The Ontario Securities Commission

OSC Bulletin

July 21, 2000

Volume 23, Issue 29

(2000), 23 OSCB

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

The Ontario Securites Commission
Cadillac Fairview Tower
Suite 800, Box 55
20 Queen Street West
Toronto, Ontario
M5H 3S8

Published under the authority of the Commission by:
IHS/Micromedia Limited
20 Victoria Street
Toronto, Ontario
M5C 2N8

(416) 362-5211 or 1-(800) 387-2689

(416)597-0681
Fax: 8th Floor - 416-593-8122 (Office of the Secretary / Corporate Relations)
Fax: 8th Floor - 416-593-8252 (Corporate Finance: Admin. & Document Management)
Fax: 16th Floor - 416-593-8240 (Capital Markets: Market Regulation)
Fax: 16th Floor - 416-593-8283 (Capital Markets: Compliance / Registration)
Fax: 16th Floor - 416-593-8240 (Capital Markets: Investment Funds / Library)
Fax: 17th Floor - 416-593-8321 (Enforcement)
Fax: 18th Floor - 416-593-8244 (Corporate Finance: Filings Team 1)
Fax: 18th Floor - 416-593-8177 (Corporate Finance: Filings Team 2)
Fax: 18th Floor - 416-593-3681 (Corporate Finance: Take over Bid)
Fax: 18th Floor - 416-593-3681 (General Counsel's Office)
Fax: 18th Floor - 416-593-8241 (Executive Offices)
Fax: 22nd Floor - 416-593-8188 (Corporate Services)

The OSC Bulletin is published weekly by Micromedia, a division of IHS Canada, under the authority of the Ontario Securities Commission.

Subscriptions are available from Micromedia limited at the price of $520 per year. Alternatively, weekly issues are available in microfiche form at a price of $385 per year. Back volumes are also available on microfiche:

2000	$475
1999	$450
1997-98	$400/yr
1995-1996	$385/yr
1994:	$370
1993:	$275
1992:	$250
1981-1991:	$175/yr

Subscription prices include first class postage to Canadian addresses. Outside Canada, these airmail postage charges apply on a current subscription:

U.S.	$110
Outside North America	$220

Single issues of the printed Bulletin are available at $33.00 per copy as long as supplies are available. OSC Bulletin Plus, a full text searchable CD-ROM containing OSC Bulletin material from January 1994 is available from Micromedia Limited. The sample issue of the OSC Bulletin is available on the internet at:

"http://www.micromedia.on.ca/"

Claims from bona fide subscribers for missing issues will be honoured by Micromedia up to one month from publication date. After that period back issues will be available on microfiche only.

Full copies of both Insider Reports and Public Filings listed in Chapters 7 and 10 respectively are available from: Demand Documents Department, Micromedia, 20 Victoria Street, Toronto, Ontario M5C 2N8 (416) 362-5211, extension 2211.

Space is available in the Ontario Securities Commission Bulletin for advertisements. The publisher will accept advertising aimed at the securities industry or financial community in Canada. Advertisements are limited to tombstone announcements and professional business card announcements by members of, and suppliers to, the financial services industry.

Copyright 2000 IHS/Micromedia Limited
ISSN 0226-9325

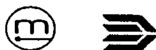

Table of Contents

Chapter 1 Notices / News Releases 4929
1.1 Notices 4929
1.1.1 Current Proceedings Before The Ontario Securities Commission............4929
1.1.2 Dialogue with the OSC............4932
1.1.3 Notice of Request for Comments - Proposed National Instrument 33-102 Registrant Dealings with Clients 4939
1.2 Notice of Hearings 4940
1.2.1 Patrick Joseph Kinlin - s. 127(1)............4940
1.2.2 Patrick Joseph Kinlin - Statement of Allegations 4940
1.3 News Releases 4943
1.3.1 RT Capital Management Inc. 4943
1.3.2 Patrick Joseph Kinlin - Commission Issues Notice of Hearing............4943

Chapter 2 Decisions, Orders and Rulings ..4945
2.1 Decisions 4945
2.1.1 Otis-Winston Ltd. et al............4945
2.1.2 Blue Range Resource Corporation - MRRS Decision 4946
2.1.3 NAL Oil & Gas Trust and Draig Energy Ltd. - MRRS Decision............4947
2.1.4 Newbridge Networks Corporation and Alcatel - MRRS Decision............4948
2.1.5 Overseas Partners Ltd. - MRRS Decision 4955
2.1.6 Scotia Capital Inc. and Lifeco Split Corporation Inc. - MRRS Decision............4957
2.1.7 Unocal Canada Resources and Northrock Resources Ltd. - MRRS Decision 4961
2.1.8 Velvet Exploration Ltd and PanAtlas Energy Inc. - MRRS Decision 4963
2.2 Orders 4965
2.2.1 Archipelago L.L.C. - s. 211, Regulation............4965
2.2.2 BMO Nesbitt Burns Inc., CIBC World Marketing Inc. and Direct Energy - s. 233, Regulation............4966
2.2.3 Leroux Steel Inc. - scl. 21(2)(a)(ii) 4967
2.3 Rulings 4969
2.3.1 Ameristar RSP Income Trust - ss. 74(1) & s. 59, Schedule 1, Regulation 4969
2.3.2 Evoke Incorporated - ss. 74(1)............4971
2.3.3 Premium Canadian Income Fund - ss. 74(1) & ss. 59(1), Schedule 1, Regulation............4972

Chapter 3 Reasons: Decisions, Orders and Rulings(nil)............4977

Chapter 4 Cease Trading Orders 4979
4.1.1 Temporary Cease Trading Orders............4979
4.1.2 Extending Cease Trading Orders 4979

Chapter 5 Rules and Policies(nil) 4981

Chapter 6 Request for Comments 4983
6.1 Request for Comments 4983
6.1.1 National Instrument 33-102 - Registrant Dealings with Clients and Proposed Companion Policy 33-102CP - Notice of Proposed National Instrument 4983

Chapter 7 Insider Reporting............4999

Chapter 8 Notice of Exempt Financings 5043
Reports of Trades Submitted on Form 45-501f1 5043
Reports Made under Subsection 5 of Subsection 72 of the Act with Respect to Outstanding Securities of a Private Company That Has Ceased to Be a Private Company — (Form 22)) 5047
Notice of Intention to Distribute Securities Pursuant to Subsection 7 of Section 72 - (Form 23)............5047

Chapter 9 Legislation(nil)............5049

Chapter 11 IPOs, New Issues and Secondary Financings 5051

Chapter 12 Registrations 5055
12.1.1Securities............5055

Chapter 13 SRO Notices and Disciplinary Proceedings............5057
13.1 SRO Notices and Disciplinary Decisions 5057
13.1.1 Randall Harrett - Discipline Penalties Imposed 5057
13.1.2 Randall Harrett - Settlement Agreement 5058
13.1.3 Robert Kyle - Discipline Penalties Imposed 5061
13.1.4 Derivative Services Inc. - Discipline Penalties Imposed 5061

Table of Contents (cont'd)

13.1.5 Derivative Services Inc. and Malcolm Robert Bruce Kyle 5062
13.1.6 Mark Fridgant - Discipline Penalties Imposed 5070
13.1.7 Mark Fridgant 5071

Chapter 25 Other Information 5081
25.1.1 Securities 5081

Index 5083

Chapter 1

Notices / News Releases

1.1 Notices

1.1.1 Current Proceedings Before The Ontario Securities Commission

July 21, 2000

CURRENT PROCEEDINGS

BEFORE

ONTARIO SECURITIES COMMISSION

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

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

Telephone: 416- 597-0681 Telecopiers: 416-593-8348

CDS **TDX 76**

Late Mail depository on the 19th Floor until 6:00 p.m.

THE COMMISSIONERS

David A. Brown, Q.C., Chair	—	DAB
John A. Geller, Q.C., Vice-Chair	—	JAG
Howard Wetston, Q.C. Vice-Chair	—	HW
Kerry D. Adams, FCA	—	KDA
Stephen N. Adams, Q.C.	—	SNA
Derek Brown	—	DB
Morley P. Carscallen, FCA	—	MPC
Robert W. Davis, FCA	—	RWD
John F. (Jake) Howard, Q.C.	—	JFH
Robert W. Korthals	—	RWK
Mary Theresa McLeod	—	MTM
R. Stephen Paddon, Q.C	—	RSP

SCHEDULED OSC HEARINGS

Date	Matter
Date to be announced	**Amalgamated Income Limited Partnership and 479660 B.C. Ltd.** s. 127 & 127.1 Ms. J. Superina in attendance for staff. Panel: TBA
Date to be announced	**2950995 Canada Inc., 153114 Canada Inc., Micheline Charest and Ronald A. Weinberg** s. 127 Ms. S. Oseni in attendance for staff. Panel: HIW / MPC / RSP
Jul 31/2000-Aug18/2000 10:000 a.m.	**Paul Tindall and David Singh** s. 127 Ms. M. Sopinka in attendance for staff. Panel: TBA
Aug16/2000 10:00 a.m.	**Noram Capital Management, Inc. and Andrew Willman** s. 127 Ms. K. Wootton in attendance for staff. Panel: TBA
Aug22/2000 10:00 am	**Patrick Joseph Kinlin** s. 127 Mr. I. Smith in attendance for staff. Panel: TBA

May 7, 2001
10:00 a.m.

YBM Magnex International Inc., Harry W. Antes, Jacob G. Bogatin, Kenneth E. Davies, Igor Fisherman, Daniel E. Gatti, Frank S. Greenwald, R. Owen Mitchell, David R. Peterson, Michael D. Schmidt, Lawrence D. Wilder, Griffiths Mcburney & Partners, National Bank Financial Corp., (formerly known as First Marathon Securities Limited)

s. 127
Mr. I. Smith in attendance for staff.

Panel: HW / DB / MPC

ADJOURNED SINE DIE

DJL Capital Corp. and Dennis John Little

Dual Capital Management Limited, Warren Lawrence Wall, Shirley Joan Wall, DJL Capital Corp., Dennis John Little and Benjamin Emile Poirier

Irvine James Dyck

M.C.J.C. Holdings Inc. and Michael Cowpland

Robert Thomislav Adzija, Larry Allen Ayres, David Arthur Bending, Marlene Berry, Douglas Cross, Allan Joseph Dorsey, Allan Eizenga, Guy Fangeat, Richard Jules Fangeat, Michael Hersey, George Edward Holmes, Todd Michael Johnston, Michael Thomas Peter Kennelly, John Douglas Kirby, Ernest Kiss, Arthur Krick, Frank Alan Latam, Brian Lawrence, Luke John Mcgee, Ron Masschaele, John Newman, Randall Novak, Normand Riopelle, Robert Louis Rizzuto, And Michael Vaughan

S. B. McLaughlin

2950995 Canada Inc., 153114 Canada Inc., Robert Armstrong, Jack Austin, Suzanne Ayscough, Mary Bradley, Gustavo Candiani, Patricia Carson, Stephen Carson, Lucy Caterina, Micheline Charest, Mark Chernin, Alison Clarke, Susannah Cobbold, Marie-Josée Corbeil, Janet Dellosa, François Deschamps, Marie-Louise Donald, Kelly Elwood, David Ferguson, Louis Fournier, Jean Gauvin, Jeffrey Gerstein, Benny Golan, Menachem Hafsari, Amir Halevy, Jerry Hargadon, Karen Hilderbrand, Jorn Jessen, Bruce J. Kaufman, Mohamed Hafiz Khan, Kathy Kelley, Phillip Kelley, Lori Evans Lama, Patricia Lavoie, Michael Légaré, Pierre H. Lessard, Carol Lobissier, Raymond McManus, Michael Mayberry, Sharon Mayberry, Peter Moss, Mark Neiss, Gideon Nimoy, Hasanain Panju, Andrew Porporino, Stephen F. Reitman, John Reynolds, Mario Ricci, Louise Sansregret, Cassandra Schafhausen, Andrew Tait, Lesley Taylor, Kim M. Thompson, Daniel Tierney, Barrie Usher, Ronald A. Weinberg, Lawrence P. Yelin and Kath Yelland

PROVINCIAL DIVISION PROCEEDINGS

Date	Matter
Date to be announced	**Michael Cowpland and M.C.J.C. Holdings Inc.** s. 122 Ms. M. Sopinka in attendance for staff. Courtroom 122, Provincial Offences Court Old City Hall, Toronto
July 11/2000 July 18/2000 9:00 a.m.	**Arnold Guettler, Neo-Form North America Corp. and Neo-Form Corporation** s. 122(1)(c) Mr. D. Ferris in attendance for staff. Court Room No. 124, Provincial Offences Court Old City Hall, Toronto
July 21/2000 10:00 a.m.	**Glen Harvey Harper** s.122(1)(c) Mr. J. Naster in attendance for staff. Courtroom 121, Provincial Offences Court Old City Hall, Toronto
Aug 22/2000 10:00 a.m. Pre-trial Conference Oct 10/2000 - Nov 3/2000 Trial	**Dual Capital Management Limited, Warren Lawrence Wall, Shirley Joan Wall** s. 122 Ms. J. Superina in attendance for staff. Court Room No. 9 114 Worsley Street Barrie, Ontario

Oct 16/2000 - Dec 22/2000 10:00 a.m.	**John Bernard Felderhof** Mssrs. J. Naster and I. Smith for staff. Courtroom TBA, Provincial Offences Court Old City Hall, Toronto
Dec 4/2000 Dec 5/2000 Dec 6/2000 Dec 7/2000 9:00 a.m. Courtroom N	**1173219 Ontario Limited c.o.b. as TAC (The Alternate Choice), TAC International Limited, Douglas R. Walker, David C. Drennan, Steven Peck, Don Gutoski, Ray Ricks, Al Johnson and Gerald McLeod** s. 122 Mr. D. Ferris in attendance for staff. Provincial Offences Court Old City Hall, Toronto
Jan 29/2001 - Feb 2/2001 9:00 a.m.	**Einar Bellfield** s. 122 Ms. K. Manarin in attendance for staff. Courtroom C, Provincial Offences Court Old City Hall, Toronto

Reference: John Stevenson
Secretary to the
Ontario Securities Commission
(416) 593-8145

1.1.2 Dialogue with the OSC

July 4, 2000

Dialogue with the OSC

Dear Colleague:

Each year the Ontario Securities Commission sponsors an all-day conference designed to bring the staff of the Commission together with professionals from the financial services industry.

