE RELEASE
October 1, 2013

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

AND

IN THE MATTER OF
FACTORCORP INC.,
FACTORCORP FINANCIAL INC., AND
MARK IVAN TWERDUN

TORONTO – Following a hearing on Sanctions and Costs in the above named matter, the Commission issued its Reasons and Decision and an Order.

A copy of the Reasons and Decision on Sanctions and Costs dated September 30, 2013 and the Order dated September 30, 2013 are available at www.osc.gov.on.ca.

OFFICE OF THE SECRETARY
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Chapter 2

Decisions, Orders and Rulings

2.1 Decisions

2.1.1 EACOM Timber Corporation – s. 1(10)(a)(ii)

Headnote

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

Applicable Legislative Provisions

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

Montréal, September 25, 2013

Dentons Canada
250 Howe Street, 20th Floor
Vancouver, British Columbia V6C 3R8

Attention: Ms. Catherine Wade

Dear Ms. Wade:

Re: EACOM Timber Corporation (the Applicant) – application for a decision under the securities legislation of Québec, Alberta, Saskatchewan, Manitoba, Ontario, New Brunswick, Nova Scotia, Prince Edward Island and Newfoundland and Labrador (the "Jurisdictions") that the Applicant is not a reporting issuer

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

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

The Applicant has represented to the Decision Makers that:

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

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

(c) the Applicant is applying for a decision that it is not a reporting issuer in all of the jurisdictions of Canada in which it is currently a reporting issuer; and

(d) the Applicant is not in default of any of its obligations under the Legislation as a reporting issuer.

Each of the Decision Makers is satisfied that the test contained in the Legislation that provides the Decision Maker with the jurisdiction to make the decision has been met and orders that the Applicant's status as a reporting issuer is revoked.

"Josée Deslauriers"
Senior Director Investment Funds and Continuous Disclosure
Autorité des marchés financiers

2.1.2 Thallion Pharmaceuticals Inc. – s. 1(10)

Headnote

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

Ontario Statutes

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

Montréal, September 25, 2013

Davies Ward Phillips & Vineberg
1501 McGill College Avenue, 26th Floor
Montréal, Québec H3A 3N9

Attention: Ms. Josée Dansereau

Dear Ms. Dansereau:

Re: Thallion Pharmaceuticals Inc. (the Applicant) – application for a decision under the securities legislation of Québec, Alberta, Saskatchewan, Manitoba, Ontario, New Brunswick, Nova Scotia, Prince Edward Island, Newfoundland and Labrador (the "Jurisdictions") that the Applicant is not a reporting issuer

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

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

The Applicant has represented to the Decision Makers that:

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

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

(c) the Applicant is applying for a decision that it is not a reporting issuer in all of the jurisdictions of Canada in which it is currently a reporting issuer; and

(d) the Applicant is not in default of any of its obligations under the Legislation as a reporting issuer.

Each of the Decision Makers is satisfied that the test contained in the Legislation that provides the Decision Maker with the jurisdiction to make the decision has been met and orders that the Applicant's status as a reporting issuer is revoked.

"Josée Deslauriers"
Senior Director
Investment Funds and Continuous Disclosure
Autorité des marchés financiers

2.1.3 Jovian Capital Corporation and T.E. Investment Counsel Inc.

Headnote

NP 11-203 – Process for Exemptive Relief Applications in Multiple Jurisdictions – Approval granted for change of control of mutual fund manager under s. 5.5(2) of NI 81-102. Filers have no current plans to change the manager of the Funds, or to amalgamate or merge the current manager with any other entity, for the foreseeable future.

Applicable Legislative Provisions

National Instrument 81-102 Mutual Funds, s. 5.5(2).

September 12, 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
JOVIAN CAPITAL CORPORATION
(Jovian)

AND

IN THE MATTER OF
T.E. INVESTMENT COUNSEL INC. (the Manager)
(Jovian and the Manager are, collectively, the Filers)

AND

IN THE MATTER OF
THE FUNDS (as defined below)

DECISION

Background

The principal regulator in the Jurisdiction has received an application from the Filers for a decision under the securities legislation of the Jurisdiction of the principal regulator (the **Legislation**) for approval of an indirect change of control of the Manager (**Change of Control**) of the mutual funds listed in Appendix “A” (collectively, the **Funds**) in accordance with section 5.5(2) 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 (the **Principal Regulator**); and

(b) the Filers have provided notice that section 4.7(1) of Multilateral Instrument 11-102 – *Passport System* (**MI 11-102**) is intended to be relied upon in Alberta, British Columbia, Manitoba, New Brunswick, Nova Scotia, Québec and Saskatchewan (together with Ontario, the **Jurisdictions**).

Interpretation

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

Representations

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

The Manager

1. The Manager is a corporation incorporated under the laws of the Province of Ontario and has its head office in Toronto, Ontario.

2. The Manager is registered as an investment fund manager (**IFM**) under the securities legislation in Ontario, Québec and Newfoundland and Labrador, as an exempt market dealer in Ontario, and as a portfolio manager in all Canadian provinces.

3. The Manager is not in default of securities legislation in any province or territory.

4. The Manager is the IFM of the Funds.

The Funds

5. Securities of the Funds are distributed in each of the Jurisdictions under a simplified prospectus and annual information form prepared in accordance with the requirements of National Instrument 81-101 – *Mutual Fund Prospectus Disclosure*.

6. Each Fund is a reporting issuer under the applicable securities legislation of the Jurisdictions.

7. The Funds are not in default of applicable securities legislation in any of the Jurisdictions.

Jovian

8. The Manager is indirectly owned by its holding company, Jovian Capital Corporation (Jovian).

9. Jovian is a public holding company carrying on business in the financial services industry through its operating subsidiaries. Jovian acquires, creates and grows financial services companies specializing in wealth management and asset management. As of August 1, 2013, the Jovian group of companies manages approximately $6.9 billion of client assets ($5.4 billion assets under management and $1.5 billion in assets under administration).

10. Jovian is a corporation existing under the *Canada Business Corporations Act* (CBCA). Its head office is located in Toronto, Ontario, and its registered office is located in Winnipeg, Manitoba. Jovian is a reporting issuer in British Columbia, Alberta, Saskatchewan, Manitoba, and Ontario. Jovian is not a registrant under the securities legislation of any jurisdiction in Canada or elsewhere.

The Proposed Acquisition

11. In a press release dated July 16, 2013, Jovian announced that an agreement had been reached for the acquisition of all of its issued and outstanding common shares by Industrial Alliance Insurance and Financial Services Inc. (**Industrial Alliance**) by way of statutory arrangement under section 192 of the CBCA (the **Proposed Acquisition**).

12. The Proposed Acquisition was approved at a joint special meeting of shareholders and debentureholders of Jovian which was held on September 11, 2013.

13. The Proposed Acquisition is subject to court and regulatory approvals and is expected to close on October 1, 2013 (the **Closing**). Following the Closing, Industrial Alliance will become the new indirect owner of the Manager, due to its holding of Jovian, however, no substantive changes are expected in the operation or management of the Funds by the Manager.

Industrial Alliance

14. Industrial Alliance is a public life and health insurance company incorporated under the laws of Québec. It offers a wide range of life and health insurance products, savings and retirement plans, RRSPs, mutual and segregated funds, securities, auto and home insurance, mortgage loans and other financial products and services for both individuals and groups. It is the fourth largest life and health insurance company in Canada and has assets under management and administration of more than $87 billion.

15. Industrial Alliance is a reporting issuer in all of the provinces of Canada. Its head office is located in the province of Québec.

Change of Control of Manager

16. The Proposed Acquisition will result in Industrial Alliance acquiring indirect control over the Manager.

17. In respect of the impact of the Change of Control on the Manager and on the management and administration of the Funds:

    a) Industrial Alliance has confirmed that there is no current intention:

        (i) to make any substantive changes as to how the Manager operates or manages the Funds;

        (ii) to merge the Manager with any other IFM;

        (iii) to change the Manager to Industrial Alliance or an affiliate of Industrial Alliance; and

        (iv) within a foreseeable period of time, to change the Manager to Industrial Alliance or an affiliate of Industrial Alliance;

    b) Industrial Alliance currently intends to maintain the Funds as a separately managed fund family with the Manager as their IFM and portfolio manager;

    c) the Closing is not expected to have any material impact on the business, operations or affairs of the Funds or the securityholders of the Funds;

    d) following the Closing, the directors and officers of the Manager will be unchanged, with the exception of the appointment of two new directors, the resignations of four existing directors and the appointment of two new officers;

    e) the Manager will retain the management teams and supervisory personnel that were in place immediately prior to the Closing, and from and after the Closing, the compliance activities of the Manager will be subject to oversight by Industrial Alliance's compliance group;

    f) it is not expected that there will be any change in the management of the funds, including the investment objectives and strategies of the Funds, or the expenses that are charged to the Funds as a result of the Closing;

    g) there is no current intention to change the name of the Manager or the names of the Funds as a result of the Proposed Acquisition, immediately after the Closing;

    h) the Closing will not adversely affect the Manager's financial position or its ability to fulfill its regulatory obligations; and

    i) upon the Change of Control, the members of the Manager's Independent Review Committee (IRC) will cease to be IRC members by operation of section 3.10(1)(c) of National Instrument 81-107 – *Independent Review Committee for Investment Funds*. Immediately following the Change of Control, the IRC will be reconstituted.

Notice Requirements

18. Notice of the Change of Control with respect to the Proposed Acquisition was provided by mail to securityholders of the Funds on August 2, 2013, in accordance with Section 5.8(1)(a) of NI 81-102, being at least 60 days before the Closing.

19. A notice regarding the Proposed Acquisition was submitted to the Registration Branch of the Ontario Securities Commission on or about August 1, 2013 pursuant to section 11.9 of National Instrument 31-103 – *Registration Requirements and Exemptions*.

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.

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

Appendix "A"

T.E. Investment Counsel Inc. Funds
Jov Prosperity Canadian Fixed Income Fund
Jov Prosperity Canadian Equity Fund
Jov Prosperity U.S. Equity Fund
Jov Prosperity International Equity Fund

2.1.4 Northwest & Ethical Investments L.P. and NEI Global Total Return Bond Fund

Headnote

National Policy 11-203 Process for Exemptive Relief Applications in Multiple Jurisdictions – exemption from sections section 2.1(1), and 2.8(1)(d) and (f)(i) of National Instrument 81-102 – Mutual Funds to permit i) the funds when they open or maintain a long position in a standardized future or forward contract or when they enter into or maintain an interest rate swap position and during the periods when the funds are entitled to receive payments under the swap, to use as cover, a right or obligation to sell an equivalent quantity of the underlying interest of the standardized future, forward or swap, and ii) to permit one global bond mutual funds to invest more than 10 percent of net assets in debt securities issued by a foreign government or supranational agency subject to conditions.

Applicable Legislative Provisions

National Instrument 81-102 Mutual Funds, ss. 2.1(1), 2.8(1), 19.1.

September 6, 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 Filer)

AND

IN THE MATTER OF

NEI GLOBAL TOTAL RETURN BOND FUND
(the Total Return Bond Fund)

DECISION

Background

The principal regulator in the Jurisdiction has received an application from the Filer on behalf of all existing and future mutual funds managed by the Filer that are subject to National Instrument 81-102 *Mutual Funds* (**NI 81-102**), other than money market funds as defined in NI 81-102 (collectively with the Total Return Bond Fund, the **Funds**), for a decision under the securities legislation of the Jurisdiction of the principal regulator (the **Legislation**) for an exemption, pursuant to section 19.1 of NI 81-102, from the following sections of NI 81-102:

(a) sections 2.8(1)(d) and 2.8(1)(f)(i) of NI 81-102 (the **Cash Cover Exemption**) to permit each Fund, when it:

  (i) opens or maintains a long position in a debt-like security that has a component that is a long position in a forward contract or in a standardized future or forward contract; or

  (ii) enters into or maintains a swap position and during the periods when the Fund is entitled to receive payments under the swap,

  to use as cover a right or obligation to sell an equivalent quantity of the underlying interest of the standardized future, forward or swap; and

(b) section 2.1(1) (the **Foreign Government Securities Exemption**) to permit the Total Return Bond Fund to invest up to:

(i) 35% of the Fund's net asset value at the time of the transaction 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 designated rating organizations; and

(ii) 20% of the Fund's net asset value at the time of the transaction 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 designated rating organizations.

(such evidences of indebtedness are collectively referred to as **Foreign Government Securities**)

(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 British Columbia, Alberta, Saskatchewan, Manitoba, Québec, New Brunswick, Nova Scotia, Prince Edward Island, Newfoundland and Labrador, the Northwest Territories, Nunavut and Yukon (the **Other Jurisdictions**).

Interpretation

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

Representations

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

The Filer

1. The Filer is a limited partnership formed under the laws of Ontario with its head office in Toronto, Ontario. Northwest & Ethical Investments Inc., which is the general partner of the Filer, is a corporation formed under the laws of Canada with its head office in Toronto, Ontario.

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

3. The Filer is, or will be, the manager of the Funds, and may be the portfolio manager of a Fund. The Filer may appoint one or more portfolio managers or sub-advisors to provide the Filer with investment advice in respect of a Fund's investments in securities.

The Funds

4. To the extent that a Fund may invest in futures or options on futures, the Filer will appoint a portfolio manager (**Futures Adviser**) that is duly registered under the *Commodities Futures Act* (Ontario) or that has obtained an exemption from the applicable registration requirements under that Act.

5. Each Fund is, or will be, an open-ended mutual fund trust established under the laws of Ontario or a class of shares of a mutual fund corporation incorporated under the laws of Ontario.

6. Securities of the Funds are, or will be, offered by a simplified prospectus filed in one or more provinces and territories of Canada and, accordingly, each Fund is, or will be, a reporting issuer in one or more provinces and territories of

Canada. In the case of the Total Return Bond Fund, a preliminary simplified prospectus was filed via SEDAR in the Jurisdictions on July 25, 2013.

7. The Filer and the Funds are not in default of securities legislation in any jurisdiction of Canada.

8. The investment objective and investment strategies of each Fund are, or will be, set out in the Fund's simplified prospectus. Where specified in its investment strategies, a Fund may invest in specified derivatives in order to seek exposure to securities of markets and may also use derivatives to hedge against potential loss. When specified derivatives are used for non-hedging purposes, each Fund that is permitted to use derivatives is, or will be, subject to the cover requirements of NI 81-102.

Cash Cover

9. Sections 2.8(1)(d) and 2.8(1)(f)(i) of NI 81-102 do not permit covering the position in long positions in futures and forwards and long positions in swaps for a period when the Fund is entitled to receive payments under the swap, in whole or in part, with a right or obligation to sell an equivalent quantity of the underlying interest of the future, forward or swap. In other words, those sections of NI 81-102 do not permit the use of put options or short future, forward or swap positions to cover long future, forward or swap positions.

10. Section 2.8(1)(c) of NI 81-102 permits a mutual fund to write a put option and to cover it by holding a right or obligation to sell an equivalent quantity of the underlying interest of the written put option. This position has similar risks as a long position in a future, forward or swap. Therefore, the Filer submits that the Funds should be permitted to cover a long position in a future, forward or swap with a put option or a short future position.

11. The Filer, as investment fund manager, sets and reviews the investment objectives and overall investment policies of the Funds, which will allow for trading in derivatives. The derivative contracts entered into by or on behalf of the Funds must be in accordance with the investment objectives and strategies of each of the Funds and in compliance with NI 81-102.

12. Pursuant to its agreement with portfolio managers, sub-advisors or Futures Advisers, the Filer will permit such portfolio managers, sub-advisors or Futures Advisers to use derivatives for the Funds under certain conditions and limitations in order to gain exposure to financial markets or to invest indirectly in securities or other assets. Such agreement will also require such portfolio managers, sub-advisors or Futures Advisers to use risk management processes to monitor and measure the risks of all portfolio holdings within the Funds, including derivatives positions.

13. As the investment fund manager, the Filer will supervise and oversee the portfolio managers, sub-advisors and Futures Advisers in the use of derivatives as investments within the Funds and the Filer will put in place policies and procedures which will set out supervision and oversight processes to ensure that the use of derivatives is adequately monitored and derivatives risk is appropriately managed.

14. The annual information form of the Funds discloses, or will disclose, the internal controls and risk management processes of the Filer regarding the use of derivatives. The simplified prospectus and annual information form of the Funds that rely on the Cash Cover Relief will include disclosure of the nature of the Cash Cover Relief.

15. Without the Cash Cover Exemption, the Funds will not have the flexibility to enhance yield and to more effectively manage their exposure under specified derivatives.

Foreign Government Securities

16. The Total Return Bond Fund's investment objective is expected to be substantially as follows: "The investment objective of the Fund is to provide high level of current income with the potential for capital gains. The Fund will invest its assets primarily in global fixed income instruments from both developed and emerging markets. The Fund can invest across all sectors and credit qualities but will be primarily invested in investment grade securities. The Fund follows a socially responsible approach to investing."

17. To achieve the investment objective of the Total Return Bond Fund, it is expected that the investment team will engage an investment process that is based on a rigorous global top-down approach consisting of allocating the active risk of the Fund's portfolio proportionally across several sources of added value including duration management, country and yield curve decisions, sovereign bonds, credit allocations and currency management. The investment team will consider the macro-economic outlook for the markets and its views on the main global government, corporate and emerging bond, and currency markets.

18. As part of its investment strategies, the Total Return Bond Fund would like to invest a portion of its assets in Foreign Government Securities.

19. Section 2.1(1) of NI 81-102 restricts mutual funds from investing more than 10% 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.

20. The Foreign Government Securities are not within the meaning of "government securities" as such term is defined in 81-102.

21. 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 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:

    (a) 35% of the mutual fund's net asset value at the time of the transaction may be invested 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 designated rating organizations; and

    (b) 20% of the mutual fund's net asset value at the time of the transaction may be invested 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 designated rating organizations.

22. The simplified prospectus of the Total Return Bond Fund will disclose the risks associated with concentration of the net assets of the Fund in securities of a limited number of issuers.

Decision

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

The decision of the principal regulator under the Legislation is that the Exemption Sought is granted provided that:

1. in the case of the Cash Cover Exemption:

    (a) when a Fund enters into or maintains a swap position for periods when the Fund would be entitled to receive fixed payments under the swap, the Fund holds:

        (i) cash cover in an amount that, together with margin on account for the swap and the market value of the swap, is not less than, on a daily mark-to-market basis, the underlying market exposure of the swap;

        (ii) a right or obligation to enter into an offsetting swap on an equivalent quantity and with an equivalent term and cash cover that, together with margin on account for the position, is not less than the aggregate amount, if any, of the obligations of the Fund under the swap less the obligations of the Fund under such offsetting swap; or

        (iii) a combination of the positions referred to in subparagraphs (i) and (ii) that is sufficient, without recourse to other assets of the Fund, to enable the Fund to satisfy its obligations under the swap;

    (b) when a Fund opens or maintains a long position in a debt-like security that has a component that is a long position in a forward contract, or in a standardized future or forward contract, the Fund holds:

        (i) cash cover in an amount that, together with margin on account for the specified derivative and the market value of the specified derivative, is not less than, on a daily mark-to-market basis, the underlying market exposure of the specified derivative;

(ii) a right or obligation to sell an equivalent quantity of the underlying interest of the future or forward contract, and cash cover that, together with margin on account for the position, is not less than the amount, if any, by which the market price of the future or forward contract exceeds the strike price of the right or obligation to sell the underlying interest; or

(iii) a combination of the positions referred to in subparagraphs (i) and (ii) that is sufficient, without recourse to other assets of the Fund, to enable the Fund to acquire the underlying interest of the future or forward contract;

(c) the Funds will not (i) purchase a debt-like security that has an option component or an option; or (ii) purchase or write an option to cover any position under section 2.8(1)(b), (c), (d), (e) or (f) of NI 81-102 if, immediately after the purchase or writing of such option, more than 10% of the net asset value of the Fund at the time of the transaction would be made up of (A) purchased debt-like securities that have an option component or purchased options, in each case, held by the Funds for purposes other than hedging, or (B) options used to cover any position under section 2.8(1)(b), (c), (d), (e) or (f) of NI 81-102;

(d) on the date that is the earlier of (i) the date when an amendment to the annual information form of the Funds is filed for reasons other than the Cash Cover Exemption and (ii) the date that the renewal annual information form of the Funds is receipted, the Funds shall

(i) disclose the nature and terms of the Cash Cover Exemption in the annual information form of the Funds; and

(ii) include a summary of the nature and terms of the Cash Cover Exemption in the simplified prospectus of the Funds under the Investment Strategies section or in the introduction to Part B of the simplified prospectus with a cross reference thereto under the Investment Strategies section for each of the Funds; and

(e) this Decision with respect to the Cash Cover Exemption will terminate on the coming into force of any securities legislation relating to the use as cover of a right or obligation to sell an equivalent quantity of the underlying interest of the standardized future, forward or swap in compliance with section 2.8 of NI 81-102.

2. in the case of the Foreign Government Securities Exemption:

(a) paragraphs (b)(i) and (b)(ii) of the Exemption Sought cannot be combined for any one issuer;

(b) the evidences of indebtedness that are acquired under the Foreign Government Securities Exemption are traded on a mature and liquid market;

(c) the acquisition of the evidences of indebtedness acquired pursuant to this Decision is consistent with the fundamental investment objectives of the Total Return Bond Fund;

(d) the simplified prospectus of the Total Return Bond Fund discloses the additional risks associated with the concentration of net asset value of the Total Return Bond Fund in securities of fewer issuers, such as the potential additional exposure to the risk of default of the issuer in which the Total Return Bond Fund has so invested and the risks, including foreign exchange risks, of investing in the country in which the issuer is located; and

(e) the simplified prospectus of the Total Return Bond Fund will include a summary of the nature and terms of the Foreign Government Securities Exemption under the investment strategies section and the type of securities covered by this Decision.

"Darren McKall"
Manage, Investment Funds Branch
Ontario Securities Commission

2.1.5 Global Summit Real Estate Inc. – s. 1(10)(a)(ii)

Headnote

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

Applicable Legislative Provisions

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

September 27, 2013

Global Summit Real Estate Inc.
911 Homer Street, Suite 300
Vancouver, British Columbia V6B 2W6

Dear Sirs/Mesdames,

Re: Global Summit Real Estate Inc. (the Applicant) – application for a decision under the Securities Legislation of Alberta, Saskatchewan, Manitoba, Ontario, Quebec, New Brunswick, Nova Scotia, Prince Edward Island and Newfoundland (the Jurisdictions) that the Applicant is not a reporting issuer

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

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

The Applicant has represented to the Decision Makers that:

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

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

(c) the Applicant is applying for a decision that it is not a reporting issuer in all of the jurisdictions of Canada in which it is currently a reporting issuer; and

(d) the Applicant is not in default of any of its obligations under the Legislation as a reporting issuer.

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

“Kathryn Daniels”
Deputy Director, Corporate Finance
Ontario Securities Commission

2.1.6 Jovian Capital Corporation et al.

Headnote

National Policy 11-203 Process for Exemptive Relief Applications in Multiple Jurisdictions – Approval granted for change of manager of mutual funds – Change of manager is not detrimental to unitholders or the public interest – Change of manager approval granted on the condition that prior approval of the funds' unitholders is obtained at a special meeting of unitholders.

Applicable Legislative Provisions

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

September 19, 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
JOVIAN CAPITAL CORPORATION
(Jovian)

AND

IN THE MATTER OF
IA CLARINGTON INVESTMENTS INC.
(IA Clarington)

AND

IN THE MATTER OF
JOVFINANCIAL SOLUTIONS INC.
(JovFinancial or the Manager)
(Jovian, IA Clarington and the Manager are,
collectively, the Filers)

AND

IN THE MATTER OF
THE FUNDS
(as defined below)

DECISION

Background

The principal regulator in the Jurisdiction has received an application from the Filers for a decision under the securities legislation of the Jurisdiction of the principal regulator (the **Legislation**) for approval of the proposed change of manager of the mutual funds managed by the Manager (the **Funds**) under paragraph 5.5(1)(a) 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 (the **Principal Regulator**); and

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

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 and the Funds

1. The Manager is a corporation incorporated under the laws of the Province of Ontario with its head office in Toronto, Ontario.

2. The Manager is registered as an investment fund manager under the securities legislation in Ontario, Québec and Newfoundland and Labrador, and is registered as an exempt market dealer in all Canadian provinces.

3. The Manager manages the Funds.

4. The Funds, other than Jov Leon Frazer Enhanced Opportunities Fund Inc. (the **Jov Leon Fund**), are open-end mutual fund trusts or classes of a mutual fund corporation established under the federal laws of Canada or under the laws of the Province of Ontario. The Funds, other than the Jov Leon Fund, are reporting issuers in all of the provinces and territories of Canada. The Jov Leon Fund is a labour-sponsored investment fund that is a reporting issuer only in the Province of Ontario.

5. Securities of the Funds, other than the Jov Leon Fund, are offered under simplified prospectus and an annual information form. The Jov Leon Fund is offered by long form prospectus. The Funds are subject to, among other laws and regulations, NI 81-102, National Instrument 81-106 – *Investment Fund Continuous Disclosure* (**NI 81-106**) and National Instrument 81-107 – *Independent Review Committee for Investment Funds* (**NI 81-107**).

6. Neither the Manager nor any Fund is in default of applicable securities legislation in any province or territory of Canada.

Jovian

7. Jovian is a corporation incorporated under the federal laws of Canada, carrying on business in the financial services industry through its operating subsidiaries.

8. Jovian is a reporting issuer in Alberta, British Columbia, Manitoba, Ontario and Saskatchewan, and its head office is located in Toronto, Ontario. Jovian is not a registrant under the securities legislation of any jurisdiction in Canada or elsewhere.

9. Jovian is the direct holding company of the Manager.

10. Jovian is not in default of applicable securities legislation in any province or territory of Canada.

The Proposed Acquisition

11. In a press release dated July 16, 2013, Jovian announced that an agreement had been reached for the acquisition of all of its issued and outstanding common shares by Industrial Alliance Insurance and Financial Services Inc. (**Industrial Alliance**) by way of statutory arrangement under section 192 of the *Canada Business Corporations Act* (the **Proposed Acquisition**).

12. On September 11, 2013, the Proposed Acquisition was approved by shareholders and debentureholders of Jovian at a joint special meeting.

13. The Proposed Acquisition is subject to court and regulatory approvals and is expected to close on October 1, 2013.

Industrial Alliance and IA Clarington

14. Industrial Alliance is a public life and health insurance company incorporated under the laws of Québec. It is a reporting issuer in all of the provinces of Canada with its head office located in Québec.

15. Industrial Alliance is the direct holding company of IA Clarington Investments Inc. (**IA Clarington**).

16. IA Clarington is a corporation existing under the federal laws of Canada. It is registered as an investment fund manager under the securities legislation in Ontario, Québec and Newfoundland and Labrador.

17. IA Clarington is the manager of 64 mutual funds known as the IA Clarington Funds, the IA Clarington Inhance Funds, the IA Clarington Target Click Funds and the Distinction Portfolios (collectively, the IA Clarington Funds).

Proposed Change of Manager

18. The Proposed Acquisition will result in Industrial Alliance acquiring indirect control over the Manager.

19. Following completion of the Proposed Acquisition, however, Industrial Alliance will seek to merge the Manager into IA Clarington, with the merged company continuing as “IA Clarington Investments Inc.” (the **Merged Company**). It is anticipated that the merger will take place within six months following completion of the Proposed Acquisition. It is proposed that the Merged Company will become the manager of the Funds (the **Change of Manager**).

20. Prior to completing the Change of Manager, the Manager will seek securityholder approval of the Change of Manager at a special meeting of securityholders of the Funds (**Special Meeting**), which is expected to be held on or about November 29, 2013 (the **Meeting Date**).

21. The Proposed Acquisition and the Change of Manager are not expected to have any material impact on the Funds or on the securityholders of the Funds.

22. Specifically in respect of the Jov Leon Fund, Industrial Alliance will continue with Leon Frazer & Associates Inc. as the portfolio manager of the Jov Leon Fund following completion of the Proposed Acquisition. Industrial Alliance will also keep the existing officers and directors of the Jov Leon Fund in place.

23. Industrial Alliance has no present intention to make immediate material changes to the day-to-day operations of the Manager following completion of the Proposed Acquisition, other than the appointment of certain senior officers from within its organization. These appointments are expected to be effective immediately upon completion of the Proposed Acquisition.

24. Industrial Alliance anticipates making changes to the directors of the Manager following regulatory and securityholder approval of the Change of Manager.

25. Following regulatory and securityholder approval of the Change of Manager, Industrial Alliance also anticipates potential changes to the Funds as a result of their being part of the Industrial Alliance group, but only after careful consideration and in compliance with applicable laws. These changes are expected to include, among other items, (i) possible changes to the investment objectives of the Funds, but only upon securityholder approval, (ii) integration of the wholesale and client support system used by JovFinancial into that of IA Clarington, and (iii) possible exchangeability between the Funds and the IA Clarington Funds.

26. The Manager has determined that the Proposed Acquisition is not a conflict of interest matter pursuant to section 5.1 of NI 81-107 and that, as a result, the Proposed Acquisition will not require the approval or recommendation of the Funds’ Independent Review Committee (**IRC**). The Manager, has, however, provided information relating to the Proposed Acquisition and Change of Manager to the IRC.

27. By operation of sections 3.10(1)(b) and 3.10(1)(c) of NI 81-107, the members of the IRC will cease to be IRC members on two separate occasions: i) following the completion of the Proposed Acquisition; and ii) following completion of the Change of Manager. Industrial Alliance intends to appoint the members of the new IRC following the completion of the Proposed Acquisition and to reappoint the same members upon completion of the Change of Manager.

28. To the extent that any changes that would constitute “material changes” within the meaning of NI 81-106 will be effected with respect to the Funds as a result of the Proposed Acquisition and the Change of Manager, appropriate amendments will be made to the prospectus of the Funds and the Filers will comply with all other material change reporting requirements as required by securities legislation.

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 provided that:

(i) the Manager obtains prior approval of the securityholders of the Funds of the Change of Manager at the Special Meeting on the Meeting Date;

(ii) the notice of the Special Meeting and the management information circular in respect of the Special Meeting (the **Circular**) are mailed to the securityholders of the Funds and copies thereof are filed on SEDAR in accordance with applicable securities legislation;

(iii) the Circular contains:

(a) sufficient information regarding the business, management and operations of IA Clarington, including details of the funds it manages and its officers and board of directors;

(b) all information necessary to allow securityholders to make an informed decision about the Change of Manager and to vote on the Change of Manager; and

(iv) all other information and documents necessary to comply with the applicable proxy solicitation requirements of securities legislation for the Special Meeting are mailed to securityholders of the Funds.

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

2.1.7 Mackenzie Financial Corporation

Headnote

National Policy 11-203 Process for Exemptive Relief Applications in Multiple Jurisdictions – exemption from sections sections 2.8(1)(d) and (f)(i) of National Instrument 81-102 – Mutual Funds to permit the funds when they open or maintain a long position in a standardized future or forward contract or when they enter into or maintain an interest rate swap position and during the periods when the funds are entitled to receive payments under the swap, to use as cover, a right or obligation to sell an equivalent quantity of the underlying interest of the standardized future, forward or swap.

Applicable Legislative Provisions

National Instrument 81-102 Mutual Funds, ss. 2.8(1), 19.1.

September 24, 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
MACKENZIE FINANCIAL CORPORATION
(the Filer)

DECISION

Background

The principal regulator in the Jurisdiction has received an application from the Filer on behalf of all existing and future mutual funds managed by the Filer that are subject to National Instrument 81-102 *Mutual Funds* (**NI 81-102**), other than money market funds as defined in NI 81-102 (the **Fund(s)**), for a decision under the securities legislation of the Jurisdiction of the principal regulator (the **Legislation**) for an exemption, pursuant to section 19.1 of NI 81-102, from sections 2.8(1)(d) and 2.8(1)(f)(i) of NI 81-102 (the **Exemption Sought**), when:

(i) a Fund opens or maintains a long position in a debt-like security that has a component that is a long position in a forward contract or in a standardized future or forward contract; or

(ii) a Fund enters into or maintains a swap position and during the periods when the Fund is entitled to receive payments under the swap,

to permit the Fund to use as cover a right or obligation to sell an equivalent quantity of the underlying interest of the standardized future, forward or swap.

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 subsection 4.7(1) of Multilateral Instrument 11-102 *Passport System* (**MI 11-102**) is intended to be relied upon in British Columbia, Alberta, Saskatchewan, Manitoba, Québec, New Brunswick, Nova Scotia, Prince Edward Island, Newfoundland and Labrador, the Northwest Territories, Nunavut and Yukon (the **Other Jurisdictions**).

Interpretation

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

Representations

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

The Filer

1. The Filer is a corporation governed by the laws of Ontario and is registered as a portfolio manager and exempt market dealer in all of the provinces and territories of Canada. The Filer is also registered as a commodity trading manager in Ontario and as an investment fund manager in each of Ontario, Québec and Newfoundland.

2. The Filer is, or will be, the manager and the portfolio manager of the Funds. As portfolio manager, the Filer manages, or will manage, the derivatives strategies of the Funds or appoints, or will appoint, a sub-advisor to manage such derivatives strategies.

The Funds

3. Each Fund is, or will be, an open-ended mutual fund established under the laws of Ontario.

4. Units of each Fund are, or will be, offered by a simplified prospectus filed in each province and territory of Canada and, accordingly, each Fund is, or will be, a reporting issuer in each province and territory of Canada.

5. The Filer and the existing Funds are not in default of securities legislation in any jurisdiction of Canada.

6. The investment objective and investment strategies of each Fund are, or will be, set out in the Fund's simplified prospectus. As part of its investment strategies, each Fund may invest in specified derivatives in order to seek exposure to securities or markets. The Fund may also use derivatives to hedge against potential loss.

7. When specified derivatives are used for non-hedging purposes, each Fund is, or will be, subject to the cover requirements of NI 81-102.

Exemption Sought

8. Sections 2.8(1)(d) and 2.8(1)(f)(i) of NI 81-102 do not permit covering the position in long positions in futures and forwards and long positions in swaps for a period when a Fund is entitled to receive payments under the swap, in whole or in part, with a right or obligation to sell an equivalent quantity of the underlying interest of the future, forward or swap. In other words, those sections of NI 81-102 do not permit the use of put options or short future, forward or swap positions to cover long future, forward or swap positions.

9. Regulatory regimes in other countries and common investment practices recognize the hedging properties of options for all categories of derivatives, including long positions evidenced by standardized futures or forwards or in respect of swaps where a fund is entitled to receive payments from the counterparty, provided they are covered by an amount equal to the difference between the market price of a derivative holding and the strike price of the option that was bought or sold to hedge that derivative position. NI 81-102 effectively imposes the requirement to overcollateralize, since the maximum liability to the fund under the scenario described is equal to the difference between the market value of the long derivative position and the exercise price of the option. Overcollateralization imposes a cost on a mutual fund.

10. Section 2.8(1)(c) of NI 81-102 permits a mutual fund to write a put option and to cover it by holding a right or obligation to sell an equivalent quantity of the underlying interest of the written put option. This position has similar risks as a long position in a future, forward or swap. Therefore, the Filer submits that the Funds should be permitted to cover a long position in a future, forward or swap with a put option or a short future position.