I would like to take this opportunity to invite you to participate in this year's ***Dialogue with the OSC*** event, now in its sixth successful year, which will take place at the Toronto Sheraton Centre Hotel on October 31st, 2000.

This year, the agenda for Dialogue again focuses on the significant regulatory issues and events that have emerged over the past year, including the Ontario Government's plan to merge the OSC with the Financial Services Commission of Ontario. Topics will also include **A Market Regulation Update, Financial Planning, Mutual Funds and the Launch of the MFDA, Enforcement Issues and Current Financial Reporting and Auditing Issues,** among many other interesting and timely items.

The proposed agenda for ***Dialogue with the OSC 2000*** is attached.

The cost to attend this conference is $400.00 and for those registering before September 11th we are offering an early bird special of $350.00. To reserve your place, return the attached agenda with your business card and concurrent session choices by facsimile to (416) 593-0249. An invoice will follow. If you have any questions please call ***Dialogue with the OSC*** registration at (416) 593-7352 before October 20, 2000. Or you may register on-line through the OSC website at www.osc.gov.on.ca.

New This Year

The 2000 edition of ***Dialogue with the OSC*** will introduce a new and very exciting element to the program. In order to bring our staff and this important event to a greater number of our constituents, we are offering a modified version of Dialogue through a satellite feed to the following locations:

- London
- Sudbury
- Ottawa

During the satellite broadcast, participants at each of the above locations will be able to watch and listen to the presentations as well as ask questions of the panelists in Toronto.

If you are interested in attending Dialogue at one of these locations call (416) 593-7352.

I hope you are able to join us either in Toronto, or at one of the other locations across Ontario, for this exciting and informative conference.

Sincerely,

David Brown Q.C.
Chair

Encl.

DIALOGUE WITH THE OSC

Preliminary Agenda & Early Registration

9:00 a.m. **Welcoming Address**
Charlie F. Macfarlane, Executive Director, OSC

9:10 a.m. **Opening Remarks**
David A. Brown, Q.C., Chair of the OSC

9:30 a.m. **Executive Panel**
David Brown, Ontario Securities Commission; Dina Palozzi, Ontario Insurance Commission; Securities Market Participant and FSCO Participant

10:00 a.m. **Panel of Chairs**
Chairs of the Ontario, Alberta, British Columbia and Quebec Securities Commissions

11:00 a.m. **Break-Out Session 1**
(Please check one (1) box only on registration form to indicate concurrent session choice)

- **Market Regulation Update: Including ATS and the New Markets**
  A discussion of the changes in the Canadian marketplace including the OSC and the reorganization of the Canadian exchanges and regulatory approaches to advances in electronic trading technology.

- **Enforcement Issues**
  Current themes in enforcement reflecting a more aggressive approach to enforcing the Ontario Securities Act.

- **Corporate Finance: An Update**
  Included in this update are a review of developments in recent filings issues and a report on small business financing.

11:50 a.m. **Break-Out Session 2**
(Please check one (1) box only on registration form to indicate concurrent session choice)

- **Mutual Funds: The Launch of the MFDA**
  An update on the launch of the Mutual Funds Dealers Association and the issues surrounding the question of distribution structures for the mutual fund dealer.

- **Strengthening the Secondary Market: Enhancing the Quality of Continuous Disclosure by Reporting Issuers**
  A discussion of legislative, regulatory and operational changes including the developments in Continuous and Integrated Disclosure. Also reviewed SEDI, the System for Electronic Data on Insiders.

- **International Issues: The OSC and the International Securities Regulators**
  A look at the critical issues facing regulators as electronic trading makes borders irrelevant in the age of e-trades and electronic communication. Also included will be a review of the work of the International Accounting Standards Committee.

12:30 p.m. **Lunch**

1:30 p.m. **Luncheon Address**
Dr. Sherry Cooper, Chief Economist, Nesbitt Burns

Tuesday, October 31, 2000 • Sheraton Centre Hotel • Toronto

Dialogue with the OSC • Tuesday, October 31, 2000 • Sheraton Centre Hotel, Toronto

2:00 p.m. **Break-Out Session 3**
(Please check one (1) box only on registration form to indicate concurrent session choice)

- **Financial Planning Update: The Re-regulation of Advice Project**
  A review of the products and services delivered to customers in view of the retail securities industry's shift in focus from stock trading to financial advice and asset management.

- **Current Financial Reporting and Auditing Issues at the OSC**
  A review of staff positions and current policy directions including a look at GAAP and GAAS.

- **The Latest Developments in Mergers and Acquisitions**
  The Takeover/Issuer Bids team from the OSC will highlight the issues and latest developments under discussion at the OSC.

3:30 p.m. **Break-Out Session 4**
(Please check one (1) box only on registration form to indicate concurrent session choice)

- **SRO Oversight**
  A review of the Commission's efforts to strengthen protocols for SRO oversight through the development of oversight agreements and the planned national compliance review.

- **Investor Education**
  A look at the products developed by the OSC to enhance investor understanding of the securities industry.

4:45 p.m. **Closing Remarks**

5:00 p.m. **Conference Conclusion**

DIALOGUE WITH THE OSC • REGISTRATION FORM

DIALOGUE BREAKOUT SESSIONS

You will be able to attend one breakout session for each time slot (Please check one (1) box for each Breakout Session)

11:00 - 11:40 Break Out Session 1

- ☐ Market Regulation Update
- ☐ Enforcement Issues
- ☐ Corporate Finance: An Update

11:50 - 12:30 Break Out Session 2

- ☐ Mutual Funds
- ☐ Strengthening the Secondary Market
- ☐ International Issues

2:00 - 3:15 Break Out Session 3

- ☐ Financial Planning Update
- ☐ Current Financial Reporting/Auditing
- ☐ Latest Developments in Mergers/Acquisitions

3:30 - 4:45 Break Out Session 4

- ☐ SRO Oversight
- ☐ Investor Education

Registration Fee: $400 (after September 11, 2000)
Earlybird Fee: $350 (before September 11, 2000)

To register, please attach your business card to this form and Fax to: "Dialogue with the OSC" at (416) 593-0249 An invoice for the registration fee will follow in the mail.

For a Detailed Program or Further Information:
Call (416) 593-7352 or visit our website at www.osc.gov.on.ca

Please Place your Business Card Here

DIALOGUE WITH THE OSC - LONDON

Preliminary Agenda & Early Registration

All morning sessions and the Luncheon Address will be broadcast from Toronto to London by satellite link followed by a live panel entitled, **Financial Planning - A Review of OSC/CSA Initiatives**. This panel will look at the current regulatory model governing advice. During the morning program, participants will be able to watch and listen to the presentations as well as ask questions of the panelists in Toronto.

9:00 a.m. **Welcoming Address**
Charlie F. Macfarlane, Executive Director, OSC

9:10 a.m. **Opening Remarks**
David A. Brown, Q.C., Chair of the OSC

9:30 a.m. **Executive Panel**
David Brown, Ontario Securities Commission; Dina Palozzi, Financial Services Commission of Ontario; Securities Market Participant and FSCO Participant

10:00 a.m. **Panel of Chairs**
Chairs of the Ontario, Alberta, British Columbia and Quebec Securities Commissions

11:00 a.m. **Market Regulation Update: Including ATS and the New Markets**
A discussion of the changes in the Canadian marketplace including the OSC and the reorganization of the Canadian exchanges and regulatory approaches to advances in electronic trading technology.

11:50 a.m. **Mutual Funds: The Launch of the MFDA**
An update on the launch of the Mutual Funds Dealers Association and the issues surrounding the question of distribution structures for the mutual fund dealer.

12:30 p.m. **Lunch and Luncheon Address**
Dr. Sherry Cooper, Chief Economist, Nesbitt Burns

2:00 p.m. **Live Panel in London**
Financial Planning - A Review of OSC/CSA Initiatives
Julia Dublin, Chair, CSA Financial Planning Committee
A look at the current regulatory model governing advice.

3:00 p.m. **Closing Remarks**

DIALOGUE WITH THE OSC • REGISTRATION FORM

Registration Fee: $300 (after September 11, 2000)
Earlybird Fee: $250 (before September 11, 2000)

To register, please attach your business card to this form and
Fax to: "Dialogue with the OSC" at
(416) 593-0249
An invoice for the registration fee will follow in the mail.

Please Place your
Business Card Here

For a Detailed Program or Further Information:
Call (416) 593-7352 or visit our website at www.osc.gov.on.ca

Tuesday, October 31, 2000 • London

DIALOGUE WITH THE OSC - SUDBURY

Preliminary Agenda & Early Registration

All morning sessions and the Luncheon Address will be broadcast from Toronto to Sudbury by satellite link followed by a live panel entitled, **Mining Regulations - After the Mining Standards Task Force Report**. This panel will look at the effect of the report on the mining industry. During the morning program, participants will be able to watch and listen to the presentations as well as ask questions of the panelists in Toronto.

9:00 a.m. **Welcoming Address**
Charlie F. Macfarlane, Executive Director, OSC

9:10 a.m. **Opening Remarks**
David A. Brown, Q.C., Chair of the OSC

9:30 a.m. **Executive Panel**
David Brown, Ontario Securities Commission; Dina Palozzi, Financial Services Commission of Ontario; Securities Market Participant and FSCO Participant

10:00 a.m. **Panel of Chairs**
Chairs of the Ontario, Alberta, British Columbia and Quebec Securities Commissions

11:00 a.m. **Market Regulation Update: Including ATS and the New Markets**
A discussion of the changes in the Canadian marketplace including the OSC and the reorganization of the Canadian exchanges and regulatory approaches to advances in electronic trading technology.

11:50 a.m. **Mutual Funds: The Launch of the MFDA**
An update on the launch of the Mutual Funds Dealers Association and the issues surrounding the question of distribution structures for the mutual fund dealer.

12:30 p.m. **Lunch and Luncheon Address**
Dr. Sherry Cooper, Chief Economist, Nesbitt Burns

2:00 p.m. **Live Panel in Sudbury**
Mining Regulations - After the Mining Standards Task Force Report
Deborah McCombe, Senior Mining Consultant, OSC
This panel will look at what the Mining Standards Task Force Report means to the mining industry.

3:00 p.m. **Closing Remarks**

DIALOGUE WITH THE OSC • REGISTRATION FORM

Registration Fee: $300 (after September 11, 2000)
Earlybird Fee: $250 (before September 11, 2000)

To register, please attach your business card to this form and Fax to: "Dialogue with the OSC" at (416) 593-0249
An invoice for the registration fee will follow in the mail.

Please Place your Business Card Here

For a Detailed Program or Further Information:
Call (416) 593-7352 or visit our website at www.osc.gov.on.ca

Tuesday, October 31, 2000 • Sudbury

DIALOGUE WITH THE OSC - OTTAWA

Preliminary Agenda & Early Registration

All morning sessions and the Luncheon Address will be broadcast from Toronto to Ottawa by satellite link followed by a live panel entitled, **Small Business Financing - A Progress Report**. This panel will give a progress report on the regulatory issues surrounding small business financing. During the morning program, participants will be able to watch and listen to the presentations as well as ask questions of the panelists in Toronto.

9:00 a.m. **Welcoming Address**
Charlie F. Macfarlane, Executive Director, OSC

9:10 a.m. **Opening Remarks**
David A. Brown, Q.C., Chair of the OSC

9:30 a.m. **Executive Panel**
David Brown, Ontario Securities Commission; Dina Palozzi, Financial Services Commission of Ontario; Securities Market Participant and FSCO Participant

10:00 a.m. **Panel of Chairs**
Chairs of the Ontario, Alberta, British Columbia and Quebec Securities Commissions

11:00 a.m. **Market Regulation Update: Including ATS and the New Markets**
A discussion of the changes in the Canadian marketplace including the OSC and the reorganization of the Canadian exchanges and regulatory approaches to advances in electronic trading technology.

11:50 a.m. **Mutual Funds: The Launch of the MFDA**
An update on the launch of the Mutual Funds Dealers Association and the issues surrounding the question of distribution structures for the mutual fund dealer.

12:30 p.m. **Lunch and Luncheon Address**
Dr. Sherry Cooper, Chief Economist, Nesbitt Burns

2:00 p.m. **Live Panel in Ottawa**
Small Business Financing - A Progress Report
This panel will provide a progress report on the regulatory issues surrounding small business financing.

3:00 p.m. **Closing Remarks**

DIALOGUE WITH THE OSC • REGISTRATION FORM

Registration Fee: $300 (after September 11, 2000)
Earlybird Fee: $250 (before September 11, 2000)

To register, please attach your business card to this form and
Fax to: "Dialogue with the OSC" at
(416) 593-0249
An invoice for the registration fee will follow in the mail.

Please Place your
Business Card Here

For a Detailed Program or Further Information:
Call (416) 593-7352 or visit our website at www.osc.gov.on.ca

Tuesday, October 31, 2000 • Ottawa

1.1.3 Notice of Request for Comments - Proposed National Instrument 33-102 Registrant Dealings with Clients

**NOTICE OF REQUEST FOR COMMENTS
PROPOSED NATIONAL INSTRUMENT 33-102
REGISTRANT DEALINGS WITH CLIENTS**

The Commission is publishing in today's Bulletin Proposed National Instrument 33-102 Registrant Dealings with Clients and the Companion Policy 33-102CP, the reformulated Principles of Regulation.

The Notice, the Instrument and the Policy are published in Chapter 6 of this Bulletin.

1.2 Notice of Hearings

1.2.1 Patrick Joseph Kinlin - s. 127(1)

**IN THE MATTER OF THE SECURITIES ACT
R.S.O. 1990, c.S.5, as amended**

AND

**IN THE MATTER
PATRICK JOSEPH KINLIN**

**NOTICE OF HEARING
(Section 127(1))**

TAKE NOTICE THAT the Ontario Securities Commission (the "Commission") will hold a hearing pursuant to section 127 of the Securities Act, R.S.O. 1990, c.S.5, as amended (the "Act") at the Large Hearing Room on the 17th floor, 20 Queen Street West, Toronto, Ontario, commencing on the 22nd day of August, 2000 at 10:00 a.m. or so soon thereafter as the hearing can be held:

TO CONSIDER:

(a) whether in the opinion of the Commission it is in the public interest to make an order pursuant to section 127(1) clause 2 of the Act, that trading in any securities by Patrick Joseph Kinlin cease permanently; and

(b) such further orders as the Commission may deem appropriate.

BY REASON of the allegations as set out in the attached Statement of Allegations made by Staff of the Commission dated June 30, 2000;

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

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

July 4th, 2000.

"Rose Gomme"

1.2.2 Patrick Joseph Kinlin - Statement of Allegations

**IN THE MATTER OF THE SECURITIES ACT
R.S.O. 1990, c.S.5, as amended**

AND

**IN THE MATTER OF
PATRICK JOSEPH KINLIN**

**STATEMENT OF ALLEGATIONS OF STAFF OF
THE ONTARIO SECURITIES COMMISSION**

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

1. Patrick Joseph Kinlin (the "Respondent") was registered with the Commission as a salesperson with Toronto securities dealers Mutual Investco Inc. ("Mutual") (from December 1, 1984 to December 31, 1992), WealthWorks Financial Inc. ("WealthWorks") (from November 26, 1997 to July 20, 1998) and Keybase Investments Inc. ("Keybase") (from August 17, 1998 to June 22, 1999).

2. The Respondent was terminated by Mutual on December 31, 1992. In their termination letter, Mutual advised the Commission that the Respondent "carries on business in a manner inconsistent with Mutual Life Policies."

3. When WealthWorks dismissed the Respondent on July 20, 1998, WealthWorks advised the Commission that the Respondent had been dismissed for cause, specifically, for the following reasons:

   - Failure ... to make [himself] available for training and supervision
   - Use of "cookie cutter" portfolios and failure to address [Wealthwork's] concerns over this approach
   - Length of time [the Respondent] left substantial funds sitting in cash despite numerous reminders
   - Misrepresentation to dealership with regard to in-house compliance procedures

4. When Keybase dismissed the Respondent on June 22, 1999, Keybase advised the Commission that the Respondent had been dismissed with cause. Keybase attached to its Notice of Termination a copy of a letter from Keybase to the Respondent, the text of which is as follows:

   In the past few days we have received calls from various parties inquiring about your whereabouts and some client calls questioning the status of their investments. We are very concerned about these inquiries and have tried to contact you by telephone at

numerous times to no avail.

Based on the serious nature of these inquiries which stipulate your involvement in undisclosed activities outside of Keybase's offerings, though to parties other than Keybase's clients, are deemed improper by that of a Keybase representative [*sic*]. By doing so, you are evading Keybase's supervision. Keybase will not tolerate such behaviour and we are hereby giving you notice that effective immediately your mutual fund licence with us is terminated.

5. During his tenure as a registrant, the Respondent was authorized to sell mutual funds and other securities to members of the public. However, while the Respondent did invest some of his clients' money in these securities, much of it was diverted by the Respondent for his own personal use.

6. On January 10, 2000, before the Honourable Mr. Justice Porter of the Ontario Court of Justice, the Respondent entered a plea of guilty to 28 counts of fraud over $5,000.00 contrary to the *Criminal Code*. Mr. Justice Porter accepted that plea, entered convictions and sentenced the Respondent to 5 years in prison. The Respondent was also ordered to make compensation in the amount of $12,582,820.75 to 63 separate individuals or couples, the victims of the Respondent's frauds.

7. The Respondent admitted before the Court that, in respect of the each of these victims, he employed a similar method of defrauding them of their money. The Respondent agreed that the following summary of his conduct, read in by Counsel for the Crown, was an accurate accounting:

The method of the [Respondent's] scheme is consistent, and essentially applies to each and every unfortunate victim.

[The Respondent] was the sole director of Kinlin Financial Services Incorporated, located at 357 Bay Street, Suite 600, in the City of Toronto. [The Respondent] was licensed in the Province of Ontario to sell life insurance, mutual funds, and guaranteed investment certificates. He was not licensed to broker stocks or bonds.

Through an extensive network of social contacts and personal friends, that began almost thirty years ago, [the Respondent] actively sought funds from private individuals to invest in the markets described, including those for which he was not licensed.

[The Respondent] offered a wide range of financial services to his clients that included retirement planning, investment counselling, personal and business insurance, estate planning, and estate administration. Annual information statements were provided, purporting to provide his clients with a concise picture of their financial progress, and were statements upon which his clients relied to access their investment progress, and to assess it as well.

[The Respondent] also augmented his familiarity and access to his clients' affairs by preparing and filing their personal income tax returns, preparing wills that named him as the executor and often trustee of the estate, and by acquiring power of attorney.

In his role, [the Respondent] often directly received cash funds from his clients, with the understanding that they'd be invested in the client's name and to their benefit. These transactions included converting existing RRSP funds, RRIF funds, GIC's and other investments into purportedly higher-yield accounts chosen by [the Respondent]. The client would provide [the Respondent] with a cheque in the amount the client intended to invest. [The Respondent] was told to invest the money, and he undertook to do so to the benefit of the client from whom he had received the money.

[The Respondent] frequently advised the client verbally as to the specifics of the pending investment, and financial statements were sent out thereafter by Kinlin's company. In actuality, the financial statements were simply fabrications from blank sheets of paper tailored to reflect the false representations that [the Respondent] had made to his clients, and designed to satisfy a client's request for documentation of the transactions.

All of the revenue that [the Respondent] received over the course of the years from his clients was directed to a Toronto Dominion Bank account, located on the Queensway, in the City of Etobicoke. As the money entered that account, [the Respondent] immediately withdrew the funds to support his own lavish lifestyle.

....

At approximately the end of May of 1999, it appeared obvious to [the Respondent] that his fraudulent transactions were soon to be discovered. He was in dire need of money. [...]

By June 5, 1999, [the Respondent] had desperately attempted to raise funds by demanding money of some of his friends. When this failed, he fled the country to the U.S..

....

A Provisional Warrant was obtained for the arrest of [the Respondent] in June of 1999. American police, acting on the authority of the Provisional Warrant, arrested [the Respondent] in a hospital in Norristown, Pennsylvania, a suburb of Philadelphia.

In August of 1999, the Canadian government commenced extradition proceedings for the return of [the Respondent] to face criminal charges.

On September 9, 1999, [the Respondent] was returned to Canada, and on September 10 he appeared in a Toronto court to face the criminal charges outlined in the information before Your Honour today.

8. In addition to this general summary of the Respondent's *modus operandi*, Counsel for the Crown read in facts in relation to individual victims. These facts were also admitted by the Respondent. Reference was also made to Victim Impact Statements filed by the Crown. Some victims also made oral statements to the Court.

9. In the course of delivering his Reasons for Sentence, Mr. Justice Porter made the following comments:

    I must say in my experience on the bench I have not run into such a loss as I have encountered today in this matter. It is mind-boggling to say the least.

    You have heard counsel talk about trust. Essentially, our society is based on trust, and when people fail in their trust it is very disturbing to say the least.

    I have listened to the people who were good enough to put their words on paper or speak to me, and I am brokenhearted for you, quite frankly. I wish I could wave a wand and say, "Here we are. Here's your money. Go home", but unfortunately you realize I can't do that, and unfortunately from what I've heard I don't think [the Respondent] is going to be able to do that either.

    ....

    But we get back to this horrendous breach of trust and the pain that it has occasioned to you. I heard the word "despicable". I couldn't agree with you more, and although as [counsel for the Respondent] points out perhaps all these funds weren't for personal use. I find that difficult to believe.

10. It is the position of Staff that the conduct alleged above, which conduct the Respondent admitted to the Court, constitutes conduct contrary to the public interest.

DATED at Toronto this 30th day of June, 2000.

1.3 News Releases

1.3.1 RT Capital Management Inc.

July 19, 2000

Re: RT Capital Management Inc

Toronto - The first appearance of the respondents in this matter was held on July 19th. At today's hearing, Staff of the Commission and the Respondents requested, on consent, that the proceeding be adjourned to 10 am on Thursday, July 20, 2000 to enable the respondents and Staff to put a proposed settlement agreement before the Commission. The purpose of the hearing on July 20 will be for the Commission to consider whether the proposed settlement agreement is in the public interest and should be approved. Terms of the proposed settlement will only be released if and when the Commission approves the proposal.

The hearing will commence at 10:00 a.m. in the main hearing room of the Commission on the 17th floor at 20 Queen Street West, Toronto.

Please be advised that public portions of the hearing are open to journalists, but at no time will cameras be allowed in the hearing room (tape recorders will be permitted).

Copies of the Notice of Hearing and the Statement of Allegations can be obtained from the OSC website at www.osc.gov.on.ca.

References:

Frank Switzer
Manager, Corporate Relations
(416) 593-8120

Hugh Corbett
Litigation Counsel
(416) 593-8074

1.3.2 Patrick Joseph Kinlin - Commission Issues Notice of Hearing

July 19, 2000

Commission Issues Notice of Hearing Against Patrick Joseph Kinlin

Toronto -- The Ontario Securities Commission has issued a Notice of Hearing and Statement of Allegations against Patrick Joseph Kinlin. Kinlin was a registered salesperson under Ontario securities law until June of 1999.

On January 10, 2000, Kinlin pleaded guilty in the Superior Court of Ontario to 28 counts of fraud over $5000, contrary to the Criminal Code. Kinlin was sentenced to five years' imprisonment and was ordered to make restitution to his victims in amounts totaling over $12.5 million. In the proceeding before the Commission, Staff have asked for an order prohibiting Kinlin from trading in securities permanently.

The hearing will take place at the offices of the Commission on the 17th floor, 20 Queen Street West, Toronto, Ontario, at 10am on August 22, 2000.