11. The Filer has written policies and procedures relating to the use of derivatives by the Funds. The Filer's Fund Services Department records, values, monitors and reports on derivative transactions that are entered into by the Funds. A monthly derivative trading report is prepared on a fund-by-fund basis identifying derivative activity, credit rating analysis, concentration levels and compliance with regulatory requirements. Copies of these monthly reports are provided to the designated Senior Vice-President, Investments, the Chief Financial Officer, Funds and the Compliance

Department of the Filer. A summary of the reports and analysis of the overall use of derivatives by the Funds is reviewed by the Fund Oversight Committee of the Board of Directors of the Filer at least annually.

12. The annual information form of the Funds discloses, or will disclose, the internal controls and risk management processes of the Filer regarding the use of derivatives. The simplified prospectus and annual information form, upon renewal, will include disclosure of the nature of the Exemption Sought.

13. Without the Exemption Sought, the Funds will not have the flexibility to enhance yield and to manage more effectively any exposure they may have under specified derivatives.

Decision

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

The decision of the principal regulator under the Legislation is that the Exemption Sought is granted provided that:

(a) when a Fund enters into or maintains a swap position for periods when the Fund would be entitled to receive fixed payments under the swap, the Fund holds:

(i) cash cover in an amount that, together with margin on account for the swap and the market value of the swap, is not less than, on a daily mark-to-market basis, the underlying market exposure of the swap;

(ii) a right or obligation to enter into an offsetting swap on an equivalent quantity and with an equivalent term and cash cover that, together with margin on account for the position, is not less than the aggregate amount, if any, of the obligations of the Fund under the swap less the obligations of the Fund under such offsetting swap; or

(iii) a combination of the positions referred to in subparagraphs (i) and (ii) that is sufficient, without recourse to other assets of the Fund, to enable the Fund to satisfy its obligations under the swap;

(b) when a Fund opens or maintains a long position in a debt-like security that has a component that is a long position in a forward contract, or in a standardized future or forward contract, the Fund holds:

(i) cash cover in an amount that, together with margin on account for the specified derivative and the market value of the specified derivative, is not less than, on a daily mark-to-market basis, the underlying market exposure of the specified derivative;

(ii) a right or obligation to sell an equivalent quantity of the underlying interest of the future or forward contract, and cash cover that, together with margin on account for the position, is not less than the amount, if any, by which the market price of the future or forward contract exceeds the strike price of the right or obligation to sell the underlying interest; or

(iii) a combination of the positions referred to in subparagraphs (i) and (ii) that is sufficient, without recourse to other assets of the Fund, to enable the Fund to acquire the underlying interest of the future or forward contract;

(c) a Fund will not (i) purchase a debt-like security that has an option component or an option; or (ii) purchase or write an option to cover any position under section 2.8(1)(b), (c), (d), (e) or (f) of NI 81-102 if, immediately after the purchase or writing of such option, more than 10% of the net asset value of the Fund at the time of the transaction would be made up of (A) purchased debt-like securities that have an option component or purchased options, in each case, held by the Fund for purposes other than hedging, or (B) options used to cover any position under section 2.8(1)(b), (c), (d), (e) or (f) of NI 81-102;

(d) on the date that is the earlier of (i) the date when an amendment to the annual information form of a Fund is filed for reasons other than the Exemption Sought and (ii) the date that the renewal annual information form of a Fund is receipted, the Fund shall:

(i) disclose the nature and terms of the Exemption Sought in the annual information form of the Fund; and

(ii) include a summary of the nature and terms of the Exemption Sought in the simplified prospectus of the Fund under the Investment Strategies section or in the introduction to Part B of the simplified prospectus with a cross reference thereto under the Investment Strategies section for the Fund; and

(e) this decision will terminate on the coming into force of any securities legislation relating to the use as cover of a right or obligation to sell an equivalent quantity of the underlying interest of the standardized future, forward or swap in compliance with section 2.8 of NI 81-102.

"Vera Nunes"
Manager, Investment Funds Branch

2.1.8 Desjardins Securities Inc. and IIROC members firms registered as of the date of this decision

Headnote

The applicant and other IIROC members are temporarily exempted, until March 26, 2014, from the requirement in section 14.2(1) of National Instrument 31-103 Registration Requirements, Exemptions and Ongoing Registrant Obligations to provide relationship disclosure information in respect of clients that were clients of the firm before March 26, 2013.

**IN THE MATTER OF
NATIONAL INSTRUMENT 31-103
REGISTRATION REQUIREMENTS, EXEMPTIONS AND
ONGOING REGISTRANT OBLIGATIONS**

AND

**ONTARIO SECURITIES COMMISSION
RULE 13-502 FEES**

AND

**DESJARDINS SECURITIES INC. (the Lead Filer)
AND IIROC MEMBERS FIRMS
REGISTERED AS OF THE DATE OF THIS DECISION**

DECISION

Interpretation

1. Unless otherwise defined in this decision or the context otherwise requires, terms used in this decision that are defined in National Instrument 31-103 *Registration Requirements, Exemptions and Ongoing Registrant Obligations* (**NI 31-103**) or National Instrument 14-101 *Definitions* have the same meaning.

Background

2. Under section 14.2(1) [*relationship disclosure information*] of NI 31-103, a registered firm must deliver to a client all information that a reasonable investor would consider important about the client's relationship with the registrant.

3. Under section 16.14 of NI 31-103, section 14.2 of NI 31-103 did not apply until September 28, 2010 to persons or companies that were registered on September 28, 2009.

4. Under a decision granted to the Lead Filer on September 9, 2010, temporary relief from the application of section 14.2(1) of NI 31-103 was made available until September 28, 2011 to Investment Industry Regulatory Organization of Canada (**IIROC**) members that were registered on the date of the decision. The temporary relief was provided in anticipation of the finalization of the IIROC relationship disclosure information proposal (**RDI Proposal**).

5. Under a decision granted to the Lead Filer on September 20, 2011, further temporary relief from the application of section 14.2(1) of NI 31-103 was made available until December 31, 2013 to IIROC members that were registered on the date of the decision (the **RDI Decision**). It was anticipated that the IIROC RDI Proposal would be finalized and new IIROC member rules reflecting the IIROC RDI Proposal would be approved before the end of 2011 with provisions for their implementation in phases over a two-year transition period.

6. On March 26, 2012, the IIROC announced in IIROC Notice 12-0107 *Client Relationship Model – Implementation* the implementation of, among other things, new IIROC Dealer Member Rule 3500 – *Relationship disclosure* (the **IIROC RDI Rule**).

7. The IIROC RDI Rule sets out detailed requirements to assist registered firms who are IIROC members to comply with the general principle in section 14.2(1) of NI 31-103.

8. The implementation schedule for the IIROC RDI Rule provided that the provision of relationship disclosure information to: (i) new clients be given a one year transition period, with an effective implementation date of March 26, 2013, and (ii) existing clients be given a two year transition period, with an implementation date of March 26, 2014.

Application

9. The Lead Filer has applied to the Director, under section 15.1 of NI 31-103, for exemptions for itself and each registered firm that is a member of IIROC as of the date of this decision from section 14.2(1) of NI 31-103, subject to the conditions and restrictions set out in this decision.

10. The Lead Filer represents that if it is required to comply with section 14.2(1) of NI 31-103 on December 31, 2013, the date when the RDI Decision expires, it will be required to prepare detailed relationship disclosure information for its existing clients and may incur significant costs changing its relationship disclosure communications with existing clients when the IIROC RDI Rule is implemented.

11. The Lead Filer further represents that since the IIROC RDI Rule will come into effect on March 26, 2014 in respect of the provision of relationship disclosure information to existing clients, the cost that it will incur by having to comply with section 14.2(1) of NI 31-103 on December 31, 2013 in the interim is not justified.

12. Additionally, the Lead Filer has applied to the Director, under section 6.1 of Ontario Securities Commission Rule 13-502 *Fees* (**Fee Rule**), for an exemption from the requirement in section 4.1 to pay a fee for its filing of this exemption application on behalf of other IIROC members firms.

Decision

13. Section 14.2(1) of NI 31-103 does not apply to the Lead Filer or any registered firm that is a member of IIROC as of the date of this decision in respect of the provision of relationship disclosure information to their clients that were clients of the firm before March 26, 2013.

14. Pursuant to section 6.1 of the Fee Rule, the Lead Filer is exempt from the requirement in section 4.1 of the Fee Rule to pay an activity fee for its filing of this exemption application.

15. This decision comes into effect on December 31, 2013 and expires on March 26, 2014.

October 3, 2013

"Debra Foubert"
Director
Compliance and Registrant Regulation

2.1.9 Children's Educational Foundation of Canada et al.

Headnote

National Policy 11-203 Process for Exemptive Relief Applications in Multiple Jurisdictions – Relief granted to scholarship plan for 41-day extension of prospectus lapse date to November 19, 2013 – additional time needed to prepare prospectus in accordance with requirements of new prospectus form and for staff review – extension of lapse will not impact currency of disclosure relating to the scholarship plan.

Applicable Legislative Provisions

Securities Act, R.S.O. 1990, c. S.5, as am., s. 62(5).

September 24, 2013

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

AND

IN THE MATTER OF
CHILDREN'S EDUCATIONAL FOUNDATION
OF CANADA (C.E.T.)
(the Filer)

AND

C.E.T. GROUP OPTION PLAN
C.E.T. SELF-INITIATED OPTION PLAN
C.E.T. ACHIEVERS PLAN
(each, a Plan, and collectively, the Plans)

DECISION

Background

The principal regulator in the Jurisdiction has received an application from the Filer for a decision under the securities legislation of the Jurisdiction of the principal regulator (the **Legislation**) for an exemption that the time limits pertaining to filing the renewal prospectus of the Plans be extended as if the lapse date of the prospectus of the Plans dated October 9, 2012 (the **Current Prospectus**) is November 19, 2013 (the **Requested Relief**).

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

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

b. the 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 (the **Passport 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 Filer:

1. The Filer is a non-profit corporation without share capital incorporated by Letters Patent under the laws of Canada. The Filer is the sponsor of the Plans.

2. The Filer administered by Children's Education Funds Inc. is registered as an investment fund manager under applicable securities legislation in Ontario, Newfoundland and Labrador, and Quebec, and is registered as a scholarship plan dealer under applicable securities legislation in all jurisdictions.

3. The Filer is not in default of securities legislation in any province or territory of Canada.

4. Each Plan is a reporting issuer in each of the provinces and territories in Canada and is not in default of securities legislation in any province or territory of Canada.

5. Securities of the Plans are currently qualified for distribution in each of the provinces and territories of Canada under the Current Prospectus.

6. The lapse date for the Current Prospectus is October 9, 2013 (the **Current Lapse Date**). Accordingly, the distribution of securities of the Plans would have to cease on the Current Lapse Date unless (i) each Plan files a pro forma prospectus at least 30 days prior to the Current Lapse Date, i.e. by September 9, 2013; (ii) the final prospectus is filed no later than 10 days after the Current Lapse Date, i.e. by October 19, 2013; and (iii) a receipt for the final simplified prospectus is obtained within 20 days of the Current Lapse Date, i.e. by October 29, 2013.

7. Since the date of the Current Prospectus, no undisclosed material change to the Plans has occurred. Accordingly, the Current Prospectus continues to provide accurate information regarding the Plans. All documents required to be incorporated by reference into the Current Prospectus have been filed as required under applicable securities laws.

8. The Canadian Securities Administrators, including the Commission, amended National Instrument 41-101 – *General Prospectus Requirements* (**NI 41-101**) and the addition of a new Form 41-101F3 (collectively, the **New Requirements**) to require each Plan to prepare a Plan Summary and a Detailed Plan Disclosure document, both of which will be the prospectus of the Plans. The amendments to NI 41-101 came into force on May 31, 2013.

9. The new requirements have necessitated a complete redraft of the Plans' prospectus.

10. The requested extension of the Current Lapse Date is necessary:

    (i) To ensure that the new revised prospectus documents of the Plans comply in all material respects with NI 41-101, and

    (ii) To allow for sufficient time to translate the new revised prospectus documents into French.

11. Given the disclosure obligations of the Filer and the Plans, should any material changes to the Plans be proposed, the Current Prospectus will be amended accordingly. Therefore, the extension of the Current Lapse Date requested will not affect the currency or accuracy of the information contained in the Current Prospectus and will allow for the prospectus of the Plans, once filed in final form to be in accordance with the New Requirements and accordingly will not be prejudicial to the public interest.

12. If the Requested Relief is granted, the pro forma prospectus for the Plans will be filed no later than October 19, 2013.

Decision

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

The decision of the Commission is that the Requested Relief is granted.

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

2.1.10 Russell Investments Canada Limited and Russell Extended Duration Fund

Headnote

National Policy 11-203 – Process for Exemptive Relief Applications in Multiple Jurisdictions – relief granted from the mutual fund conflict of interest restrictions and reporting requirements in the Securities Act (Ontario) and the self-dealing prohibition in National Instrument 31-103 – Registration Requirements, Exemptions and Ongoing Registrant Obligations to allow pooled funds to invest in securities of underlying funds under common management – relief subject to certain conditions.

Applicable Legislative Provisions

Securities Act (Ontario) R.S.O. 1990, c. S.5, as am., ss. 111(2)(b), 111(3), 113, 117(1)(a), 117(2).
National Instrument 31-103 Registration Requirements, Exemptions and Ongoing Registrant Obligations, ss. 13.5(2)(a), 15.1.

September 23, 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
RUSSELL INVESTMENTS CANADA LIMITED
(the Filer)

AND

RUSSELL EXTENDED DURATION FUND
(the Initial Top Fund)

DECISION

Background

The principal regulator in the Jurisdiction has received an application from the Filer, on its own behalf and on behalf of the Initial Top Fund and any other investment fund which is not a reporting issuer under the *Securities Act* (Ontario) (the **Act**) established, advised or managed by the Filer after the date hereof (the **Future Top Funds** and, together with the Initial Top Fund, the **Top Funds**), for a decision under the securities legislation of the Jurisdiction (the **Legislation**), exempting the Filer and the Top Funds from:

1. the restriction contained in section 111(2)(b) and section 111(3) of the Act which prohibits:

   (a) a mutual fund from knowingly making an investment in a person or company in which the mutual fund, alone or together with one or more related mutual funds, is a substantial security holder; and

   (b) a mutual fund, its management company or its distribution company from knowingly holding an investment described in paragraph (a) above;

   (the **Related Issuer Restriction Relief**);

2. the requirement in section 117(1)(a) of the Act requiring every management company to file a report of every transaction of purchase or sale of securities between a mutual fund and any related person or company (the **Reporting Requirement Relief**); and

3. the restriction in section 13.5(2)(a) of National Instrument 31-103 *Registration Requirement and Exemptions* (**NI 31-103**) that prohibits a registered adviser from knowingly causing an investment portfolio managed by it, including an investment fund for which it acts as an adviser, to purchase securities of an issuer in which a responsible person or an associate of the responsible person is a partner, officer or director unless this fact is disclosed to the client and the written consent of the client to the purchase is obtained before the purchase (the **Consent Restriction Relief**)

   (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 British Columbia, Alberta, Saskatchewan, Manitoba, Quebec, New Brunswick, Nova Scotia and Newfoundland and Labrador, Northwest Territories, Nunavut and Yukon (the **Non-Principal Passport Jurisdictions**).

Interpretation

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

Representations

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

The Filer

1. The Filer is a corporation incorporated under the laws of Canada. The Filer has its head office in Toronto, Ontario. The Related Issuer Restriction Relief and the Reporting Requirement Relief is only required in the provinces of Ontario and Alberta. The Consent Restriction Relief is required in all the Non-Principal Passport Jurisdictions.

2. The Filer is registered as an investment fund manager in Ontario and is, or will be, the manager of the Top Funds and the Underlying Funds (as defined below). The Filer is also registered as a portfolio manager and is, or will be, the portfolio manager of the Top Funds and the Underlying Funds. The Filer is also an exempt market dealer in all provinces of Canada.

3. The Filer is, or will be, the trustee and/or manager of the Underlying Funds (as defined below).

4. The Filer is not a reporting issuer in any jurisdiction of Canada.

5. The Filer is not in default of securities legislation in any of the provinces and territories of Canada.

Top Funds

6. The Top Funds are, or will be, formed as a trust under the laws of Ontario by a declaration of trust.

7. Each Top Fund is, or will be, a “mutual fund” as defined in the securities legislation of the jurisdictions in which the Top Funds are distributed.

8. The securities of each of the Top Funds are, or will be, sold pursuant to available prospectus exemptions in accordance with National Instrument 45-106 *Prospectus and Registration Exemptions* (**NI 45-106**).

9. None of the Top Funds is, or will be, a reporting issuer under the Legislation.

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

11. Subject to obtaining the Exemption Sought, the Top Funds may invest all, or a certain portion, of their assets in other investment funds established and managed by the Filer, or an affiliate of the Filer, to which National Instrument 81-102 – *Mutual Funds* (NI 81-102) applies (the **Underlying NI 81-102 Funds**) or to which NI 81-102 does not apply (the **Underlying Pooled Funds**, together with the Underlying NI 81-102 Funds, the **Underlying Funds**).

Underlying Funds

12. Each Underlying Fund is, or will be, a mutual fund trust or a class of a mutual fund corporation established under the laws of the Province of Ontario.

13. Each Underlying Fund is, or will be, either an Underlying NI 81-102 Fund or an Underlying Pooled Fund. Currently, the only Underlying Funds are the Russell Funds currently offered under a simplified prospectus and an annual information form dated July 8, 2013, which are Underlying NI 81-102 Funds.

14. Each Underlying Fund is, or will be, a “mutual fund” as defined in the securities legislation of the jurisdictions that the Underlying Funds are distributed.

15. Each Underlying NI 81-102 Fund is, or will be, offered by a simplified prospectus such that it will be a reporting issuer in each of the provinces and territories in Canada. Each Underlying Pooled Fund will be offered on a private placement basis such that it will not be a reporting issuer in any jurisdiction in Canada.

16. Each of the Underlying Funds has, or will have, separate investment objectives, strategies and investment restrictions.

17. The Underlying Funds will invest primarily in equity securities, in fixed income securities, options on equities and currency, as well as illiquid assets including private equity and debt. Where an Underlying Fund holds illiquid assets, the remainder of the Underlying Fund's portfolio will be managed to provide sufficient liquidity to fund redemptions in the ordinary course.

18. None of the existing Underlying NI 81-102 Funds is in default of any securities legislation of any jurisdiction in Canada.

Fund-on-Fund Investing

19. The Top Funds provide investors with exposure to the investment portfolios of the Underlying Funds and their respective investment strategies. The Top Funds will primarily invest directly in the securities of the Underlying Funds (the **Fund-on-Fund Structure**).

20. The Fund-on-Fund Structure will allow the Top Funds to be able, where available and appropriate for their respective investment objective, to achieve greater diversification at a lower cost than investing directly in the securities held by the relevant Underlying Funds. Investment by the Top Funds in the Underlying Funds will increase the asset base of the Underlying Funds, enabling the Underlying Funds to further diversify their portfolios to the benefit of all their investors. The larger asset base will also benefit investors in the Underlying Funds through achieving favourable pricing and transaction costs on portfolio trades, increased access to investments where there is a minimum subscription or purchase amount, and economies of scale through greater administrative efficiency.

21. Any investment made by a Top Fund in an Underlying Fund will be compatible with the investment objectives of the Top Fund.

22. The Top Funds and the Underlying Funds are, or will be, valued no less frequently than monthly and in any event, the Underlying Funds are, or will be, valued no less frequently than the Top Funds.

23. The Top Funds and the Underlying Funds are, or will be, redeemable no less frequently than monthly and in any event, the Underlying Funds are, or will be, redeemable no less frequently than the Top Funds.

24. The investments held by the Underlying Funds are considered to be liquid.

25. A Top Fund will not purchase or hold securities of an Underlying Fund unless:

    (a) at the time of the purchase of securities of the Underlying Fund, the Underlying Fund holds no more than 10% of the market value of its net assets in securities of other mutual funds, unless the Underlying Fund:

        (i) links its performance to the performance to one other mutual fund, i.e. a clone fund,

        (ii) purchases or holds securities of a "money market fund" (as defined by NI 81-102), or

        (iii) purchases or holds securities that are "index participation units" (as defined by NI 81-102) issued by a mutual fund;

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

(c) no sales fees or redemption fees are payable by the Top Fund in relation to its purchases or redemptions of the securities of the Underlying Fund;

(d) the Filer does not cause the securities of the Underlying Fund held by the Top Fund to be voted at any meeting of the securityholders of the Underlying Fund except that the Top Fund may arrange for the securities it holds of the Underlying Fund to be voted by the beneficial holders of securities of the Top Fund; and

(e) the offering memorandum, where available, or other disclosure document, of the Top Fund will be provided to all investors of the Top Fund and will disclose:

(i) that the Top Fund may purchase securities of the Underlying Funds;

(ii) that the Filer is the investment fund manager of both the Top Funds and the Underlying Funds, if applicable,

(iii) the approximate or maximum percentage of net assets of the Top Fund that the Top Fund intends to invest in securities of the Underlying Funds; and

(iv) the process or criteria used to select the Underlying Funds.

26. Prior to the time of purchase of securities of a Top Fund, an investor will be provided with a copy of the Top Fund's offering memorandum, where available, as well as disclosure about the relationships and potential conflicts of interest between the Top Fund and the Underlying Funds.

27. Each of the Top Funds and the Underlying Funds will prepare annual audited financial statements and interim unaudited financial statements in accordance with National Instrument 81-106 Investment Fund Continuous Disclosure (NI 81-106) and will otherwise comply with the requirements of NI 81-106 applicable to them. The holdings by a Top Fund of securities of an Underlying Fund will be disclosed in the financial statements of the Top Fund.

28. Securityholders of a Top Fund will receive, on request, a copy of the Top Fund’s audited annual and interim financial statements.

29. Securityholders of a Top Fund will receive, on request, a copy of the offering document of the Underlying Funds, if available, and the audited annual financial statements and interim unaudited financial statements of any Underlying Fund in which the Top Fund invests.

Generally

30. The amounts invested from time to time in an Underlying Fund by a Top Fund may exceed 20% of the outstanding voting securities of the Underlying Fund. As a result, each Top Fund could, either alone or together with other Top Funds, become a substantial security holder of an Underlying Fund. The Top Funds are, or will be, related mutual funds by virtue of the common management by the Filer.

31. In addition, the board of directors of an Underlying Fund that is a class of a mutual fund corporation may include directors who are also directors or officers of the Filer.

32. In the absence of the Related Issuer Restriction Relief, the Top Funds would be precluded from implementing Fund-on-Fund Investing. Since the Underlying Pooled Funds do not offer their securities under a simplified prospectus, they are not subject to NI 81-102 and therefore the Top Funds and the Underlying Pooled Funds are unable to rely upon the exemption codified under section 2.5(7) of NI 81-102.

33. Unless the Reporting Requirement Relief is granted, to the extent that a Top Fund would be a "related person or company" of an Underlying NI 81-102 Fund, the Filer would have to report to the securities regulatory authority every sale of securities made from that Underlying NI 81-102 Fund to the Top Fund.

34. In the absence of the Consent Restriction Relief, each Top Fund would be precluded from investing in an Underlying Fund, unless the consent of each investor in the Top Fund is obtained, since the Filer or an officer and/or director of the Filer (considered a responsible person within the meaning of the applicable provisions of NI 31-103) may also be an officer and/or director of, or may person a similar function for or occupy a similar position with the Underlying Fund.

35. A Top Fund's investment in an Underlying Fund represents the business judgment of responsible persons uninfluenced by considerations other than the best interests of the Top Fund.

Decision

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

The decision of the principal regulator under the Legislation is that the Exemption Sought is granted provided that:

(a) securities of the Top Funds are distributed in Canada solely pursuant to exemptions from the prospectus requirements in accordance with NI 45-106;

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

(c) no Top Fund will purchase or hold securities of an Underlying Fund unless, at the time of the purchase of securities of the Underlying Fund, the Underlying Fund holds no more than 10% of the market value of its net assets in securities of other mutual funds other than a mutual fund that:

(i) links its performance to the performance to one other mutual fund, i.e. a clone fund,

(ii) purchases or holds securities of a "money market fund" (as defined by NI 81-102), or

(iii) purchases or holds securities that are "index participation units" (as defined by NI 81-102) issued by a mutual fund;

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

(e) no sales fees or redemption fees are payable by a Top Fund in relation to its purchases or redemptions of the securities of the Underlying Fund;

(f) the Filer does not cause the securities of the Underlying Fund held by a Top Fund to be voted at any meeting of the securityholders of the Underlying Fund except that the Top Fund may arrange for the securities it holds of the Underlying Fund to be voted by the beneficial holders of securities of the Top Fund;

(g) the offering memorandum, where available, or other disclosure document, of the Top Fund will be provided to all investors of the Top Fund and will disclose:

(i) that the Top Fund may purchase securities of the Underlying Funds;

(ii) that the Filer, or an affiliate of the Filer, is the investment fund manager of both the Top Funds and the Underlying Funds;

(iii) the approximate or maximum percentage of net assets of the Top Fund that the Top Fund intends to invest in securities of the Underlying Funds; and

(iv) the process or criteria used to select the Underlying Funds; and

(h) investors in each Top Fund are entitled to receive from the Filer or its affiliates, on request and free of charge, a copy of the offering memorandum or other disclosure documents, or the annual or semi-annual financial statements relating to all Underlying Funds in which the Top Fund may invest its assets.

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

"Wes M. Scott"
Commissioner
Ontario Securities Commission

"Judith Robertson"
Commissioner
Ontario Securities Commission

2.1.11 Russell Investments Canada Limited and Russell Real Assets Portfolio

Headnote

National Policy 11-203 – Process for Exemptive Relief Applications in Multiple Jurisdictions – relief granted from sections 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, silver 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. 2.5(2)(a) and (c), 19.1.

September 26, 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
RUSSELL INVESTMENTS CANADA LIMITED
(the Filer)

AND

RUSSELL REAL ASSETS PORTFOLIO
(the Fund)

DECISION

Background

The principal regulator in the Jurisdiction has received an application from the Filer for a decision under the securities legislation of the Jurisdiction of the principal regulator (the **Legislation**) for an exemption from sections 2.5(2)(a) and 2.5(2)(c) of National Instrument 81-102 *Mutual Funds* (**NI 81-102**) in order to permit the Fund to invest in exchange-traded funds traded on a stock exchange in Canada or the United States which hold, or obtain exposure to, one or more physical commodities on an unlevered basis (**Commodity ETFs**) (the **Requested Relief**).

Under the Process for Exemptive Relief Applications in Multiple Jurisdictions:

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

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

Interpretation

Terms defined in MI 11-102, National Instrument 14-101 *Definitions* 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:

1. The Filer is a corporation with its head office located in Toronto, Ontario. The Filer is registered under the securities legislation of the Jurisdiction as an investment fund manager and portfolio manager, and also is registered under the *Commodity Futures Act* (Ontario) in the category of commodity trading manager. The Filer is not in default of securities legislation in the Jurisdiction or any Passport Jurisdiction.

2. The Filer is the investment fund manager of, and portfolio advisor to, the Fund.

3. Russell Real Assets Portfolio is an open-end mutual fund trust created under the laws of the Province of Ontario. The Fund is not in default of securities legislation in any jurisdiction of Canada.

4. The securities of the Fund are qualified for distribution pursuant to a simplified prospectus and annual information form that has been prepared and filed in accordance with the securities legislation of the Jurisdiction and each Passport Jurisdiction.

5. The Fund is a reporting issuer or the equivalent under the securities legislation of the Jurisdiction and each Passport Jurisdiction and therefore subject to the requirements of NI 81-102.

6. The investment objective of the Fund is to provide exposure to a diversified portfolio of asset classes that are directly or indirectly linked to physical assets, or to assets that the investment manager of the Fund believes have a tendency to maintain their real (after inflation) value over time. To pursue its investment objective, the Fund invests in, or obtains exposure to, primarily equity securities, fixed-income securities, commodities and securities of other mutual funds.

7. The principal advantage of the Fund's investment objective and strategies is that they will provide investors with exposure to asset classes which tend to preserve their value after taking into account the effects of inflation (referred to herein as **Real Assets**). Accordingly, the Fund may provide investors with a hedge against inflation. Real Assets include real estate, infrastructure, physical commodities and inflation-adjusted bonds. The Fund's asset mix initially will be comprised of exposure to Real Assets in approximately the following percentages of the Fund's net asset value:

   (a) 35% in real estate;

   (b) 35% in infrastructure;

   (c) 10% in physical commodities; and

   (d) 20% in inflation-adjusted bonds.

8. A secondary advantage of the Fund's investment objective and strategies is that they will provide investors with exposure to Real Assets, the market value of which tend to be uncorrelated with changes in the global equity and fixed income markets. Accordingly, the Fund may provide investors with returns which, when part of a larger portfolio, may reduce the volatility of the investor's portfolio.

9. The Fund's investment objective and strategies are designed to offer investors an opportunity to obtain exposure to Real Assets. To pursue its investment objective, the Fund requires the ability to obtain exposure for up to 10% of its net asset value to physical commodities through investments in Commodity ETFs.

10. Each Commodity ETF is a "mutual fund" (as such term is defined under the securities legislation of the Jurisdiction) and is listed and traded on a stock exchange in Canada or the United States.

11. The assets of each 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 commodities. These physical commodities may include, without limitation, precious metals other than gold and silver (such as platinum and palladium), energy (such as crude oil, gasoline, heating oil and natural gas), industrial metals (such as aluminum, copper, nickel and zinc), livestock (such as hogs and cattle) and agricultural products (such as coffee, corn, cotton, livestock, soybeans, soybean oil, sugar and wheat). The objective of each Commodity ETF is to reflect the price of its applicable commodities (less the Commodity ETF's expenses and liabilities) on an unlevered basis.

12. The Fund will not directly hold the physical commodities described above, nor will the Fund enter into a specified derivative with an underlying interest that is a physical commodity described above. Instead, the Fund will obtain

exposure to such physical commodities solely through investing in securities of Commodity ETFs. The securities of Commodity ETFs trade on established exchanges in Canada or the United States and are highly liquid.

13. The Fund will not obtain exposure to the physical commodities described above through futures contracts (on margin or otherwise). Further, the Fund will invest only in Commodity ETFs which do not utilize leverage.

14. Pursuant to a decision dated June 28, 2011 (the **Existing ETF Relief**), the Fund is entitled to purchase and hold securities of certain types of exchange-traded funds. These additional types of exchange-traded funds seek to replicate:

    (a) the daily performance of an index by (i) a multiple or an inverse multiple of 200% or (ii) an inverse multiple of 100%; or

    (b) the performance of gold or silver, either (i) on an unlevered basis or (ii) by a multiple of 200% (the **Gold/Silver ETFs**).

15. The Fund is not permitted purchase these additional types of exchange-traded funds if more than 10% of its net assets taken at market value at the time of the transaction would be invested in such exchange-traded funds. The Existing ETF Relief also allows the Fund to invest directly in silver, certain silver certificates and derivatives the underlying interest of which is silver (or another derivative with silver as its underlying interest). By the terms of the Existing ETF Relief, the Fund cannot purchase silver or silver-related investments if more than 10% of its net assets taken at market value at the time of the transaction would be invested, directly or indirectly, in gold or silver.

16. Investments by the Fund in Commodity ETFs under the Requested Relief will complement any investments made by the Fund under the Existing ETF Relief. The Fund's aggregate investments made under the Existing ETF Relief and the Requested Relief will be prudent by adhering to the following conditions:

    (a) not more than 10% of the Fund's net asset value will be invested in Commodity ETFs at the time of the investment;

    (b) not more than 2.5% of the Fund's net asset value will be exposed through investments in Commodity ETFs to one commodity sector at the time of the investment (for this purpose, the commodity sectors are precious metals other than gold and silver, energy, industrial metals, livestock and agricultural products); and

    (c) not more than 10% of the Fund's net asset value will be invested in reliance upon the Existing ETF Relief and the Requested Relief, in aggregate, at the time of investment.

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

Decision

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

The decision of the principal regulator under the Legislation is that the Requested Relief is granted provided that, in respect of the Fund:

1. any trades in Commodity ETFs by the Fund will be made in compliance with the Fund's investment objective;

2. the Fund will invest only in Commodity ETFs which do not utilize leverage;

3. the Fund will not short sell securities of any Commodity ETF;

4. not more than 10% of the Fund's net asset value will be invested in Commodity ETFs at the time of the purchase;

5. not more than 2.5% of the Fund's net asset value will be exposed through investments in Commodity ETFs to one commodity sector at the time of the purchase (for this purpose, the commodity sectors are precious metals other than gold and silver, energy, industrial metals, livestock and agricultural products);

6. not more than 10% of the Fund's net asset value will be invested in reliance upon the Existing ETF Relief and the Requested Relief, in aggregate, at the time of the purchase;

7. the Fund will limit its exposure to physical commodities (including direct purchases of gold, permitted gold certificates, Gold/Silver ETFs and Commodity ETFs), to no more than 10% of the net assets of the Fund, taken at market value at the time of purchase as applicable; and

8. the Fund discloses (a) in the investment strategy section of its simplified prospectus the fact that the Fund has obtained relief to invest in Commodity ETFs, and (b) in its simplified prospectus (i) what is a Commodity ETF, (ii) how assets of the Fund will be invested in Commodity ETFs, and (iii) the risks associated with investing in Commodity ETFs.

"Darren McKall"
Manager, Investment Funds
Ontario Securities Commission

2.2 Orders

2.2.1 MRS Sciences Inc. (formerly Morningside Capital Corp.) et al.

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

AND

**IN THE MATTER OF
MRS SCIENCES INC.
(FORMERLY MORNINGSIDE CAPITAL CORP.),
AMERICO DEROSA, RONALD SHERMAN,
EDWARD EMMONS, IVAN CAVRIC AND
PRIMEQUEST CAPITAL CORPORATION**

ORDER

WHEREAS on November 30, 2007, a Notice of Hearing was issued by the Ontario Securities Commission (the “Commission”) pursuant to sections 127 and 127.1 of the *Securities Act*, R.S.O. 1990, c. S.5, as amended (the “Act”) with respect to a Statement of Allegations issued by Staff of the Ontario Securities Commission (‘Staff”) on November 29, 2007, to consider whether MRS Sciences Inc. (formerly Morningside Capital Corp.), Americo DeRosa, Ronald Sherman, Edward Emmons, Ivan Cavric and Primequest Capital Corporation (collectively, the “Respondents”) breached the Act and acted contrary to the public interest;

AND WHEREAS on March 25, 2006 an Amended Statement of Allegations was issued by Staff, and on April 14, 2009 an Amended Amended Statement of Allegations was issued by Staff;

AND WHEREAS the Commission conducted the hearing on the merits in this matter with respect to the Respondents on May 7, 8, 11, 13, June 10, 11, 12, 22, 26, September 3, 4, and October 7, 2009;

AND WHEREAS the Commission issued its Reasons and Decision on the merits in this matter on February 2, 2011 (the “Merits Decision”);

AND WHEREAS the Commission conducted a motion hearing on November 2, 2011 addressing the issue of the composition of the Sanctions and Costs Hearing Panel (the “Motion”);

AND WHEREAS the Commission issued its Reasons and Decision on the Motion on December 6, 2011 (the “Motion Decision”);

AND WHEREAS on January 3, 2012, the Respondents filed a Notice of Appeal with respect to the Motion Decision, and on February 24, 2012, the Respondents filed an Application to Divisional Court for Judicial Review of the Motion Decision;

AND WHEREAS on December 17, 2012, the Divisional Court heard the Application for Judicial Review and rendered its decision that the Application for Judicial Review is premature;

AND WHEREAS on September 5 and 13, 2013, confidential pre-hearing conferences were held before the Commission to discuss procedural issues and the scheduling the Sanctions and Costs hearing;

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

IT IS ORDERED that:

1. The confidential pre-hearing conference will continue on October 17, 2013 at 10:00 a.m. or such other date or at such other time as set by the Office of the Secretary and agreed to by the parties.