Copies of the Notice of Hearing and the Statement of Allegations are available at www.osc.gov.on.ca.

References:

Frank Switzer
Manager, Corporate Relations
(416) 593-8120

Brian Butler
Acting Director, Enforcement Branch
(416) 593-8286

This Page Intentionally left blank

Chapter 2

Decisions, Orders and Rulings

2.1 Decisions

2.1.1 Otis-Winston Ltd. et al

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

AND

**IN THE MATTER OF
OTIS-WINSTON LTD.,
XILLIX TECHNOLOGIES CORP.,
and DIGITAL CYBERNET CORPORATION**

**ORDER
(Section 144)**

WHEREAS the Ontario Securities Commission (the "Commission") made an order dated June 1, 2000 (the "Temporary Order") pursuant to section 127(5) of the *Securities Act* (the "Act"), that all trading in:

1. Digital Cybernet Corporation ("Digital Cybernet") shares by Otis-Winston Ltd. ("Otis-Winston"); and

2. Xillix Technologies Corp. ("Xillix") shares for Digital Cybernet shares in response to an offer made by Otis-Winston on May 3, 2000;

cease for a period of fifteen days from the date of the Temporary Order unless such Temporary Order was extended by order of the Commission;

AND WHEREAS on June 1, 2000 a notice of hearing in this matter was issued, to be heard on June 7, 2000;

AND WHEREAS the Commission made an order dated June 7, 2000, pursuant to subsection 127(8) of the Act that:

1. The hearing of this matter be adjourned until July 19, 2000;

2. The Temporary Order be extended until 11:59 p.m. (Toronto time) on July 19, 2000, unless extended, revoked or varied by the Commission;

AND WHEREAS on June 9, 2000, Otis-Winston withdrew its offer dated May 3, 2000 to acquire shares of Xillix;

AND WHEREAS Staff of the Commission have applied under section 144 of the Act for an Order revoking the Temporary Order;

AND WHEREAS the making of this Order would not be prejudicial to the public interest;

IT IS ORDERED THAT pursuant to section 144 of the Act, the Temporary Order issued on June 1, 2000 and extended on June 7, 2000 be and hereby is revoked.

July 18th, 2000.

"Howard I. Wetston" "Theresa McLeod"

2.1.2 Blue Range Resource Corporation - MRRS Decision

Headnote

Mutual Reliance Review System for Exemptive Relief has one security holder - issuer deemed to have ce Applications - issuer ased to be a reporting issuer.

Applicable Ontario Statutes

Securities Act, R.S.O. 1990, c.S.5, as am., ss. 83.

**IN THE MATTER OF
THE CANADIAN SECURITIES LEGISLATION
OF THE PROVINCES OF ALBERTA, BRITISH
COLUMBIA,
SASKATCHEWAN, ONTARIO, QUÉBEC,
NEWFOUNDLAND
NEW BRUNSWICK, NOVA SCOTIA, PRINCE EDWARD
ISLAND
AND YUKON TERRITORY**

AND

**IN THE MATTER OF
THE MUTUAL RELIANCE REVIEW SYSTEM
FOR EXEMPTIVE RELIEF APPLICATIONS**

AND

**IN THE MATTER OF
BLUE RANGE RESOURCE CORPORATION**

MRRS DECISION DOCUMENT

1. **WHEREAS** the Canadian securities regulatory authority or regulator (the "Decision Maker") in each of the provinces of Alberta, British Columbia, Saskatchewan, Ontario, Québec, Newfoundland, New Brunswick, Nova Scotia, Prince Edward Island and Yukon (the "Jurisdictions") have received an application from Blue Range Resource Corporation ("Blue Range") for a decision under the securities legislation of the Jurisdictions (the "Legislation") that Blue Range is deemed to have ceased to be a reporting issuer, or its equivalent, under the Legislation;

2. **AND WHEREAS** pursuant to the Mutual Reliance Review System for Exemptive Relief Applications (the "System"), the Alberta Securities Commission is the principal regulator for this application;

3. **AND WHEREAS** Blue Range has represented to the Decision Makers that:

3.1 Blue Range was incorporated on June 4, 1986 pursuant to the provisions of the *Business Corporations Act* (Alberta) (the "ABCA") and is engaged in the exploration, development, production and processing of petroleum and natural gas in Alberta and British Columbia;

3.2 Blue Range is a reporting issuer, or the equivalent concept, under the Legislation;

3.3 pursuant to a take-over bid made on November 13, 1998 and subsequent compulsory acquisition, 100% of the issued and outstanding common shares of Blue Range (the "Blue Range Shares") were acquired by Big Bear Exploration Ltd. ("Big Bear"). At the time of the take-over bid, certain share purchase warrants existed. These warrants were not exercised and may no longer be exercised;

3.4 there are no other outstanding securities of Blue Range;

3.5 Blue Range's shares were once listed on The Alberta Stock Exchange, but were subsequently delisted. The shares of Blue Range are no longer listed on any stock exchange in Canada;

3.6 Blue Range does not intend to seek public financing by way of an offer of securities;

4. **AND WHEREAS** under the System this MRRS Decision Document evidences the decision of each Decision Maker (collectively, the "Decision");

5. **AND WHEREAS** 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;

6. The Decision of the Decision Makers pursuant to the Legislation is that Blue Range is deemed to have ceased to be a reporting issuer, or its equivalent, under the Legislation.

DATED at Calgary, Alberta this 6th day of July, 2000.

"Patricia M. Johnston"
Director, Legal Services & Policy Development

2.1.3 NAL Oil & Gas Trust and Draig Energy Ltd. - MRRS Decision

Headnote

Mutual Reliance Review System for Exemptive Relief Applications - relief from the identical consideration requirement in connection with a securities-exchange take-over bid - instead of the U.S. target shareholder receiving securities as consideration for its target shares, the shareholder will receive the cash proceeds from the sale of such securities by a depository.

Applicable Ontario Statutes

Securities Act, R.S.O. 1990 c. S.5, as am., ss. 97(1), 104(2)(c).

**IN THE MATTER OF
THE SECURITIES LEGISLATION
OF ALBERTA, BRITISH COLUMBIA, SASKATCHEWAN,
MANITOBA, ONTARIO , QUEBEC, NOVA SCOTIA
AND NEWFOUNDLAND**

AND

**IN THE MATTER OF
THE MUTUAL RELIANCE REVIEW SYSTEM
FOR EXEMPTIVE RELIEF APPLICATIONS**

AND

**IN THE MATTER OF
NAL OIL & GAS TRUST**

AND

**IN THE MATTER OF
DRAIG ENERGY LTD.**

MRRS DECISION DOCUMENT

1. **WHEREAS** the local securities regulatory authority or regulator (the "Decision Maker") in each of Alberta, British Columbia, Saskatchewan, Manitoba, Ontario, Quebec, Nova Scotia and Newfoundland (the "Jurisdictions") has received an application from NAL Oil & Gas Trust (the "Trust") for a decision under the securities legislation of the Jurisdictions (the "Legislation") that in connection with the Trust's offer (the "Offer") to purchase all of the issued and outstanding common shares (the "Common Shares") and preferred shares (the "Preferred Shares", and collectively with the Common Shares the "Shares") of Draig Energy Ltd. ("Draig") on the basis of 0.2375 of a unit of the Trust (a "Trust Unit") for each Common Share and 0.125 of a Trust Unit for each Preferred Share , the requirement contained in the Legislation to offer all holders of the same class of securities identical consideration (the "Identical Consideration Requirement") shall not apply to U.S. Shareholders (as defined below) who receive the cash proceeds from the sale of Trust Units in accordance with paragraph 3.6 below;

2. **AND WHEREAS** pursuant to the Mutual Reliance Review System for Exemptive Relief Applications (the "System"), the Alberta Securities Commission is the principal regulator for this application;

3. **AND WHEREAS** the Trust has represented to the Decision Makers that:

3.1 the Trust is an unincorporated open-ended trust formed under the laws of the Province of Alberta, whose head office is located in the Province of Alberta. It is a reporting issuer or the equivalent in the Jurisdictions and is not in default of any of the requirements of the Legislation. Its Trust Units are listed and posted for trading on the Toronto Stock Exchange (the "TSE");

3.2 Draig is a public company incorporated under the *Business Corporations Act* (Alberta). Its Shares are listed on the TSE and it is a reporting issuer or the equivalent in Alberta, Ontario and Quebec;

3.3 to the knowledge of the Trust, after reasonable inquiry, there was one registered shareholder of Draig resident in the United States (the "U.S. Shareholder") at the date of the Offer holding approximately 0.52% of the Common Shares;

3.4 the Trust Units that may be issued under the Offer to the U.S. Shareholder have not been and will not be registered or otherwise qualified for distribution pursuant to the securities legislation of the United States.

3.5 the Trust is eligible to use the multijurisdictional disclosure system ("MJDS"). However, upon issuing the Trust Units into the United States, the Trust may become subject to the United States *Investment Com pany Act of 1940* and would have to comply with its registration and continuous disclosure requirements. Compliance with these requirements would be overly burdensome to the Trust.

3.6 the Trust proposes to deliver the Trust Units which any U.S. Shareholder of Draig is entitled to receive under the Offer to The Trust Company of Bank of Montreal (the "Depositary") which will in turn sell such Trust Units on The Toronto Stock Exchange and deliver the net proceeds after expenses of such sale to Draig Shareholders resident in the United States. This sale and payment will occur simultaneously, or substantially simultaneously, with the payment by the Trust for Draig Shares under the Offer;

3.7 the Offer is being made in compliance with the Legislation of the Jurisdictions, except to the extent that exemptive relief is granted in respect of the Identical Consideration Requirement;

4. **AND WHEREAS** under the System, this MRRS Decision Document evidences the decision of each Decision Maker (collectively, the "Decision");

5. **AND WHEREAS** 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;

6. **THE DECISION** of the Decision Makers under the Legislation is that in connection with Offer, the Trust is exempt from the Identical Consideration Requirement insofar as U.S. Shareholders who accept the Offer may receive, instead of receiving Trust Units, cash proceeds from the Depositary's sale of the Trust Units in accordance with the procedure set out in paragraph 3.6 above.

DATED at Calgary, Alberta this 30th day of June, 2000.

"John W. Cranston",
Member

"James E. Allard",
Member

2.1.4 Newbridge Networks Corporation and Alcatel - MRRS Decision

Headnote

Mutual Reliance Review System for Exemptive Relief Applications - relief from the registration and prospectus requirements in respect of certain trades made in connection with a merger involving a Canadian reporting issuer and a French company where exemptions not available for technical reasons - reporting issuer history of Canadian issuer considered in calculating restrictions on resale - time period control block held shares of Canadian issuer pre-merger considered in calculating 12 month hold period for resale from control block - first trade in shares of French issuer shall be a distribution unless executed on a stock exchange outside of Canada.

Continuous Disclosure - reporting issuer exempted from continuous disclosure in respect of exchangeable shares subject to certain conditions.

Insider Reporting - reporting issuer exempted from insider reporting requirements subject to certain conditions.

AIF and MD&A - waiver granted to Canadian reporting issuer from requirement to deliver AIF and MD&A.

Applicable Ontario Statutes

Securities Act, R.S.O. 1990, c.S.5, as am., 25, 53, 72(5), 74(1), 75, 77, 78, 79, 80(b)(iii), 81, 85, 86, 88(2), 107, 108, 109 and 121(2).

Applicable Ontario Regulations

Regulation made under the Securities Act, R.R.O. 1990, Reg. 1015, as am.,

Applicable Ontario Rules

Rule 45-501 - Exempt Distributions.

Applicable Ontario Policies

Policy 5.10 - Annual Information Form and Management's Discussion and Analysis of Financial Condition and Results of Operations.

**IN THE MATTER OF
THE SECURITIES LEGISLATION OF ONTARIO, BRITISH COLUMBIA, ALBERTA, SASKATCHEWAN, MANITOBA, NOVA SCOTIA, PRINCE EDWARD ISLAND, NEW BRUNSWICK, NEWFOUNDLAND, YUKON, THE NORTHWEST TERRITORIES AND NUNAVUT**

AND

**IN THE MATTER OF
THE MUTUAL RELIANCE REVIEW SYSTEM FOR EXEMPTIVE RELIEF APPLICATIONS**

AND

IN THE MATTER OF NEWBRIDGE NETWORKS CORPORATION AND ALCATEL

WHEREAS the Canadian securities regulatory authority or regulator (the "Decision Maker"), in each of British Columbia, Alberta, Saskatchewan, Manitoba, Ontario, New Brunswick, Prince Edward Island, Nova Scotia, Newfoundland, the Yukon Territory, Northwest Territories and Nunavut (collectively, the "Jurisdictions") has received an application from each of Newbridge Networks Corporation ("Newbridge") and Alcatel on its own behalf and on behalf of Alcatel Holdings Canada Corp. ("Alcatel Holdings") which is an indirect wholly-owned subsidiary of Alcatel (collectively, the "Applicant"), for a decision pursuant to the securities legislation, regulations, rules and/or policies of the Jurisdictions (the "Legislation") that:

(a) certain trades and/or distributions of securities in connection with the proposed merger (the "Merger") of Alcatel and Newbridge, to be effected by way of a plan of arrangement (the "Arrangement") under section 192 of the *Canada Business Corporations Act,* shall be exempt from the requirements contained in the Legislation to be registered to trade in a security (the "Registration Requirements") and to file a preliminary prospectus and a prospectus and receive receipts therefor prior to distributing a security (the "Prospectus Requirements");

(b) Newbridge be exempt from the requirements of the Legislation to issue a press release and file a report regarding material changes (the "Material Change Reporting Requirements"), to file and deliver interim and annual financial statements (the "Financial Statement Requirements") and to file information circulars (the "Proxy Requirements"); and

(c) the requirement contained in the Legislation for an insider of a reporting issuer to file reports disclosing the insider's direct or indirect beneficial ownership of, or control or direction over, securities of the reporting issuer (the "Insider Reporting Requirement") shall not apply to each insider of Newbridge and its successors.

AND WHEREAS pursuant to the Mutual Reliance Review System for Exemptive Relief Applications (the "System"), the Ontario Securities Commission is the principal regulator for this application;

AND WHEREAS the Applicant has represented to the Decision Makers that:

1. Alcatel is a public company in France, the shares of which are listed on the Paris Bourse. The shares of Alcatel are also listed on the New York Stock Exchange (the "NYSE") in the form of American Depositary Shares (the "Alcatel ADSs").

2. Alcatel is currently subject to the reporting requirements of the U.S. Securities and Exchange Commission and the NYSE, and is not a "reporting issuer" in any of the Jurisdictions.

3. As at December 31, 1999, Alcatel's authorized capital consisted of Alcatel shares of nominal value of EURO 10 each, of which 199,895,247 Alcatel shares were issued and outstanding. As at December 31, 1999, Alcatel ADSs representing 17,661,164 Alcatel shares were issued and outstanding.

4. Alcatel Holdings will be an indirect wholly-owned subsidiary of Alcatel. It will be incorporated under the *Company Act* (Nova Scotia) for the purpose of implementing the Arrangement. Alcatel Holdings' only material assets upon completion of the Arrangement will be the issued and outstanding common shares in the capital of Newbridge (the "Newbridge Common Shares"). Alcatel Holdings will also hold the various call rights related to the non-voting exchangeable shares to be created in the capital of Newbridge pursuant to the Arrangement (the Exchangeable Shares").

5. The authorized capital of Alcatel Holdings will consist solely of common shares. Upon completion of the Arrangement, all of the issued and outstanding common shares of Alcatel Holdings will be held directly or indirectly by Alcatel.

6. Newbridge is a reporting issuer or the equivalent thereof, where applicable, in all the Jurisdictions (other than Quebec) and Newbridge's Common Shares are listed on The Toronto Stock Exchange (the "TSE") and the NYSE.

7. Newbridge's authorized capital consists of an unlimited number of Newbridge Common Shares and an unlimited number of participating preferred shares. As at February 22, 2000, there were 181,824,826 issued and outstanding Newbridge Common Shares and no issued or outstanding participating preferred shares. As at February 22, 2000, options to acquire no more than 32,916,053 Newbridge Common Shares were granted and outstanding under unexercised options to purchase Newbridge Common Shares (the "Newbridge Options"), rights to acquire not more than 13,000 Newbridge Common Shares were granted and outstanding under the Newbridge Employee Stock Purchase Plan, and rights to acquire 285,000 Newbridge Common Shares were granted and outstanding under warrants to purchase Newbridge Common Shares (the "Newbridge Warrants").

8. On February 23, 2000, Alcatel and Newbridge entered into a merger agreement dated as of February 22, 2000 (the "Merger Agreement"). The Merger will be effected by way of the Arrangement, pursuant to which Alcatel, through Alcatel Holdings, will own all of the Newbridge Common Shares.

9. Under the Arrangement, the authorized share capital of Newbridge will be reorganized by creating a new class of shares to be designated as Exchangeable Shares. Each Newbridge Common Share (other than those held by Alcatel and its affiliates and by a Newbridge shareholder who exercises his, her or its right of dissent) will be changed into 0.81 Exchangeable Shares. Alcatel Holdings will also acquire one Newbridge Common Share from treasury for $1.00. The

holders of Exchangeable Shares will receive cash in lieu of any fractional shares they would otherwise be entitled to receive equal to each holder's *pro rata* proportion of the net proceeds received from the sale of whole shares representing the accumulation of all fractional interests in Exchangeable Shares. At the effective time of the Arrangement, at the option of each holder, each Exchangeable Share received from the change of Newbridge Common Shares into Exchangeable Shares may be retained by the holder or transferred to Alcatel Holdings in exchange for one Alcatel ADS. Failure by a holder to duly elect to retain Exchangeable Shares will result in the transfer of such Exchangeable Shares to Alcatel Holdings in exchange for Alcatel ADSs. Immediately following such exchange, the Exchangeable Shares acquired by Alcatel Holdings shall be transferred by it to Newbridge in return for Newbridge Common Shares from treasury.

10. Following the effective time of the Arrangement, each Exchangeable Share will be retractable at any time at the option of the holder for one Alcatel ADS.

11. Newbridge Options held by existing and former directors, officers and employees of Newbridge and its affiliates will be replaced in the Arrangement by options to acquire that number of Alcatel ADSs equal to the number of Newbridge Common Shares that may be purchased as if such Newbridge Options were exercisable and exercised immediately prior to the effective date of the Arrangement, multiplied by 0.81 (the "Replacement Options"). The exercise price for each Alcatel ADS that may be acquired pursuant to the Replacement Options will equal the exercise price of the Newbridge Options, divided by 0.81. The vesting period for certain Newbridge Options will be accelerated, but otherwise their remaining provisions will be unchanged.

12. Newbridge Warrants will be amended to provide for the right to purchase the number of Exchangeable Shares equal to the number of Newbridge Common Shares that may be purchased as if such original Newbridge Warrants were exercisable and exercised immediately prior to the effective date of the Arrangement, multiplied by 0.81 (the "Revised Warrants"). The exercise price for each Revised Warrant will equal the exercise price of the original Newbridge Warrant, divided by 0.81, but otherwise their remaining provisions will be unchanged.

13. It is anticipated that the Exchangeable Shares will be listed on the TSE and that the Alcatel ADSs issuable in exchange for the Exchangeable Shares will be listed on the NYSE. Newbridge will therefore remain a reporting issuer in Ontario.

14. The Exchangeable Shares will be entitled to a preference over the Newbridge Common Shares and any other shares ranking junior to the Exchangeable Shares with respect to the payment of dividends and the distribution of assets in the event of a liquidation, dissolution or winding-up of Newbridge whether voluntary or involuntary, or any other distribution of the assets of Newbridge among its shareholders for the purpose of winding-up its affairs. Subject to adjustments, each Exchangeable Share will be retractable by the holder at any time for one Alcatel ADS. The Exchangeable Shares may be redeemed on a one for one basis for Alcatel ADSs at Newbridge's option on or after the fifth anniversary of the effective date of the Arrangement or earlier in certain circumstances, including if fewer than 4,000,000 Exchangeable Shares are held by non-Alcatel entities. Newbridge intends to redeem the Exchangeable Shares on such fifth anniversary if they have not already been redeemed. Provided the Exchangeable Shares are listed on a prescribed stock exchange in Canada, the Exchangeable Shares will be "qualified investments" under the *Income Tax Act* (Canada), as amended (the "ITA"), for certain investors and will not be "foreign property" under the ITA. The Exchangeable Shares are not equity securities of Newbridge within the meaning of the Legislation.

15. In accordance with the terms of an interim order from the Superior Court of Justice (Ontario), the required approval of the holders of the Newbridge Common Shares, Newbridge Options and Newbridge Warrants (collectively, the "Newbridge Securityholders") to the Arrangement will be not less than 66 2/3% of the votes cast at a meeting, at which each holder of Newbridge Common Shares will be entitled to one vote for each Newbridge Common Share held and each holder of Newbridge Options and Newbridge Warrants will be entitled to one vote for each Newbridge Common Share such holder would have received on a valid exercise of such holder's Newbridge Options or Newbridge Warrants, as applicable.

16. In connection with the Arrangement, Newbridge is sending to the Newbridge Securityholders a management proxy circular (the "Circular"). The Circular contains prospectus level disclosure of the business and affairs of each of Alcatel and Newbridge and of the particulars of the Arrangement, and also contains *pro forma* income statements for the year ended December 31, 1999 and a *pro forma* balance sheet as at December 31, 1999, in each case for the combined Alcatel-Newbridge entity based upon financial information for Alcatel as at or for the year ended December 31, 1999 and financial information for Newbridge as at or for the 12 month period ended January 31, 2000. The *pro forma* financial statements are prepared in U.S. dollars and in accordance with U.S. generally accepted accounting principles ("U.S. GAAP").

17. In connection with the Arrangement, Alcatel, Alcatel Holdings, Newbridge and a trustee will enter into an exchange trust agreement (the "Exchange Trust Agreement") and Alcatel, Alcatel Holdings and Newbridge will enter into a support agreement (the "Support Agreement"). These two agreements, together with the rights, privileges, restrictions and conditions attaching to the Exchangeable Shares (the "Exchangeable Share Provisions"), result in the economic attributes of the Exchangeable Shares being substantially equivalent in all material respects to the economic attributes of the Alcatel ADSs (without taking into account tax effects). However, as a result of

certain requirements of French corporate law, the holders of Exchangeable Shares will not be provided with voting rights at the Alcatel level unless and until they exchange their Exchangeable Shares for Alcatel ADSs.

18. Pursuant to the Exchange Trust Agreement, Alcatel Holdings will grant to a trustee (the "Trustee") for the benefit of holders (other than Alcatel and its affiliates) of the Exchangeable Shares (the "Beneficiaries") the right to require Alcatel Holdings to purchase from any Beneficiary all or any part of the Exchangeable Shares held by such Beneficiary upon the occurrence and during the continuance of an insolvency event involving Newbridge (the "Exchange Rights"). Under the Exchange Trust Agreement, the Trustee also holds for the benefit of the Beneficiaries the obligation of Alcatel Holdings to effect an automatic exchange of Exchangeable Shares for Alcatel ADSs in the case of an insolvency or liquidation event affecting Alcatel (the "Automatic Exchange Rights"). In addition, Alcatel will covenant to, among other things, cause to be fulfilled all of the obligations of Alcatel Holdings under the Exchange Trust Agreement.

19. The Support Agreement will restrict Alcatel from declaring or paying dividends on the Alcatel ADSs unless equivalent dividends are declared and paid on the Exchangeable Shares. In addition, pursuant to the Support Agreement, Alcatel may not make any changes to the Alcatel ADSs (e.g., subdivision, consolidation or reclassification) unless the same or economically equivalent changes are simultaneously made to, or in the rights of the holders of, the Exchangeable Shares.