2. The Sanctions and Costs hearing in this matter will commence on November 28, 2013 at 10:00 a.m. and, if necessary, continue on November 29, 2013 at 10:00 a.m.

DATED at Toronto this 24th day of September, 2013.

“Vern Krishna”

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

**IN THE MATTER OF
THE COMMODITY FUTURES ACT,
R.S.O. 1990, c. C.20, AS AMENDED**

AND

**IN THE MATTER OF
FAWAD UL HAQ KHAN and
KHAN TRADING ASSOCIATES INC.
carrying on business as MONEY PLUS**

ORDER

WHEREAS on December 20, 2012, the Ontario Securities Commission (the "Commission") issued a Notice of Hearing, pursuant to sections 60 and 60.1 of the *Commodity Futures Act*, R.S.O. 1990, c. C.20, as amended, in relation to a Statement of Allegations filed on December 19, 2012, in respect of Fawad Ul Haq Khan ("Khan") and Khan Trading Associates Inc. carrying on business as Money Plus (collectively, the "Respondents");

AND WHEREAS on February 5, 2013, Staff of the Commission ("Staff") and the Respondents attended before the Commission and agreed to attend a confidential pre-hearing conference on April 23, 2013;

AND WHEREAS on February 5, 2013, the Commission ordered that this matter be adjourned to a confidential pre-hearing conference on April 23, 2013 at 3:30 p.m.;

AND WHEREAS on April 26, 2013, the Commission issued a Notice of Hearing providing notice that the Commission would hold a hearing on June 24, 2013 to hear a motion application by the Respondents and the Commission would hold a further hearing on August 14, 2013 to hear a motion application by the Respondents;

AND WHEREAS on June 24, 2013, Staff attended the hearing in person, the Respondents attended the hearing via teleconference and the parties made submissions regarding the Respondents' request to have Staff's electronic disclosure provided in printed form;

AND WHEREAS on June 24, 2013, the Commission ordered that:

1. Staff shall provide one full hard copy of its disclosure documents to the Respondents by July 10, 2013; and

2. Khan shall be responsible to make arrangements to pick up the disclosure documents from Staff on the day they become available;

AND WHEREAS on August 14, 2013, Staff and the Respondents attended a hearing before the Commission and the parties made submissions regarding the Respondents' motion with respect to witnesses (the "Witness Motion");

AND WHEREAS on August 14, 2013, the panel reserved its decision on the Witness Motion;

AND WHEREAS on August 27, 2013, Staff and the Respondents confirmed their availability to attend a confidential pre-hearing conference on October 1, 2013 at 11:30 a.m.;

AND WHEREAS on August 29, 2013, the Commission ordered that a confidential pre-hearing conference take place on October 1, 2013 at 11:30 a.m.;

AND WHEREAS on September 25, 2013, at the request of the Commission, Staff and the Respondents confirmed their availability to attend a confidential pre-hearing conference on October 30, 2013 at 11:30 a.m.;

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 confidential pre-hearing conference scheduled to take place on October 1, 2013 is adjourned to October 30, 2013 at 11:30 a.m.

DATED at Toronto this 27th day of September, 2013.

"Mary G. Condon"

2.2.3 Portfolio Capital Inc. et al. – ss. 127, 127.1

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

AND

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

ORDER
(Sections 127 and 127.1 of the Securities Act)

WHEREAS on March 25, 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 connection with a Statement of Allegations filed by Staff of the Commission ("Staff") on March 25, 2013 with respect to Portfolio Capital Inc. ("Portfolio Capital"), David Rogerson ("Rogerson") and Amy Hanna-Rogerson ("Hanna-Rogerson") (collectively, the "Respondents");

AND WHEREAS the Notice of Hearing set a hearing in this matter for April 17, 2013;

AND WHEREAS on April 17, 2013, Staff and counsel to Rogerson appeared before the Commission and no one appeared on behalf of Hanna-Rogerson or Portfolio Capital;

AND WHEREAS on April 17, 2013, the Commission ordered that a pre-hearing conference take place on May 27, 2013 at 9:00 a.m.;

AND WHEREAS on May 27, 2013, Staff and counsel to the Respondents appeared and made submissions before the Commission;

AND WHEREAS on May 27, 2013, the Commission ordered that a pre-hearing conference take place on June 24, 2013 at 9:00 a.m.;

AND WHEREAS on May 27, 2013, the parties agreed that at the pre-hearing conference scheduled for June 24, 2013 at 9:00 a.m., the parties would be prepared to set the following dates:

(a) a date in September 2013 for a pre-hearing conference, by which time the Respondents and Staff will have provided witness lists and disclosure to the other parties;

(b) a date in October 2013 for a further pre-hearing conference to prepare for the hearing on the merits; and

(c) dates in November 2013 for the hearing on the merits;

AND WHEREAS on June 4, 2013, Staff filed an Amended Statement of Allegations with respect to the Respondents;

AND WHEREAS on June 24, 2013, Staff appeared and made submissions and counsel to Rogerson appeared and made submissions on behalf of his client and on behalf of counsel to Hanna-Rogerson and Portfolio Capital;

AND WHEREAS on June 24, 2013, the Commission ordered that:

(a) Staff shall provide any additional disclosure to the Respondents by July 12, 2013;

(b) Staff shall provide its witness list and hearing briefs to the Respondents by September 12, 2013;

(c) the Respondents shall provide their witness lists and hearing briefs to Staff by September 25, 2013;

(d) the hearing is adjourned to a further pre-hearing conference to be held on September 27, 2013 at 10:00 a.m. to prepare for the hearing on the merits; and

(e) the hearing on the merits in this matter shall commence on November 4, 2013 at 10:00 a.m. and shall continue on November 6, 7, 8 and 11 2013;

AND WHEREAS on June 26, 2013, Staff filed an Amended Amended Statement of Allegations with respect to the Respondents;

AND WHEREAS on September 27, 2013, Staff appeared and made submissions and counsel to Rogerson and Portfolio Capital appeared and made submissions on behalf of his clients and on behalf of counsel to Hanna-Rogerson;

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

IT IS ORDERED that the hearing is adjourned to a further pre-hearing conference to be held on October 9, 2013 at 2:00 p.m.

DATED at Toronto this 27th day of September, 2013.

"Alan J. Lenczner"

2.2.4 Kevin Warren Zietsoff – s. 127

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

AND

IN THE MATTER OF
KEVIN WARREN ZIETSOFF

ORDER
(Section 127)

WHEREAS on August 19, 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”) (the “Notice of Hearing”) in connection with a Statement of Allegations filed by Staff of the Commission (“Staff”) on August 19, 2013, to consider whether it is in the public interest to make certain orders against Kevin Warren Zietsoff (“Zietsoff”);

AND WHEREAS on September 5, 2013, a first appearance hearing was held before the Commission and the matter was adjourned to a confidential pre-hearing conference to be held on September 27, 2013;

AND WHEREAS on September 27, 2013, counsel for Staff and counsel for Zietsoff appeared and made submissions;

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

IT IS ORDERED that this matter is adjourned to a further confidential pre-hearing conference which shall take place on October 30, 2013, at 3:00 p.m.

DATED at Toronto this 27th day of September, 2013.

“Alan J. Lenczner”

2.2.5 Ground Wealth Inc. et al. – ss. 127(1), (7) and (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") (collectively, the Respondents);

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 February 2013 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 remaining respondents to the February 2013 Temporary Order, being GWI, Armadillo Texas, DeBoer, Dunk and Smith, 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, or until further order of the Commission, as against the respondents GWI, Armadillo Texas, DeBoer, Dunk and Smith;

2. A further hearing in relation to the February 2013 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 expected to set the dates for a hearing on the merits at the next appearance on this matter;

AND WHEREAS on June 6, 2013, the Commission ordered that:

1. The hearing in relation to the Notice of Hearing be 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 February 2013 Temporary Order be adjourned to August 20, 2013 at 10:30 a.m.; and

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

AND WHEREAS on August 20, 2013, a confidential pre-hearing conference was held, followed by a public hearing 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 WHEREAS Staff appeared and made submissions;

AND WHEREAS 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 WHEREAS Smith, Webster, Armadillo Texas, Armadillo Nevada and Armadillo Oklahoma did not appear, although properly served with notice of the hearings;

AND WHEREAS after hearing the submissions of Staff and counsel to GWI, Dunk and DeBoer, the Commission deferred setting the dates for a hearing on the merits and advised the parties that it expected to set such dates at the next appearance on this matter;

AND WHEREAS on August 20, 2013 the Commission ordered that:

1. The pre-hearing conference be adjourned and shall continue on October 1, 2013 at 10:00 a.m.;

2. The hearing in relation to the extension of the February 2013 Temporary Order be adjourned and shall continue on October 1, 2013, at 10:30 a.m.; and

3. The February 2013 Temporary Order be extended to October 3, 2013, as against the respondents GWI, Armadillo Texas, DeBoer, Dunk and Smith;

AND WHEREAS on September 20, 2013, the Registrar of the Commission received a written request on behalf of counsel to GWI, Dunk and DeBoer, requesting an adjournment of the next appearances on this matter;

AND WHEREAS Staff and counsel to GWI, Dunk and DeBoer agreed that the next pre-hearing conference be rescheduled to October 11, 2013 and the February 2013 Temporary Order be extended to October 16, 2013;

IT IS HEREBY ORDERED that:

1. The pre-hearing conference scheduled for October 1, 2013 at 10:00 a.m. is adjourned and shall continue on October 11, 2013 at 10:00 a.m.;

2. The hearing in relation to the extension of the February 2013 Temporary Order scheduled for October 1, 2013 at 10:30 a.m. is adjourned and shall continue on October 11, 2013 at 10:30 a.m.; and

3. The February 2013 Temporary Order is extended to October 16, 2013, as against the respondents GWI, Armadillo Texas, DeBoer, Dunk and Smith.

DATED at Toronto this 30th day of September, 2013.

"Mary Condon"

2.2.6 SL Split Corp. – s. 1(10)(a)(ii)

Headnote

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

Applicable Legislative Provisions

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

September 26, 2013

Osler, Hoskin & Harcourt LLP
Box 50, 1 First Canadian Place
Toronto, ON M5X 1B8

Attention: Jackie Allen

Dear Ms. Allen:

Re: SL Split Corp. (the "Applicant") – Application for an order not to be a reporting issuer under the securities legislation of Ontario, Nova Scotia, Alberta, Prince Edward Island, Manitoba, Quebec, New Brunswick, Saskatchewan, and Newfoundland and Labrador (the "Jurisdictions") dated August 20, 2013

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

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

The Applicant has represented to the Decision Makers that:

- the outstanding securities of the Applicant, including debt securities, are beneficially owned, directly or indirectly, by less than 15 securityholders in each of the Jurisdictions of Canada and less than 51 securityholders in total worldwide;

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

- the Applicant is applying for a decision that it is not a reporting issuer in all of the Jurisdictions of Canada in which it is currently a reporting issuer; and

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

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

"Vera Nunes"
Manager, Investment Funds
Ontario Securities Commission

2.2.7 Global Consulting and Financial Services 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
GLOBAL CONSULTING AND FINANCIAL SERVICES,
GLOBAL CAPITAL GROUP,
CROWN CAPITAL MANAGEMENT CORP.,
MICHAEL CHOMICA, JAN CHOMICA and
LORNE BANKS

ORDER
(Section 127 of the Securities Act)

WHEREAS on March 27, 2013, the Ontario Securities Commission (the "Commission") issued a Notice of Hearing (the "Notice of Hearing") pursuant to sections 37, 127 and 127.1 of the *Securities Act*, R.S.O. 1990, c. S.5, as amended (the "Act") accompanied by a Statement of Allegations of Staff of the Commission dated March 27, 2013 (the "Statement of Allegations") with respect to Global Consulting and Financial Services ("Global Consulting"), Global Capital Group ("Global Capital"), Crown Capital Management Corp. ("Crown Capital"), Michael Chomica, Jan Chomica and Lorne Banks ("Banks") (collectively, the "Respondents");

AND WHEREAS the Notice of Hearing announced that a hearing would be held at the offices of the Commission on April 17, 2013;

AND WHEREAS on April 17, 2013, Staff attended the hearing, counsel for Banks appeared through a Student-at-law from his office, and no one appeared on behalf of the remaining Respondents;

AND WHEREAS Staff filed the affidavit of Nancy Poyhonen, sworn April 15, 2013, demonstrating service of the Notice of Hearing and the Statement of Allegations on the Respondents;

AND WHEREAS Staff counsel requested that the matter be adjourned to a date in May 2013 for the purpose of setting further dates in this matter;

AND WHEREAS on April 17, 2013, the Commission ordered that the hearing be adjourned to May 22, 2013 at 9:45 a.m.;

AND WHEREAS on May 22, 2013, Staff and counsel for Banks attended the hearing and no one appeared on behalf of the remaining Respondents;

AND WHEREAS Staff filed the affidavit of Peaches A. Barnaby, sworn May 21, 2013, demonstrating service of the Commission's Order dated April 17, 2013 (the "April 17th Order") on the Respondents;

AND WHEREAS the Commission was satisfied that Staff had taken all reasonable steps to serve the Respondents with the April 17th Order and that all Respondents had reasonable notice of the hearing;

AND WHEREAS Staff requested that a confidential pre-hearing conference be scheduled in this matter;

AND WHEREAS on May 22, 2013, the Commission ordered that:

(i) the hearing be adjourned to a confidential pre-hearing conference to be held on June 24, 2013 at 10:00 a.m.; and

(ii) at the June 24, 2013 pre-hearing conference, the parties be prepared to: (a) set dates for the hearing on the merits, and (b) set a schedule for the completion of any and all interlocutory matters;

AND WHEREAS on June 24, 2013, Staff attended the pre-hearing conference and no one appeared on behalf of Global Consulting, Global Capital, Crown Capital, Michael Chomica or Jan Chomica;

AND WHEREAS due to a miscommunication, counsel to Banks was unavailable to attend the pre-hearing conference, but later consented to the order requested by Staff;

AND WHEREAS Staff filed the affidavit of Peaches A. Barnaby, sworn June 21, 2013, demonstrating service of the Commission's Order dated May 22, 2013 (the "May 22nd Order") on Global Consulting, Global Capital, Michael Chomica, Jan Chomica and Lorne Banks;

AND WHEREAS the Commission was satisfied that Staff had taken all reasonable steps to serve the Respondents with the May 22nd Order and that all Respondents had reasonable notice of the hearing;

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

AND WHEREAS the Commission ordered that:

(i) pursuant to Rule 1.4 and Rule 1.5.3(3) of the Commission's *Rules of Procedure* (2012), 35 O.S.C.B. 10071, future service on Crown Capital and Global Capital is waived;

(ii) the hearing be adjourned to a confidential pre-hearing conference to be held on September 4, 2013 at 2:00 p.m.;

(iii) the hearing on the merits with respect to Global Consulting, Jan Chomica and Lorne Banks shall commence on November 25, 2013 at 10:00 a.m. and shall continue on November 26, 27, 28 and 29, 2013 or such other dates as may be agreed to by the parties or set by the Office of the Secretary;

(iv) in the event that Staff intends to bring a motion for an order to convert the oral hearing on the merits as it relates to Michael Chomica, Crown Capital and Global Capital to a written hearing (the "Motion"), the parties shall comply with the following schedule:

(a) Staff shall file and serve a notice and its materials in connection with the Motion by August 15, 2013;

(b) if Michael Chomica, Crown Capital or Global Capital objects to the Motion, they shall file and serve materials in connection with the Motion by August 29, 2013 and the Motion will be heard on September 4, 2013 at 2:00 p.m.,

(c) if the Motion is not granted by the Commission, an oral hearing on the merits with respect to Michael Chomica, Crown Capital and Global Capital will be held on September 27, 2013 at 11:00 a.m.; and

(d) if Michael Chomica, Crown Capital or Global Capital do not oppose the Motion, Staff shall file its written submissions and any evidence that it intends to rely on in connection with the hearing as it relates to Michael Chomica, Crown Capital or Global Capital by September 15, 2013 and Michael Chomica, Crown Capital or Global Capital shall file any responding materials by September 30, 2013;

AND WHEREAS on July 17, 2013, the Commission approved a settlement agreement between Staff and Banks;

AND WHEREAS on August 6, 2013, the Commission approved a settlement agreement between Staff and Global Consulting and Jan Chomica;

AND WHEREAS by Notice of Motion, Motion Record and Written Submissions dated August 14, 2013 ("Staff's Motion Materials"), Staff brought a motion for an order to convert the oral hearing on the merits as it relates to Michael Chomica, Crown Capital and Global Capital to a written hearing (defined above as the "Motion");

AND WHEREAS Staff filed the Affidavit of Tia Faerber, sworn September 3, 2013, demonstrating personal service of Staff's Motion Materials on Michael Chomica;

AND WHEREAS Staff appeared at the Motion hearing on September 4, 2013 and Michael Chomica did not appear but had communicated to Staff that he did not oppose the Motion;

AND WHEREAS the Commission ordered that the dates scheduled for the hearing on the merits with respect to Global Consulting, Jan Chomica and Lorne Banks, namely November 25-29, 2013, be vacated;

AND WHEREAS the Commission further ordered that the oral hearing on the merits as it relates to Michael Chomica, Crown Capital and Global Capital be converted to a written hearing and the parties shall comply with the following schedule:

a) Staff shall file its written submissions and any evidence that it intends to rely on in connection with the hearing as it relates to Michael Chomica, Crown Capital or Global Capital by October 9, 2013;

b) Michael Chomica, Crown Capital and Global Capital shall file any responding materials by October 23, 2013;

c) Staff shall file any reply submissions by October 30, 2013; and

d) Staff and any participating Respondents will attend at a date appointed by the Panel after October 30, 2013 to answer questions, make submissions or make any necessary witnesses available for cross-examination;

AND WHEREAS Staff and Michael Chomica jointly request a hearing to be held on October 2, 2013 at 9:30 a.m., pursuant to subsections 127(1) and 127(10) of the Act (the "October 2 Hearing"), to consider an agreed statement of facts (the "Agreed Statement of Facts") and joint submission on sanctions (the "Joint Submission on Sanctions") in respect of Michael Chomica;

AND WHEREAS Staff and Michael Chomica jointly request that Michael Chomica be permitted to participate in the October 2 Hearing by telephone conference and that the October 2 Hearing commence in camera to permit the parties to address any preliminary matters with the Panel;

IT IS HEREBY ORDERED that an oral hearing, which shall commence in camera and may continue as a public hearing, shall be held on October 2, 2013 at 9:30 a.m. to consider:

(i) the Agreed Statement of Facts and Joint Submission on Sanctions entered into by Staff and Michael Chomica; and

(ii) the next steps in the proceeding with respect to Crown Capital and Global Capital.

DATED at Toronto this 1st day of October, 2013.

"Alan J. Lenczner"

2.2.8 FactorCorp Inc. et al. – ss. 127, 127.1

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

AND

**IN THE MATTER OF
FACTORCORP INC.,
FACTORCORP FINANCIAL INC., AND
MARK TWERDUN**

**ORDER
(Sections 127 and 127.1 of the Act)**

WHEREAS on May 12, 2009, the Ontario Securities Commission (the "**Commission**") issued a Notice of Hearing (the "**Notice of Hearing**") pursuant to sections 127 and 127.1 of the *Securities Act*, R.S.O. 1990, c. S.5, as amended (the "**Act**") in relation to a Statement of Allegations of the same date filed by Staff of the Commission ("**Staff**"), as amended by an Amended Statement of Allegations filed by Staff on October 13, 2011, in respect of FactorCorp Inc. ("**FCI**"), FactorCorp Financial Inc. ("**FFI**") and Mark Twerdun ("**Twerdun**") (collectively, the "**Respondents**");

AND WHEREAS a hearing on the merits in this matter was held before the Commission on October 3, 5, 6, 7, 12, 13, 14 and 17, 2011 and November 24, 2011 (the "**Merits Hearing**");

AND WHEREAS following the Merits Hearing, the Commission issued its Reasons and Decision with respect to the merits on February 22, 2013 (the "**Merits Decision**");

AND WHEREAS the Commission determined that the Respondents had not complied with Ontario securities law and had acted contrary to the public interest, as described in the Merits Decision;

AND WHEREAS on April 18, 2013 and May 22, 2013, the Commission held a hearing with respect to the sanctions and costs to be imposed in this matter (the "**Sanctions and Costs Hearing**");

AND WHEREAS on September 30, 2013, the Commission released its Reasons and Decision on Sanctions and Costs in this matter;

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

IT IS ORDERED THAT:

1. Pursuant to paragraph 2 of subsection 127(1) of the Act, trading in any securities by FCI, FFI and Twerdun shall cease for a period of 10 years, which will commence on the date of this order, except that Twerdun is permitted to trade securities through a registrant for the account of his Registered Retirement Savings Plan, as defined in the *Income Tax Act*, R.S.C., 1985, c. 1 (5th Supp.), as amended, provided that the payments set out in paragraphs 5 and 6 below have been paid in full. If any amount remains unpaid, FCI, FFI and Twerdun shall cease trading in securities until the expiry of the aforementioned period of 10 years, without exception.

2. Pursuant to paragraph 3 of subsection 127(1) of the Act, any exemptions contained in Ontario securities law do not apply to FCI, FFI and Twerdun for a period of 10 years, which will commence on the date of this order, except to the extent such exemption is necessary for trades permitted pursuant to paragraph 1 above.

3. Pursuant to paragraph 6 of subsection 127(1) of the Act, Twerdun is reprimanded.

4. Pursuant to paragraph 8 of subsection 127(1) of the Act, Twerdun is prohibited from becoming or acting as a director or officer of any issuer permanently.

5. Pursuant to paragraph 10 of subsection 127(1) of the Act, Twerdun shall disgorge to the Commission $420,000 obtained as a result of his non-compliance with Ontario securities law, which shall be designated for allocation or for use by the Commission in accordance with subsections 3.4(2)(b)(i) or (ii) of the Act.

6. Pursuant to paragraph 9 of subsection 127(1) of the Act, Twerdun shall pay an administrative penalty in the amount of $750,000, which shall be designated for allocation or for use by the Commission in accordance with subsections 3.4(2)(b)(i) or (ii) of the Act.

7. Pursuant to section 127.1 of the Act, Twerdun shall pay costs incurred by the Commission in the amount of $251,145.37.

DATED at Toronto this 30th day of September, 2013.

"Christopher Portner"

Chapter 3

Reasons: Decisions, Orders and Rulings

3.1 OSC Decisions, Orders and Rulings

3.1.1 Kingsmont Investment Management Inc. and Paget Arthurlyn Warner – s. 31

**IN THE MATTER OF
STAFF'S RECOMMENDATION TO SUSPEND THE REGISTRATIONS OF
KINGSMONT INVESTMENT MANAGEMENT INC. AND PAGET ARTHURLYN WARNER**

**OPPORTUNITY TO BE HEARD BY THE DIRECTOR
UNDER SECTION 31 OF THE SECURITIES ACT**

Decision

1. For the reasons outlined below, my decision is that Paget Arthurlyn Warner's registration as an advising representative be suspended for a period of six months.

Overview

2. By letter dated April 4, 2013, staff (Staff) of the Ontario Securities Commission (the Commission or the OSC) advised Kingsmont Investment Management Inc. (Kingsmont) and Paget Arthurlyn Warner (Warner), that Staff has recommended to the Director that Kingsmont's registrations as a dealer in the category of exempt market dealer and as an adviser in the category of portfolio manager and the registration of Mr. Warner as dealing representative, advising representative, ultimate designated person and chief compliance officer be suspended.

3. The basis of this recommendation is due to the number of significant deficiencies identified during the compliance review of Kingsmont, conducted under section 20 of the Securities Act (Ontario) (the Act). Staff has fundamental concerns with regards to the integrity and proficiency of Mr. Warner and the integrity and proficiency of Kingsmont.

4. By letter dated April 18, 2013, Mr. Warner proposed an alternate recommendation to Staff that, in his opinion, would address the significant deficiencies and the fundamental concern with regards to the integrity and proficiency of both Kingsmont and Mr. Warner. Through discussion with Staff, Kingsmont and Mr. Warner were able to agree on an alternative remedy to address certain of Staff's concerns. The terms of the alternative remedy are provided in the Stipulated Statement of Facts section below.

5. However, the alternative remedy proposed by Mr. Warner did not address all concerns of Staff. There remained six concerns labeled "Integrity Deficiencies" that relate to Kingsmont and Mr. Warner, specifically in the capacity of chief compliance officer and ultimate designated person.

6. By letter dated April 25, 2013, Staff outlined the six alleged Integrity Deficiencies and provided Mr. Warner with the option to provide a written response to the concerns. The issues are summarized as follows:

   Issue 1 – Alleged alteration of know your client (KYC) information forms.

   Issue 2 – Improper delegation of Chief Compliance Officer (CCO) oversight.

   Issue 3 – Failure to disclose complaint during compliance review.

   Issue 4 – Inadequate information regarding accredited investor (AI) status to properly substantiate reliance on the AI exemption.

   Issue 5 – Inappropriate disclaimer of liability in a risk document signed by clients.

   Issue 6 – Failure to approve transaction until after the transaction was processed by Issuer.

Process for requesting Opportunity to be Heard

7. The responses received from Kingsmont and Mr. Warner by letter dated April 29, 2013, in Staff's opinion, did not adequately address the alleged Integrity Deficiencies. Therefore an in-person opportunity to be heard (OTBH) pursuant to section 31 of the Act was scheduled. The in-person OTBH occurred on July 15, 2013 and July 31, 2013.

8. Since the alternative remedy addressed the proficiency and integrity issues of Kingsmont and the proficiency issues of Mr. Warner, the scope of the OTBH was narrowed to the determination of whether Mr. Warner had the requisite integrity to act as an advising representative without any period of suspension or prohibition on seeking reinstatement.

Stipulated Statement of Facts

9. The Stipulated Statement of Facts that are relevant to my decision are provided below.

Registration History

10. Mr. Warner became registered with Kingsmont on April 3, 2008 as the sole owner of the firm. Initially, Mr. Warner was registered as a trading officer and director and designated compliance officer in the category of limited market dealer, and as an advising officer and director, chief compliance officer and ultimate responsible person in the category of ICPM. On September 28, 2009, Mr. Warner's categories of registration transitioned to ultimate designated person (UDP) and chief compliance officer (CCO) in the categories of exempt market dealer (EMD) and portfolio manager (PM), as well as a dealing representative in the category of EMD and an advising representative in the category of PM.

11. Mr. Warner and Kingsmont are also registered in the categories of PM and EMD in British Columbia, and in the category of EMD only in Alberta, Manitoba and Nova Scotia.

Compliance Field Review and Proposed Restructuring of Kingsmont

12. Staff conducted a compliance field review of Kingsmont pursuant to section 20 of the Act for the period October 1, 2011 to September 30, 2012 (the Review Period). Staff issued a report summarizing its findings (the Compliance Review Report) on March 27, 2013.

13. The Compliance Review Report sets out what were, in Staff's view, a number of compliance deficiencies at Kingsmont. Some of these alleged deficiencies, which Staff has labeled Integrity Deficiencies, are denied by Mr. Warner. Staff also listed certain other alleged deficiencies, which for purposes of this Stipulated Statement of Facts, Staff and Mr. Warner agree are properly labeled as Oversight Deficiencies.

14. Staff identified the following Oversight Deficiencies as "significant" in the Compliance Review Report:

   a. Lack of compliance system and the CCO and UDP inadequately performing responsibilities.

   b. Reliance on another party to collect and document KYC information and to discharge suitability obligation.

   c. Insufficient collection and documentation of KYC information.

   d. Unsuitable investments.

   e. Inadequate oversight of dealing representative.

   f. Insufficient product due diligence (know your product).

   g. Carrying on registerable activities without appropriate registration.

   h. Inadequate review of marketing materials.

   i. Inaccurate and misleading information provided in respect of a dealing representative on the National Registration Database.

   j. Books and records not maintained.

   k. No referral agreement in place (in respect of the activities of a dealing representative).

   l. Incomplete written policies and procedures manual.

m. Failure to comply with firm's policies and procedures.

15. Without admitting or denying specific Oversight Deficiencies, Mr. Warner acknowledges that it would be best that he no longer serve as Kingsmont's UDP and CCO.

16. Mr. Warner proposes to restructure Kingsmont by surrendering his own UDP and CCO registration.

17. Mr. Warner proposes to sell a majority share in Kingsmont to Ms. H who proposes to serve as Kingsmont's new UDP and CCO in the category of PM.

18. On this basis, Staff has agreed that the scope of this OTBH be limited to the six alleged Integrity Deficiencies, each of which is contested by Mr. Warner.

Submissions

19. *Issue 1 – Alleged alteration of know your client (KYC) information forms.* Mr. Warner provided staff with two different versions of a KYC form for the same client.

20. *Issue 2 – Improper delegation of Chief Compliance Officer (CCO) oversight.* A person other than Mr. Warner signed a number of Kingsmont's New Client Application Forms as Kingsmont's CCO. One form was never signed by Mr. Warner in his capacity as CCO and it appears that on the others his signature was added at different times.

21. *Issue 3 – Failure to disclose complaint during compliance review.* Staff submits that Mr. Warner failed to disclose a complaint during the compliance review. By failing to disclose, Staff contends that Mr. Warner misled or made an incomplete disclosure to Staff.

22. *Issue 4 – Inadequate information regarding accredited investor (AI) status to properly substantiate reliance on the AI exemption.* Staff submits that Kingsmont's KYC collection process was flawed in that Mr. Warner did not possess adequate information to properly conclude that certain clients qualified as accredited investors when Mr. Warner made an affirmative statement to Staff that all Kingsmont's clients are accredited investors.

23. *Issue 5 – Inappropriate disclaimer of liability in a risk document signed by clients.* Clients investing in a particular product were required to sign a Risk Disclosure form that contains the following statement: "As such, I hereby release Kingsmont Investment Management Inc., its officers, directors and employees and my investment advisor for any and all losses that I may incur relating to this investment."

24. Staff submits that the inclusion of this risk disclaimer was to relieve Kingsmont and Mr. Warner from their suitability obligation in subsection 13.3(1) of National Instrument 31-103 *Registration Requirements, Exemptions and Ongoing Registration Obligations* (NI 31-103) and a breach of the obligation to deal fairly, honestly and in good faith as required in subsection 2.1(1) of OSC Rule 31-505 *Conditions of Registration* (OSC Rule 31-505).

25. *Issue 6 – Failure to approve transaction until after the transaction was processed by Issuer.* Staff submits that in certain instances the determination of whether a client met the qualifications of an AI occurred after a signed subscription agreement and payments, including bank drafts or wire payments, were sent to an issuer. Alleging that acts in furtherance of a trade occurred before a suitability and AI determination was completed for certain clients.

Decision

26. My decision is based on the submissions of Michael Denyszyn (Senior Legal Counsel, Compliance and Registrant Regulation Branch); Affidavit, Supplemental Affidavit and testimony by Dena Di Bacco (Accountant, Compliance and Registrant Regulation Branch); submissions of David Hausman (Partner of Fasken Martineau DuMoulin LLP and counsel for Kingsmont and Mr. Warner), and Affidavit, Supplemental Affidavit and testimony of Mr. Warner.

27. The issue before me was narrowed to the question of whether Mr. Warner has the requisite integrity to act as an advising representative without any period of suspension or prohibition on seeking reinstatement.

28. Section 28 of the Act provides that the registration of a person or company may be suspended if it is determined that the person or company is not suitable for registration, or has failed to comply with Ontario securities law or that their registration is otherwise objectionable.

29. The meaning of integrity was debated in this OTBH and in *Re Sawh* (2012), 35 OSCB 7431 [*Sawh*], a recent decision at the Commission level which was later upheld by the Divisional Court in *Sawh v. Ontario Securities Commission*, 2013 ONSC 4018. At paragraph 264 of *Sawh* the Commission wrote:

> In determining the integrity of the Applicants, however we are guided by the principle that the Commission shall consider in pursuing the purposes of the Act which, as set out in [*Re Istanbul* (2008), 31 OSCB 3799] at para. 68 and subparagraph 2(iii) of section 2.1 of the Act, excerpted at paragraph [152] above, is "the maintenance of *high standards of fitness and business conduct to ensure honest and responsible conduct by market participants.*" [Emphasis in the original]

Based upon this principle reiterated in *Sawh*, integrity encompasses more than dishonesty; it includes honest and responsible conduct.

30. The alleged Integrity Deficiencies detailed in Issues 1, 2, 4 and 6 relate, in my opinion, to a total lack of proficiency regarding the regulatory responsibilities of a UDP and CCO. The responsibilities of a UDP and CCO, as provided in sections 5.1 and 5.2 of NI 31-103, carry great importance and must be fully appreciated and fulfilled by persons registered in those capacities. However, the issue of proficiency is outside the scope of this OTBH. Mr. Warner is surrendering his UDP, CCO and dealing representative registrations and based upon his testimony at the OTBH, I expect that Mr. Warner will not seek registration as a UDP or CCO at any time in the future.

Issue 3

31. Staff submits that Mr. Warner failed to disclose a complaint during the compliance review in an attempt to mislead or provide incomplete disclosure to Staff.

32. As evidenced by an email chain, Mr. Warner was aware of the complaint involving one of Kingsmont's dealing representatives at the time of the compliance review and failed to disclose it to Staff.

33. Additionally, at the OTBH, Mr. Warner stated that during the compliance review he told Staff that he was impressed with the dealing representative that was the subject of the complaint and that it "eventually …came back to bite me really hard because here I am talking about a guy in glowing terms not realizing that they already know he's a crook" (*Re Kingsmont Investment Management Inc.* (15 July 2013), Toronto (OSC) (Transcript at 187)).

34. During the OTBH, I found that Mr. Warner failed to provide straight answers to direct questions posed to him. He obfuscated his responses by making contradictory statements and speculative statements. He provided possible scenarios to explain what might have happened as opposed to explaining what did happen.

35. Based upon this evidence, I have concluded that Mr. Warner's statements were intentionally misleading and incomplete. The purpose for making these statements was to make his business appear compliant. Given the fact that Mr. Warner has extensive industry experience including, approximately 15 years as a registered advising representative at various firms including large financial institutions, Mr. Warner knew or should have known that making misleading and incomplete statements to Staff was not honest and responsible conduct of a market participant. Therefore, Mr. Warner's conduct has impugned his integrity.