20. The steps under the Arrangement, the attributes of the Exchangeable Shares and the creation and exercise of certain rights provided for in the Exchangeable Share Provisions, the Exchange Trust Agreement and the Support Agreement involve or may involve "trades" and/or "distributions" (the "Trades") of securities under the Legislation, including:

(a) the change of Newbridge Common Shares into Exchangeable Shares and the delivery by Newbridge of the Exchangeable Shares in connection with the Arrangement;

(b) the issuance of one Newbridge Common Share to Alcatel Holdings in connection with the Arrangement;

(c) the issuance by Alcatel of Alcatel ADSs to enable Alcatel Holdings to deliver Alcatel ADSs in connection with the Arrangement;

(d) the transfer of Exchangeable Shares by certain holders thereof to Alcatel Holdings in connection with the Arrangement and the delivery of Alcatel ADSs by Alcatel Holdings to such holders;

(e) the transfer of Exchangeable Shares by Alcatel Holdings to Newbridge in connection with the Arrangement and the issuance and delivery by Newbridge of Newbridge Common Shares in exchange for such Exchangeable Shares;

(f) the exchange of Newbridge Options for Replacement Options and the issuance and delivery of Alcatel ADSs by Alcatel to a holder of a Replacement Option upon the exercise thereof;

(g) the amendment of the Newbridge Warrants and the issuance and delivery of Exchangeable Shares by Newbridge or Alcatel ADSs by Alcatel and Alcatel Holdings to a holder of a Revised Warrant upon the exercise thereof;

(h) the grant to the trustee under the Exchange Trust Agreement for the benefit of holders of Exchangeable Shares, pursuant to the Exchange Trust Agreement, of the Exchange Rights and the Automatic Exchange Rights;

(i) the grant of the overriding call right of Alcatel Holdings to purchase all of the outstanding Exchangeable Shares from the holders of such shares upon a proposed liquidation, dissolution or winding-up of Newbridge (the "Liquidation Call Right");

(j) the grant of the overriding call right of Alcatel Holdings to purchase from a holder of Exchangeable Shares all of the Exchangeable Shares of such holder that are the subject of a retraction notice (the "Retraction Call Right");

(k) the grant of the overriding call right of Alcatel Holdings to purchase all of the outstanding Exchangeable Shares from the holders of such shares upon notice from Newbridge of a proposed redemption of Exchangeable Shares (the "Redemption Call Right");

(l) the issuance by Alcatel of Alcatel ADSs to enable Newbridge to deliver Alcatel ADSs to a holder of Exchangeable Shares upon its retraction of Exchangeable Shares, and the subsequent delivery by Alcatel Holdings (at the direction of Newbridge) of Alcatel ADSs upon such retraction;

(m) the transfer of Exchangeable Shares by the holder thereof to Newbridge upon the holder's retraction of Exchangeable Shares;

(n) the issuance by Alcatel of Alcatel ADSs to enable Alcatel Holdings to deliver Alcatel ADSs to a holder of Exchangeable Shares in connection with Alcatel Holdings' exercise of the Retraction Call Right, and the subsequent delivery by Alcatel Holdings of Alcatel ADSs upon such exercise of the Retraction Call Right;

(o) the transfer of Exchangeable Shares by the holder thereof to Alcatel Holdings upon Alcatel Holdings exercising the Retraction Call Right;

(p) the issuance by Alcatel of Alcatel ADSs to enable Newbridge to deliver Alcatel ADSs to holders of Exchangeable Shares upon the redemption of the Exchangeable Shares, and the subsequent delivery by Alcatel Holdings (at the direction of Newbridge) of Alcatel ADSs upon such redemption;

(q) the transfer of Exchangeable Shares by the holder thereof to Newbridge upon the redemption of Exchangeable Shares;

(r) the issuance by Alcatel of Alcatel ADSs to enable Alcatel Holdings to deliver Alcatel ADSs to holders of Exchangeable Shares in connection with Alcatel Holdings' exercise of the Redemption Call Right, and the subsequent delivery by Alcatel Holdings of Alcatel ADSs upon such exercise of the Redemption Call Right;

(s) the transfer of Exchangeable Shares by the holder thereof to Alcatel Holdings upon Alcatel Holdings exercising the Redemption Call Right;

(t) the issuance by Alcatel of Alcatel ADSs to enable Newbridge to deliver Alcatel ADSs to holders of Exchangeable Shares on the liquidation, dissolution or winding-up of Newbridge and the subsequent delivery by Alcatel Holdings (at the direction of Newbridge) of Alcatel ADSs upon such liquidation, dissolution or winding-up;

(u) the transfer of Exchangeable Shares by the holder thereof to Newbridge on the liquidation, dissolution or winding-up of Newbridge;

(v) the issuance by Alcatel of Alcatel ADSs to enable Alcatel Holdings to transfer Alcatel ADSs to holders of Exchangeable Shares in connection with Alcatel Holdings' exercise of the Liquidation Call Right, and the subsequent delivery by Alcatel Holdings of Alcatel ADSs upon such exercise of the Liquidation Call Right;

(w) the transfer of Exchangeable Shares by the holder thereof to Alcatel Holdings upon Alcatel Holdings exercising the Liquidation Call Right;

(x) the issuance of Alcatel ADSs by Alcatel and the subsequent delivery thereof by Alcatel Holdings to a holder of Exchangeable Shares upon the exercise of the Exchange Rights or upon the exercise of the Automatic Exchange Rights;

(y) the transfer of Exchangeable Shares by a holder thereof to Alcatel Holdings upon the exercise of the Exchange Rights or upon exercise of the Automatic Exchange Rights;

(z) the transfer to Newbridge of Exchangeable Shares received by Alcatel Holdings as a result of the exercise of the Liquidation Call Right, the Retraction Call Right, the Redemption Call Right, the Exchange Rights and the Automatic Exchange Rights and the issuance and delivery by Newbridge of Newbridge Common Shares in exchange for such Exchangeable Shares; and

(aa) the issuance and delivery of Alcatel shares to enable the creation and issuance of the applicable Alcatel ADSs, or upon the exchange of Alcatel ADSs for Alcatel shares in accordance with the terms of the Alcatel ADSs.

21. The fundamental investment decision to be made by a Newbridge Securityholder is made at the time of the Arrangement, when such holder votes in respect of the Arrangement. As a result of this decision, a holder (other than a holder who exercises its right of dissent) receives Exchangeable Shares or Alcatel ADSs in exchange for its Newbridge Common Shares. The Exchangeable Shares may, at the holder's option, be retracted for Alcatel ADSs. As the Exchangeable Shares will provide certain Canadian tax benefits to certain Canadian holders but will otherwise be the economic equivalent (without taking into account tax effects) in all material respects (absent voting rights) of the Alcatel ADSs, all subsequent exchanges of Exchangeable Shares are in furtherance of the holder's initial investment decision at the time of the Arrangement. That investment decision will be made on the basis of the Circular, which will contain detailed disclosure of the business and affairs of each of Alcatel and Newbridge and of the particulars of the Arrangement.

22. The information respecting Newbridge that would be required to be disseminated through compliance with the requirements described in paragraphs (b) through (d) above is not relevant (and is arguably misleading) to holders of Exchangeable Shares. As indicated above, the election of certain holders of Newbridge Common Shares to receive Exchangeable Shares under the Arrangement will enable those holders to defer certain Canadian income tax and permit other holders to hold property that is not foreign property under the ITA. As a result of the economic equivalency in all material respects between the Exchangeable Shares and the Alcatel ADSs (without taking into account tax effects and absent voting rights), holders of Exchangeable Shares will, in effect, have a non-voting equity interest in Alcatel, rather than Newbridge, as dividend and dissolution entitlements will be determined by reference to the financial performance and condition of Alcatel, not Newbridge. Accordingly, it is the information relating to Alcatel not Newbridge, that will be relevant to holders of both the Alcatel ADSs and the Exchangeable Shares. In light of the fact that the value of the Exchangeable Shares, determined through dividend and dissolution entitlements and capital appreciation, is determined by reference to the consolidated financial performance and condition of Alcatel, and not Newbridge, information respecting the financial condition of Newbridge (otherwise than as included in Alcatel's consolidated financial statements) is not relevant (and is arguably misleading) to holders of Exchangeable Shares.

AND WHEREAS pursuant to the System, this MRRS Decision Document evidences the decision of each Decision Maker (collectively, the "Decision");

AND WHEREAS each of the Decision Makers is satisfied that the test contained in the Legislation that provides the Decision Maker with the jurisdiction to make the Decision has been met;

THE DECISION of the Decision Makers pursuant to the Legislation is that:

1. the Registration Requirements and Prospectus Requirements shall not apply to the Trades;

2. the first trade in Exchangeable Shares acquired under the Arrangement or upon exercise of the Revised Warrants shall be subject to the Prospectus Requirements, other than a trade that is exempt therefrom unless:

(a) Newbridge is a reporting issuer or the equivalent under the Legislation of the Jurisdiction in which the trade takes place (the "Applicable Legislation") or where the Applicable Legislation does not recognize the status of a reporting issuer, the requirements described in paragraph 4 below are met;

(b) if the seller is in a special relationship with or is an "insider" of Newbridge (as defined in the Applicable Legislation) the seller has reasonable grounds to believe that Newbridge is not in default of any requirement of the Applicable Legislation;

(c) no unusual effort is made to prepare the market or to create a demand for the Exchangeable Shares, and no extraordinary commission or consideration is paid in respect of such first trade;

(d) disclosure of the exempt trade is made to the Decision Maker(s) (the Decision Makers hereby confirming that the filing of the Circular with the Decision Makers at the time of mailing the Circular to holders of Newbridge Common Shares constitutes disclosure to the Decision Makers of the exempt trade); and

(e) such first trade is not made from the holdings of any person, company or combination of persons or companies holding a sufficient number of any securities of Newbridge to affect materially the control of Newbridge, but any holding of any person, company or combination of persons or companies holding more than 20% of the outstanding voting securities of Newbridge or Alcatel shall, in the absence of evidence to the contrary, be deemed to affect materially the control of Newbridge, unless:

(i) if applicable, Newbridge is a reporting issuer or the equivalent under the Applicable Legislation and is not in default of any requirement thereof;

(ii) the seller files with the applicable Decision Maker(s) and any other stock exchange recognized by such Decision Maker(s) for this purpose on which the Exchangeable Shares are listed at least seven days and not more than fourteen days prior to such first trade;

(A) a notice of intention to sell in the form prescribed by the Applicable Legislation for control block distributions (the "Control Block Rules") disclosing particulars of the control position known to the seller, the number of Exchangeable Shares to be sold and the method of distribution; and

(B) a declaration signed by the seller as at a date not more than twenty-four hours prior to its filing and prepared and executed in accordance with the Control Block Rules and certified as follows:

"the seller for whose account the securities to which this certificate relates are to be sold hereby represents that the seller has no knowledge of any material change which has occurred in the affairs of the issuer of the securities which has not been generally disclosed and reported to the [name of securities regulatory authority in the Jurisdiction where the trade takes place], nor has the seller any knowledge of any other material adverse information in regard to the current and prospective operations of the issuer which have not been generally disclosed",

provided that the notice required to be filed under section 2(e)(ii)(A) and the declaration required to be filed under the section 2(e)(ii)(B) shall be renewed and filed at the end of sixty days after the original date of filing and thereafter at the end of each twenty-eight day period so long as any of the Exchangeable Shares specified under the original notice have not been sold or until notice has been filed that the Exchangeable Shares so specified or any part thereof are no longer for sale;

(iii) the seller files with the applicable Decision Maker(s) within three days after the completion of any such first trade, a report of the trade in the form prescribed by the Applicable Legislation;

(iv) no unusual effort is made to prepare the market or to create a demand for the Exchangeable Shares and no extraordinary commission or other consideration is paid in respect of such first trade; and

(v) the seller (or affiliated entity) has held the Exchangeable Shares and/or Newbridge Common Shares for a period of at least twelve months, provided that if:

(A) the Applicable Legislation provides that, upon a seller to whom the Control Block Rules apply, acquiring additional securities of a class pursuant to certain prescribed exemptions from prospectus requirements under such legislation, all securities of such class are subject to a hold period commencing the date the last security of the class was acquired under such prescribed exemptions;

(B) the seller acquires Exchangeable Shares pursuant to any such prescribed exemptions;

then all Exchangeable Shares held by the seller will be subject to such hold period commencing on the date any such subsequent Exchangeable Shares are so acquired;

3. the first trade in Alcatel ADSs (or Alcatel shares represented thereby) acquired under the Arrangement, upon the retraction or redemption of Exchangeable Shares, in connection with the liquidation, dissolution or winding-up of Newbridge or upon the exercise of the Liquidation Call Right, the Retraction Call Right, the Redemption Call Right, the Exchange Rights or the Automatic Exchange Rights, or upon the exercise of the Replacement Options or upon exercise of the Revised Warrants shall be subject to the Prospectus Requirements other than a trade that is exempt therefrom unless such trade is executed through the facilities of a stock exchange or market outside of Canada in accordance with all laws and rules applicable to the stock exchange or market; and

4. the Material Change Reporting Requirements, Financial Statement Requirements and Proxy Requirements shall not apply to Newbridge and Insider Reporting Requirements shall not apply to an insider of Newbridge who is an insider only by virtue of being a director or senior officer of Newbridge or a subsidiary of Newbridge or to transactions in exchangeable shares by Alcatel Holdings, provided that, at the time that any such requirement would otherwise apply:

(a) Alcatel sends to all holders of Exchangeable Shares resident in Canada contemporaneously, all disclosure material furnished to holders of Alcatel ADSs resident in the United States, including, without limitation, copies of its annual financial statements and all notices prepared in connection with Alcatel's Shareholder meetings;

(b) Alcatel files with the Decision Makers copies of all documents required to be filed by it with the U.S. Securities and Exchange Commission under the *United States Securities Exchange Act of 1934*, as amended, including without limitation, copies of any Form 20-F, Form 6-K and notices prepared in connection with Alcatel's shareholder meetings;

(c) Alcatel complies with the requirements of the NYSE in respect of making public disclosure of material information on a timely basis and forthwith issues in Canada and files with the Decision Makers any press release that discloses a material change in Alcatel's affairs;

(d) the Circular includes a statement that, as a consequence of this order, Newbridge and its insiders will be exempt from certain disclosure requirements applicable to reporting issuers and its insiders in Canada, and specifies those requirements Newbridge and its insiders have been exempted from, and identifies the disclosure that will be made in substitution therefor;

(e) Newbridge complies with the Material Change Reporting Requirements in respect of material changes in the affairs of Newbridge that would be material to holders of Exchangeable Shares but would not be material to holders of Alcatel ADSs;

(f) Alcatel includes in all future mailings of proxy solicitation materials (if any) to holders of Exchangeable Shares a clear and concise statement explaining the reason for the mailed material being solely in relation to Alcatel and not in relation to Newbridge, such statement to include a reference to the economic equivalency between the Exchangeable Shares and the Alcatel ADSs (without taking into account tax effects);

(g) Alcatel remains the direct or indirect beneficial owner of all the issued and outstanding Newbridge Common Shares; and

(h) Alcatel's annual audited financial statements are reconciled to U.S. GAAP (or international GAAP, if this becomes acceptable in Canada) in its Form 20-F or equivalent documents) and such reconciliation is audited.

May 23rd, 2000.

"Robert W. Korthals" "J.F. Howard"

2.1.5 Overseas Partners Ltd. - MRRS Decision

Headnote

MRRS- Relief granted from the registration and prospectus requirements to permit issuance of common shares by a U.S. issuer to a de minimus number of its current Canadian shareholders.

Applicable Ontario Statutory Provisions

Securities Act, R.S.O. 1990, c.S.5, as am., s.25, 35(1) 14, 53, 72(1)(h), and 74(1).

Regulations Cited

Regulation made under the Securities Act, R.R.O. 1990, Reg. 1015, as am.

IN THE MATTER OF THE SECURITIES LEGISLATION OF BRITISH COLUMBIA, ALBERTA, SASKATCHEWAN, MANITOBA, ONTARIO, QUEBEC, NOVA SCOTIA AND NEW BRUNSWICK

AND

IN THE MATTER OF THE MUTUAL RELIANCE REVIEW SYSTEM FOR EXEMPTIVE RELIEF APPLICATIONS

AND

IN THE MATTER OF OVERSEAS PARTNERS LTD.

MRRS DECISION DOCUMENT

WHEREAS the Canadian securities regulatory authority or regulator (the "Decision Maker") in each of British Columbia, Alberta, Saskatchewan, Manitoba, Ontario, Quebec, Nova Scotia and New Brunswick (the "Jurisdictions") received an application from Overseas Partners Ltd. ("OPL") for a decision pursuant to the securities legislation of the Jurisdictions (the "Legislation") that the registration requirement and prospectus requirement as defined in National Instrument 14-101 – Definitions, of the Legislation (the "Registration and Prospectus Requirements") shall not apply to certain trades in securities made by OPL to its shareholders;

AND WHEREAS pursuant to the Mutual Reliance Review System for Exemptive Relief Applications (the "System"), the Ontario Securities Commission is the principal regulator for this application;

AND WHEREAS it has been represented by OPL to the Decision Makers that:

1. OPL is a company incorporated under the laws of Bermuda.

2. OPL primarily operates as a reinsurance company providing property, workers' compensation, aviation, marine, medical benefits, finite risk and other specialty reinsurance products.

3. OPL is a registrant with the United States Securities and Exchange Commission (the "SEC") and is up to date on all required filings with the SEC. OPL is not a reporting issuer in any province of Canada.

4. OPL's authorized share capital consists of 900,000,000 common shares (the "Common Shares") and 200,000,000 preference shares, of which 127,500,000 Common Shares and no preference shares were issued and outstanding as of March 31, 2000.

5. Neither the Common Shares nor the preference shares are listed on any securities exchange or traded in the organized over-the-counter markets.

6. Pursuant to OPL's by-laws, Common Shares may not be transferred, except by a *bona fide* gift or inheritance, unless such shares have first been offered, by written notice, for sale to OPL at a particular price and on the same terms upon which they are to be offered to the proposed transferee.

7. The by-laws also provide OPL with the right to purchase Common Shares from Shareholders in certain instances (such as death and termination of employment).

8. In addition, the board of directors of OPL has stated that it is currently prepared to purchase up to 10% of the Common Shares held by any shareholder of record on November 23, 1999 from that date through to November 1, 2000.

9. As at March 31, 2000, there were approximately 97,000 registered holders of Common Shares, with 923 holders (less than 1%) resident in Canada (the "Canadian Shareholders"), holding 285,868 Common Shares (representing approximately 0.18% of the 127,500,000 issued and outstanding Common Shares).

10. The provincial breakdown of Canadian Shareholders is as follows: Ontario (583 holders, holding 167,512 Common Shares) British Columbia (54 holders, holding 58,105 Common Shares); Alberta (38 holders, holding 12,511 Common Shares); Saskatchewan (7 holders, holding 275 Common Shares); Manitoba (28 holders, holding 3,887 Common Shares); QuJbec (143 holders, holding 30,569 Common Shares); New Brunswick (67 holders, holding 12,653 Common Shares); and Nova Scotia (1 holder, holding 80 Common Shares).

11. The Canadian Shareholders are not employees of OPL. Rather, the holders are generally employees (or former employees) of United Parcel Service of America, Inc. (now United Parcel Service, Inc.), ("UPSA"), OPL's former parent company.

12. Prior to July 21, 1999, Common Shares had been bundled with shares of UPSA and provided as stock compensation awards to UPSA employees, some of whom were resident in Canada.

13. Canadian Shareholders acquired Common Shares issued through the UPSA awards under discretionary relief obtained from the Decision Makers in those jurisdictions where UPSA employees resided.

14. On July 21, 1999, UPSA announced its intention to make an initial public offering under which trading commenced November 10, 1999, and OPL ceased providing Common Shares as stock compensation awards to UPSA employees.

15. OPL is proposing to sell Common Shares to its existing shareholders (the "Offer").

16. The Offer is being made to permit existing OPL shareholders to increase their equity interest in OPL. Proceeds derived from the Offer will be added to OPL's cash and used for general business purposes.

17. The Offer will be made on a continuous basis pursuant to Rule 415 of the *United States Securities Act of 1933* (the "1933 Act").

18. In connection with the Offer and to register the Common Shares for sale in the United States, OPL has filed a Form S-3 registration statement with the SEC (the "U.S. Prospectus").

19. OPL will provide to each registered holder of Common Shares a copy of the final U.S. Prospectus as filed with the SEC.

20. For the purpose of offering Common Shares to Canadian Shareholders, additional Canadian disclosure requirements will be provided in the form of a "wrapper" to the U.S. Prospectus (the "Canadian Wrapper"). Such disclosure will include a warning to the effect that there is no liquid market for the Common Shares and that the transfer of Common Shares is subject to resale restrictions.

21. The U.S. Prospectus will register that number of Common Shares that OPL reasonably believes will satisfy shareholder demand for two years. Unless terminated in OPL's discretion, the Offer will continue for two years, and potentially for an indefinite period until the Common Shares registered by the U.S. Prospectus are sold. Initially, OPL proposes to sell up to 6,000,000 Common Shares under the Offer, although this number may be increased from time to time. Shareholders may subscribe for not more than 10,000 and not less than 50 Common Shares pursuant to the Offer in any given year; however, OPL will have the right to accept or reject, in whole or part, any subscription. Common Shares will be issued under the Offer at their fair market value. Currently, the board of directors of OPL has determined that the fair market value is US$21.50 per Common Share. This value will be reviewed by the board biannually, and adjusted accordingly.

22. As an SEC registrant, OPL must file continuous disclosure materials with the SEC. All documents filed by OPL pursuant to Sections 13(a), 13(c), 14 or 15(d) of the 1933 Act after the date of the U.S. Prospectus and prior to the expiry or termination of the Offer, will be deemed to be incorporated by reference in the U.S. Prospectus. OPL mails to its shareholders annual and quarterly reports and shareholders will have access to additional continuous disclosure materials in the manner described in the U.S. Prospectus.

23. The Canadian Shareholders will have the same rights, if any, available to them under the U.S. Prospectus as the shareholders of OPL resident in the United States to whom the Offer is made.

24. In absence of the ruling requested herein, the issue of Common Shares by OPL to Canadian Shareholders pursuant to the Offer will not be exempt from the Registration and Prospectus Requirements in the Legislation.

AND WHEREAS pursuant to the System this MRRS Decision Document evidences the decision of each Decision Maker;

AND WHEREAS each of the Decision Makers is satisfied that the test contained in the Legislation that provides the Decision Maker with the jurisdiction to make this Decision has been met:

The decision of the Decision Makers under the Legislation is that the Registration and Prospectus Requirements shall not apply to trades by OPL to Canadian Shareholders in Common Shares pursuant to the Offer, provided that the first trade in Common Shares acquired pursuant to this decision shall be deemed a distribution or primary distribution to the public under the Legislation of the Jurisdiction in which the trade takes place unless otherwise exempt thereunder.

July 13th, 2000.

"J. A. Geller" "Stephen N. Adams"

2.1.6 Scotia Capital Inc. and Lifeco Split Corporation Inc. - MRRS Decision

Headnote

Mutual Reliance Review System for Exemptive Relief Applications - the prohibitions contained in the Legislation prohibiting trading in portfolio shares by persons or companies having information concerning the trading programs of mutual funds shall not apply to the promoter/agent with respect to certain principal trades with the issuer in securities comprising the issuer's portfolio in connection with an offering where underlying interest consists of a portfolio of common shares of Canadian life insurance companies.

The restrictions restricting registrants from acting as underwriters in connection with the distribution of securities of a related or connected issuer shall not apply to the promoter/agent in connection with the offering.

Market making trades by promoter/agent shall not be subject to requirements to file and obtain a receipt for a preliminary and final prospectus provided that the promoter/agent and its affiliates do not beneficially own or have the power to exercise control of a sufficient number of voting securities of an issuer of the securities comprising the issuer's portfolic to permit the promoter/agent to affect materially the control of such issuer.

Applicable Ontario Statutes

Securities Act, R.S.O. 1990, c.S.5, as amended, ss. 1(1), 53, 59, 74(1), 119, 121(2)(a)(ii).

Applicable Ontario Regulations

Regulation made under the Securities Act, R.R.O. 1990, Reg. 1015, as amended, ss. 233, 224(1)(b).

**IN THE MATTER OF
THE CANADIAN SECURITIES LEGISLATION OF BRITISH COLUMBIA, ALBERTA, SASKATCHEWAN, MANITOBA, ONTARIO,
QUEBEC, NEW BRUNSWICK, NOVA SCOTIA,
PRINCE EDWARD ISLAND AND NEWFOUNDLAND**

AND

**IN THE MATTER OF
THE MUTUAL RELIANCE REVIEW SYSTEM FOR EXEMPTIVE RELIEF APPLICATIONS**

AND

**IN THE MATTER OF
SCOTIA CAPITAL INC. AND LIFECO SPLIT CORPORATION INC.**

MRRS DECISION DOCUMENT

WHEREAS the Canadian securities regulatory authority or regulator (the "Decision Maker") in each of British Columbia, Alberta, Saskatchewan, Manitoba, Ontario, Quebec, New Brunswick, Nova Scotia, Prince Edward Island and Newfoundland (the "Jurisdiction") has received an application from Lifeco Split Corporation Inc. (the "Issuer") and Scotia Capital Inc. ("Scotia Capital") in connection with the distribution (the "Offering") of Class A capital shares (the "Capital Shares") and Class A preferred shares (the "Preferred Shares") of the Issuer by Scotia Capital and such other agents as may be appointed (collectively, the "Agents"), pursuant to a prospectus for a decision pursuant to the securities legislation of the Jurisdictions (the "Legislation") that:

(A) the restrictions contained in the Legislation restricting registrants from acting as underwriters in connection with the distribution of securities of a related or connected issuer (the "Underwriting Restrictions") shall not apply to Scotia Capital in connection with the Offering;

(B) the requirements contained in the legislation to file and obtain a receipt for a preliminary prospectus and final prospectus (the "Prospectus Requirements") shall not apply to Market Making Trades (as hereinafter defined) by Scotia Capital in Capital Shares and Preferred Shares of the Issuer; and

(C) the prohibitions contained in the Legislation prohibiting trading in portfolio shares by persons or companies having information concerning the trading programs of mutual funds (the "Principal Trading Prohibitions") shall not apply to Scotia Capital in connection with the Principal Sales and Principal Purchases (both as hereinafter defined);

subject to certain conditions;

AND WHEREAS under the Mutual Reliance Review System for Exemptive Relief Applications (the "MRRS"), the Ontario Securities Commission is the principal regulator for this application;

AND WHEREAS the Issuer and Scotia Capital have represented to the Decision Makers as follows:

1. The Issuer was incorporated under the laws of Quebec on June 1, 2000 and has its principal office at 40 King Street West, Scotia Plaza, 26th Floor, P.O. Box 4085, Station A, Toronto, Ontario, M5W 2X6.