Issue 5

36. Staff submits that the inclusion of the risk disclaimer was to relieve Kingsmont and Mr. Warner from their suitability obligation in subsection 13.3(1) of NI 31-103 and was a breach of the obligation to deal fairly, honestly and in good faith as required in subsection 2.1(1) of OSC Rule 31-505.

37. I agree with Staff's position that including the risk disclaimer language in the risk disclosure document is a breach of subsection 2.1(1) of OSC Rule 31-505. Mr. Warner stated at the OTBH that he included the language as a warning to investors that the investment was risky, but the language is clear on its face and I believe its purpose was to protect Kingsmont and Mr. Warner from total liability associated with the investment.

38. Therefore, Mr. Warner did not deal fairly, honestly and in good faith with his clients; thereby, breaching Ontario securities law.

39. As provided in *Sawh* the Commission stated at paragraph 157 that

> (…) in determining whether the Applicants are suitable for registration, we must assess their suitability on the basis of their integrity and proficiency. As referenced in paragraph [153] above their past conduct is relevant to this assessment because it assists in determining whether the Applicants are likely to meet the standards of suitability imposed by Ontario Securities Law now and in the future ([*Re Mithras Management Ltd.* (1990), 13 OSCB 1600] at pp.1610-1611).

40. Based on this principle, Mr. Warner's past conduct is relevant to determining if he possesses the requisite integrity to act as an advising representative without any period of suspension or prohibition on seeking reinstatement.

41. Section 28 of the Act permits me, as Director, to suspend the registration of Mr. Warner as an advising representative on the basis that he is not suitable for registration (as he lacks the requisite integrity of a registrant) and that he has failed to comply with Ontario securities law. Therefore, I conclude that Mr. Warner's advising representative registration is suspended for a period of six months.

42. The suspension period is shorter than the period recommended by Staff. The reasons for the shorter period are that the majority of the alleged Integrity Deficiencies raised by Staff, in my opinion, related to proficiency requirements of a CCO or UDP which is outside the scope of this OTBH. Also, the alleged alteration of the document was not proven to be forgery. There is also no evidence of any other disciplinary matter against Mr. Warner and credit is provided to Mr. Warner for recognizing that he lacked the proficiency to remain as UDP and CCO of Kingsmont. Finally, the fact that he proactively worked with Staff to reach a settlement that addressed the Operational Deficiencies has factored favorably in my decision.

43. In the end, I believe that Mr. Warner found himself in a situation where he failed to understand his regulatory responsibilities, lacked an appreciation for the importance of the compliance review process and failed to interact with Staff in an appropriate manner.

44. Prior to applying to re-instate his registration as an advising representative, Mr. Warner must pass the Conduct and Practices Handbook Course currently administered by CSI Global Education Inc.

"Debra Foubert", J.D.
Director, Compliance and Registrant Regulation Branch
Ontario Securities Commission

Dated: September 24, 2013

3.1.2 FactorCorp Inc. et al. – ss. 127, 127.1

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

AND

IN THE MATTER OF
FACTORCORP INC.,
FACTORCORP FINANCIAL INC. AND
MARK TWERDUN

REASONS AND DECISION ON SANCTIONS AND COSTS
(Sections 127 and 127.1 of the Act)

Hearing: April 18, 2013
May 22, 2013

Decision: September 30, 2013

Panel: Christopher Portner – Commissioner and Chair of the Panel

Appearances: Cullen Price – For Staff of the Commission
Mark Twerdun – For himself

No one appeared on behalf of FactorCorp Inc. and FactorCorp Financial Inc.

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REASONS AND DECISION ON SANCTIONS AND COSTS

I. INTRODUCTION

[1] This was a hearing (the "**Sanctions and Costs Hearing**") before the Ontario Securities Commission (the "**Commission**") pursuant to sections 127 and 127.1 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 with respect to sanctions and costs against FactorCorp Inc. ("**FCI**"), FactorCorp Financial Inc. ("**FFI**") and Mark Twerdun ("**Twerdun**" and, together with FCI and FFI, the "**Respondents**"). In these Reasons, the term "**FactorCorp**" means FCI or FFI, as the context requires, and FCI and FFI together will be referred to as the "**Companies**".

[2] The Sanctions and Costs Hearing was held on April 18, 2013 following the hearing on the merits in this matter in October and November 2011 (the "**Merits Hearing**") and the issuance of the decision on the merits on February 22, 2013 (*Re FactorCorp Inc.* (2013), 36 O.S.C.B. 2059) (the "**Merits Decision**"). At the Sanctions and Costs Hearing, Staff of the Commission ("**Staff**") appeared and made oral submissions and provided written submissions, a brief of authorities and a compendium of evidence. Staff's compendium included the Affidavit of J. Bradley Butcher ("**Butcher**") relating to payments made by the Companies to individuals or companies related to Twerdun which was sworn on April 8, 2013 (the "**Butcher Affidavit**"), the Affidavit of Julia Ho relating to the costs sought by Staff which was sworn on March 18, 2013 (the "**Ho Affidavit**") and a bill of costs.

[3] Twerdun appeared on April 18, 2013 and made oral submissions. No one appeared on behalf of the Companies, although KPMG Inc. ("**KPMG**"), the Trustee of the consolidated estate of the Companies (the "**Trustee**"), received notice of the hearing in accordance with subsection 6(1) of the *Statutory Powers Procedure Act*, R.S.O. 1990, c. S.22, as amended (the "**SPPA**"). I proceeded with the Sanctions and Costs Hearing in accordance with subsection 7(1) of the SPPA.

[4] Following oral submissions by the parties on April 18, 2013, I issued an order inviting the parties to provide written submissions with respect to the following three questions:

(a) Is the Affidavit of Butcher sworn on April 8, 2013, including the Exhibits to the Affidavit, admissible evidence in the Sanctions and Costs Hearing, and if so, what weight should be given to such evidence?

(b) Does the clause in the Notice of Hearing issued by the Commission and dated May 12, 2009 (the "**Notice of Hearing**") stating that the Commission may make "such other order as the Commission may consider appropriate" allow the Commission to impose market prohibition orders that were not requested in the Notice of Hearing?

(c) On what basis has Staff requested an order for the disgorgement of the amounts set out in subparagraph 9(i) and paragraph 34 of Staff's Written Submissions on Sanctions and Costs, considering that paragraph 10 of subsection 127(1) of the Act authorizes an order for disgorgement of "any amounts obtained" as a result of the non-compliance by the Respondents with Ontario securities law and considering the findings in the Merit Decision?

(collectively, the "**Three Questions**").

[5] I adjourned the Sanctions and Costs Hearing to May 22, 2013 to permit the preparation, service and filing of written submissions and further oral submissions in response to the Three Questions. On May 10, 2013, Staff served and filed its Further Written Submissions ("**Staff's Further Written Submissions**"), with supporting materials, in response to the Three Questions. On May 17, 2013, Twerdun served and filed written submissions in response to the Three Questions ("**Twerdun's Further Written Submissions**"). I did not receive any submissions from the Companies in response to the Three Questions. The Sanctions and Costs Hearing resumed on May 22, 2013, at which time each of Staff and Twerdun made oral submissions.

[6] Having considered the submissions of the parties, I answer the Three Questions as follows:

(a) The Butcher Affidavit is admissible only for the limited purpose of determining the appropriate amount of any disgorgement order to be made under paragraph 10 of subsection 127(1) of the Act, based on Twerdun's non-compliance with Ontario securities law, as determined in the Merits Decision, and not for any other purpose (see paragraph 82 below).

(b) Fairness requires that the sanctions ordered against the Respondents be limited to those requested prior to the commencement of the Merits Hearing in the Notice of Hearing, and therefore, I need not consider Staff's requests, made after release of the Merits Decision, in Staff's written submissions on sanctions and costs (see paragraph 56 below).

(c) In considering Staff's request for an order that Twerdun disgorge at least $420,000, I have considered only the evidence in the Butcher Affidavit that Twerdun and Related Parties obtained at least this amount as a result of Twerdun's non-compliance with Ontario securities law, and I have not considered Staff's submissions with respect to the propriety of such payments (see paragraph 83 below).

II. THE MERITS DECISION

[7] This case involves the sale and distribution of debentures issued by FFI (the "**Debentures**") to more than 600 Ontario investors by means of which FFI raised approximately $50.4 million during the period from 2004 to 2007 (the "**Material Time**") (Merits Decision at paragraph 75).

[8] The Debentures were sold to investors using offering memoranda (collectively, the "**OMs**") and other promotional documents (collectively, the "**Promotional Materials**"). I found that FFI failed to file the OMs with the Commission contrary to Rule 45-501, subsequently amended on September 14, 2005 to section 6.4 of Rule 45-501, and subsection 122(1)(c) of the Act and contrary to the public interest (Merits Decision at paragraphs 257-258).

[9] The OMs and Promotional Materials contained a number of representations, including that the proceeds derived from the sale of the Debentures would be used in factoring, asset-backed lending and leasing or similar secured short-term loan transactions with tangible security, and that FactorCorp would employ what could only be described as exemplary standards of diligence, documentation and security (Merits Decision at paragraphs 265 and 277). In the Merits Decision, I found that these representations were materially untrue or misleading for a number of reasons, including that the loans made by FactorCorp:

> (i) were not short-term; (ii) substantially exceeded any advance rate that would be considered prudential for the level of risk represented to the investors, including the 70% advance rate that FFI represented in the OMs that it would use; (iii) were routinely unsecured or inadequately secured by unenforceable or unperfected security instruments; and (iv) failed to meet the majority of the lending standards which FFI represented to investors would be employed and maintained. It is also clear that neither Twerdun nor FactorCorp took any meaningful steps to preserve or protect the assets that had been purportedly secured when it became evident that the Borrowers or the sub-lenders were in financial difficulty.
>
> (Merits Decision at paragraph 267)

Accordingly, I found that the Companies made materially untrue or misleading statements in the OMs, which were documents required to be filed with the Commission, contrary to subsection 122(1)(b) of the Act and contrary to the public interest, and that the Companies made materially untrue or misleading statements to investors in the Promotional Materials, contrary to subsection 126.2(1) of the Act and contrary to the public interest (Merits Decision at paragraphs 273 and 279).

[10] The Debentures were sold to investors purportedly in reliance on the accredited investor exemption. However, I found that FFI and Twerdun were not entitled to rely on the accredited investor exemption because the criterion or criteria selected by a number of investors were, on their face, incorrect and warranted further investigation. I also found that the failure of FFI and Twerdun to ensure that the investors were accredited in those circumstances was contrary to the public interest (Merits Decision at paragraphs 310-315).

[11] In addition, Twerdun and FFI redeemed certain FFI securities following the issuance by the Commission of a temporary cease trade order (the "**Temporary Order**") that prohibited such redemption, contrary to subsection 122(1)(c) of the Act and contrary to the public interest (Merits Decision at paragraphs 286-288).

[12] I also found that Twerdun, as the sole officer and director of the Companies, authorized, permitted or acquiesced in the contravention by the Companies of subsections 122(1)(b), 122(1)(c) and 126.2(1) of the Act, described in paragraphs 8 and 11 above, and was therefore liable for their contraventions pursuant to subsection 122(3) and section 129.2 of the Act (Merits Decision at paragraphs 295-296).

[13] In the Merits Decision, I concluded that:

(a) FFI used the OMs in connection with the sale and distribution of FFI securities and accordingly was required to file them with the Commission in accordance with section 4.3 of Rule 45-501, subsequently amended on September 14, 2005 to section 6.4 of Rule 45-501. FFI failed to file the OMs with the Commission, contrary to subsection 122(1)(c) of the Act and contrary to the public interest.

(b) The Companies made materially misleading or untrue statements in the OMs which were used in connection with the sale and distribution of FFI's securities and were therefore documents required to be filed with the Commission, contrary to subsection 122(1)(b) of the Act and contrary to the public interest.

(c) The Companies made materially misleading or untrue statements in the Promotional Materials, contrary to subsection 126.2(1) of the Act and contrary to the public interest.

(d) FFI and Twerdun breached the Temporary Order by redeeming certain FFI securities on July 13, 2007, contrary to subsection 122(1)(c) of the Act and contrary to the public interest.

(e) Twerdun, as the sole director and officer of the Companies, authorized, permitted or acquiesced in their contraventions of subsections 122(1)(c), 122(1)(b) and 126.2(1) of the Act, and is therefore liable for such contraventions pursuant to subsection 122(3) and section 129.2 of the Act.

(f) Twerdun failed to ensure that investors were entitled to rely on the accredited investor exemption, contrary to the public interest.

(Merits Decision at paragraph 316)

III. THE POSITIONS OF THE PARTIES

A. Staff

1. Sanctions and Costs Requested

[14] In the Notice of Hearing issued by the Commission on May 12, 2009, Staff asked the Commission to order that:

(a) pursuant to clause 2 of subsection 127(1), trading in any securities by Factorcorp Inc. (“FCI”), Factorcorp Financial Inc. (“FFI”) (collectively, the “Companies”) and Twerdun cease permanently or for such other period as specified by the Commission;

(b) pursuant to clause 3 of subsection 127(1), any exemptions contained in Ontario securities law do not apply to the Companies or to Twerdun permanently or for such other period as specified by the Commission;

(c) pursuant to clause 8 of subsection 127(1), Twerdun be prohibited from becoming or acting as a director or officer of any issuer, registrant, investment fund manager or promoter;

(d) pursuant to clause 9 of subsection 127(1), Twerdun pay an administrative penalty of not more than $1 million for each failure to comply with Ontario securities law to the Commission or to KPMG in its capacity as Trustee (“Trustee”) over the estates of the Companies, for allocation to or for the benefit of third parties;

(e) pursuant to clause 10 of subsection 127(1), Twerdun disgorge to the Commission any amount obtained as a result of non-compliance with Ontario securities law, for allocation, through the Trustee, if appropriate, to or for the benefit of third parties;

(f) pursuant to clause 6 of subsection 127(1), that Twerdun be reprimanded;

(g) pursuant to section 127.1, that Twerdun be ordered to pay the costs of the investigation and the costs of or related to the hearing incurred by or on behalf of the Commission;

…

(i) such other order as the Commission may consider appropriate.

[15] In its written submissions, Staff requested the following sanctions with respect to the Companies:

(a) pursuant to paragraph 1 of subsection 127(1) of the Act, that FCI’s registration under Ontario securities law be terminated;

(b) pursuant to paragraph 2 of subsection 127(1) of the Act, that trading in any securities by the Companies cease permanently;

(c) pursuant to paragraph 2.1 of subsection 127(1) of the Act, that acquisition of any securities by them is prohibited permanently;

(d) pursuant to paragraph 3 of subsection 127(1) of the Act, that any exemptions contained in Ontario securities law do not apply to the Companies permanently; and

(e) pursuant to paragraph 8.5 of subsection 127(1) of the Act, that the Companies are prohibited from becoming or acting as a registrant, as an investment fund manager or as a promoter.

[16] In its written submissions, Staff requested the following sanctions with respect to Twerdun:

(a) pursuant to paragraph 1 of subsection 127(1) of the Act, that his registration under Ontario securities law be terminated;

(b) pursuant to paragraph 2 of subsection 127(1) of the Act, that trading in any securities by him cease permanently;

(c) pursuant to paragraph 3 of subsection 127(1) of the Act, that any exemptions contained in Ontario securities law do not apply to Twerdun permanently;

(d) pursuant to paragraph 6 of subsection 127(1) of the Act, that he be reprimanded;

(e) pursuant to paragraph 8 of subsection 127(1) of the Act, that Twerdun be prohibited from becoming or acting as an officer or director of any issuer permanently;

(f) pursuant to paragraph 8.2 of subsection 127(1) of the Act, that he be prohibited from becoming or acting as an officer or director of a registrant;

(g) pursuant to paragraph 8.4 of subsection 127(1) of the Act, that Twerdun be prohibited from becoming or acting as an officer or director of an investment fund manager;

(h) pursuant to paragraph 8.5 of subsection 127(1) of the Act, that he be prohibited from becoming or acting as a registrant, investment fund manager or as a promoter;

(i) pursuant to paragraph 10 of subsection 127(1) of the Act, that Twerdun disgorge to the Commission the minimum amount of $420,000, which shall be designated for allocation or for use by the Commission in accordance with subsections 3.4(2)(b)(i) or (ii) of the Act;

(j) pursuant to paragraph 9 of subsection 127(1) of the Act, that Twerdun pay an administrative penalty in the amount of $500,000 to $750,000, which shall be designated for allocation or for use by the Commission in accordance with subsections 3.4(2)(b)(i) or (ii) of the Act; and

(k) pursuant to section 127.1 of the Act, requiring [sic] Twerdun to pay a portion of Staff's costs incurred in investigating and litigating this matter in the amount of $263,645.37.

2. Staff's Submissions

[17] Staff submits that this case involves multiple and sustained contraventions of the Act and conduct contrary to the public interest, and that the misconduct is of the most serious nature that can come before the Commission. Staff submits that Twerdun had a great deal of experience as a registrant in the capital markets and it must be concluded that he was or ought to have been aware of and understood his and the Companies' obligations under Ontario securities law. Staff submits that Twerdun has never recognized the seriousness of his misconduct and the responsibility involved in the handling of investor funds, as demonstrated by Twerdun's submissions at the Merits Hearing and the Sanctions and Costs Hearing, which were to the effect that he relied on others and had done nothing wrong. Staff also submits that it is not aware of any mitigating factors.

[18] Staff provided affidavit evidence regarding the size of the profit made from, or loss avoided by, the illegal conduct. According to Staff, while it was difficult to ascertain accurately the size of the Respondents' gain, the Butcher Affidavit shows that Twerdun and related parties consistently profited from their participation in the Companies through the repayment of shareholder loans and the payment of salary, bonuses and unexplained amounts, and, in the end, fared far better than most of the Debenture holders.

[19] In Staff's submission, given the serious nature of his misconduct, significant sanctions are appropriate to deter Twerdun and like-minded individuals in similar positions from abusing the position of trust held by registrants. Staff submits that the market prohibitions requested by Staff against Twerdun will restrict him from participating in the capital markets in a way that is closely related to Twerdun's misconduct in his roles as a registrant and as an officer and director of a registrant. Staff states that it has been mindful of the possibility of shame, financial pain and the impact of the sanctions on the future livelihood of

Twerdun. According to Staff, these factors have been taken into account in the requested sanctions and balanced against the very real risk of further market abuses.

[20] Staff has also asked me to consider the impact on investors as a sanctioning factor. Staff submits that the impact of Twerdun's misconduct on investors was enormous, as demonstrated by the evidence that investors received only four cents on the dollar through the realization efforts of the Trustee.

[21] Staff states that it does not seek any monetary orders against the Companies in order to avoid depleting the assets that may be available for the compensation of or the payment of restitution to investors who lost money as a result of the Respondents' non-compliance with the Act.

B. Twerdun

[22] Twerdun takes the position that the sanctions requested by Staff are unjust and extreme. In his written submissions, Twerdun stated that "first and foremost, [he] acknowledges and is remorseful for the losses incurred by the investors of FactorCorp." He also stated that he was "disappointed in the lawyers and managers he entrusted to act in the best interests of the investors." However, he submits that it is unclear to him why he is held solely responsible for the breaches of the Act and investor losses. He submits that he relied on counsel to ensure compliance with Ontario securities law, including filing the OMs with the Commission. He also questions why the Commission granted FactorCorp's application for registration as a Limited Market Dealer if required OMs were not filed. He submits that he relied on the borrowers to which FFI made loans (the "**Borrowers**") as well as counsel to ensure that security was taken with respect to the lending transactions engaged in by FactorCorp. He further submits that he contracted with dealers such as Farm Mutual Financial Services ("**Farm Mutual**") to ensure that investors were accredited. Twerdun says that, while he takes responsibility for making the decisions to rely on his counsel, the Borrowers and the dealers, he "did not act alone", and he does not understand why he is held accountable while the Borrowers, who mismanaged the funds, in his view, were allowed to continue to operate their respective businesses. He submits, in essence, that the sanctions requested are not proportionate to his conduct.

[23] With respect to the Panel's finding that he and FFI breached the Temporary Order, Twerdun submits that he should not be penalized for redeeming the cash-backed securities, which resulted in the holders of those securities recovering 100% of their funds.

[24] Twerdun submits, but without supporting evidence, that he took a number of steps to recover investor funds. For example, he submits that he filed a lawsuit against Farm Mutual which was subsequently abandoned by KPMG. He further submits that he then assisted the investors in the class action against Farm Mutual, referred to in paragraph 79 of the Merits Decision, which resulted in $21 million being returned to investors.

[25] Twerdun also submits that he is "personally out approximately $1.5 million in terms of trying to recover debenture holders monies by, one, leaving money in the company and, two, taking money out of [my] pocket to try to recover those funds on their behalf" (Hearing Transcript, April 18, 2013, page 59, lines 20-24).

[26] Twerdun also made submissions about investor losses and the recovery of funds. In his written submissions, he states:

> ... the evidence shows that KPMG and Grout[1] were in breach of their fiduciary duty in representing [sic] the recovery of assets on behalf of the Factorcorp Debenture Holders. They made no attempt to recover assets. They did not act in a timely manner. They spend more time looking for evidence of wrong doing then [sic] they did recovering assets. The lawsuit filed against [Farm Mutual] by Twerdun of Factorcorp was not acted on, and ignored by KPMG, forcing the Debenture Holders to take their own action under the same premise and successfully recovered $21 Million of the $50 Million. <u>The evidence against [Farm Mutual] unmistakingly shows that [Farm Mutual] caused intented [sic] harm to Factorcorp and its investors.</u> Twerdun aided in those efforts by providing documentation and information. KPMG and Grout billed extensive and unscrupulous rates netting very little recovery on behalf of the creditors and misdirected Inspectors to allow 'witch hunts' and settle for smaller payouts from entities with substantial assets.
>
> [Emphasis in original]

[27] Twerdun also made submissions regarding the failure by Staff to disclose certain documents, which submissions were not supported by any evidence.

[1] James H. Grout, counsel for KPMG. [footnote added]

C. The Companies

[28] As Staff is not seeking any monetary orders against the Companies so as not to deplete the assets available to investors, the Trustee took no position with respect to the sanctions and costs requested by Staff.

IV. ANALYSIS

A. Sanctions

1. The Law

[29] The Commission's mandate, set out in section 1.1 of the Act, is to (i) provide protection to investors from unfair, improper or fraudulent practices; and (ii) foster fair and efficient capital markets and confidence in capital markets.

[30] In exercising its public interest jurisdiction, the Commission must act in a protective and preventative manner, as stated by the Commission in *Re Mithras Management Ltd.* (1990), 13 O.S.C.B. 1600 ("***Mithras***"):

> … the role of this Commission is to protect the public interest by removing from the capital markets – wholly or partially, permanently or temporarily, as the circumstances may warrant – those whose conduct in the past leads us to conclude that their conduct in the future may well be detrimental to the integrity of those capital markets. We are not here to punish past conduct; that is the role of the courts … We are here to restrain, as best we can, future conduct that is likely to be prejudicial to the public interest in having capital markets that are both fair and efficient. In so doing we must, of necessity, look to past conduct as a guide to what we believe a person's future conduct might reasonably be expected to be; we are not prescient, after all.
>
> (*Mithras*, *supra*, at pages 1610 and 1611)

[31] The Supreme Court of Canada has described the Commission's public interest jurisdiction as follows:

> … the purpose of an order under s. 127 is to restrain future conduct that is likely to be prejudicial to the public interest in fair and efficient capital markets. The role of the [Commission] under s. 127 is to protect the public interest by removing from the capital markets those whose past conduct is so abusive as to warrant apprehension of future conduct detrimental to the integrity of the capital markets.
>
> (*Committee for the Equal Treatment of Asbestos Minority Shareholders v. Ontario (Securities Commission)*, [2001] 2 S.C.R. 132 ("***Asbestos***") at paragraph 43)

[32] The Supreme Court of Canada has recognized that general deterrence is an important factor in imposing sanctions by stating that "… it is reasonable to view general deterrence as an appropriate, and perhaps necessary, consideration in making orders that are both protective and preventative" (*Re Cartaway Resources Corp.*, [2004] 1 S.C.R. 672 at paragraph 60).

[33] The Commission has previously identified the following as factors that the Commission should consider when imposing sanctions:

(a) The seriousness of the conduct and the breaches of the Act;

(b) The respondent's experience in the marketplace;

(c) The level of a respondent's activity in the marketplace;

(d) Whether or not there has been recognition by a respondent of the seriousness of the improprieties;

(e) Whether or not the sanctions imposed may serve to deter not only those involved in the matter being considered, but any like-minded people, from engaging in similar abuses of the capital markets;

(f) The size of any profit obtained from or loss avoided by the illegal conduct;

(g) The size of any financial sanction or voluntary payment;

(h) The effect any sanctions may have on the ability of a respondent to participate without check in the capital markets;

(i) The reputation and prestige of the respondent;

(j) The remorse of the respondent; and

(k) Any mitigating factors.

(See, for example, *Re Belteco Holdings Inc.* (1998), 21 O.S.C.B. 7743 at page 7746; and *Re M.C.J.C. Holdings Inc.* (2002), 25 O.S.C.B. 1133 ("***M.C.J.C. Holdings***") at page 1136.)

[34] In determining the appropriate sanctions to be ordered, the Commission will also consider the specific circumstances in each case and ensure that the sanctions are proportionate to those circumstances (*M.C.J.C. Holdings*, *supra*, at page 1134).

[35] Further, in imposing financial sanctions, the overall financial sanctions imposed on each respondent is a relevant consideration (*Re Sabourin* (2010), 33 O.S.C.B. 5299 ("***Sabourin Sanctions and Costs***") at paragraph 59). The Commission has also held in prior decisions that ability to pay, while not a predominant or determining factor, is relevant in determining the appropriate financial sanctions to be imposed (*Sabourin Sanctions and Costs*, *supra*, at paragraph 60).

2. Specific Sanctioning Factors Applicable in this Matter

[36] In considering the factors set out in paragraph 33 above, I find the following specific factors and circumstances to be relevant in this matter:

(a) Seriousness of the conduct

[37] In my view, the Respondents engaged in very serious misconduct through multiple transactions over an extended period of time. As mentioned in paragraph 8 above, the Respondents made statements in the OMs and Promotional Materials that the proceeds derived from the sale of the Debentures would be used in factoring, asset-backed lending and leasing or similar secured short-term loan transactions with tangible security, and that FactorCorp would employ what could only be described as exemplary standards of diligence, documentation and security. Having made these statements to induce investors or prospective investors to purchase the Debentures, the Respondents failed to ensure that the funds were used in the manner represented in the OMs and Promotional Materials. The Respondents failed to follow minimal industry standards in documenting and securing the loans made to the Borrowers and failed to ensure that the same standards were followed by the Borrowers when making loans to their clients. Indeed, the loans made by the Companies to one of the Borrowers, Mohawk Business Solutions Group, can only be described as a "shocking dereliction" by the Respondents of their duties to the investors (Merits Decision at paragraph 242).

[38] I concluded in the Merits Decision that reasonable investors would almost certainly have based their decisions to purchase the Debentures, at least in substantial part, on the representations concerning security, oversight and risk set out in the OMs and Promotional Materials (Merits Decision at paragraphs 272 and 277). In addition, investors invested in the Debentures on the basis that they qualified as accredited investors although a number of them did not in fact meet the criteria to be accredited (Merits Decision at paragraphs 311 and 312). In fact, although it should have been obvious to Twerdun, a registrant for more than 12 years, that the criteria selected by certain investors were clearly inappropriate, he failed to ensure that investors qualified as accredited investors. As a result, many investors, including those who should not have had access to the investment, suffered significant losses. In the Merits Decision, I found that, of the approximately $50.4 million raised, $7.4 million was returned to investors by way of redemptions and approximately $17.4 million was returned to investors who purchased Debentures through Farm Mutual as a result of a class action against certain directors and officers of entities related to Farm Mutual (Merits Decision at paragraph 79). Investors only received four cents on the dollar through the realization efforts of the Trustee.

[39] FFI also failed to comply with certain filing requirements under Ontario securities law which are intended to ensure that those involved in the securities industry provide fair and accurate information to investors.

[40] In addition, Twerdun admitted that he redeemed certain FFI securities at a time when the Temporary Order expressly prohibited the Respondents from doing so. Any contravention of the Commission's Orders is regarded as serious misconduct, contrary to the public interest. Twerdun justified the redemption on the basis that the securities that were redeemed were distinct from the Debentures and their redemption did not, therefore, constitute a breach of the Temporary Order. He also submitted that the issue was discussed with counsel, however, he did not provide any evidence in this regard.

[41] Although the evidence is not precise, it would appear that Ontario investors lost approximately $25.6 million (Merits Decision at paragraphs 75 and 79) as a result of the Respondents' contraventions of Ontario's securities law.

(b) The Respondents' experience in the marketplace

[42] FCI was registered under the Act as a limited market dealer from 2004 to 2007. Twerdun, who was the directing mind of the Companies, had been registered under the Act in various categories since May 1991, including as a salesperson from May 1991 to January 2002, as a trading officer and director of another entity from October 2002 to January 2004 and as a trading officer and director of FCI during the Material Time (Merits Decision at paragraphs 16-20). FCI and Twerdun were experienced registrants, and were, or should have been, fully familiar with their obligations under Ontario securities law.

(c) The level of the Respondents' activity in the marketplace

[43] The level of the Respondents' activity in the marketplace was significant given that they raised approximately $50.4 million from more than 600 investors during the Material Time.

(d) Remorse and recognition of the seriousness of the conduct

[44] As set out in paragraph 22 above, in his submissions, Twerdun expressed remorse for the losses suffered by investors. However, his written and oral submissions at the Sanctions and Costs Hearing demonstrate again that he does not recognize the seriousness of his misconduct. As mentioned above, Twerdun maintained at the Sanctions and Costs Hearing that he relied on others, including the Borrowers and the dealers which sold the Debentures, to ensure compliance with Ontario securities law. As such, according to Twerdun, he should not be held solely responsible for investor losses. In his submissions, he also stated that he does not understand why he has been subjected to regulatory proceedings unlike some of the Borrowers who are still operating their businesses.

[45] Twerdun fails to appreciate that, as a registrant, he, and not the Borrowers, was directly involved in selling to investors the securities issued by FFI, of which he was the sole director and officer. As a registrant, Twerdun had obligations under, and was responsible for complying with, Ontario securities law and to ensure such compliance by the Companies. It was clearly not the responsibility of the Commission to oversee compliance by the Borrowers with the private contracts between them and the Companies.

(e) Mitigating Factors

[46] In his submissions, Twerdun made frequent reference to his reliance on legal advice. However, as he provided no written opinion or other evidence to support that claim, I cannot accept that reliance on legal advice is a mitigating factor in this case. I expect that Twerdun was being truthful when he described his attempts to ensure some level of recovery by investors of the amounts they invested in his written and oral submissions, and I accept that this is a mitigating factor.

3. Specific Sanctions to be Ordered in this Case

(a) Trading and Other Market Prohibitions

(i) Staff's Submissions

Trading and Other Market Prohibitions

[47] In its written submissions, Staff requests the termination of the registrations of FCI and Twerdun, permanent trading, acquisition, exemption and registrant bans against the Companies and permanent trading, exemption, director and officer and registrant bans against Twerdun. In Staff's submission, the misconduct of the Respondents showed an utter disregard for investors and incompetence that suggests that the Respondents cannot be trusted to participate in the capital markets in the future. Staff submits that these market prohibitions will have the effect of restricting the Respondents from participating in the capital markets in a way that is closely related to their misconduct.

[48] Staff submits that if an exception (carve-out) is granted for the purpose of permitting Twerdun to trade in securities for the account of his registered retirement savings plan ("**RRSP**"), such an exemption should only be permitted after all monetary orders against Twerdun have been satisfied.

The New Sanctions Requests

[49] During the Sanctions and Costs Hearing, I noted that certain sanctions requested in Staff's written sanctions and costs submissions were not requested in the Notice of Hearing, namely (i) the request for termination of the registration of the Respondents, pursuant to paragraph 1 of subsection 127(1) of the Act; (ii) the request for a ban against the Companies relating to the acquisition of any securities, pursuant to paragraph 2.1 of subsection 127(1) of the Act; (iii) the request for a ban on any of the Respondents becoming or acting as a registrant, investment fund manager or promoter, pursuant to paragraph 8.5 of subsection 127(1) of the Act; and (iv) the request for a ban on Twerdun becoming or acting as an officer or director of a

registrant or investment fund manager, pursuant to paragraphs 8.2 and 8.4 of subsection 127(1) of the Act (collectively, the "**New Sanctions Requests**") (see paragraphs 15-16 above).

[50] In response, Staff submits that paragraph (c) of the Notice of Hearing, which provides that, "pursuant to clause 8 of subsection 127(1), Twerdun be prohibited from becoming or acting as a director or officer of any issuer, registrant, investment fund manager or promoter", deals broadly with the types of prohibitions provided in paragraphs 8.2, 8.4 and 8.5 of subsection 127(1) of the Act. Staff further submits that paragraph (i) of the Notice of Hearing, which requests "such other order as the Commission may consider appropriate", allows the Commission to make orders that are not expressly set out in the Notice of Hearing. Relying on the Supreme Court of Canada's decision in *Asbestos*, *supra*, Staff argues that the Commission has the authority and broad discretion to make such orders if the Commission is of the view that they are in the public interest to prevent and protect the capital markets.

[51] In Staff's Further Written Submissions, Staff submits that paragraph (i) of the Notice of Hearing, which states that the Commission may make "such other order as the Commission may consider appropriate", allows the Commission to impose market prohibition orders that were not specifically requested in the Notice of Hearing where there is no unfairness and where the coherence of any final orders made by the Commission will be enhanced and the public interest better protected which, in Staff's submission, is the case here.

[52] Staff also submits that *Re Rex Diamond Mining Corp.* (2009), 32 O.S.C.B. 6467 ("***Rex Diamond***") is distinguishable. In *Rex Diamond*, the Commission held that it would be unfair to impose an administrative penalty on the respondents because Staff did not request such a remedy in the Notice of Hearing and did not give notice that it would do so until five days before the sanctions and costs hearing, well after the merits decision had been issued (*Rex Diamond*, *supra*, at paragraphs 23-24). Staff submits that in this case, unlike in Rex Diamond, the new sanctions requested in Staff's written submissions on sanctions and costs are substantively similar to the sanctions requested in the Notice of Hearing. Staff submits that the Respondents would not have approached the Merits Hearing any differently had the New Sanctions Requests been included in the Notice of Hearing.

[53] Staff further submits, citing *Re Tindall* (2000), 23 O.S.C.B. 6889, at page 15, and *Re MRS Sciences Inc.* (2011), 34 O.S.C.B. 12288 ("***Re MRS***"), at paragraph 44, that the requirements of procedural fairness are satisfied if the respondent has the opportunity to lead evidence and make submissions concerning the proposed order at the sanctions and costs hearing. In Staff's submission, Twerdun had an opportunity to lead evidence and make submissions concerning the New Sanctions Requests at the Sanctions and Costs Hearing.

(ii) Twerdun's Submissions

[54] Twerdun takes issue with Staff's proposed trading bans and submits that he would not be causing harm to third parties if he were trading securities for his own account.

(iii) The Companies' Position

[55] As set out in paragraph 28 above, the Companies, represented by the Trustee, take no position with respect to the requested sanctions.

(iv) Analysis and Conclusion

The New Sanctions Requests

[56] Staff's New Sanctions Requests were set out in Staff's written submissions, which were served on the Respondents ten days before the Sanctions and Costs Hearing, well after the conclusion of the Merits Hearing. I do not accept Staff's submission that the New Sanctions Requests are substantively similar to the sanctions requests set out in the Notice of Hearing, which were made under different paragraphs of subsection 127(1). I am not prepared to assume that the New Sanctions Requests would not have affected the Respondents' approach to the Merits Hearing. I agree with the Commission's ruling in *Rex Diamond*, *supra*, that Staff should have amended the Notice of Hearing to include the New Sanctions Requests prior to the Merits Hearing (see *Rex Diamond*, *supra*, at paragraph 24). Had Staff requested the termination of registrations and the acquisition and registrant bans in the Notice of Hearing, my findings in the Merits Decision would have justified the imposition of such sanctions. However, in light of Staff's failure to seek these sanctions in the Notice of Hearing, I find that it would be unfair to impose them on the Respondents. I should also note that I am not persuaded by Staff's submission that paragraph (i) of the Notice of Hearing stating that the Commission may make "such other order as the Commission may consider appropriate" allows the Commission to impose market prohibition orders that were not specifically requested in the Notice of Hearing.

Trading and Other Market Prohibitions

[57] In determining the appropriate sanctions to be imposed, I have considered the factors set out in paragraphs 36-46 above. More specifically, the Respondents raised $50.4 million from the sale of Debentures to over 600 investors using the OMs

and Promotional Materials that included material misrepresentations resulting, in part, from their failure to fulfill the commitments and undertakings provided to investors as an inducement to invest. In addition, in connection with the sale of the Debentures, the Respondents purported to rely on the accredited investor exemption which was not available to them. FCI and Twerdun failed in all material respects to meet the standards required of a registrant entrusted to manage investors' funds. Accordingly, it is appropriate to order significant trading and exemption bans, both as a specific and general deterrent.

[58] I find, however, that it would not be appropriate to order permanent bans in all circumstances as requested by Staff. While the misconduct of the Respondents as described above was serious, there was no finding in the Merits Decision that the investment scheme of the Companies was anything but legitimate at the outset. However, it became almost immediately evident that the conduct of the Respondents demonstrated a shocking level of negligence and incompetence which led to my findings in the Merits Decision that the statements made in the OMs and Promotional Materials were materially untrue or misleading. In the foregoing respect, the misconduct in this matter is, in my view, distinguishable from the misconduct in cases that were referred to me by Staff, including *Re Norshield Asset Management (Canada) Ltd.* (2010), 33 O.S.C.B. 7171 and *Re White* (2010), 33 O.S.C.B. 8893.

[59] In light of the foregoing, I find that it is in the public interest to order that the Respondents cease trading securities, and that any exemptions in Ontario securities law do not apply to the Respondents, for a period of 10 years. Having considered the nature of Twerdun's misconduct, as described in paragraph 58 above, I also find it appropriate to grant a carve-out, which will allow Twerdun to trade securities through a registrant solely for the account of his RRSP, provided that he has paid in full the administrative penalty and disgorgement order set out below.

[60] As the sole director and officer of the Companies, Twerdun was found in the Merits Decision to have authorized, permitted or acquiesced in the failure by the Companies to comply with Ontario securities law. In fact, Twerdun appears from the evidence at the Merits Hearing to have managed the Companies almost singlehandedly and, accordingly, it is necessary to ensure that he is not placed in a position of control or trust with respect to any other issuer. As a result, I am of the view that it is appropriate to prohibit Twerdun from becoming or acting as a director or officer of an issuer, permanently.

(b) Reprimand

[61] Although Twerdun continues to blame others for the losses suffered by the investors, I found in the Merits Decision that investors lost approximately $20 million as a result of the Respondents' non-compliance with Ontario securities law, and that Twerdun, who was the sole director and officer of the Companies, authorized, permitted or acquiesced in the Companies' non-compliance with Ontario securities law. I also found that Twerdun failed to ensure that the OMs were filed with the Commission in accordance with Rule 45-501, failed to ensure that the statements made in the OMs and Promotional Materials were not materially untrue or misleading, although he knew and in the exercise of reasonable diligence would have known that the statements repeatedly made to investors were untrue in a material respect at the time and in the circumstances made, and authorized FFI's breach of the Temporary Order by directing the redemption of securities issued by FFI (Merits Decision at paragraphs 274, 288 and 295). I also found that Twerdun and FFI failed to ensure that investors were entitled to rely on the accredited investor exemption, contrary to the public interest (Merits Decision at paragraph 315). Under the circumstances, I find it is appropriate to reprimand Twerdun pursuant to paragraph 6 of subsection 127(1) of the Act.

(c) Disgorgement

(i) Staff's Submissions

[62] Staff requests that Twerdun disgorge to the Commission an amount of at least $420,000 on the basis that he obtained this amount as a result of his non-compliance with Ontario securities law. According to Staff, there is a strong argument that the disgorgement could be calculated based on the total amount of investor losses of approximately $20 million that resulted from the Respondents' non-compliance with the Act. However, Staff does not rely on that argument in the circumstances and, instead, relies on the Butcher Affidavit as the evidentiary basis for a finding as to the amount that Twerdun obtained as a result of his non-compliance with Ontario securities law.

[63] The Butcher Affidavit sets out payments over $1,000 from the bank accounts of the Companies (the "**Companies' Accounts**") to Twerdun and to Twerdun's wife, young children, parents and a numbered company controlled by Twerdun (2037800 Ontario Inc.) (collectively, the "**Related Parties**").

[64] In Staff's submission, the Butcher Affidavit shows that payments were made from the Companies' Accounts to Twerdun and the Related Parties, for largely unexplained reasons, in the amount of approximately $1.6 million. However, Staff does not seek disgorgement of that amount. Rather, Staff submits that Twerdun should be ordered to disgorge $420,000, which is comprised of:

(a) Bonus payments to Twerdun in the amount of $215,000;

(b) Payments to Twerdun's children, who were under the age of 10 at the time of the payments, in the aggregate amount of $55,000; and

(c) A payment to Twerdun's wife in the amount of $150,000 to repay her personal investment in one of the Borrowers, Express Commercial Services Inc. ("**ECS**"), which took place following the issuance of the Temporary Order and at a time when Twerdun knew that ECS was insolvent.

[65] Relying on the Butcher Affidavit, Staff submits that Twerdun obtained the foregoing amounts, totaling $420,000, as a result of his non-compliance with Ontario securities law, and that this amount should be disgorged based on the questionable nature of the payments and the misconduct at issue.

[66] Staff acknowledges that it would be difficult to determine precisely how much money Twerdun and the Related Parties received from the Companies because, as stated in the Butcher Affidavit, the Trustee did not obtain complete records for the Companies. In particular, while the Butcher Affidavit provides that the records of payments from the Companies' bank accounts are accurate to the best of the Trustee's knowledge, the records with respect to deposits to the Companies' bank accounts are incomplete.

[67] However, Staff submits that the Butcher Affidavit shows that Twerdun and the Related Parties profited from their participation in the Companies through the repayment of shareholder loans (with interest) and the payment of salary, bonuses and unexplained amounts. Staff submits that Twerdun and the Related Parties fared far better than most of the Debenture holders.

(ii) Twerdun's Submissions

[68] Twerdun submits that the Butcher Affidavit only shows the funds paid by the Companies to him and the Related Parties, and not the funds paid by him and the Related Parties to the Companies. Twerdun also submits that he and the Related Parties never received some of the payments that were alleged by Staff to have been made by the Companies to them.

[69] Notwithstanding Twerdun's submissions, Twerdun provided no evidence whatsoever with respect to the amounts that he alleges were invested in the Companies by him and the Related Parties or any other party.

(iii) Analysis and Conclusion

Authority for Making a Disgorgement Order

[70] Subsection 127(1)10 of the Act provides that a person or company that has not complied with Ontario securities law can be ordered to disgorge to the Commission "any amounts obtained" as a result of the non-compliance. The purpose of a disgorgement order is to ensure that a respondent does not benefit from his or her non-compliance with Ontario securities law and to deter the respondent and others from similar misconduct (*Sabourin Sanctions and Costs*, *supra*, at paragraph 65).

[71] When determining the appropriate amount of a disgorgement order, the Commission is guided by the non-exhaustive list of factors set out in *Re Limelight Entertainment Inc.* (2008), 31 O.S.C.B. 12030 ("***Limelight Sanctions and Costs***") at paragraph 52. The Commission noted in that decision that Staff has the onus to prove on a balance of probabilities the amount obtained by a respondent as a result of his or her non-compliance with the Act.

Admissibility of the Butcher Affidavit at the Sanctions and Costs Hearing

Staff

[72] Staff's request for a disgorgement order is supported by evidence (the Butcher Affidavit) which was provided shortly before the Sanctions and Costs Hearing and was not the subject of evidence at the Merits Hearing or addressed in the Merits Decision. At the Sanctions and Costs Hearing on April 18, 2013, I expressed my concern that this substantively new evidence was only presented by way of affidavit at the Sanctions and Cost Hearing, and should have formed part of the evidence at the Merits Hearing. At the conclusion of the hearing that day, I invited Staff and Twerdun to file further written submissions on the admissibility of and weight to be given to the Butcher Affidavit.

[73] In its Further Written Submissions, dated May 10, 2013, Staff submitted that at a sanctions and costs hearing, it is appropriate for Staff to introduce evidence specifically related to sanctions issues, including the amount obtained by a respondent as a result of non-compliance with the Act. Staff relies on *Re MRS*, *supra*, in which the Commission stated, at paragraph 44:

> We agree with Staff that separate and distinct issues arise with respect to the appropriate sanctions to be applied. In our view, as long as both parties are provided with the opportunity to lead evidence and make

> submissions at the sanctions hearing, the requirement of the maxim of *audi alteram partem* will be satisfied. A corollary to this is that a sanctions Panel should not reopen issues that have been disposed of by the merits Panel that heard the relevant evidence as to the merits of Staff's allegations.

[74] Staff also submits that it is not uncommon for Staff and respondents to call evidence at a sanctions hearing that was not part of the evidence at the hearing on the merits, and Staff provided a number of examples of this practice.

[75] Staff submits that while the Butcher Affidavit was served on Twerdun on April 8, 2013, 10 days prior to the Sanctions and Costs Hearing, and not 20 days before, as required by the Commission's Rule 4.3(1), there was no prejudice to Twerdun, whose counsel at the time was provided with all but one of the exhibits to the Butcher Affidavit by July 2011, months before the start of the Merits Hearing, and in any event, any prejudice was cured by the adjournment of the Sanctions and Costs Hearing to May 22, 2013.

[76] Finally, Staff notes that, at the Sanctions and Costs Hearing on April 18, 2013, Twerdun declined the opportunity to require Butcher's attendance for cross-examination. When the hearing resumed on May 22, 2013, Twerdun did not request an opportunity to cross-examine Butcher on his affidavit, and Staff provided a copy of its email to Twerdun, dated May 10, 2013, to which it had not received a response, asking Twerdun to advise, at his first opportunity, whether he intended to do so.

[77] In summary, Staff submits that the Butcher Affidavit was disclosed to Twerdun, who was given and declined an opportunity to cross-examine Butcher, that admitting the Butcher Affidavit results in no unfairness to Twerdun and that excluding it would be unfair to Staff. Staff submits that the Butcher Affidavit is admissible and should be admitted as evidence at the Sanctions and Costs Hearing.

Twerdun

[78] At the Sanctions and Costs Hearing on April 18, 2013, Twerdun stated that when he was served with the Butcher Affidavit, he was not asked to respond to it and understood only that he was required to attend at the Commission. Twerdun did not address the admissibility of the Butcher Affidavit in his oral argument on April 18, 2013, his written submissions dated May 16, 2013 or his oral argument on May 22, 2013, but challenged the evidence provided in the Butcher Affidavit, submitting that Butcher did not consider funds flowing into the Companies' Accounts, but only funds flowing out of the Companies' Accounts. For example, Twerdun stated as follows:

> Even with Mr. Paatz's testimony during the hearing with ECS, he admitted that there were bridging loans that came into place right from the very beginning in dealing with ECS, that we had it incorporated due to timing of funding coming in to FactorCorp at that time.
>
> (Hearing transcript, May 22, 2013, page 19, lines 19-25)

Analysis and Conclusion on the Admissibility of the Butcher Affidavit

[79] Although Staff identifies a number of cases in which Staff or respondents introduced evidence at a sanctions and costs hearing, the evidence admitted in these cases related to Staff's submissions on the impact of the respondents' conduct on specific investors,[2] a respondent's prior criminal convictions or other aggravating factors[3] or a respondent's personal and financial circumstances or mitigating circumstances[4]. In two of the cases mentioned, the Commission refused to consider new evidence relating to the issues addressed in the Merits Decision[5]. The cases referenced by Staff are consistent with the Commission's general practice of limiting the evidence admitted at a sanctions and costs hearing to evidence of aggravating and mitigating circumstances, the respondent's prior criminal convictions or securities violations, and the respondent's personal and financial circumstances.

[80] In *Re MRS*, in the passage relied on by Staff, the Commission specifically cautions that "a sanctions panel should not reopen issues that have been disposed of by the merits panel that heard the relevant evidence as to the merits of Staff's allegations" (paragraph 44). The risk of allowing Staff or a respondent to re-open, at a sanctions and costs hearing, the issues

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2 *Re Norshield* (2010), 33 O.S.C.B. 7171, at paragraphs 5, 17, and 92-93

3 *Re Momentas* (2007), 30 O.S.C.B. 6475, at paragraphs 9-10 and 15-16; *Re Goldbridge Financial Inc.* (2011), 34 O.S.C.B. 11113, at paragraph 7; and *Re Shallow Oil* (2012), 36 O.S.C.B. 191, at paragraphs 10, 21, 33 and 35

4 *Re Sabourin* (2010), 33 O.S.C.B. 5299, at paragraph 27; *Re Borealis* (2011), 34 O.S.C.B. 5261, at paragraphs 5, 26 and 40; *Re Axcess* Automation LLC (2013), 36 O.S.C.B. 2919, at paragraphs 6 and 27; and *Re Simply Wealth* (2013), 36 O.S.C.B. 5099, at paragraphs 13-18

5 In *Re First Global Ventures S.A.* (2008), 31 O.S.C.B. 10869, at paragraphs 29-31, the Commission refused to consider new evidence offered by Staff that a respondent continued to breach a cease trade order after the release of the Merits Decision. In *Re White* (2010), 33 O.S.C.B. 8893, at paragraphs 9-10, the Commission refused to admit into evidence a letter from a respondent that was provided to Staff that post-dated the decision on the merits and attempted to re-open the case.

that were addressed in the merits decision is obvious; such a practice would encourage case-splitting, undermine the certainty and finality of the Commission's merits decisions and result in an inefficient use of the Commission's resources.

[81] In this case, Staff relies on the Butcher Affidavit for a finding that the payment of $420,000 to Twerdun and the Related Parties was "for largely unexplained reasons". Staff also submits that Twerdun should not have received $215,000 in bonus payments "given his abject failure to adhere to even minimal standards of conduct", that the payments totaling $55,000 to Twerdun's children "cannot be justified given the ages of the children", and that a payment of $150,000 to Twerdun's wife in repayment of her personal investment in ECS was "particularly egregious" because it was made mere days after the Temporary Order was issued, at a time when Twerdun knew ECS was insolvent and not repaying the Companies according to its obligations.

[82] In my view, Staff's submission that payments made to Twerdun and the Related Parties were improper should have been made at the Merits Hearing, at which time Twerdun would have had an opportunity to respond to the Butcher Affidavit in the context of Staff's evidence as a whole. I am also not persuaded that, by providing access in July 2011 to Twerdun's counsel at the time, of all but one of the exhibits to the Butcher Affidavit, Staff had made effective disclosure to Twerdun who represented himself at the Merits Hearing and at the Sanctions and Cost Hearing. Accordingly, I have given no consideration to Staff's submissions with respect to the propriety of the payments made to Twerdun and the Related Parties, which did not form part of Staff's Amended Statement of Allegations or its case at the Merits Hearing. I do, however, find that the Butcher Affidavit is admissible with respect to amounts obtained by Twerdun as a result of his non-compliance with Ontario securities law, as found in the Merits Decision. In this limited respect only, I find that any prejudice to Twerdun resulting from Staff's late disclosure of the Butcher Affidavit was remedied by the adjournment of the Sanctions and Costs Hearing on April 18, 2013 and its resumption on May 22, 2013, and by Twerdun's being given an opportunity, which he declined, to cross-examine Butcher on his affidavit, thereby satisfying the principles of fairness.

Amounts obtained as a result of non-compliance with Ontario securities law

[83] Twerdun provided no evidence whatsoever with respect to the amounts that he claims he and the Related Parties invested in the Companies. Staff acknowledges that the Butcher Affidavit only shows the funds paid by the Companies to Twerdun and the Related Parties and not the funds paid by Twerdun and the Related Parties to the Companies. Although I accept that the Butcher Affidavit provides an incomplete picture of the Companies' Accounts, I am persuaded, based on the Butcher Affidavit, that Twerdun and the Related Parties obtained at least $420,000 as a result of Twerdun's non-compliance with the Act, as determined in the Merits Decision. I find that the amount of $420,000 proposed by Staff to be disgorged is clearly at the low end of the amount that could be ordered and is appropriate in the circumstances. The amount paid to the Commission in satisfaction of the disgorgement order will be designated for allocation or for use by the Commission pursuant to subsections 3.4(2)(b)(i) or (ii) of the Act.

(d) Administrative Penalty

(i) Staff's Submissions

[84] Staff requests an administrative penalty against Twerdun in the range of $500,000 to $750,000. Staff submits that an amount within this range sends the message that repeated breaches of the Act will not be tolerated in Ontario's capital markets.

(ii) Twerdun's Submissions

[85] Twerdun submits that the administrative penalty requested by Staff is too high for the reasons described in paragraphs 22-26 above.

(iii) Analysis and Conclusion

[86] I find that it is appropriate to impose a significant administrative penalty against Twerdun given his misconduct as described in these reasons. In particular, he obtained significant amounts from investors through the Companies on the basis of his representations regarding FactorCorp's lending standards and practices, which proved to be materially untrue or misleading. Twerdun also caused harm to investors by failing to ensure that they were accredited prior to permitting them to purchase Debentures, failed to comply with certain filing requirements under the Act and breached an order of the Commission.

[87] These infractions are particularly significant in light of Twerdun's experience as a registrant for more than 12 years. In my view, a significant administrative penalty is necessary to deter Twerdun and others in a similar position from engaging in similar misconduct.

[88] In determining the appropriate administrative penalty, I have considered the range of administrative penalties that have been ordered by the Commission in prior cases involving similar misconduct. I find that the upper end of the range proposed by Staff to be within the range of penalties ordered by the Commission against respondents involved in similar misconduct and proportionate to the circumstances and Twerdun's conduct.

[89] For the reasons set out above, I will order that Twerdun pay an administrative penalty in the amount of $750,000. The amount paid to the Commission in satisfaction of the administrative penalty will be designated for allocation or for use by the Commission pursuant to subsections 3.4(2)(b)(i) or (ii) of the Act.

B. Costs

1. Staff's Submissions

[90] Staff requests that Twerdun pay costs in the amount of $263,645.37, representing a portion of the costs and disbursements Staff incurred in connection with the investigation and the Merits Hearing. Staff filed the Ho Affidavit and a bill of costs in support of its claim. The amount of $263,645.37 is comprised of (i) $205,497.50, representing half of the time spent by two members of Staff, namely, the senior litigation counsel and the senior investigation counsel, for the investigation and the Merits Hearing, and does not include time spent by other Staff members in connection with the Merits Hearing or time spent by any Staff member in relation to the Sanctions and Costs Hearing; and (ii) $58,147.87 of disbursements, $50,000 of which represents fees paid to the expert, Lili Shain ("**Shain**").

2. Twerdun's Submissions

[91] Twerdun submits that the costs and disbursements sought by Staff are excessive including, in particular, the fees paid to Shain. He submits that Shain did not do her job, which was to review the Companies' lending process, since she admitted that she did not review the sublenders' accounts or sublenders' agreements and failed to review the management, history and background of the sublenders "…so on that account I think the amounts she charged were excessive basically because she did not perform the task at hand" (Hearing transcript, May 22, 2013, page 20, lines 3-5). Twerdun submitted that Shain "put in maybe 10 hours of work" and he submitted, as he had at the Merits Hearing, that she is not "an expert in our field, because you can't hold us to a standard of a chartered 'A' bank" (Hearing transcript, April 18, 2013, page 63, lines 8-11).

3. Analysis and Conclusion

[92] Pursuant to section 127.1 of the Act, the Commission has authority to order a person or company to pay the costs of an investigation and hearing if the Commission is satisfied that the person or company has not complied with Ontario securities or has acted contrary to the public interest Factors to be considered by the Commission when awarding costs are set out in Rule 18.2 of the Commission's *Rules of Procedure* (2012), 35 O.S.C.B. 10071.

[93] I find the following factors to be relevant to the determination of costs in this matter:

(a) At the commencement of the Merits Hearing, Twerdun made an adjournment request on the basis that he had forgotten about the hearing dates and was out of the country for business reasons, a basis that I considered inadequate as set out in paragraph 31 of the Merits Decision. An adjournment was nonetheless granted to provide Twerdun with an opportunity to appear, which caused a delay of three days.

(b) Following the commencement of the Merits Hearing, Staff requested leave to amend the Statement of Allegations and this request raised issues of fairness and caused further delay.

(c) The Merits Hearing, which took place over a period of nine days, raised complex issues and required that Staff retain an expert.

(d) Following the Merits Hearing, I found that Staff had proved contraventions of subsections 122(1)(b), 122(1)(c) and 126.2(1) of the Act, Twerdun's liability as a director and officer under subsection 122(3) and section 129.2 of the Act and conduct contrary to the public interest.

(e) However, Staff failed to prove its allegations relating to subsection 122(1)(a) of the Act as a result of Staff's failure to provide any submissions on the applicability of this provision to this case.

[94] Despite Twerdun's submissions regarding Shain's credentials set out in paragraph 91 above, I qualified her as an expert in commercial lending at the Merits Hearing on the basis that she had acquired specialized knowledge through her extensive experience as a senior lending officer for a major Canadian bank, and I accepted and relied on her evidence in making my determination on the merits. Accordingly, I find it appropriate to include some portion of her fees in my costs order. However, the $400 hourly rate charged by Shain appears to me to be excessive in the absence of evidence from Staff regarding the hourly rate charged by experts with similar levels of experience and expertise, and considering that Staff requests costs for the fees of its Senior Litigation Counsel and Senior Investigation Counsel at $205 and $185, respectively. In my view, it would be reasonable in the circumstances to order payment of Shain's fees in the amount of $37,500, based on an hourly rate of $300 per hour for the 125 hours she spent preparing the expert report and attending the Merits Hearing.

[95] Having considered the foregoing, and in particular, the complexity of the matter and the conduct of both Twerdun and Staff during the hearing, I find that it is appropriate to award costs in the amount of $251,145.37, comprised of half the costs for the time spent by the two Staff members in this matter in the amount of $205,497.50 and disbursements in the amount of $45,647.87.

V. CONCLUSION

[96] For the reasons set out above, I conclude that it is in the public interest to make the orders set out below. In my view, the sanctions imposed will deter the Respondents and other like-minded individuals from engaging in similar misconduct in the capital markets in the future and the sanctions are proportionate to the circumstances and conduct of each Respondent.

[97] I will issue a separate order giving effect to my decision on sanctions and costs (the "**Sanctions and Costs Order**") as follows:

1. Pursuant to paragraph 2 of subsection 127(1) of the Act, trading in any securities by FCI, FFI and Twerdun shall cease for a period of 10 years, which will commence on the date of the Sanctions and Costs Order, except that Twerdun is permitted to trade securities through a registrant for the account of his Registered Retirement Savings Plan, as defined in the *Income Tax Act*, R.S.C., 1985, c. 1 (5th Supp.), as amended, provided that the payments set out in paragraphs 5 and 6 below have been paid in full. If any amount remains unpaid, FCI, FFI and Twerdun shall cease trading in securities until the expiry of the aforementioned period of 10 years, without exception.

2. Pursuant to paragraph 3 of subsection 127(1) of the Act, any exemptions contained in Ontario securities law do not apply to FCI, FFI and Twerdun for a period of 10 years, which will commence on the date of the Sanctions and Costs Order, except to the extent such exemption is necessary for trades permitted pursuant to paragraph 1 above.

3. Pursuant to paragraph 6 of subsection 127(1) of the Act, Twerdun is reprimanded.

4. Pursuant to paragraph 8 of subsection 127(1) of the Act, Twerdun is prohibited from becoming or acting as a director or officer of any issuer permanently.

5. Pursuant to paragraph 10 of subsection 127(1) of the Act, Twerdun shall disgorge to the Commission $420,000 obtained as a result of his non-compliance with Ontario securities law, which shall be designated for allocation or for use by the Commission in accordance with subsections 3.4(2)(b)(i) or (ii) of the Act.

6. Pursuant to paragraph 9 of subsection 127(1) of the Act, Twerdun shall pay an administrative penalty in the amount of $750,000, which shall be designated for allocation or for use by the Commission in accordance with subsections 3.4(2)(b)(i) or (ii) of the Act.

7. Pursuant to section 127.1 of the Act, Twerdun shall pay costs incurred by the Commission in the amount of $251,145.37.

DATED at Toronto on this 30th day of September, 2013.

"Christopher Portner"

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Chapter 4

Cease Trading Orders

4.1.1 Temporary, Permanent & Rescinding Issuer Cease Trading Orders

Company Name	Date of Temporary Order	Date of Hearing	Date of Permanent Order	Date of Lapse/Revoke
Celtic Tiger Minerals Exploration Inc.	16 Sept 13	27 Sept 13	27 Sept 13	
MountainStar Gold Inc.	30 Sept 13	11 Oct 13		
Sterling Shoes Inc.	16 Sept 13	27 Sept 13	27 Sept 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
Strike Minerals Inc.	19 Sept 13	01 Oct 13	01 Oct 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
Strike Minerals Inc.	19 Sept 13	01 Oct 13	01 Oct 13		

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Chapter 5

Rules and Policies

5.1.1 MI 13-102 System Fees for SEDAR and NRD and Related Consequential Amendments

MULTILATERAL INSTRUMENT 13-102
SYSTEM FEES FOR SEDAR AND NRD

PART 1
DEFINITIONS AND INTERPRETATION

Definitions

1. (1) In this Instrument,

"annual information form" means an "AIF" as defined by National Instrument 51-102 *Continuous Disclosure Obligations* or an annual information form for the purposes of Part 9 of National Instrument 81-106 *Investment Fund Continuous Disclosure*;

"initial filer profile" means a filer profile filed in accordance with subsection 5.1(1) of National Instrument 13-101 *System for Electronic Document Analysis and Retrieval (SEDAR)*;

"issuer bid",

(a) except in Ontario, means an issuer bid to which Part 2 of Multilateral Instrument 62-104 *Take-Over Bids and Issuer Bids* applies, and

(b) in Ontario, means a "formal issuer bid" as defined by subsection 89(1) of the *Securities Act* (Ontario);

"shelf prospectus" means a prospectus filed under National Instrument 44-102 *Shelf Distributions*;

"take-over bid",

(a) except in Ontario, means a take-over bid to which Part 2 of Multilateral Instrument 62-104 *Take-Over Bids and Issuer Bids* applies, and

(b) in Ontario, means a "formal take-over bid" as defined by subsection 89(1) of the *Securities Act* (Ontario).

(2) In this Instrument, a term referred to in Column 1 of the following table has the meaning ascribed to it in the Instrument referred to in Column 2 opposite that term.

Column 1 **Defined Term**	**Column 2** **Instrument**
CPC instrument	National Instrument 45-106 *Prospectus and Registration Exemptions*
firm filer	National Instrument 31-102 *National Registration Database*
individual filer	National Instrument 31-102 *National Registration Database*
long form prospectus	National Instrument 41-101 *General Prospectus Requirements*
MJDS prospectus	National Instrument 71-101 *The Multijurisdictional Disclosure System*
NRD	National Instrument 31-102 *National Registration Database*
principal jurisdiction	Multilateral Instrument 11-102 *Passport System*
principal regulator	Multilateral Instrument 11-102 *Passport System*
rights offering	National Instrument 45-101 *Rights Offerings*

Column 1 Defined Term	Column 2 Instrument
SEDAR	National Instrument 13-101 *System for Electronic Document Analysis and Retrieval (SEDAR)*
short form prospectus	National Instrument 41-101 *General Prospectus Requirements*
sponsoring firm	National Instrument 33-109 *Registration Information,* in Form 33-109F4 *Registration of Individuals and Review of Permitted Individuals*

Inconsistency with other instruments

2. If there is any conflict or inconsistency between this Instrument and National Instrument 13-101 *System for Electronic Document Analysis and Retrieval (SEDAR)* or National Instrument 31-102 *National Registration Database*, this Instrument prevails.

PART 2
SEDAR SYSTEM FEES

Local system fees

3. In Québec, a person or company making the type of filing described in Column C of Appendix A with the Autorité des marchés financiers must pay to the Autorité des marchés financiers the system fee specified in Column D of that Appendix.

System fees

4. (1) A person or company making a filing, in the local jurisdiction, of the type described in Column B of Appendix B, and of the category referred to in Column A of that Appendix, must pay to the securities regulatory authority the system fee specified in Column C or D of that Appendix, as the case may be.

(2) Despite subsection (1), if a person or company pays a fee referred to in item 1 or 2 of Appendix B, the person or company is not required to pay a fee with respect to any other filing referred to in that item made during the calendar year in which the payment was made.

(3) Despite subsection (1), in the calendar year that a person or company files its initial filer profile, the fee referred to in item 1 or 2 of Appendix B is prorated in accordance with the following formula:

$A \times B / 12$, where

A = the amount referred to in item 1 or 2 of Appendix B, as applicable, and

B = the number of months remaining in the calendar year following the month in which the initial filer profile was filed.

PART 3
NRD SYSTEM FEES

Enrolment Fee

5. If the local jurisdiction is a firm filer's principal jurisdiction, the firm filer must pay to the securities regulatory authority an enrolment fee of $500 upon enrolment in NRD.

NRD submission fee

6. (1) A firm filer must pay an NRD system fee in respect of an individual filer to the securities regulatory authority in the local jurisdiction if

(a) the firm filer is the sponsoring firm for the individual filer, and

(b) through the filing of a Form 33-109F4 *Registration of Individuals and Review of Permitted Individuals*, the individual filer registers or reactivates their registration in the local jurisdiction.

(**2**) The NRD system fee payable to the securities regulatory authority under subsection (1) by a sponsoring firm in respect of an individual filer is,

(a) if the securities regulatory authority is the principal regulator of the individual filer, $75.00, and

(b) in any other case, $20.50.

Annual NRD system fee

7. On December 31 of each year, a firm filer must pay an annual NRD system fee to the securities regulatory authority in the local jurisdiction equal to the total of the following:

(a) if the securities regulatory authority in the local jurisdiction is the principal regulator of one or more individuals who are individual filers on that date, and for which the firm filer is the sponsoring firm in that jurisdiction,

$75.00 × the number of those individuals, and

(b) if there are individual filers on that date for which the securities regulatory authority in the local jurisdiction is not the principal regulator, and for which the firm filer is the sponsoring firm in that jurisdiction,

$20.50 × the number of those individuals.

PART 4
PAYMENT OF FEES

Means of payment

8. A fee under section 3, 4, 6 or 7 must be paid through SEDAR or NRD, as the case may be.

PART 5
EXEMPTION

Exemption

9. (1) The regulator or the securities regulatory authority may grant an exemption from this Instrument, in whole or in part, subject to such conditions or restrictions as may be imposed in the exemption.

(2) Despite subsection (1), in Ontario, only the regulator may grant such an exemption.

(3) Except in Ontario, an exemption referred to in subsection (1) is granted under the statute referred to in Appendix B of National Instrument 14-101 *Definitions*, opposite the name of the local jurisdiction.

PART 6
EFFECTIVE DATE

Effective Date

10. This Instrument comes into force on October 12, 2013.

Appendix A – Local SEDAR System Fees
(Section 3)

Column A **Local Jurisdiction**	**Column B** **Category of Filing**	**Column C** **Type of Filing**	**Column D** **System Fee**
Québec	Securities Offerings	Prospectus distribution to person outside Québec, if made from within Québec (section 12 of *Securities Act* (Québec))	$130.00

Appendix B – Other SEDAR System Fees

(Section 4)

Item	Column A Category of Filing	Column B Type of Filing	Column C System Fee Payable to Principal Regulator	Column D System Fee Payable to Each Other Securities Regulatory Authority
1	Annual filing fee for continuous disclosure - investment funds *Note: Excludes the annual information form and all other filings listed separately in items 3 to 21.*	Initial filer profile or annual financial statements (for investment funds)	$495.00	N/A
2	Annual filing fee for continuous disclosure *Note: Excludes the annual information form and all other filings listed separately in items 3 to 21.*	Initial filer profile or annual financial statements (for reporting issuers other than investment funds)	$705.00	$74.00
3	Investment fund issuers / securities offerings	Simplified prospectus, annual information form and fund facts (National Instrument 81-101 *Mutual Fund Prospectus Disclosure*)	$585.00, which applies in total to a combined filing, if one annual information form and one simplified prospectus are used to qualify the investment fund securities of more than one investment fund for distribution	$162.50, which applies in total to a combined filing, if one annual information form and one simplified prospectus are used to qualify the investment fund securities of more than one investment fund for distribution
4		Long form prospectus	$715.00	$212.50
5	Investment fund issuers / continuous disclosure	Annual information form (National Instrument 81-106 *Investment Fund Continuous Disclosure*) for investment fund if not a short form prospectus issuer	$455.00	N/A
6	Investment fund issuers / continuous disclosure	Annual information form (National Instrument 81-106 *Investment Fund Continuous Disclosure*) for investment fund if short form prospectus issuer	$2,655.00	N/A
7	Investment fund issuers / exemptions and other applications	Exemptions and other applications (National Instrument 81-102 *Mutual Funds*)	$195.00	$40.00
8		Exemptions and other applications in connection with a prospectus filing	$195.00	$82.50

Item	Column A Category of Filing	Column B Type of Filing	Column C System Fee Payable to Principal Regulator	Column D System Fee Payable to Each Other Securities Regulatory Authority
9	Other issuers / securities offerings	Short form prospectus (National Instrument 44-101 *Short Form Prospectus Distributions*)	$390.00	$115.00
10		Shelf prospectus	$390.00	$115.00
11		MJDS Prospectus (National Instrument 71-101 *The Multijurisdictional Disclosure System*)	$390.00	$115.00
12		Long form prospectus	$715.00	$212.50
13		Rights offering material	$325.00	$115.00
14		Prospectus governed by CPC instrument (TSX Venture Exchange)	$715.00	$212.50
15	Other issuers / continuous disclosure	Annual information form, if neither an investment fund nor a short form prospectus issuer	$455.00	N/A
16		Annual information form, if a short form prospectus issuer (other than an investment fund)	$2,655.00	N/A
17	Exemptions and other applications (if not an investment fund)	Exemptions and other applications in connection with prospectus filing	$195.00	$82.50
18	Other issuers / going private / related party transactions	Going private transaction filings	$325.00	$115.00
19		Related party transaction filings	$325.00	$115.00
20	Other issuers/securities acquisitions	Issuer bid filings	$195.00	$82.50
21	Third party filers/third party filings	Take-over bid filings	$195.00	$82.50

AMENDMENTS TO NATIONAL INSTRUMENT 13-101
SYSTEM FOR ELECTRONIC DOCUMENT ANALYSIS AND RETRIEVAL (SEDAR)

1. National Instrument 13-101 System for Electronic Document Analysis and Retrieval (SEDAR) is amended by this Instrument.

2. Section 1.1 is amended by, in the definition of "SEDAR filing service contractor***", replacing "***CDS INC.***" with "***the Alberta Securities Commission***".***

3. This Instrument comes into force on October 12, 2013.

AMENDMENTS TO NATIONAL INSTRUMENT 31-102
NATIONAL REGISTRATION DATABASE

1. ***National Instrument 31-102 National Registration Database is amended by this Instrument.***

2. ***Section 1.1 is amended by, in the definition of "***NRD administrator***", replacing "***CDS INC.***" with "***the Alberta Securities Commission***".***

3. ***Paragraph 4.5(e) is amended by replacing "***pays the following fees by submitting a cheque, payable to CDS INC. in Canadian funds, to the firm's principal regulator within 14 days of the date the payment is due***" with "***pays the following fees within 14 days of the date the payment is due by submitting a cheque, payable to the Ontario Securities Commission in Canadian currency, to CSA Service Desk, Attn: NRD Administrator, 12 Millennium Blvd, Suite 210, Moncton, NB E1C 0M3***".***"

4. This Instrument comes into force on October 12, 2013.

AMENDMENTS TO NATIONAL INSTRUMENT 55-102
SYSTEM FOR ELECTRONIC DISCLOSURE BY INSIDERS (SEDI)

1. National Instrument 55-102 System for Electronic Disclosure by Insiders (SEDI) is amended by this Instrument.

2. Section 1.1 is amended by, in the definition of "SEDI operator***", replacing "***CDS INC.***" with "***the Alberta Securities Commission***".***

3. Form 55-102F5 – SEDI User Registration Form is amended by

(a) replacing the section titled "Delivery of Signed Copy to SEDI Operator" with the following:

Delivery of Signed Copy to SEDI Operator

Before you may make a valid SEDI filing, you must deliver a manually signed paper copy of the completed user registration form to the SEDI operator for verification purposes. To satisfy this requirement, you may print a copy of the online user registration form once you have certified and submitted it. You must deliver a manually signed and dated copy of the completed user registration form via prepaid mail, personal delivery or facsimile to the SEDI operator at the following address or fax number, as applicable:

CSA Service Desk
Attn: SEDI Operator
12 Millennium Blvd, Suite 210
Moncton, NB E1C 0M3

or at such other address(es) or fax number(s) as may be provided on the SEDI web site (www.sedi.ca).

(b) replacing the section titled "Questions" with the following:

Questions

Questions may be directed to the CSA Service Desk at 1-800-219-5381 or such other number as may be provided on the SEDI web site.

(c) in the section titled "Notice – Collection and Use of Personal Information",

(i) replacing "CDS INC. (the SEDI operator) is retained by CDS INC.***" with "***the SEDI operator is retained by the SEDI operator***"; and***

(ii) replacing "the CDS SEDI Administrator***" with "***the SEDI operator***";***

(d) replacing the first paragraph in the section titled "**SEDI User Registration Form*****" with the following:***

Note: Before an individual registering as a SEDI user may make a valid SEDI filing, the registering individual must deliver a manually signed paper copy of the completed user registration form to the SEDI operator for verification purposes. The registering individual may print a copy of the online version using the "Print" function provided for this purpose in SEDI. The signed paper copy must be delivered by prepaid mail, personal delivery or facsimile to:

CSA Service Desk
Attn: SEDI Operator
12 Millennium Blvd, Suite 210
Moncton, NB E1C 0M3

(e) replacing, in the section titled " **SEDI User Registration Form*****", the portion titled "Section 3 – Certification of SEDI User" with the following:***

Section 3 Certification of SEDI User

I certify that the foregoing information is true in all material respects. I agree to update the information submitted on this form in SEDI as soon as practicable following any material change in the information. I

agree that an executed copy of Form 55-102F5, if delivered to the SEDI operator by facsimile, shall have the same effect as an originally executed copy delivered to the SEDI operator.

4. This Instrument comes into force on October 12, 2013.

AMENDMENTS TO ONTARIO SECURITIES COMMISSION RULE 31-509
NATIONAL REGISTRATION DATABASE (COMMODITY FUTURES ACT)

1. ***Ontario Securities Commission Rule 31-509 National Registration Database (Commodity Futures Act) is amended by this Instrument.***

2. ***Section 1.1 is amended by, in the definition of "***NRD administrator***", replacing "***CDS INC.***" with "***the Alberta Securities Commission***".***

3. ***Paragraph 4.5(e) is amended by replacing "***pays the following fees by submitting a cheque, payable to CDS INC. in Canadian funds, to the firm's principal regulator within 14 days of the date the payment is due***" with "***pays the following fees within 14 days of the date the payment is due by submitting a cheque, payable to the Ontario Securities Commission in Canadian currency, to CSA Service Desk, Attn: NRD Administrator, 12 Millennium Blvd, Suite 210, Moncton, NB E1C 0M3***".***"

4. This Instrument comes into force on October 12, 2013.

5.1.2 CSA Notice of Amendments to NI 81-106 Investment Fund Continuous Disclosure, Companion Policy 81-106CP Investment Fund Continuous Disclosure and Related Amendments

Canadian Securities Administrators Autorités canadiennes en valeurs mobilières

CSA Notice of Amendments to National Instrument 81-106 *Investment Fund Continuous Disclosure*, Companion Policy 81-106CP *Investment Fund Continuous Disclosure* and Related Amendments

October 3, 2013

Introduction

The Canadian Securities Administrators (the CSA or we) are making amendments to:

- National Instrument 81-106 *Investment Fund Continuous Disclosure*, including Form 81-106F1 *Contents of Annual and Interim Management Report of Fund Performance* (the Instrument) and

- Companion Policy 81-106CP *Investment Fund Continuous Disclosure* (the Policy).

We are also making consequential amendments to:

- Form 41-101F2 *Information Required in an Investment Fund Prospectus,*

- National Instrument 81-101 *Mutual Fund Prospectus Disclosure,*

- Companion Policy 81-101CP *Mutual Fund Prospectus Disclosure,*

- National Instrument 81-102 *Mutual Funds,* and

- National Instrument 81-104 *Commodity Pools*.

The amendments and consequential amendments (together, the Amendments) accommodate the transition of financial reporting for investment funds to International Financial Reporting Standards (IFRS). The Amendments have been adopted, or are expected to be adopted, by each member of the CSA.

Provided all necessary ministerial approvals are obtained, the Amendments will come into force on January 1, 2014.

Substance and Purpose

The Amendments require investment funds, for financial years beginning on or after January 1, 2014, to prepare financial statements in accordance with Canadian GAAP applicable to publicly accountable enterprises and to report compliance with IFRS. We have also updated the accounting terms and phrases in the Instrument to reflect IFRS as incorporated into the Handbook of the Canadian Institute of Chartered Accountants (the Handbook).

Background

The Instrument is a nationally harmonized set of continuous disclosure requirements for investment funds. The Instrument currently requires investment funds to prepare financial statements in accordance with Canadian generally accepted accounting principles (GAAP) which are established by the Canadian Accounting Standards Board (AcSB) and published in the Handbook. Following a period of consultation, the AcSB adopted a strategic plan in 2006 to move financial reporting for Canadian publicly accountable enterprises to IFRS as issued by the International Accounting Standards Board (IASB).

We published proposed amendments to the Instrument for comment on October 16, 2009 (the 2009 Proposal)[1] as part of a series of notices that proposed changes to securities legislation relating to the changeover to IFRS. The final changes for reporting issuers, other than investment funds, and registrants were published in 2010 to coincide with the transition of most publicly accountable enterprises to IFRS for financial years beginning on or after January 1, 2011.

However, the AcSB provided investment companies, as defined in and applying Accounting Guideline 18 *Investment Companies* (AcG-18), with a deferral of the mandatory changeover date for three years until January 1, 2014. This deferral applied to "investment funds" as defined in securities legislation. The deferral was intended to allow the IASB's exception from consolidation for investment entitites to be in place prior to the adoption of IFRS by investment companies in Canada.

The CSA provided notice of this deferral in CSA Staff Notice 81-320 *Update on International Financial Reporting Standards for Investment Funds*, originally published in October 2010, and updated in March 2011 and March 2012.

Exception from Consolidation for Investment Funds

IFRS 10 *Consolidated Financial Statements* requires an entity to consolidate investments that it controls. This requirement would have required investment funds to produce potentially confusing disclosure as historically, all investment fund portfolio positions were shown at fair value. In 2010, the IASB announced that it would propose that investment companies be exempt from consolidation and instead measure an investment in a subsidiary at fair value through profit and loss.

The consolidation issue for investment funds was largely resolved when the IASB issued *Investment Entities (Amendments to IFRS 10, IFRS 12 and IAS 27)* on October 31, 2012. These revisions provide investment entities with an exception from consolidating entities that they control. The term "investment entities" is defined in IFRS 10, and in our view, will capture the majority of "investment funds" as defined in securities legislation. However, while we have not yet identified an investment fund that will not qualify as an "investment entity", we acknowledge that this may be a possibility.

Subsequent to the publication of this exception, we reviewed and revised the 2009 Proposal, after considering the developments at the IASB, together with the submissions received by the CSA during the comment period and in additional consultations with preparers and auditors of investment fund financial statements.

Summary of Written Comments Received by the CSA

During the comment period on the 2009 Proposal, we received submissions from 11 commenters. We have considered the comments received and thank all of the commenters for their input. The names of the commenters and a summary of their comments, together with our responses, are contained in Appendix B to this Notice.

Summary of Changes to the Proposed Instrument/Policy

After considering the comments received and engaging in additional consultations, we have made some revisions to the 2009 Proposal published for comment. Those revisions are reflected in the amending instruments that we are publishing concurrently with this Notice. As these changes are not material, we are not republishing the Amendments for a further comment period. Appendix A to this Notice contains a summary of the key changes made to the 2009 Proposal.

Local Matters

Appendix J is being published in any local jurisdiction that is making related changes to local securities laws, including local notices or other policy instruments in that jurisdiction. It also includes any additional information that is relevant to that jurisdiction only.

Materials Published

Appendix A – Summary of Changes to the 2009 Proposal
Appendix B – Summary of Public Comments Received by the CSA
Appendix C – Amendments to the Instrument
Appendix D – Amendments to the Policy
Appendix E – Amendments to Form 41-101F2
Appendix F – Amendments to NI 81-101
Appendix G – Amendments to Companion Policy 81-101CP
Appendix H – Amendments to NI 81-102
Appendix I – Amendments to NI 81-104
Appendix J – Local Matters

[1] These proposals were published in French on March 12, 2010 by the Autorité des marchés financiers and the New Brunswick Securities Commission (now the Financial and Consumer Services Commission (New Brunswick)).

Questions

Please refer your questions to any of the following:

Manny Albrino
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British Columbia Securities Commission
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malbrino@bcsc.bc.ca

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Suzanne Boucher
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APPENDIX A

SUMMARY OF CHANGES TO THE 2009 PROPOSAL

This Appendix sets out the key changes that we made to the 2009 Proposal. We have provided our rationale for the changes in the Summary of Public Comments contained in Appendix B to this Notice.

General

- We changed the IFRS changeover date to January 1, 2014. The Instrument now distinguishes between requirements for financial years beginning on or after January 1, 2014 and financial years that began before the changeover date.

- For sections that are in common with National Instrument 51-102 *Continuous Disclosure Obligations*, Companion Policy 51-102CP *Continuous Disclosure Obligations* and National Instrument 52-107 *Acceptable Accounting Principles and Auditing Standards* (together, the Corporate Instruments), we made modifications to mirror the final IFRS amendments to the Corporate Instruments published on December 10, 2010.

NI 81-106 *Investment Fund Continuous Disclosure*

Part 2 Financial Statements

Section 2.7 – Acceptable Auditing Standards

- Section 2.7 of National Instrument 81-106 *Investment Fund Continuous Disclosure* lists required elements in an auditor's report. The Auditing and Assurance Standards Board adopted International Standards on Auditing as Canadian Auditing Standards (CAS) for audits of financial statements for periods ending on or after December 14, 2010. As we did not amend the terminology for an auditor's report at the time that CAS was introduced, we are not making amendments now for financial years beginning before January 1, 2014 so as not to create any retroactive reporting obligations by auditors. New subsection 2.7(3), relating to financial years beginning on or after January 1, 2014, reflects the CAS auditor's report.

  Section 2.7 continues to require that an auditor's report be prepared in accordance with Canadian GAAS, which is defined in National Instrument 14-101 *Definitions* as generally accepted auditing standards determined with reference to the Handbook.

Part 3 Financial Disclosure Requirements

Section 3.2 – Statement of Comprehensive Income

- In response to comments, we removed line item 15 "net investment income or loss for the period" because IFRS already requires an entity to present subtotals in the statement of comprehensive income when such presentation is relevant to an understanding of the entity's financial performance.

- In response to comments, we modified line item 17.1 because return of capital is not a financing cost, when the investment fund's own securities are classified as financial liabilities. (Refer to section 3.3 below.)

Section 3.3 – Statement of Changes in Financial Position

- In response to comments, we moved "return of capital" to line item 6.1 to distinguish it from the types of distributions that may represent financing costs, if the investment fund's own securities are classified as financial liabilities.

Section 3.5 – Statement of Investment Portfolio

- We did not proceed with the proposal to present a non-consolidated statement of investment portfolio because, based on our analysis and feedback from stakeholders, it appears that most investment funds as defined in securities legislation will qualify as investment entities as defined in the amendments to IFRS 10 *Consolidated Financial Statements*, issued on October 31, 2012. Accordingly, these investment funds will not be required to consolidate entities that they control and, instead, will measure an investment in a subsidiary at fair value through profit or loss.

Form 81-106F1 ***Contents of Annual and Interim Management Report of Fund Performance***

Part B Content Requirements for Annual Management Report of Fund Performance

Item 3 – Financial Highlights

- We did not proceed with the proposal to show financial highlights on a non-consolidated basis as it appears that most investment funds will not be required to consolidate entities that they control. (Refer to section 3.5 above.)

Companion Policy 81-106CP

We modified the amendments to the Policy to reflect the changes to the Instrument and explain the CSA's approach to the transition from Canadian GAAP currently used by investment funds to IFRS.

Part 2 Financial Statements

Section 2.5.1 – Disclosure of Investment Portfolio

- We clarified that the statement of investment portfolio may be referred to as a schedule, but that it must still be audited.

Section 2.7 – Disclosure of Securities Lending Transactions

- We removed the discussion of accounting principles pertaining to securities lending transactions as the requirements for recognition and measurement of these transactions are set out in IFRS.

Part 9 Net Asset Value

Section 9.2 – Fair Value Guidance

- We clarified the difference between "fair value" as defined in the Instrument and the requirement to determine "current value" for financial statement purposes.

Section 9.3 – Meaning of Fair Value

- We removed the reference to the Handbook definition of fair value as repeating this definition in the Companion Policy is unnecessary. The Companion Policy continues to indicate that investment funds may look to the principles in the Handbook for guidance on the measurement of fair value when calculating net asset value.

Consequential Amendments

Form 41-101F2 Information Required in an Investment Fund Prospectus, subsection 3.6(4) and section 11.1

- We modified the description of MER to be consistent with the Instrument.

National Instrument 81-102 Mutual Funds, Appendix B-1, Appendix B-2 and Appendix B-3

- We modified the compliance reports to reflect CAS auditor's reports in a compliance framework.

APPENDIX B

SUMMARY OF PUBLIC COMMENTS ON PROPOSED AMENDMENTS TO NI 81-106

1. Alternatives to IFRS	
Comment	Five commenters stated that, from an investor's perspective, the overall comparability and understandability of IFRS financial statements for investment funds will be significantly reduced when compared to the presentation format of current Canadian GAAP financial statements as a result of issues relating to valuation, consolidation, and classification of puttable instruments. One commenter pointed out that reduced comparability is unfortunate, but unavoidable under IFRS. As IFRS does not currently provide for specialized industry accounting for investment funds, four commenters urged the CSA to consider alternatives to IFRS, such as preparing financial statements in accordance with a presentation framework as prescribed by the CSA. National Instrument 81-106 *Investment Fund Continuous Disclosure* (**NI 81-106**) would need to be changed to allow investment funds to prepare financial statements in accordance with IFRS, except that investments must be presented on a fair value basis. The financial statements would not contain an unreserved statement of compliance with IFRS. Such financial statements would receive an unmodified opinion following a compliance framework and NI 81-106 would need to be changed to accommodate acceptance of a compliance framework. One commenter requested that private investment funds be excluded from NI 81-106. Two commenters suggested that the CSA approach the Canadian Accounting Standards Board (**AcSB**) to exclude investment funds from the definition of publicly accountable enterprises, which are subject to IFRS.
Response	*Background* Following a period of public consultation, the AcSB announced in 2006 a strategic plan to adopt IFRS by publicly accountable enterprises in Canada. In 2008, the AcSB confirmed the 2011 changeover date for publicly accountable enterprises and, since then, has incorporated IFRS into the Handbook of the Canadian Institute of Chartered Accountants (the **Handbook**). IFRS is a single set of high quality, globally accepted accounting principles adopted by the International Accounting Standards Board (**IASB**). Reporting issuers other than investment funds adopted IFRS for financial years beginning on or after January 1, 2011. The mandatory changeover date for investment funds was deferred by the AcSB for three years and is now January 1, 2014. NI 81-106 currently requires investment funds to prepare financial statements in accordance with Canadian GAAP as applicable to public enterprises.[1] In CSA Staff Notice 81-320 (Revised) *Update on International Financial Reporting Standards for Investment Funds* (**Staff Notice 81-320**) – first published on October 8, 2010, revised on March 23, 2011 and March 16, 2012 – the CSA stated that we consider the standards in Part V of the Handbook to be Canadian GAAP as applicable to public enterprises for securities legislation purposes. The CSA supports the AcSB's plan to move financial reporting for all Canadian publicly accountable enterprises to IFRS and believes that investment fund financial statements should be prepared using the same accounting standards as other issuers for financial years beginning on or after January 1, 2014. These amendments are intended to provide investment funds with an efficient transition to IFRS. *Maintaining comparability* The amendments attempt to maintain comparability of financial statement presentation and performance reporting among investment funds. In the financial statements, certain changes to accounting terms and phrases were made to conform with IFRS; however, changes in terminology generally will not affect the amounts shown on the financial statements. For example, currently an investment fund discloses its "net assets", which under IFRS will become either "total equity" or "net assets attributable to securityholders" (depending on the classification of the fund's securities). We intend for the determination of either total equity or net assets attributable to securityholders under IFRS to yield the same result as the determination of net assets under current Canadian GAAP for most investment funds. As well, we have required the presentation of certain additional line items on the statement of comprehensive income. For example, investment funds that classify their securities as financial liabilities will disclose the

[1] Section 2.6 of NI 81-106

	"increase or decrease in net assets attributable to securityholders (excluding distributions) from operations" to maintain comparability with the "increase or decrease in total equity from operations" to be disclosed by investment funds that classify their securities as equity instruments. The changeover to IFRS is not expected to substantially impact the disclosure provided to investors in the management report of fund performance, nor affect the calculation of the management expense ratio or trading expense ratio. *New accounting framework* The amendments have not changed the requirement to disclose an investment fund's assets and liabilities at "current value", which is defined in NI 81-106 as the value calculated in accordance with Canadian GAAP. Previously, Accounting Guideline 18 *Investment* Companies (AcG-18) allowed an investment fund to measure all its investments at fair value. To the extent that the measurement principles are different under IFRS, certain investments held by an investment fund may be measured differently compared to what was disclosed in its Canadian GAAP financial statements from previous years, and in the IFRS financial statements of other investment funds. While the measurement options under IFRS may result in reduced financial statement comparability, in the CSA's view, it is important for an investment fund to be able to make a statement of unreserved compliance with IFRS and for the auditor's report to refer to IFRS as the applicable fair presentation framework. *Pooled funds* For jurisdictions where NI 81-106 applies to a mutual fund that is not a reporting issuer, the requirement for financial reporting originates in securities legislation. The scope of these amendments does not permit us to change the *Securities Act* in those jurisdictions.
2. Consolidation	
Comment	**2.1 Usefulness of consolidated financial statements** All commenters believe that consolidated financial statements do not provide the most useful decision-making information for investors. Two commenters pointed out that the information of importance to investors is the assessment of cash flows, changes in fair value, and comparison of NAV and change in NAV to a benchmark. Four commenters stated that consolidated financial statements would be misleading because items such as property, plant and equipment would be brought onto the fund's statement of financial position and would not be measured at fair value.
Response	Staff Notice 81-320 provided a history of the consolidation issue. Under existing IFRS 10 *Consolidated Financial Statements* (**IFRS 10**), an entity is required to consolidate investments that it controls. During the development of the consolidation standard in 2009, the IASB heard from users of investment fund financial statements who were unanimous in their view that fair value of investments held by investment funds was the most useful decision-making information for investors, not consolidated financial information. As a result, the IASB published the Exposure Draft *Investment Entities* on August 25, 2011, which proposed that a class of entities defined as "investment entities" be excepted from consolidating entities that they control and instead account for controlling interests in other entities at fair value. This issue was largely resolved for the investment fund industry when the IASB published *Investment Entities* (Amendments to IFRS 10, IFRS 12 and IAS 27) on October 31, 2012, which provides an exception to consolidation for investment entities. Based on our analysis and feedback from stakeholders, it appears that most investment funds as defined in securities legislation will qualify as investment entities. We have revised the proposed IFRS-related amendments to NI 81-106 (and other instruments related to investment funds) to reflect that most investment funds will not be required to consolidate entities that they control. Accordingly, we have removed the proposed requirement in NI 81-106 for an investment fund to prepare a statement of investment portfolio on a non-consolidated basis within a set of consolidated financial statements. Any remaining investment funds, that may be required to consolidate, can contact CSA staff if IFRS creates issues with the presentation requirements in NI 81-106.
Comment	**2.2 Operational issues** Eight commenters cited operational difficulties if consolidated financial statements were to be prepared, such as: daily tracking of percentage ownership; access to an unrelated fund manager's financial information; breach of confidentiality; consolidation of entities with non-coterminous year-ends; consolidation of private

	entities using different sets of GAAP; and the audit of the stub period. Four commenters stated that the investment fund industry is not structured to deal with consolidation and the change will result in modifications to information technology systems, and policies and procedures. These transitional costs will be passed onto investors through a higher MER. Three commenters thought that non-consolidated financial statements prepared by registrants, such as investment fund managers, represent a precedent for the CSA to accept non-consolidated financial statements.
Response	Please see the response to Item 2.1 above. Most registrants, such as investment fund managers, prepare non-consolidated financial statements for the specific purpose of determining their excess working capital. These are not public general-purpose financial statements and are only delivered to the securities regulatory authority or regulator under the requirements of National Instrument 31-103 *Registration Requirements, Exemptions and Ongoing Registrant Obligations*. If the registrant has a related reporting issuer entity, that entity must comply fully with IFRS and National Instrument 51-102 *Continuous Disclosure Obligations*.
Comment	**2.3 Statement of investment portfolio and auditor's opinion** One commenter stated that the presentation of both consolidated financial statements and non-consolidated fair value information in the same set of financial statements may be confusing but, more importantly, seven commenters believed that giving a non-consolidated statement of investment portfolio equal prominence as consolidated primary financial statements would result in a modified audit opinion. Commenters encouraged us to require the portfolio disclosure as a schedule, while others thought it would be more prudent to include the disclosure in the notes to the financial statements to avoid the requirement to show comparative information. Three commenters thought a numerical or explanatory reconciliation between the statement of investment portfolio and statement of financial position may be confusing and asked that the proposed requirement be removed. Instead, the basis of presentation should be disclosed on the statement of investment portfolio. One commenter thought that a three-way quantitative reconciliation between the consolidated financial statements, the non-consolidated portfolio (established using bid price), and the net asset value (established using closing price) would be essential for readers. Two commenters stated that requiring the preparation of consolidated and non-consolidated financial statements, or a standalone non-consolidated statement of investment portfolio would be costly because two audit reports would be required with differing materiality.
Response	We revised the proposed amendments. We no longer are proposing that a non-consolidated statement of investment portfolio be included within a consolidated set of financial statements. For an investment fund subject to NI 81-106, the statement of investment portfolio will account for entities that it controls on the same basis as in the primary financial statements. Any remaining investment funds, that may be required to consolidate, can contact CSA staff if IFRS creates issues with the presentation requirements in NI 81-106.
Comment	**2.4 Reconciliation between net assets and NAV** Two commenters stated that there could be additional reconciliations between net assets and NAV as a result of an investment fund consolidating entities that it controls. One commenter indicated that little useful information would be provided because the reconciliation would highlight differences arising from accounting presentation requirements, not fair value changes. One commenter took the view that the reconciliation was a non-GAAP measure.
Response	We acknowledge that there may be additional reconciling items between net assets and NAV as a result of IFRS. Reconciling items may arise because IFRS provides an entity with options on how to measure its investments and those options are different from the guidance in AcG-18 that an "investment company" should measure its investments at fair value. Reconciling items may also include the consolidation of non-fair valued assets and liabilities on the statement of financial position accounted for on a different basis than the rest of the portfolio; however, we do not expect this type of reconciling item to be widespread because of our understanding that most investment funds will not be required to consolidate entities that they control as a result of the amendments to IFRS 10 (refer to the response to Item 2.1). As required in item 5, section 3.6(1) of NI 81-106, an explanation of these differences will be provided. The reconciliation, which appears in the notes to the financial statements, will be audited and will explain to investors why the NAV at which they transacted is different from the net assets in the audited financial statements.

	There is already an existing requirement to discuss fair value changes, if material, in the results of operations or past performance sections within the management report of fund performance. We do not agree that the reconciliation between net assets and NAV is a non-GAAP measure. CSA Staff Notice 52-306 (Revised) *Non-GAAP Financial Measures and Additional GAAP Measures* (**Staff Notice 52-306**) sets out that International Accounting Standard 1 *Presentation of Financial Statements* (**IAS 1**) provides for information to be presented in the notes to the financial statements "that is not presented elsewhere in the financial statements, but is relevant to an understanding of any of [the statements]" (IAS 1, paragraph 112(c)). The reconciliation provides an understanding of the differences between net assets on the financial statements and NAV, and represents important disclosure available to investors since 2008.
Comment	**2.5 MER** One commenter pointed out that consolidation of an underlying entity's operating revenues and expenses into the statement of comprehensive income has the potential for increasing MER. There was also a request for guidance on how to complete the per share highlights table in the MRFP based on consolidated information.
Response	As discussed in Item 2.1 above, IFRS provides an exception from consolidation for investment entities. Any remaining investment funds, that may be required to consolidate, can contact CSA staff if IFRS creates issues with the presentation requirements in NI 81-106.
Comment	**3. Classification of puttable instruments** One commenter supported the CSA's attempt to maintain comparability among investment funds and stated that the proposed amendments generally appear to accomplish this objective by providing two different ways of presenting and calculating the affected financial information, depending on how an investment fund's securities are classified. Two commenters requested guidance for the presentation of an investment fund's own securities that are classified as both liability and equity. Three commenters requested that the CSA mandate a liability or equity presentation so that there is one type of presentation for securities issued by investment funds. One commenter stated that partnerships do not issue securities to their limited partners and would not be accommodated by the proposed format. Three commenters stated that the proposed line item "increase or decrease in total equity from operations per security, or in net assets attributable to securityholders (excluding distributions) from operations per security, or, if applicable, per security of each class or series" is a non-GAAP measure and not permitted under IFRS.
Response	International Accounting Standard 32 *Financial Instruments: Presentation* (**IAS 32**) classifies a puttable financial instrument as a financial liability, unless the instrument has certain features, in which case it is classified as an equity instrument. Generally, puttable instruments are securities which are redeemable by the securityholder. As most investment funds issue redeemable securities, investment funds will have to determine if their securities are puttable instruments and, if so, whether they should be classified as financial liabilities or as equity instruments. Under IFRS, there may be two different presentations of investment funds' securities, depending on the structure of the investment fund. We require investment funds to be compliant with IFRS and, therefore, cannot mandate one presentation for an investment fund's securities. We have attempted, however, to keep the financial statement presentation as consistent as possible, regardless of whether an investment fund's own securities are classified as equity or liability under IFRS. For example, the amendments allow an investment fund to disclose either total equity (if the fund's own securities are classified as equity) or net assets attributable to securityholders (if the fund's own securities are classified as liabilities). The transition to IFRS was not meant to remove long-established disclosure that investment funds have been providing to investors in their financial statements. While Canadian GAAP only provided some general requirements for the preparation of financial statements and IFRS mandates certain minimum line items, IFRS also requires presentation of "additional line items, headings and subtotals… when such presentation is relevant to an understanding" of an entity's financial position and performance (IAS 1 paragraphs 55 and 85). IAS 1 also contemplates including additional line items, reordering line items, and amending descriptions to provide information that is relevant to the operations of an entity, taking into consideration "the nature and function of the items of income and expense" (IAS 1 paragraph 86). We are of the view that additional line items prescribed by NI 81-106 on the statement of comprehensive income, such as "increase or decrease in total equity from operations per security, or in net assets attributable to securityholders (excluding distributions) from operations per security, or, if applicable, per security of each class or series", provide investors with relevant performance comparisons between investment funds, regardless of whether those

<table>
<tr><td></td><td>funds' own securities are classified as financial liabilities or equity instruments.

Staff Notice 52-306 was revised in November 2010 and distinguishes between non-GAAP financial measures and additional GAAP measures. We are of the view that these same additional line items prescribed on the statement of comprehensive income fit into the parameters of additional GAAP measures as required by IFRS.</td></tr>
<tr><td colspan="2">4. Transition issues</td></tr>
<tr><td>Comment</td><td>4.1 Extension of filing deadline

Three commenters asked for an extension of the financial statement filing deadlines for investment funds to be consistent with the 30-day extension given to other reporting issuers and the 15-day extension for registrants that transitioned to IFRS in 2011. One commenter cited other countries that granted extensions even for the filing of semi-annual financial statements.

One commenter stated that the 60 and 90 day filing deadlines for interim and annual financial statements will not be enough to accommodate the consolidation process and extensions will be required each year.</td></tr>
<tr><td>Response</td><td>We are not providing an extension for the first interim financial statements to be prepared under IFRS by investment funds. IFRS did not come into effect for investment funds for financial years beginning January 1, 2011, as it did for most publicly accountable enterprises. As a result, preparers of investment fund financial statements have had three years to consider the implications of adopting IFRS and learn from the experiences of other reporting issuers.

Since the publication of CSA Staff Notice 52-320 Disclosure of Expected Changes in Accounting Policies Relating to Changeover to International Financial Reporting Standards in 2008, investment funds have been providing disclosure in their annual and interim filings about the state of their IFRS readiness. For many years, most investment funds have disclosed in their financial statements or management reports of fund performance that the impact of IFRS will be limited to additional note disclosure and modifications to existing presentation. The CSA also reminded investment funds of their responsibility for IFRS readiness for the past three years with each update to Staff Notice 81-320. With the length of notice provided to investment funds, the CSA is of the view that they should be prepared for the January 1, 2014 changeover date.

In 2011, other reporting issuers received a 30-day extension because many of them were required to file quarterly financial statements after the end of their first quarter interim period. Unlike other reporting issuers, investment funds are required to file semi-annual financial statements after the period-end. The semi-annual, rather than quarterly, filing frequency for investment funds provides a longer period to prepare for the first filings under IFRS. In our view, an extension of the filing deadline for investment fund financial statements is not required because investment funds do not file as frequently as other reporting issuers.</td></tr>
<tr><td>Comment</td><td>4.2 Additional guidance

Two commenters requested additional guidance, or the publication of frequently asked questions (FAQs), to address: areas silent in IFRS or the amendments; whether the CSA requires preparation of the statement of comprehensive income by function or nature; the presentation format to be used for the statement of changes in financial position; and how performance measures other than those required by GAAP should be reported when a fund has some classes of securities recorded as financial liabilities and other classes recorded as equity instruments.

There were also questions relating to specific presentation on the financial statements, such as:

• requiring an opening balance sheet for reclassifying of items in the annual financial statements or interim financial reports;

• definition of "net investment income or loss" on the statement of comprehensive income;

• the disclosure of return of capital on the statement of comprehensive income;

• separation of redemptions into share capital and undistributed retained earnings in the statements of changes in financial position, and cash flows;

• request to add certain subtotals;</td></tr>
</table>

	• inquiries about the placement, repealing, or the lack of certain line items; and • requests to modify the concept of inapplicable line items.
Response	To the extent that these are IFRS transition issues, we defer to auditors of investment funds with whom preparers of financial statements should be discussing such issues. The CSA will prepare FAQs if necessary (based on the number and type of inquiries) or guidance may be issued through other stakeholder communications. Investment funds can contact CSA staff if IFRS creates issues with the presentation requirements in NI 81-106.
Comment	**4.3 Transition issues** Five commenters expressed concern that the IASB would not finalize the proposed relief for investment funds from the consolidation requirement before IFRS is adopted by investment funds in Canada. They asked the CSA to consider transitional provisions.
Response	This was addressed with the deferral of the changeover date from January 1, 2011 to January 1, 2014. The CSA published Staff Notice 81-320 three times during the deferral to communicate the CSA's view that it would be preferable for the IASB's consolidation exception to be in place when IFRS is adopted by investment funds in Canada. The most recent update to Staff Notice 81-320, published in March 2012, confirmed that CSA staff would be taking additional time before seeking approval in each CSA jurisdiction to finalize IFRS-related amendments to NI 81-106 and other instruments related to investments fund, with the goal of having the necessary IFRS-related amendments for investment funds in force by January 1, 2014. On October 31, 2012, the IASB published final amendments relating to the consolidation exception, with those amendments applying to annual periods beginning on or after January 1, 2014.

5. List of commenters

<u>Commenters</u>

- Alternative Investment Management Association
- The Canadian Advocacy Committee of the CFA Institute Societies of Canada
- Deloitte LLP
- Ernst & Young LLP
- Fonds FMOQ
- Growth Works Capital Ltd.
- The Investment Funds Institute of Canada
- KPMG LLP
- Mouvement Desjardins
- PFM Venture Capital Operations Inc.
- PwC

APPENDIX C

AMENDMENTS TO
NATIONAL INSTRUMENT 81-106 *INVESTMENT FUND CONTINUOUS DISCLOSURE*

Although this amendment instrument amends section headers in National Instrument 81-106, section headers do not form part of the instrument and are inserted for ease of reference only.

1. National Instrument 81-106 Investment Fund Continuous Disclosure is amended by this instrument.

2. Section 1.1 of National Instrument 81-106 is amended by

(a) adding the following after the definition of "EVCC"***:***

"financial statements" includes interim financial reports;***;***

(b) repealing the definition of "net asset value" ***and substituting the following:***

"net asset value" means the value of the total assets of the investment fund less the value of the total liabilities, other than net assets attributable to securityholders, of the investment fund, as at a specific date, determined in accordance with Part 14;***;***

(c) adding the following after the definition of "non-redeemable investment fund"***:***

"publicly accountable enterprise" means a publicly accountable enterprise as defined in the Handbook;***; and***

(d) adding the following after the definition of "scholarship plan"***:***

"statement of changes in financial position" means a statement of changes in equity or a statement of changes in net assets attributable to securityholders;***.***

3. Section 2.1 of National Instrument 81-106 is amended by

(a) striking out "statement of net assets" ***in paragraph (1)(a) wherever it occurs and substituting*** "statement of financial position"***;***

(b) striking out "statement of operations" ***in paragraph (1)(b) wherever it occurs and substituting*** "statement of comprehensive income"***;***

(c) striking out "statement of changes in net assets" ***in paragraph (1)(c) wherever it occurs and substituting*** "statement of changes in financial position"***;***

(d) repealing paragraph (1)(d) and substituting the following:

(d) for financial years beginning on or after January 1, 2014, a statement of cash flows for that financial year and a statement of cash flows for the immediately preceding financial year;***; and***

(e) striking out "; and" ***at the end of paragraph (1)(e) and repealing paragraph (1)(f) and substituting the following:***

(f) a statement of financial position as at the beginning of the immediately preceding financial year if the investment fund discloses in its annual financial statements an unreserved statement of compliance with IFRS and the investment fund:

(i) applies an accounting policy retrospectively in its annual financial statements,

(ii) makes a retrospective restatement of items in its annual financial statements, or

(iii) reclassifies items in its annual financial statements; and

(g) notes to the annual financial statements.

4. Section 2.3 of National Instrument 81-106 is amended by

(a) ***in the title, striking out*** "Interim Financial Statements" ***and substituting*** "Interim Financial Report"***;***

(b) ***striking out*** "interim financial statements" ***and substituting*** "an interim financial report"***;***

(c) ***striking out*** "include" ***and substituting*** "includes"***;***

(d) ***striking out*** "statement of net assets" ***in paragraph (a) wherever it occurs and substituting*** "statement of financial position"***;***

(e) ***striking out*** "statement of operations" ***in paragraph (b) wherever it occurs and substituting*** "statement of comprehensive income"***;***

(f) ***striking out*** "statement of changes in net assets" ***in paragraph (c) wherever it occurs and substituting*** "statement of changes in financial position"***;***

(g) ***repealing paragraph (d) and substituting the following:***

(d) for financial years beginning on or after January 1, 2014, a statement of cash flows for that interim period and a statement of cash flows for the corresponding period in the immediately preceding financial year;***; and***

(h) ***repealing paragraph (f) and substituting the following:***

(f) a statement of financial position as at the beginning of the immediately preceding financial year if the investment fund discloses in its interim financial report an unreserved statement of compliance with International Accounting Standard 34 *Interim Financial Reporting* and the investment fund

(i) applies an accounting policy retrospectively in its interim financial report,

(ii) makes a retrospective restatement of items in its interim financial report, or

(iii) reclassifies items in its interim financial report; and

(g) notes to the interim financial report.

5. Section 2.4 of National Instrument 81-106 is amended by

(a) ***in the title, striking out*** "Interim Financial Statements" ***and substituting*** "Interim Financial Report"***; and***

(b) ***striking out*** "interim financial statements" ***and substituting*** "interim financial report"***.***

6. Section 2.6 of National Instrument 81-106 is repealed and substituted by the following:

2.6 Acceptable Accounting Principles

(1) For financial years beginning before January 1, 2014, the financial statements of an investment fund must be prepared in accordance with Canadian GAAP applicable to public enterprises.

(2) For financial years beginning on or after January 1, 2014, the financial statements of an investment fund must be prepared in accordance with Canadian GAAP applicable to publicly accountable enterprises.

(3) Financial statements must be prepared in accordance with the same accounting principles for all periods presented in the financial statements.

7. Section 2.7 of National Instrument 81-106 is amended by repealing subsection (2) and substituting the following:

(2) For financial years beginning before January 1, 2014, audited financial statements must be accompanied by an auditor's report prepared in accordance with Canadian GAAS and the following requirements:

1. The auditor's report must not contain a reservation or express a modified opinion.

2. The auditor's report must identify all financial periods presented for which the auditor has issued an auditor's report.

3. If the investment fund has changed its auditor and a comparative period presented in the financial statements was audited by a different auditor, the auditor's report must refer to the former auditor's report on the comparative period.

4. The auditor's report must identify the auditing standards used to conduct the audit and the accounting principles used to prepare the financial statements.

(3) For financial years beginning on or after January 1, 2014, audited financial statements must be accompanied by an auditor's report prepared in accordance with Canadian GAAS and the following requirements:

1. The auditor's report expresses an unmodified opinion.

2. The auditor's report identifies all financial periods presented for which the auditor has issued an auditor's report.

3. The auditor's report is in the form specified by Canadian GAAS for an audit of financial statements prepared in accordance with a fair presentation framework.

4. The auditor's report refers to IFRS as the applicable fair presentation framework.

5. If the investment fund has changed its auditor and a comparative period presented in the financial statements was audited by a predecessor auditor, the financial statements are accompanied by the predecessor auditor's report on the comparative period or the auditor's report refers to the predecessor auditor's report on the comparative period.

8. Section 2.9 of National Instrument 81-106 is amended by

(a) striking out "interim financial statements" ***wherever it occurs and substituting*** "an interim financial report"***;***

(b) striking out "statement of net assets" ***wherever it occurs and substituting*** "statement of financial position"***;***

(c) striking out "statement of operations" ***wherever it occurs and substituting*** "statement of comprehensive income"***;***

(d) striking out "statement of changes in net assets" ***wherever it occurs and substituting*** "statement of changes in financial position"***;***

(e) striking out "statement of cashflows" ***wherever it occurs and substituting*** "statement of cash flows"***;***

(f) in subsection (4), striking out "subsections 4.8(7) and (8)" ***and substituting*** "paragraphs 4.8(7)(a) and (b) and (8)(a) and (b)"***; and***

(g) striking out ", if applicable," ***in subparagraph (4)(a)(ii) and subparagraph (4)(b)(ii).***

9. Section 2.10 of National Instrument 81-106 is amended in paragraph (j) by striking out "interim and annual financial statements" ***and substituting*** "interim financial report and annual financial statements"***.***

10. Section 2.12 of National Instrument 81-106 is amended by

(a) in the title, striking out "Interim Financial Statements" ***and substituting*** "Interim Financial Report"***;***

(b) striking out "interim financial statements" ***wherever it occurs and substituting*** "interim financial report"***; and***

(c) in subsection (2), striking out "have" ***and substituting*** "has"***.***

11. Section 3.1 of National Instrument 81-106 is amended by

(a) in the title, striking out "Statement of Net Assets" ***and substituting*** "Statement of Financial Position"***;***

(b) striking out "statement of net assets" ***and substituting*** "statement of financial position"***;***

(c) repealing paragraph 14 and substituting the following:

14. total equity or net assets attributable to securityholders and, if applicable, for each class or series.***; and***

(d) repealing paragraph 15 and substituting the following:

15. total equity per security or net assets attributable to securityholders per security, or if applicable, per security of each class or series.

12. Section of 3.2 of National Instrument 81-106 is amended by

(a) in the title, striking out "Statement of Operations" ***and substituting*** "Statement of Comprehensive Income"***;***

(b) striking out "statement of operations" ***and substituting*** "statement of comprehensive income"***;***

(c) repealing paragraph 12;

(d) striking out "provision for" ***in paragraph 14;***

(e) repealing paragraph 15;

(f) adding the following after paragraph 17:

17.1 if recognized as an expense, distributions, showing separately the amount distributed out of net investment income and out of realized gains on portfolio assets sold.***;***

(g) repealing paragraph 18 and substituting the following:

18. increase or decrease in total equity from operations, or in net assets attributable to securityholders from operations, excluding distributions, and, if applicable, for each class or series.***; and***

(h) repealing paragraph 19 and substituting the following:

19. increase or decrease in total equity from operations per security, or in net assets attributable to securityholders from operations, excluding distributions, per security or, if applicable, per security of each class or series.

13. Section 3.3 of National Instrument 81-106 is amended by

(a) in the title, striking out "Statement of Changes in Net Assets" ***and substituting*** "Statement of Changes in Financial Position"***;***

(b) striking out "statement of changes in net assets" ***and substituting*** "statement of changes in financial position"***;***

(c) repealing paragraph 1 and substituting the following:

1. total equity or net assets attributable to securityholders at the beginning of the period.***;***

(d) repealing paragraph 2;

(e) repealing paragraph 6 and substituting the following:

6. if not recognized as an expense, distributions, showing separately the amount distributed out of net investment income and out of realized gains on portfolio assets sold.

6.1 return of capital.***; and***

(f) repealing paragraph 7 and substituting the following:

7. total equity or net assets attributable to securityholders at the end of the period.

14. Section 3.4 of National Instrument 81-106 is amended by

(a) in the title, striking out "Statement of Cashflows" ***and substituting*** "Statement of Cash Flows"***;***

(b) striking out "statement of cashflows" ***and substituting*** "statement of cash flows"***;***

(c) repealing paragraph 1; and

(d) repealing paragraph 3 and substituting the following:

3. payments for the purchase of portfolio assets.

15. Section 3.6 of National Instrument 81-106 is amended by

(a) adding the following after paragraph (1)1:

1.1 for financial years beginning on or after January 1, 2014, the basis for classifying the investment fund's outstanding securities, or each class or series of outstanding securities, as either equity instruments or financial liabilities.***;***

(b) striking out "statement of changes in net assets" ***in paragraph (1)4 and substituting*** "statement of changes in financial position"***;***

(c) repealing paragraph (1)5 and substituting the following:

5. the net asset value per security as at the date of the financial statements compared to the total equity per security or net assets attributable to securityholders per security as shown on the statement of financial position, and an explanation of each of the differences between these amounts.***; and***

(d) adding the following after subsection (2):

(3) For financial years beginning on or after January 1, 2014, the notes to the financial statements must disclose

(a) in the case of annual financial statements, an unreserved statement of compliance with IFRS; and

(b) in the case of interim financial reports, an unreserved statement of compliance with International Accounting Standard 34 *Interim Financial Reporting*.

16. Section 3.8 of National Instrument 81-106 is amended by

(a) striking out "statement of net assets" ***in subsection (2) and substituting*** "statement of financial position"***; and***

(b) striking out "statement of operations" ***in subsection (3) and substituting*** "statement of comprehensive income"***.***

17. Section 3.9 of National Instrument 81-106 is amended by

(a) striking out "statement of net assets" ***wherever it occurs in subsection (2) and substituting*** "statement of financial position"***; and***

(b) striking out "statement of operations" ***in subsection (3) and substituting*** "statement of comprehensive income"***.***

18. Section 3.10 of National Instrument 81-106 is amended by

(a) ***striking out*** "statement of net assets" ***in subsection (2) and substituting*** "statement of financial position"***; and***

(b) ***striking out*** "statement of operations" ***in subsection (3) and substituting*** "statement of comprehensive income"***.***

19. Section 3.11 of National Instrument 81-106 is amended by

(a) ***striking out*** "statement of net assets" ***in subparagraph (1)(a)(iii) and substituting*** "statement of financial position"***;***

(b) ***striking out*** "statement of operations" ***in paragraph (1)(c) and substituting*** "statement of comprehensive income"***; and***

(c) repealing subsection (2) and substituting the following:

(2) Despite sections 3.1 and 3.2, an investment fund that is a scholarship plan may omit the "total equity per security or net assets attributable to securityholders per security" and "increase or decrease in total equity from operations per security, or in net assets attributable to securityholders from operations, excluding distributions, per security" line items from its financial statements.

20. Section 4.2 of National Instrument 81-106 is amended by striking out "interim financial statements" ***and substituting*** "interim financial report"***.***

21. Section 5.1 of National Instrument 81-106 is amended in paragraph (2)(b) by striking out "interim financial statements" ***and substituting*** "the interim financial report"***.***

22. Section 8.2 of National Instrument 81-106 is amended in paragraph (d) by striking out "interim financial statements" ***and substituting*** "an interim financial report"***.***

23. Section 8.4 of National Instrument 81-106 is amended by striking out "the net assets" ***and substituting*** "of the total equity or net assets attributable to securityholders"***.***

24. Section 8.5 of National Instrument 81-106 is amended in paragraph (b) by striking out "[net assets/venture investments]" ***and substituting*** "[total equity/net assets attributable to securityholders/venture investments]"***.***

25. Section 15.1 of National Instrument 81-106 is amended by repealing clause (1)(a)(i)(A) and substituting the following:

(A) total expenses of the investment fund, excluding distributions if recognized as an expense, commissions and other portfolio transaction costs, before income taxes, for the financial year or interim period, as shown on its statement of comprehensive income; and ***.***

26. Section 15.2 of National Instrument 81-106 is amended by

(a) repealing subparagraph (1)(a)(i) and substituting the following:

(i) multiplying the total expenses of each underlying investment fund, excluding distributions if recognized as an expense, commissions and other portfolio transaction costs, before income taxes, for the financial year or interim period, by ***; and***

(b) repealing paragraph (1)(b) and substituting the following:

(b) the total expenses of the investment fund, excluding distributions if recognized as an expense, commissions and other portfolio transaction costs, before income taxes, for the period.

27. Part 18 of National Instrument 81-106 is amended by adding the following before section 18.6:

18.5.1 Transition to IFRS

(1) For the first interim period in the financial year beginning on or after January 1, 2014, an investment fund must file, with its interim financial report for that interim period, an opening statement of financial position as at the date of transition to IFRS.

(2) For the first financial year beginning on or after January 1, 2014, an investment fund must file, with its annual financial statements for that financial year, an audited opening statement of financial position as at the date of transition to IFRS.

(3) Despite sections 3.1, 3.2, 3.3, 3.4 and 3.6, for financial years beginning before January 1, 2014, an investment fund may present line items and use terminology in its financial statements consistent with the immediately preceding financial year.

28. Part A, Item 1 of Form 81-106F1 Contents of Annual and Interim Management Report of Fund Performance is amended by

(a) ***striking out*** "This concept of materiality is consistent with the financial reporting notion of materiality contained in the Handbook." ***in paragraph (e); and***

(b) ***striking out the first sentence in paragraph (f) and substituting the following:***

All references to "net assets" or "net assets per security" in this Form are references to total equity or net assets attributable to securityholders determined in accordance with Canadian GAAP as presented in the financial statements of the investment fund.

29. Part B, Item 1 of Form 81-106F1 is amended by repealing the third paragraph and substituting the following:

Securityholders may also contact us using one of these methods to request a copy of the investment fund's interim financial report, proxy voting policies and procedures, proxy voting disclosure record or quarterly portfolio disclosure.

30. Part B, Item 3, section 3.1 of Form 81-106F1 is amended by

(a) ***in subsection (1), striking out*** "total expenses" ***in The Fund's Net Assets Per [Unit/Share] table and substituting*** "total expenses [excluding distributions]"***;***

(b) ***in subsection (1), striking out*** "From income (excluding dividends)" ***in The Fund's Net Assets Per [Unit/Share] table and substituting*** "From net investment income (excluding dividends)"***;***

(c) ***in subsection (1), striking out*** "(excluding commissions and other portfolio transaction costs)" ***in footnote (2) to the Ratios and Supplemental Data table and substituting*** "(excluding [distributions], commissions and other portfolio transaction costs)"***; and***

(d) ***adding the following after subsection (7):***

(7.1) (a) For financial years beginning before January 1, 2014, the financial highlights may be derived from the investment fund's financial statements prepared in accordance with subsection 2.6(1) of the Instrument.

(b) For financial periods beginning on or after January 1, 2014, derive the financial highlights from the investment fund's financial statements prepared in accordance with subsection 2.6(2) of the Instrument.

(c) Despite paragraph (a), in an annual MRFP for a financial year beginning on or after January 1, 2014, derive the financial highlights for the immediately preceding financial year from financial statements prepared in accordance with subsection 2.6(2) of the Instrument.

(d) If the financial highlights relate to financial periods beginning both before and on or after January 1, 2014, disclose, in a note to the table, the accounting principles applicable to each period.

31. Part B, Item 3, section 3.2 of Form 81-106F1 is amended by

(a) striking out "Balance Sheet" ***in the Financial & Operating Highlights (with comparative figures) table and substituting*** "Statement of Financial Position"***; and***

(b) striking out "Statement of Operations" ***in the Financial & Operating Highlights (with comparative figures) table and substituting*** "Statement of Comprehensive Income"***.***

32. Part C, Item 1 of Form 81-106F1 is amended by repealing the second paragraph and substituting the following:

"This interim management report of fund performance contains financial highlights but does not contain either the interim financial report or annual financial statements of the investment fund. You can get a copy of the interim financial report or annual financial statements at your request, and at no cost, by calling [toll-free/collect call telephone number], by writing to us at [insert address] or by visiting our website at [insert address] or SEDAR at www.sedar.com.

33. This Instrument comes into force on January 1, 2014.

APPENDIX D

AMENDMENTS TO
COMPANION POLICY 81-106CP
TO NATIONAL INSTRUMENT 81-106 INVESTMENT FUND CONTINUOUS DISCLOSURE

1. Companion Policy 81-106CP to National Instrument 81-106 Investment Fund Continuous Disclosure is amended.

2. Section 1.3 is amended by adding the following after subsection (2):

(3) The Instrument uses accounting terms that may be defined or referred to in Canadian GAAP applicable to publicly accountable enterprises. Some of these terms may be defined differently in securities legislation. National Instrument 14-101 *Definitions* provides that a term used in the Instrument and defined in the securities statute of a local jurisdiction has the meaning given to it in the statute unless the definition in that statute is restricted to a specific portion of the statute, or the context otherwise requires.

3. Section 2.1 is amended by

(a) adding the following before subsection (2):

(1.1) Subsection 2.6(2) of the Instrument, applicable to financial years beginning on or after January 1, 2014, refers to Canadian GAAP for publicly accountable enterprises, which is IFRS incorporated into the Handbook, contained in Part I of the Handbook. IFRS is defined in National Instrument 14-101 *Definitions* as the standards and interpretations adopted by the International Accounting Standards Board.

Subsection 2.6(1) of the Instrument, applicable to financial years beginning before January 1, 2014, refers to Canadian GAAP as applicable to public enterprises, which the CSA considers to be the standards in Part V of the Handbook.***;***

(b) repealing subsection (2) and substituting the following:

(2) The CSA believe that an investment fund's financial statements must include certain information, at a minimum, in order to provide full disclosure. The Instrument sets out these minimum requirements, but does not mandate all the required disclosure. Canadian GAAP applicable to publicly accountable enterprises also contains minimum requirements relating to the content of financial statements. An investment fund's financial statements must meet these requirements as well.

In some cases, the Instrument prescribes line items that may already be required by Canadian GAAP, but these line items are expressed more specifically for the activities of an investment fund. For example, Canadian GAAP requires a "trade and other receivables" line item on the statement of financial position, but the Instrument requires accounts receivable to be broken down into more specific categories. In other instances, the line items prescribed in the Instrument are in addition to those in Canadian GAAP.

While the Instrument prescribes line items, it does not prescribe the order in which those line items are presented. Investment funds should present line items, as well as any subtotals or totals, in a logical order that will contribute to a reader's overall understanding of the financial statements.

Investment funds are responsible for disclosing all material information concerning their financial position and financial performance in the financial statements. ***; and***

(c) repealing subsection (3).

4. Part 2 is amended by adding the following after section 2.1:

2.1.1 Classification of Securities Issued by an Investment Fund

(1) One goal of the Instrument is comparable financial statement presentation between investment funds. However, the adoption of IFRS results in certain changes to this presentation. For example, the presentation is impacted by the classification of an investment fund's securities as either equity instruments or financial liabilities. Certain line items, such as "total equity or net assets attributable to

securityholders", acknowledge the difference between an equity and liability presentation, but maintain a comparable measurement between investment funds regardless of this classification.

(2) If an investment fund's securities are classified as financial liabilities, IFRS requires financing costs to include certain distributions made by the investment fund to those securityholders. However, if an investment fund's securities are classified as equity instruments, distributions to holders of these securities are not included in financing costs (and are not recognized as an expense), creating a difference that reduces comparability. To address this, the Instrument requires distributions to be excluded from certain calculations, specifically: (i) increase or decrease in net assets attributable to securityholders from operations as disclosed in the statement of comprehensive income, and (ii) determination of total expenses for the management expense ratio (MER).

(3) For investment funds that classify their own securities as financial liabilities, "net assets attributable to securityholders" represents the equivalent of "total equity" for investment funds that classify their own securities as equity instruments. Net assets attributable to securityholders does not include amounts owed on securities issued by the investment fund that provide leverage to the fund.

5. Section 2.3 is repealed.

6. Section 2.5 is amended by striking out "statement of operations" ***wherever it occurs and substituting*** "statement of comprehensive income"***.***

7. Section 2.5.1 is repealed and the following substituted:

2.5.1 Disclosure of Investment Portfolio

(1) The term "statement of investment portfolio" is used to describe the disclosure required by section 3.5 of the Instrument. As this term is not used in the Handbook, preparers may refer to it as a "schedule of investment portfolio" within a complete set of investment fund financial statements. Regardless of how the disclosure is described, sections 2.1 and 2.3 of the Instrument require it to be included within a complete set of investment fund financial statements, and subsection 2.1(2) of the Instrument requires annual financial statements to be accompanied by an auditor's report, for the purposes of securities legislation.

If financial statements for more than one investment fund are bound together, Part 7 of the Instrument requires all of the information pertaining to each investment fund to be presented together and not intermingled with information relating to another investment fund. The CSA is of the view that this requirement applies equally to the portfolio disclosure, which should be presented together with the other financial information relating to the investment fund.

(2) If an investment fund invests substantially all of its assets directly, or indirectly through the use of derivatives, in securities of one other investment fund, the investment fund should provide in the statement of investment portfolio, or the notes to that statement, additional disclosure concerning the holdings of the other investment fund, as available, in order to assist investors in understanding the actual portfolio to which the investment fund is exposed. The CSA is of the view that such disclosure is consistent with the requirements in the Handbook relating to financial instrument disclosure.

8. Section 2.7 is amended by

(a) in the title, striking out "Accounting For"***;***

(b) repealing subsection (1) and substituting the following:

(1) Section 3.8 of the Instrument imposes certain reporting requirements on investment funds in connection with any securities lending transactions entered into by the investment fund. These requirements were included to ensure that certain aspects of securities lending transactions are disclosed in the same manner.

Generally, in a securities lending transaction, the investment fund is able to call the original securities back at any time, and the securities returned must be the same or substantially the same as the original securities. The investment fund retains substantially all of the risks and rewards of ownership. ***; and***

(c) repealing subsection (2).

9. Subsection 2.8(3) is amended by striking out "Interim financial statements" ***and substituting*** "The interim financial report"***.***

10. Section 3.2 is repealed and the following substituted:

3.2 Modification of Opinion

(1) The Instrument prohibits an auditor's report from expressing a modified opinion under Canadian GAAS. A modification of opinion includes a qualification of opinion, an adverse opinion, and a disclaimer of opinion.

(2) Part 17 of the Instrument permits the regulator or securities regulatory authority to grant exemptive relief from the Instrument, including the requirement that an auditor's report express an unmodified opinion or other similar communication that would constitute a modification of opinion under Canadian GAAS. However, we will generally recommend that such exemptive relief should not be granted if the modification of opinion or other similar communication is

(a) due to a departure from accounting principles permitted by the Instrument, or

(b) due to a limitation in the scope of the auditor's examination that

(i) results in the auditor being unable to form an opinion on the financial statements as a whole,

(ii) is imposed or could reasonably be eliminated by management, or

(iii) could reasonably be expected to be recurring.

11. Section 3.3 is repealed and the following substituted:

3.3 Auditor's Involvement with Management Reports of Fund Performance - Investment funds' auditors are expected to comply with the Handbook with respect to their involvement with the annual and interim management reports of fund performance required by the Instrument as these reports contain financial information extracted from the financial statements.

12. Section 3.4 is amended by

(a) in the title, striking out "Interim Financial Statements" ***and substituting*** "Interim Financial Reports"***;***

(b) repealing subsection (1) and substituting the following:

(1) The board of directors of an investment fund that is a corporation or the trustees of an investment fund that is a trust, in discharging their responsibilities for ensuring a reliable interim financial report, should consider engaging an external auditor to carry out a review of the interim financial report.***;***

(c) in subsection (2), striking out the first occurrence of "interim financial statements" ***and substituting*** "interim financial report"***;***

(d) in subsection (2), striking out the second occurrence of "interim financial statements" ***and substituting*** "an interim financial report"***; and***

(e) repealing subsections (3) and (4) and substituting the following:

(3) The terms "review" and "written review report" used in section 2.12 of the Instrument refer to the auditor's review of and report on an interim financial report using standards for a review of an interim financial report by the auditor as set out in the Handbook.

(4) The Instrument does not specify the form of notice that should accompany an interim financial report that has not been reviewed by the auditor. The notice accompanies, but does not form part of, the interim financial report. We expect that the notice will normally be provided on a separate page

appearing immediately before the interim financial report, in a manner similar to an auditor's report that accompanies annual financial statements.

13. Section 9.2 is repealed and the following substituted:

9.2 Fair Value Guidance – Section 14.2 of the Instrument requires an investment fund to calculate its net asset value based on the fair value of the investment fund's assets and liabilities. This may differ from the calculation of "current value" for financial statement purposes. Section 3.6 of the Instrument requires an explanation of this difference.

While investment funds are required to comply with the definition of "fair value" in the Instrument when calculating net asset value, they may also look to the Handbook for guidance on the measurement of fair value. The fair value principles articulated in the Handbook can be applied by investment funds when valuing assets and liabilities.

14. Section 9.3 is repealed.

15. Section 9.4 is amended by

(a) in the title, striking out "Determination of Fair Value" ***and substituting*** "Determination of Fair Value in Calculating Net Asset Value"***; and***

(b) repealing subsection (1) and substituting the following:

(1) A market is generally considered active when quoted prices are readily and regularly available from an exchange, dealer, broker, industry group, pricing service or regulatory agency, and those prices reflect actual and regularly occurring market transactions on an arm's length basis. Accordingly, fair value should not reflect the amount that would be received or paid in a forced transaction, involuntary liquidation or distress sale.

16. Section 10.1 is amended by

(a) repealing subsection (2) and substituting the following:

(2) Paragraph 15.1(1)(a) requires the investment fund to use its "total expenses" (other than distributions if these are an expense for the investment fund) before income taxes for the relevant period as the basis for the calculation of MER. Total expenses, before income taxes, include interest charges and taxes, including sales taxes, GST and capital taxes payable by the investment fund. Withholding taxes need not be included in the MER calculation.

The CSA is of the view that if an investment fund issues debt-like securities or securities that otherwise provide leverage to the fund, payments to holders of these securities should be treated as financing costs from the perspective of the investment fund's other classes of securities (the classes that benefit from the financing or leverage). These costs should not be excluded from total expenses when calculating the MER of the investment fund's other classes of securities. Securities that provide leverage generally include preferred shares.

Non-optional fees paid directly by investors in connection with the holding of an investment fund's securities do not have to be included in the MER calculation. ***;***

(b) in subsection (5),

(i) striking out "Handbook Section 1506 *Accounting Changes*" ***and substituting*** "International Accounting Standard 8 *Accounting Policies, Changes in Accounting Estimates and Errors*" ***in the first paragraph;***

(ii) striking out "retroactive restatement of the financial information" ***and substituting*** "retrospective application of the change" ***in the first paragraph; and***

(iii) striking out "retroactively" ***in the second paragraph.***

17. Appendix B is amended by

(a) striking out

Alberta Securities Commission
4th Floor
300 - 5th Avenue S.W.
Calgary, Alberta
T2P 3C4
Attention: Corporate Finance

and substituting

Alberta Securities Commission
Suite 600
250 - 5th Street SW
Calgary, Alberta
T2P 0R4
Attention: Corporate Finance ***;***

(b) striking out

New Brunswick Securities Commission
606 – 133 Prince William Street
Saint John, NB
E2L 2B5
Attention: Corporate Finance

and substituting

Financial and Consumer Services Commission (New Brunswick)
85 Charlotte Street, Suite 300
Saint John, NB
E2L 2J2
Attention: Corporate Finance ***;***

(c) striking out

Newfoundland and Labrador Securities Commission
P.O. Box 8700
2nd Floor, West Block
Confederation Building
75 O'Leary Avenue
St. John's, NFLD
A1B 4J6
Attention: Director of Securities

and substituting

Financial Services Regulation Division
Department of Government Services
P.O. Box 8700
St. John's, NL
A1B 4J6
Attention: Superintendent of Securities ***;***

(d) in the address for Department of Justice, Northwest Territories,

(i) striking out "Legal Registries" ***and substituting*** "Securities Office"***, and***

(ii) striking out "Director, Legal Registries" ***and substituting*** "Superintendent of Securities"***;***

(e) ***in the address for Department of Justice, Nunavut, striking out*** "Attention: Director, Legal Registries Division" ***and substituting*** "Attention: Superintendent of Securities"***;***

(f) ***in the address for Ontario Securities Commission,***

(i) ***striking out*** "Suite 1903, Box 55"***, and***

(ii) ***striking out*** "20 Queen Street West" ***and substituting*** "20 Queen Street West, 22nd Floor"***;***

(g) ***in the address for Autorité des marchés financiers, striking out*** "Direction des marchés des capitaux" ***and substituting*** "Direction des fonds d'investissement"***;***

(h) ***striking out***

Saskatchewan Financial Services Commission - Securities Division
6th Floor,
1919 Saskatchewan Drive
Regina, SK S4P 3V7
Attention: Deputy Director, Corporate Finance

and substituting

Financial and Consumer Affairs Authority of Saskatchewan – Securities Division
601 – 1919 Saskatchewan Drive
Regina, SK
S4P 4H2
Attention: Deputy Director, Corporate Finance ***; and***

(i) ***in the address for the Government of Yukon, striking out*** "Registrar of Securities" ***wherever it occurs and substituting*** "Superintendent of Securities"***.***

18. These amendments become effective on January 1, 2014.

APPENDIX E

AMENDMENTS TO
NATIONAL INSTRUMENT 41-101 *GENERAL PROSPECTUS REQUIREMENTS*

Although this amendment instrument amends section headers in National Instrument 41-101, section headers do not form part of the instrument and are inserted for ease of reference only.

1. ***National Instrument 41-101 General Prospectus Requirements is amended by this instrument.***

2. ***The general instructions of Form 41-101F2 Information Required in an Investment Fund Prospectus are amended in instruction (3) by striking out*** "This concept of materiality is consistent with the financial reporting notion of materiality contained in the Handbook."

3. ***Section 1.5 of Form 41-101F2 is amended by striking out*** "reporting"***.***

4. ***Section 1.15 of Form 41-101F2 is amended by striking out*** "interim financial statements" ***and substituting*** "interim financial report"***.***

5. ***Subsection 3.6(4) of Form 41-101F2 is amended by***

(a) ***striking out*** ""MER" means management expense ratio based on total expenses, excluding commissions and other portfolio transaction costs and expressed as an annualized percentage of daily average net asset value." ***and substituting*** ""MER" means management expense ratio based on management fees and operating expenses (excluding commissions and other portfolio transaction costs) expressed as an annualized percentage of daily average net asset value."***, and***

(b) ***striking out*** ""TER" means trading expense ratio and represents total commissions and portfolio transaction costs expressed as an annualized percentage of daily average net asset value." ***and substituting*** ""TER" means trading expense ratio and represents total commissions and other portfolio transaction costs expressed as an annualized percentage of daily average net asset value."***.***

6. ***Section 11.1 of Form 41-101F2 is amended by***

(a) ***striking out*** ""MER" means management expense ratio based on total expenses, excluding commissions and other portfolio transaction costs and expressed as an annualized percentage of daily average net asset value." ***and substituting*** ""MER" means management expense ratio based on management fees and operating expenses (excluding commissions and other portfolio transaction costs) expressed as an annualized percentage of daily average net asset value."***, and***

(b) ***striking out*** ""TER" means trading expense ratio and represents total commissions and portfolio transaction costs expressed as an annualized percentage of daily average net asset value." ***and substituting*** ""TER" means trading expense ratio and represents total commissions and other portfolio transaction costs expressed as an annualized percentage of daily average net asset value."***.***

7. ***Section 37.1 of Form 41-101F2 is amended by striking out*** "interim financial statements" ***and substituting*** "interim financial report"***.***

8. ***Subsection 38.1(4) of Form 41-101F2 is amended by striking out*** "opening balance sheet" ***and substituting*** "opening statement of financial position"***.***

9. ***Section 38.2 of Form 41-101F2 is amended by striking out*** "Interim Financial Statements" ***and substituting*** "Interim Financial Reports" ***in the section header.***

10. ***This Instrument comes into force on January 1, 2014.***

APPENDIX F

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 of National Instrument 81-101 is amended by adding the following after the definition of*** "executive officer"***:***

   "financial statements" includes interim financial reports;***.***

3. ***Clause 2.3(1)(b)(i)(A) of National Instrument 81-101 is amended by striking out*** "draft opening balance sheet" ***and substituting*** "draft opening statement of financial position"***.***

4. ***Subparagraph 2.3(3)(a)(ii) of National Instrument 81-101 is amended by striking out*** "audited balance sheet" ***and substituting*** "audited statement of financial position"***.***

5. ***Section 3.1 of National Instrument 81-101 is amended by***

   (a) ***striking out*** "interim financial statements" ***wherever it occurs and substituting*** "interim financial report"***, and***

   (b) ***striking out*** "audited balance sheet" ***in paragraph 1.3 and substituting*** "audited statement of financial position"***.***

6. ***Section 3.1.1 of National Instrument 81-101 is amended by striking out*** "interim financial statements" ***and substituting*** "interim financial reports"***.***

7. ***Section 3.1 of Part A of Form 81-101F1 Contents of Simplified Prospectus is amended by striking out*** "interim financial statements" ***and substituting*** "interim financial report"***.***

8. ***Section 3.2 of Part A of Form 81-101F1 is amended by striking out*** "interim financial statements" ***and substituting*** "interim financial report".

9. ***This Instrument comes into force on January 1, 2014.***

APPENDIX G

AMENDMENTS TO
COMPANION POLICY 81-101CP
TO NATIONAL INSTRUMENT 81-101 MUTUAL FUND PROSPECTUS DISCLOSURE

1. Companion Policy 81-101CP to National Instrument 81-101 Mutual Fund Prospectus Disclosure is amended.

2. Section 2.4 is amended by striking out “interim statements” ***and substituting*** “interim financial reports”***.***

3. These amendments become effective on January 1, 2014.

APPENDIX H

AMENDMENTS TO
NATIONAL INSTRUMENT 81-102 *MUTUAL FUNDS*

1. ***National Instrument 81-102 Mutual Funds is amended by this instrument.***

2. ***Section 1.1 of National Instrument 81-102 is amended by***

   (a) ***repealing the definition of*** "net asset value" ***and substituting the following:***

   "net asset value" means the value of the total assets of the investment fund less the value of the total liabilities, other than net assets attributable to securityholders, of the investment fund, as at a specific date, determined in accordance with Part 14 of National Instrument 81-106 *Investment Fund Continuous Disclosure*;***, and***

   (b) ***in the definition of*** "report to securityholders"***, striking out*** "annual or interim financial statements" ***and substituting*** "annual financial statements or interim financial reports"***.***

3. ***Subparagraph 5.6(1)(f)(iii) of National Instrument 81-102 is amended by striking out*** "annual and interim financial statements" ***and substituting*** "annual financial statements and interim financial reports"***.***

4. ***Subsection 5.6(2) of National Instrument 81-102 is amended by striking out*** "contains a reservation" ***and substituting*** "contains a modified opinion"***.***

5. ***Section 6.2 of National Instrument 81-102 is amended by striking out*** "shareholders' equity" ***wherever it occurs and substituting*** "equity"***.***

6. ***Section 6.3 of National Instrument 81-102 is amended by striking out*** "shareholders' equity" ***wherever it occurs and substituting*** "equity"***.***

7. ***Paragraph 15.8(3)(b) of National Instrument 81-102 is amended by striking out*** "balance sheet" ***and substituting*** "statement of financial position"***.***

8. ***Appendix B-1 – Audit Report, Appendix B-2 – Audit Report, and Appendix B-3 – Audit Report of National Instrument 81-102 are amended by striking out*** "We conducted our audit in accordance with the standards for assurance engagements established by The Canadian Institute of Chartered Accountants." ***and substituting*** "We conducted our audit in accordance with standards for assurance engagements set out in the CICA Handbook – Assurance."***.***

9. ***Appendix B-1 – Audit Report of National Instrument 81-102 is amended by striking out*** "In our opinion, the Fund's report presents fairly, in all material respects, the Fund's compliance for the year ended [insert date]" ***and substituting*** "In our opinion, the Fund's statement of compliance for the year ended [insert date] complies, in all material respects,"***.***

10. ***Appendix B-2 – Audit Report and Appendix B-3 – Audit Report of National Instrument 81-102 are amended by striking out*** "In our opinion, the Company's report presents fairly, in all material respects, the Company's compliance for the year ended [insert date]" ***and substituting*** "In our opinion, the Company's statement of compliance for the year ended [insert date] complies, in all material respects,"***.***

11. ***This instrument comes into force on January 1, 2014.***

APPENDIX I

AMENDMENTS TO
NATIONAL INSTRUMENT 81-104 *COMMODITY POOLS*

1. ***National Instrument 81-104 Commodity Pools is amended by this instrument.***

2. ***Subsection 8.5(1) of National Instrument 81-104 is amended by striking out*** "interim financial statements" ***and substituting*** "interim financial reports"***.***

3. ***This Instrument comes into force on January 1, 2014.***

APPENDIX J

ADDITIONAL INFORMATION REQUIRED IN ONTARIO

This appendix contains 2 parts:

- Part I provides notice of amendments to a local rule; and
- Part II provides notice that, in Ontario, amendments to National Instrument 81-106 *Investment Fund Continuous Disclosure* and other required materials were delivered to the Minister of Finance.

PART I – NOTICE OF AMENDMENTS TO OSC RULE 81-801 *IMPLEMENTING NATIONAL INSTRUMENT 81-106 INVESTMENT FUND CONTINUOUS DISCLOSURE*

Introduction and Background

The Canadian Securities Administrators (CSA) are making amendments to National Instrument 81-106 *Investment Fund Continuous Disclosure* (NI 81-106), Companion Policy 81-106CP *Investment Fund Continuous Disclosure,* and certain related consequential amendments (as set out in the CSA Notice to which this Appendix is annexed), to accommodate the transition of financial reporting for investment funds to International Financial Reporting Standards (IFRS). In connection with these amendments, the OSC is amending OSC Rule 81-801 *Implementing National Instrument 81-106 Investment Fund Continuous Disclosure* (OSC Rule 81-801).

Provided ministerial approval is obtained, the amendments to OSC Rule 81-801 will come into force on January 1, 2014.

Substance and Purpose of the Amendments to OSC Rule 81-801

OSC Rule 81-801 is a local Ontario rule implementing NI 81-106. The primary purpose of the amendments to OSC Rule 81-801 is to reflect the changes to NI 81-106 resulting from the transition by investment funds to IFRS for financial years beginning on or after January 1, 2014. The amendments to OSC Rule 81-801 replace existing Canadian GAAP terms with IFRS terms and phrases.

The amendments to OSC Rule 81-801 were published for comment on October 16, 2009. No comments were received.

Text of Amendments to OSC Rule 81-801

The amendments to OSC Rule 81-801 are:

Amendments to
Ontario Securities Commission Rule 81-801
Implementing National Instrument 81-106 Investment Fund Continuous Disclosure

Although this amendment instrument amends section headers in Ontario Securities Commission Rule 81-801, section headers do not form part of the rule and are inserted for ease of reference only.

1. ***Ontario Securities Commission Rule 81-801 Implementing National Instrument 81-106 Investment Fund Continuous Disclosure is amended by this instrument.***

2. ***Section 3.2 is amended in the title by striking out*** "Interim Financial Statements – Content" ***and substituting*** "Interim Financial Reports – Content"***.***

3. ***Section 3.4 is amended in the title by striking out*** "Filing Interim Financial Statements – Exemption" ***and substituting*** "Filing Interim Financial Reports – Exemption"***.***

4. ***Paragraph 3.5(b) is amended by striking out*** "interim financial statements" ***and substituting*** "interim financial reports"***.***

5. ***Section 4.1 is amended by renumbering it as subsection 4.1(1) and by adding the following after subsection (1):***

   (2) Despite subsection (1), the amendments to this Rule which came into force on January 1, 2014 only apply to financial periods relating to financial years beginning on or after January 1, 2014.

6. These amendments only apply to financial periods relating to financial years beginning on or after January 1, 2014.

7. This instrument comes into force on January 1, 2014.

PART II – ONTARIO SECURITIES COMMISSION NOTICE OF DELIVERY TO THE MINISTER

The CSA are making amendments (the CSA Amendments) to:

- NI 81-106, including Form 81-106F1 *Contents of Annual and Interim Management Report of Fund Performance*
- Companion Policy 81-106CP *Investment Fund Continuous Disclosure*
- Form 41-101F2 *Information Required in an Investment Fund Prospectus*
- National Instrument 81-101 *Mutual Fund Prospectus Disclosure*
- Companion Policy 81-101CP *Mutual Fund Prospectus Disclosure*
- National Instrument 81-102 *Mutual Funds*,
- National Instrument 81-104 *Commodity Pools*.

The CSA Amendments are described in the CSA Notice to which this Appendix is annexed.

Delivery to the Minister

The CSA Amendments, the amendments to OSC Rule 81-801 and other required materials (the Materials) were delivered to the Minister of Finance on or about September 30, 2013. The Minister may approve or reject the Materials or return them for further consideration. If the Minister approves the Materials (or does not take any further action), the CSA Amendments and the amendments to OSC Rule 81-801 will come into force on January 1, 2014.

Questions

Please refer your questions to:

Vera Nunes
Manager, Investment Funds Branch
Ontario Securities Commission
416-593-2311
vnunes@osc.gov.on.ca

Stacey Barker
Senior Accountant, Investment Funds Branch
Ontario Securities Commission
416-593-2391
sbarker@osc.gov.on.ca

October 3, 2013

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Chapter 7

Insider Reporting

This chapter is available in the print version of the OSC Bulletin, as well as as in Carswell's internet service SecuritiesSource (see www.carswell.com).

This chapter contains a weekly summary of insider transactions of Ontario reporting issuers in the System for Electronic Disclosure by Insiders (SEDI). The weekly summary contains insider transactions reported during the seven days ending Sunday at 11:59 pm.

To obtain Insider Reporting information, please visit the SEDI website (www.sedi.ca).

Chapter 8

Notice of Exempt Financings

REPORTS OF TRADES SUBMITTED ON FORMS 45-16F1 AND 45-501F1

Transaction Date	# of Purchasers	Issuer/Security	Total Purchase Price ($)	# of Securities Distributed
08/31/2013	46	ACM Commercial Mortgage Fund - Units	12,320,393.37	110,592.71
10/01/2010 to 09/30/2011	1	Acuity Pooled U.S. Equity Fund (Amended) - Units	9.91	N/A
09/06/2013	1	Ameriprise Financial, Inc. - Notes	5,174,950.00	4,976.00
09/17/2013	1	AndeanGold Ltd. - Common Shares	7,150.00	143,000.00
08/06/2013	1	Arch Biopartners Inc. (Formerly Foccini International Inc.) - Common Shares	75,000.00	300,000.00
09/13/2013	10	Arctic Infrastructure Limited Partnership - N/A	141,980,000.00	141,980,000.00
09/20/2013	1	Bravo II Offshore Select Feeder Fund, L.P. - Units	254,550.00	N/A
08/22/2013	2	Bravo II Offshore Select Feeder Fund, L.P. - Units	2,065,400.00	2.00
08/01/2013	12	Capital Direct I Income Trust - Trust Units	1,010,719.42	101,071.94
08/01/2013	12	Capital Direct I Income Trust (amended) - Trust Units	1,010,719.42	101,071.94
08/29/2013 to 09/05/2013	46	Carpathian Gold Inc. - Common Shares	19,425,000.00	138,750,000.00
08/29/2013	11	Carrick Petroleum Inc. - Units	610,000.00	305,000.00
08/31/2013	159	Centurion Apartment Real Estate Investment Trust - Units	8,483,115.48	727,539,928.00
09/13/2013	3	Citigroup Inc. - Notes	13,443,300.00	130,000.00
07/29/2013	6	Comstock Metals Ltd. - Flow-Through Shares	534,000.09	2,847,059.00
07/29/2013	1	Comstock Metals Ltd. - Units	49,500.00	330,000.00
09/10/2013	3	Cubist Pharmaceuticals, Inc. - Notes	10,460,570.00	3.00
06/27/2013	1	EIG Energy Fund XVI-B, L.P. - Capital Commitment	104,800,000.00	N/A
06/27/2013	2	EIG Energy Fund XVI (Cayman) L.P. - Limited Partnership Interest	73,360,000.00	N/A
09/09/2013	1	Elite Holdings Limited Partnership - Units	299,970.00	5,454.00
09/24/2013	8	Entourage Metals Ltd. - Common Shares	127,950.00	1,705,998.00
07/23/2013	11	Exploration Puma Inc. - Common Shares	501,200.00	2,179,131.00
09/03/2013	9	Foremost Mortgage Trust - Mortgage	1,087,330.00	1,087,330.00
09/12/2013	10	Ginguro Exploration Inc. - Units	2,299,999.90	13,000,000.00

Transaction Date	# of Purchasers	Issuer/Security	Total Purchase Price ($)	# of Securities Distributed
08/28/2013	32	Grafoid Inc. - Common Shares	2,351,328.00	4,480,000.00
07/24/2013	1	HedgeForum BlueCrest Ltd. - Units	255,900.00	N/A
08/31/2013	3	Imperial Capital Partners Ltd. - Capital Commitment	3,100,000.00	N/A
09/06/2013 to 09/11/2013	17	Invictus Financial Inc. - Units	150,000.00	3,000,000.00
08/15/2013	2	Kingwest Avenue Portfolio - Units	179,287.87	5,331.79
08/31/2013	1	Kingwest High Income Fund - Units	10,000.00	1,681.92
08/31/2013	1	Kingwest U.S. Equity Portfolio - Units	10,548.99	542.37
08/31/2013	2	Kingwest U.S. Equity Portfolio - Units	39,981.36	2,055.63
09/16/2013	7	Lingo Media Corporation - Common Shares	880,000.00	880,000.00
01/01/2012 to 12/31/2012	255	Lionscrest TailPro - US Equity Fund - Units	2,861,453.00	297,247.13
03/28/2013	68	Longbow Capital Limited Partnership #20 - Limited Partnership Units	17,030,000.00	17,030.00
09/06/2013	1	Macy's Retail Holdings, Inc. - Notes	2,065,740.00	1,986.29
09/04/2013	24	MAG Copper Limited - Units	290,500.00	2,860,000.00
08/17/2013 to 09/30/2013	6	MCF Securities Inc. - Common Shares	833,122.00	833,122.00
07/25/2013 to 08/30/2013	12	MCF Securities Inc. - Common Shares	950,399.54	N/A
09/10/2013	1	MetLife, Inc. - Debentures	5,226,000.00	5,063.46
08/16/2013	5	Morex Capital Corp. - Preferred Shares	131,000.00	13,100.00
08/20/2013 to 08/28/2013	41	Natcore Technology Inc. - Units	3,302,638.50	125.81
08/22/2013	4	Noble Mineral Exploration Inc. - Common Shares	0.00	677,813.00
08/08/2013	16	Populus Global Solutions Inc. - Common Shares	600,000.00	18,750.00
09/11/2013	1	Potentia Solar Inc. - Common Shares	1,250,000.00	1,063,830.00
08/16/2013	1	Radient Technologies Inc. - Warrants	200,000.00	499,264.00
09/30/2013	41	Redstone Capital Corporation - Bonds	1,216,700.00	N/A
08/20/2013	14	Redstone Investment Corporation - Notes	480,000.00	N/A
08/13/2013	3	RJK Explorations Ltd. - Common Shares	13,580.00	194,000.00
08/09/2013 to 08/15/2013	40	SecureCare Investments Inc. - Bonds	920,585.00	N/A
09/09/2013 to 09/16/2013	37	SecureCare Investments Inc. - Bonds	1,679,250.00	N/A
08/30/2013 to 09/05/2013	8	Smart Employee Benefits Inc. - Units	975,000.00	N/A

Transaction Date	# of Purchasers	Issuer/Security	Total Purchase Price ($)	# of Securities Distributed
09/13/2013	1	The ExOne Company - Common Shares	320,550.00	3,054,000.00
09/09/2013 to 09/17/2013	4	TimePlay Inc. - Common Shares	1,577,000.00	31,540,000.00
09/05/2013	11	Walton CA Highland Ridge Investment Corporation - Common Shares	249,840.00	24,984.00
09/05/2013	4	Walton CA Highland Ridge LP - Limited Partnership Units	329,060.48	31,360.00
09/05/2013	33	Walton FLA Ridgewood Lakes Investment Corporation - Common Shares	817,300.00	81,730.00
09/05/2013	4	Walton FLA Ridgewood Lakes LP - Limited Partnership Units	1,509,827.28	143,889.00
09/06/2013	20	Walton Income 7 Investment Corporation - Common Shares	476,500.00	1,700.00
09/05/2013	8	Walton VA Alexander's Run Investment Corporation - Common Shares	149,150.00	14,915.00
09/05/2013	22	Yangaroo Inc. - Receipts	1,600,000.00	6,400,000.00
08/28/2013	25	Zaio Corporation - Debentures	1,055,000.00	1,055.00

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Chapter 11

IPOs, New Issues and Secondary Financings

Issuer Name:
BRP Inc.
Principal Regulator - Quebec
Type and Date:
Preliminary Short Form Prospectus dated September 25, 2013
NP 11-202 Receipt dated September 25, 2013
Offering Price and Description:
$222,800,000.00 - 8,000,000 Subordinate Voting Shares
Price: $27.85 per Subordinate Voting Share
Underwriter(s) or Distributor(s):
BMO NESBITTBURNS INC.
RBC DOMINION SECURITIES INC.
UBS SECURITIES CANADA INC.
CITIGROUP GLOBAL MARKETS CANADA INC.
CIBC WORLD MARKETS INC.
DESJARDINS SECURITIES INC.
SCOTIA CAPITAL INC.
NATIONAL BANK FINANCIAL INC.
Promoter(s):
-
Project #2114085

Issuer Name:
Canadian Apartment Properties Real Estate Investment Trust
Principal Regulator - Ontario
Type and Date:
Preliminary Short Form Prospectus dated September 24, 2013
NP 11-202 Receipt dated September 25, 2013
Offering Price and Description:
$130,019,850.00 - 6,327,000 Units
Price: $20.55 per Unit
Underwriter(s) or Distributor(s):
RBC DOMINION SECURITIES INC.
SCOTIA CAPITAL INC.
TD SECURITIES INC.
BMO NESBITT BURNS INC.
CIBC WORLD MARKETS INC.
NATIONAL BANK FINANCIAL INC.
CANACCORD GENUITY CORP.
RAYMOND JAMES LTD.
DUNDEE SECURITIES LTD.
DESJARDINS SECURITIES INC.
GMP SECURITIES L.P.
Promoter(s):
-
Project #2113620

Issuer Name:
Canadian Imperial Bank of Commerce
Principal Regulator - Ontario
Type and Date:
Preliminary Base Shelf Prospectus dated September 27, 2013
NP 11-202 Receipt dated September 30, 2013
Offering Price and Description:
$3,000,000,000.00:
Medium Term Notes (Principal at Risk Structured Notes)
Underwriter(s) or Distributor(s):
CIBC World Markets Inc.
Desjardins Securities Inc.
Dundee Securities Ltd.
Laurentian Bank Securities Inc.
MacQuarie Capital Markets Canada Ltd.
National Bank Financial Inc.
Promoter(s):
-
Project #2116650

Issuer Name:
CanElson Drilling Inc.
Principal Regulator - Alberta
Type and Date:
Preliminary Short Form Prospectus dated September 24, 2013
NP 11-202 Receipt dated September 24, 2013
Offering Price and Description:
$30,380,000.00 - 4,900,000 Common Shares
Price: $6.20 per Common Share
Underwriter(s) or Distributor(s):
PETERS & CO. LIMITED
FIRSTENERGY CAPITAL CORP.
NATIONAL BANK FINANCIAL INC.
ALTACORP CAPITAL INC.
LIGHTYEAR CAPITAL INC.
Promoter(s):
-
Project #2114986

Issuer Name:
CHC Realty Capital Corp.
Principal Regulator - Ontario
Type and Date:
Preliminary CPC Prospectus dated September 24, 2013
NP 11-202 Receipt dated September 25, 2013
Offering Price and Description:
$400,000.00 - 4,000,000 Common Shares
Price: $0.10 per Common Share
Underwriter(s) or Distributor(s):
Raymond James Ltd.
Promoter(s):
Mark Hansen
Craig Smith
Project #2114950

Issuer Name:
Dividend 15 Split Corp.
Principal Regulator - Ontario
Type and Date:
Preliminary Short Form Prospectus dated September 24, 2013
NP 11-202 Receipt dated September 24, 2013
Offering Price and Description:
Maximum: $* - Up to * Preferred Shares and * Class A Shares
Prices: $* per Preferred Share
Underwriter(s) or Distributor(s):
National Bank Financial Inc.
CIBC World Markets Inc.
RBC Dominion Securities Inc.
BMO Nesbitt Burns Inc.
TD Securities Inc.
Promoter(s):
-
Project #2114774

Issuer Name:
Dividend 15 Split Corp.
Principal Regulator - Ontario
Type and Date:
Amended and Restated Preliminary Short Form Prospectus dated September 25, 2013
NP 11-202 Receipt dated September 25, 2013
Offering Price and Description:
Maximum: $29,737,900 - Up to 1,686,800 Preferred Shares and 1,197,200 Class A Shares
Prices: $10.00 per Preferred Share and $10.75 per Class A Share
Underwriter(s) or Distributor(s):
National Bank Financial Inc.
CIBC World Markets Inc.
RBC Dominion Securities Inc.
BMO Nesbitt Burns Inc.
TD Securities Inc.
Promoter(s):
-
Project #2114774

Issuer Name:
DoubleLine Income Solutions Trust
Principal Regulator - Ontario
Type and Date:
Preliminary Long Form Prospectus dated September 25, 2013
NP 11-202 Receipt dated September 26, 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.
RBC Dominion Securities Inc.
CIBC World Markets Inc.
Scotia Capital Inc.
National Bank Financial Inc.
TD Securities Inc.
GMP Securities L.P.
Raymond James Ltd.
Canaccord Genuity Corp.
Macquarie Private Wealth Inc.
Desjardins Securities Inc.
Mackie Research Capital Corporation
Manulife Securities Incorporated
Promoter(s):
BMO Nesbitt Burns Inc.
Project #2115566

Issuer Name:
Faircourt Gold Income Corp.
Principal Regulator - Ontario
Type and Date:
Preliminary Short Form Prospectus dated September 27, 2013
NP 11-202 Receipt dated September 30, 2013
Offering Price and Description:
Rights to Subscribe for up to* Class A Shares at a Subscription Price of $* per Share
Underwriter(s) or Distributor(s):
-
Promoter(s):
-
Project #2116588

Issuer Name:
George Weston Limited
Principal Regulator - Ontario
Type and Date:
Preliminary Base Shelf Prospectus dated September 25, 2013
NP 11-202 Receipt dated September 26, 2013
Offering Price and Description:
$1,000,000,000.00
Debt Securities (unsecured)
Preferred Shares
Underwriter(s) or Distributor(s):
-
Promoter(s):
-
Project #2115341

Issuer Name:
Prime U.S. Banking Sector Split Corp.
Principal Regulator - Ontario
Type and Date:
Preliminary Long Form Prospectus dated September 30, 2013
NP 11-202 Receipt dated September 30, 2013
Offering Price and Description:
Maximum: $ * - * Priority Equity Shares and * Class A Shares
Prices: $10.00 per Priority Equity Share and $10.00 per Class A Share
Underwriter(s) or Distributor(s):
RBC Dominion Securities Inc.
CIBC World Markets Inc.
BMO Nesbitt Burns Inc.
National Bank Financial Inc.
Scotia Capital Inc.
TD Securities Inc.
GMP Securities L.P.
Raymond James Ltd.
Canaccord Genuity Corp.
Desjardins Securities Inc.
Mackie Research Capital Corporation
Promoter(s):
Quadravest Capital Management Inc.
Project #2116965

Issuer Name:
Sulliden Gold Corporation Ltd.
Principal Regulator - Quebec
Type and Date:
Preliminary Short Form Prospectus dated September 25, 2013
NP 11-202 Receipt dated September 25, 2013
Offering Price and Description:
$40,086,000.00 - 39,300,000 Common Shares
Price: $1.02 per Offered Share
Underwriter(s) or Distributor(s):
NATIONAL BANK FINANCIAL INC.
SCOTIA CAPITAL INC.
RAYMOND JAMES LTD.
CORMARK SECURITIES INC.
GMP SECURITIES L.P.
DESJARDINS SECURITIES INC.
HAYWOOD SECURITIES INC.
MACQUARIE CAPITAL MARKETS CANADA LTD.
Promoter(s):
-
Project #2115138

Issuer Name:
Western Forest Products Inc.
Principal Regulator - British Columbia
Type and Date:
Preliminary Short Form Prospectus dated September 25, 2013
NP 11-202 Receipt dated September 25, 2013
Offering Price and Description:
$58,000,000.00 - 40,000,000 Units
Price: $1.45 per Unit
Underwriter(s) or Distributor(s):
SCOTIA CAPITAL INC.
CIBC WORLD MARKETS INC.
GOLDMAN SACHS CANADA INC.
RBC DOMINION SECURITIES INC.
TD SECURITIES INC.
BMO NESBITT BURNS INC.
HSBC SECURITIES (CANADA) INC.
NATIONAL BANK FINANCIAL INC.
RAYMOND JAMES LTD.
Promoter(s):
-
Project #2114007

Issuer Name:
Canso Select Opportunities Fund
Principal Regulator - Ontario
Type and Date:
Final Long Form Prospectus dated September 25, 2013
NP 11-202 Receipt dated September 26, 2013
Offering Price and Description:
Maximum $150,000,000.00 - 15,000,000 Class A Units and/or Class F Units @ $10 per unit
Minimum of $20,000,000.00 - Class A Units - 2,000,000 Class A Units @ $10 per unit
Underwriter(s) or Distributor(s):
RBC Dominion Securities Inc.
CIBC World Markets Inc.
Scotia Capital Inc.
GMP Securities L.P.
BMO Nesbitt Burns Inc.
National Bank Financial Inc.
TD Securities Inc.
Canaccord Genuity Corp.
Macquarie Private Wealth Inc.
Raymond James Ltd.
Promoter(s):
Lysander Funds Limited
Project #2101422

Issuer Name:
CI G5|20 2038 Q4 Fund
Principal Regulator - Ontario
Type and Date:
Final Simplified Prospectus dated September 26, 2013
NP 11-202 Receipt dated September 27, 2013
Offering Price and Description:
Class A units @ Net Asset Value
Underwriter(s) or Distributor(s):
-
Promoter(s):
CI Investments Inc.
Project #2106983

Issuer Name:
Series W (previously designated Series A) and Series I Units of
Guardian Balanced Fund
Guardian Balanced Income Fund
Guardian Canadian Bond Fund
Guardian Canadian Equity Fund
Guardian Canadian Growth Equity Fund
Guardian Canadian Short-Term Investment Fund
Guardian Canadian Small/Mid Cap Equity Fund
Guardian Equity Income Fund
Guardian Global Dividend Growth Fund
Guardian Global Equity Fund
Guardian Growth & Income Fund
Guardian High Yield Bond Fund
Guardian International Equity Fund
Guardian Private Wealth Bond Fund
Guardian Private Wealth Equity Fund (formerly Guardian Canadian Plus Equity Fund)
Guardian U.S. Equity Fund
Principal Regulator - Ontario
Type and Date:
Amended and Restated Simplified Prospectuses and Annual Information Form dated September 16, 2013 (the amended prospectus), amending and restating the Simplified Prospectuses and Annual Information Form dated April 5, 2013.
NP 11-202 Receipt dated September 27, 2013
Offering Price and Description:
Series W (previously designated Series A) and Series I units @ Asset Value
Underwriter(s) or Distributor(s):
Worldsource Financial Management Inc.
Worldsource Securities Inc.
Guardian Capital LP
Promoter(s):
Guardian Capital Inc.
Project #2021048

Issuer Name:
Class E Units and Advisor Class Units (unless otherwise indicated) of
Horizons Active Cdn Dividend ETF
Horizons Active Global Dividend ETF
Horizons Active Diversified Income ETF
Horizons Active Corporate Bond ETF
Horizons Active US Floating Rate Bond (USD) ETF
Horizons Active Preferred Share ETF
Horizons Active Floating Rate Bond ETF
Horizons Active High Yield Bond ETF
Horizons S&P/TSX 60 Equal Weight Index ETF (Class E Units)
Horizons Active Cdn Bond ETF
Horizons Active Emerging Markets Dividend ETF
Principal Regulator - Ontario
Type and Date:
Amended and Restated Long Form Prospectus dated September 18, 2013 (the amended prospectus), amending and restating the Long Form Prospectus dated January 30, 2013.
NP 11-202 Receipt dated September 26, 2013
Offering Price and Description:
Class E Units and Advisor Class Units @ Net Asset Value
Underwriter(s) or Distributor(s):
-
Promoter(s):
ALPHAPRO MANAGEMENT INC.
Project #2001004 & 2098952

Issuer Name:
ING High Income Floating Rate Fund
Principal Regulator - Ontario
Type and Date:
Final Long Form Prospectus dated September 26, 2013
NP 11-202 Receipt dated September 27, 2013
Offering Price and Description:
Maximum $200,000,000 (20,000,000 Class A Units and/or 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.
RBC Dominion Securities Inc.
Scotia Capital Inc.
TD Securities Inc.
GMP Securities L.P.
National Bank Financial Inc.
Canaccord Genuity Corp.
Macquarie Private Wealth Inc.
Raymond James Ltd.
Desjardins Securities Inc.
Mackie Research Capital Corporation
Manulife Securities Incorporated
Promoter(s):
Aston Hill Capital Markets Inc.
Project #2105518

Issuer Name:
Input Capital Corp.
Principal Regulator - Saskatchewan
Type and Date:
Final Short Form Prospectus dated September 26, 2013
NP 11-202 Receipt dated September 27, 2013
Offering Price and Description:
$18,630,488.00 - 11,644,055 Common Shares Price: $1.60 per Share
Underwriter(s) or Distributor(s):
GMP SECURITIES L.P.
BEACON SECURITIES LIMITED
NATIONAL BANK FINANCIAL INC.
ACUMEN CAPITAL FINANCIAL PARTNERS LIMITED
ALTACORP CAPITAL INC.
CORMARK SECURITIES INC.
Promoter(s):
Doug Emsley
Brad Farquhar
Gord Nystuen
Project #2114133

Issuer Name:
Inter Pipeline Ltd.
Principal Regulator - Alberta
Type and Date:
Final Short Form Prospectus dated September 27, 2013
NP 11-202 Receipt dated September 27, 2013
Offering Price and Description:
$300,039,500.00 - 11,930,000 Common Shares Price: $25.15 per Common Share
Underwriter(s) or Distributor(s):
TD SECURITIES INC.
CIBC WORLD MARKETS INC.
BMO NESBITT BURNS INC.
NATIONAL BANK FINANCIAL INC.
RBC DOMINION SECURITIES INC.
SCOTIA CAPITAL INC.
FIRSTENERGY CAPITAL CORP.
CANACCORD GENUITY CORP.
MACQUARIE CAPITAL MARKETS CANADA LTD.
PETERS & CO. LIMITED
Promoter(s):
-
Project #2112827

Issuer Name:
Macquarie Global Infrastructure Income Fund
Principal Regulator - Ontario
Type and Date:
Final Long Form Prospectus dated September 27, 2013
NP 11-202 Receipt dated September 30, 2013
Offering Price and Description:
$150,000,000.00 Maximum - 15,000,000 Units @ $10.00 per Unit
$20,000,000.00 Minimum - 2,000,000 Units @ $10.00 per Unit
Underwriter(s) or Distributor(s):
RBC Dominion Securities Inc.
Macquarie Private Wealth Inc.
CIBC World Markets Inc.
BMO Nesbitt Burns Inc.
Scotia Capital Inc.
National Bank Financial Inc.
TD Securities Inc.
Canaccord Genuity Corp.
GMP Securities L.P.
Raymond James Ltd.
Desjardins Securities Inc.
Manulife Securities Incorporated
Dundee Securities Ltd.
Haywood Securities Inc.
HSBC Securities (Canada) Inc.
Mackie Research Capital Corporation
Promoter(s):
Macquarie Global Investments Canada Ltd.
Project #2101439

Issuer Name:
Pattern Energy Group Inc.
Principal Regulator - Ontario
Type and Date:
Final Long Form Prospectus dated September 25, 2013
NP 11-202 Receipt dated September 25, 2013
Offering Price and Description:
US$352,000,000.00 - 16,000,000 Class A Common Shares
Price: US$22.00 per Class A common share
Underwriter(s) or Distributor(s):
BMO NESBITT BURNS INC.
RBC DOMINION SECURITIES INC.
MORGAN STANLEY CANADA LIMITED
MERRILL LYNCH CANADA INC.
CIBC WORLD MARKETS INC.
SCOTIA CAPITAL INC.
CANACCORD GENUITY CORP.
RAYMOND JAMES LTD.
Promoter(s):
PATTERN ENERGY GROUP LP
Project #2094680

Issuer Name:
RBC Canadian Small & Mid-Cap Resources Fund
Principal Regulator - Ontario
Type and Date:
Final Simplified Prospectus dated September 23, 2013
NP 11-202 Receipt dated September 25, 2013
Offering Price and Description:
Series O units
Underwriter(s) or Distributor(s):
RBC Global Asset Management Inc.
Promoter(s):
RBC Global Asset Management Inc.
Project #2101757

Issuer Name:
Regal Lifestyle Communities Inc.
Principal Regulator - Ontario
Type and Date:
Final Short Form Prospectus dated September 26, 2013
NP 11-202 Receipt dated September 26, 2013
Offering Price and Description:
6.0% Convertible Unsecured Subordinated Debentures
Underwriter(s) or Distributor(s):
CIBC World Markets Inc.
TD Securities Inc.
BMO Nesbitt Burns Inc.
RBC Dominion Securities Inc.
Scotia Capital Inc.
National Bank Financial Inc.
Canaccord Genuity Corp.
Dundee Securities Ltd.
Raymond James Ltd.
Promoter(s):
\-
Project #2112097

Issuer Name:
Tourmaline Oil Corp.
Principal Regulator - Alberta
Type and Date:
Final Short Form Prospectus dated September 27, 2013
NP 11-202 Receipt dated September 27, 2013
Offering Price and Description:
$125,250,000.00 - 3,000,000 Common Shares
Price: $41.75 per Common Share; and
$43,860,000.00 - 850,000 Flow-Through Common Shares
Price: $51.60 per Flow-Through Share
Underwriter(s) or Distributor(s):
Peters & Co. Limited
Scotia Capital Inc.
FirstEnergy Capital Corp.
CIBC World Markets Inc.
National Bank Financial Inc.
Promoter(s):
\-
Project #2112747

Issuer Name:
West Point Resources Inc.
Principal Regulator - British Columbia
Type and Date:
Amended and Restated Long Form Prospectus dated September 26, 2013 amending and restating the Long Form Prospectus dated June 17, 2013
NP 11-202 Receipt dated September 27, 2013
Offering Price and Description:
-
Underwriter(s) or Distributor(s):
MACQUARIE PRIVATE WEALTH INC.
Promoter(s):
RAVINDER S. MLAIT
Project #2041154

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Chapter 12

Registrations

12.1.1 Registrants

Type	Company	Category of Registration	Effective Date
New Firm Registration	MARS VX	Restricted Dealer	September 19, 2013
Change in Registration Category	Pollitt Investment Counsel Inc.	From: Portfolio Manager To: Investment Fund Manager and Portfolio Manager	September 25, 2013
Voluntary Surrender	CPA Securities Inc.	Investment Dealer	September 30, 2013
Voluntary Surrender	Salida Capital LP	Investment Fund Manager, Portfolio Manager and Exempt Market Dealer	September 30, 2013
Voluntary Surrender	WaterStreet Capital Counsel Inc.	Portfolio Manager and Exempt Market Dealer	September 30, 2013
Name Change	From: SCOTIA ASSET MANAGEMENT L.P. / GESTION D'ACTIFS SCOTIA S.E.C. To: 1832 ASSET MANAGEMENT L.P./GESTION D'ACTIFS 1832 S.E.C.	Investment Fund Manager, Portfolio Manager, Exempt Market Dealer and Commodity Trading Manager	September 30, 2013

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Notice from the Office of the Secretary 9529

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