2. The Issuer has filed with the securities regulatory authorities of the Jurisdictions a preliminary prospectus dated June 5, 2000 (the "Preliminary Prospectus") in respect of the Offering of Capital Shares and Preferred Shares to the public.

3. The Issuer intends to become a reporting issuer under the Legislation by filing a final prospectus (the "Final Prospectus") relating to the Offering.

4. The authorized capital of the Issuer consists of an unlimited number of Capital Shares, an unlimited number of Preferred Shares and an unlimited number of Class F Shares, having the attributes described in the Preliminary Prospectus, an unlimited number of class B, C, D and E capital shares, issuable in series and an unlimited number of class B, C, D and E preferred shares, issuable in series.

5. The Capital Shares and Preferred Shares may be surrendered for retraction at any time in the manner described in the Preliminary Prospectus.

6. All Capital Shares and Preferred Shares outstanding on a date approximately five years from the closing of the Offering (the "Redemption Date") will be redeemed by the Issuer on such date and Preferred Shares will be redeemable at the option of the Issuer on any Annual Retraction Payment date (as described in the Preliminary Prospectus).

7. Application has been made to list the Capital Shares and Preferred Shares on The Toronto Stock Exchange (the "TSE").

8. The Class F Shares will be the only voting shares in the capital of the Issuer. There will be at the time of filing the Final Prospectus, 100 Class F Shares issued and outstanding. Scotia Capital will own all of the 50 issued and outstanding Class F Shares, Series 1 of the Issuer and Lifeco Split Holdings Inc. will own all of the 50 issued and outstanding Class F Shares, Series 2 of the Issuer. Two employees of Scotia Capital each own 50% of the common shares of Lifeco Split Holdings Inc.

9. The Issuer has a board of directors which currently consists of three directors. All of the current directors are employees of Scotia Capital or one of its affiliates. Also, the offices of President/Chief Executive Officer and Chief Financial Officer/Secretary of the Issuer are held by employees of Scotia Capital or one of its affiliates. Prior to filing the Final Prospectus, at least two additional directors, independent of Scotia Capital and its affiliates, will be appointed to the board of directors of the Issuer.

10. The Issuer is a passive investment company whose principal undertaking will be to invest the net proceeds of the Offering in a portfolio of the common shares (the "Portfolio Shares") of selected publicly listed Canadian life insurance companies (individually, a "Life Insurance Company", and collectively, the "Life Insurance Companies"). The purpose of the Issuer is to provide a vehicle through which different investment objectives with respect to participation in Portfolio Shares may be satisfied.

11. The Issuer is considered to be a mutual fund as defined in the Legislation. Since the Issuer does not operate as a conventional mutual fund, it has made application for a waiver from certain requirements of National Instrument 81-102.

12. Scotia Capital was incorporated under the laws of Ontario and is a direct, wholly-owned subsidiary of The Bank of Nova Scotia, is registered under the Legislation as a dealer in the categories of "broker" and "investment dealer" and is a member of the Investment Dealers Association of Canada and the TSE.

13. Scotia Capital is the promoter of the Issuer.

14. Pursuant to an administration agreement (the "Administration Agreement") to be entered into, the Issuer will retain Scotia Capital to administer the ongoing operations of the Issuer and will pay Scotia Capital an administration fee equal to:

(i) a monthly fee of $^1/_{12}$ of 0.15% of the market value of the Portfolio Shares; and

(ii) any interest income earned by the Issuer from time to time excluding interest earned on any investment of surplus dividends received on the Portfolio Shares.

4. Pursuant to an agreement (the "Agency Agreement") to be made between the Issuer and Scotia Capital and such other agents as may be appointed after the date of this application (collectively, the "Agents" and individually, an "Agent"), the Issuer will appoint the Agent(s) as its agent(s) to offer the Capital Shares and Preferred Shares of the Issuer on a best efforts basis and the Final Prospectus qualifying the Offering will contain a certificate signed by each of the Agent(s) in accordance with the Legislation.

5. Scotia Capital's economic interest in the Issuer and in the material transactions involving the Issuer are disclosed in the Preliminary Prospectus and will be disclosed in the Final Prospectus under the heading "Interest of Management and Others in Material Transactions" and include the following:

(i) agency fees with respect to the Offering;

(ii) an administration fee under the Administration Agreement;

(iii) commissions in respect of the disposition of Portfolio Shares to fund a redemption or retraction, or the purchase for cancellation, of the Capital Shares and Preferred Shares, or to fund a portion of the fixed distributions on the Preferred Shares or to repay amounts under the Issuer's revolving credit facility;

(iv) interest payments under the Issuer's revolving credit facility;

(v) interest and reimbursement of expenses, in connection with the acquisition of Portfolio Shares; and

(vi) in connection with Principal Sales and Principal Purchases (as described in paragraphs 25 and 27 below).

7. Pursuant to an agreement (the "Securities Purchase Agreement") to be entered into between the Issuer and Scotia Capital, Scotia Capital will purchase, as agent for the benefit of the Issuer, Portfolio Shares in the market on commercial terms or from non-related parties with whom Scotia Capital and the Issuer deal at arm's length. Subject to receipt of the relief granted hereby, Scotia Capital may, as principal, also sell Portfolio Shares to the Issuer (the "Principal Sales"). The aggregate purchase to be paid by the Issuer for the Portfolio Shares (together with carrying costs and other expenses incurred in connection with the purchase of the Portfolio Shares) will not exceed the net proceeds from the Offering.

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

9. All Principal Sales will be approved by at least two independent directors of the issuer and no commissions will be paid to Scotia Capital in respect of any Principal Sales.

10. For the reasons set forth below, the interests of the Issuer and the shareholders of the Issuer may be enhanced by insulating the Issuer from price increases in respect of the Portfolio Shares.

11. None of the Portfolio Shares to be sold by Scotia Capital as principal to the Issuer have been acquired, nor has Scotia Capital agreed to acquire, any Portfolio Shares while Scotia Capital had access to information concerning the investment program of the Issuer, although certain of the Portfolio Shares to be held by the Issuer may be acquired or Scotia Capital may agree to acquire such Portfolio Shares on or after the date of this Decision Document.

12. The Final Prospectus will disclose the acquisition cost of the Portfolio Shares and selected information with respect to the dividend policy and trading history of the Portfolio Shares.

13. The Issuer is not, and will not upon the completion of the Offering, be an insider of any Life Insurance Company within the meaning of the Legislation.

14. Scotia Capital does not have any knowledge of a material fact or material change with respect to the Life Insurance Companies which has not been disclosed to the public.

15. Under the Securities Purchase Agreement, Scotia Capital may receive commissions at normal market rates in respect of its purchase of Portfolio Shares, as agent on behalf of the Issuer, and the Issuer will pay any carrying costs or other expenses incurred by Scotia Capital, on behalf of the Issuer, in connection with its purchase of Portfolio Shares as agent on behalf of the Issuer. In respect of the Principal Sales made to the Issuer by Scotia Capital as principal, Scotia Capital may realize a financial benefit to the extent that the proceeds received from the Issuer exceed the aggregate cost to Scotia Capital of such Portfolio Shares. Similarly, the proceeds received from the Issuer may be less than the aggregate cost to Scotia Capital of the Portfolio Shares and Scotia Capital may realize a financial loss, all of which is described in the Preliminary Prospectus and will be described in the Final Prospectus.

16. The net proceeds from the offering of the Capital Shares and the Preferred Shares (after deducting the Agent(s)' fees, expenses of the issue and the Issuer's interest and other expenses relating to the acquisition of the Portfolio Shares) will be used by the Issuer to fund the purchase of the Portfolio Shares.

17. In connection with the services to be provided by Scotia Capital to the Issuer pursuant to the Administration Agreement, Scotia Capital may sell Portfolio Shares to fund retractions of Capital Shares and Preferred Shares prior to the Redemption Date, to fund a portion of the fixed distributions on the Preferred Shares, or to repay amounts under the Issuer's revolving credit facility and upon liquidation of the Portfolio Shares prior to the Redemption Date. These sales will be made by Scotia Capital as agent on behalf of the Issuer. Subject to the relief granted hereby, in certain circumstances such as where a small number of Capital Shares and Preferred Shares have been surrendered for retraction, Scotia Capital may also purchase Portfolio Shares as principal (the "Principal Purchases").

18. In connection with any Principal Purchases, Scotia Capital will comply with the rules, procedures and policies of the applicable stock exchange of which it is a member and in accordance with orders obtained from all applicable securities regulatory authorities. The Preliminary Prospectus discloses and the Final Prospectus will disclose that Scotia Capital may realize a gain or loss on the resale of such securities.

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

20. Scotia Capital will not receive any commissions from the Issuer in connection with the Principal Purchases and, in carrying out the Principal Purchases, Scotia Capital shall deal fairly, honestly and in good faith with the Issuer.

21. It will be the policy of the Issuer to hold the Portfolio Shares and to not engage in any trading of the Portfolio Shares, except:

(a) to fund retractions or redemptions of Capital Shares and Preferred Shares;

(b) to fund a portion of the fixed distributions on the Preferred Shares;

(c) to repay amounts under the Issuer's revolving credit facility;

(d) following receipt of stock dividends on Portfolio Shares; or

(e) in certain other limited circumstances described in the Preliminary Prospectus, such as the occurrence of an extraordinary transaction or business combination involving one of the Life Insurance Companies.

22. Scotia Capital will be a significant maker of markets for Capital Shares and Preferred Shares, although it is not anticipated that Scotia Capital will be appointed the registered pro-trader by the TSE with respect to the Issuer. As a result, Scotia Capital will, from time to time, purchase and sell Capital Shares and Preferred Shares as principal and trade in such securities as agent on behalf of its clients, the primary purpose of such trades (the "Market Making Trades") being to provide liquidity to the holders of Capital Shares and Preferred Shares. All trades made by Scotia Capital as principal will be recorded daily by the TSE.

23. As Scotia Capital owns 50% of the Class F Shares of the Issuer, Scotia Capital will be deemed to be in a position to affect materially the control of the Issuer and consequently, each Market Making Trade will be a "distribution" or "distribution to the public" within the meaning of the Legislation.

24. By virtue of Scotia Capital's relationship with the Issuer, including the fact that three of the directors of the Issuer and all of the officers of the Issuer are employees of Scotia Capital and its affiliates and Scotia Capital is the promoter of the Issuer, the Issuer is a connected (or its equivalent) and/or related issuer (or its equivalent) of Scotia Capital under the Legislation.

25. It is not known at this time what proportions of the Offering will be sold by additional agents other than Scotia Capital.

26. The Issuer is not and it is not expected that the Issuer could be in financial difficulty.

AND WHEREAS under the MRRS this Decision Document evidences the decision of each Decision Maker (collectively, the "Decision");

AND WHEREAS each of the Decision Makers is satisfied that the test contained in the Legislation that provides the Decision Maker with the jurisdiction to make the decision has been met;

THE DECISION of the Decision Makers pursuant to the Legislation is that:

A. The Underwriting Restrictions shall not apply to Scotia Capital in connection with the Offering.

B. The Prospectus Requirements shall not apply to the Market Making Trades by Scotia Capital in the Capital Shares and Preferred Shares provided that at the time of each Market Making Trade, Scotia Capital and its affiliates do not beneficially own or have the power to exercise control or direction over a sufficient number of voting securities of a Life Insurance Company, securities convertible into voting securities of a Life Insurance Company, options to acquire voting securities of a Life Insurance Company, or any other securities which provide the holder with the right to exercise control or direction over voting securities of a Life Insurance Company which in the aggregate, permit Scotia Capital to affect materially the control of the Life Insurance Company and without limiting the generality of the foregoing, the beneficial ownership of or the power to exercise control or direction over securities representing in the aggregate, 20% or more of the votes attaching to all the then issued and outstanding voting securities of a Life Insurance Company shall, in the absence of evidence to the contrary, be deemed to affect materially the control of the Life Insurance Company.

C. The Principal Trading Prohibitions shall not apply to Scotia Capital in connection with the Principal Sales and Principal Purchases.

July 11th, 2000.

"Howard I. Wetston" "Robert W. Korthals"

2.1.7 Unocal Canada Resources and Northrock Resources Ltd. - MRRS Decision

Headnote

Mutual Reliance Review System for Exemptive Relief Applications - In connection with takeover bid, relief from the prohibition on collateral agreements with respect to retention agreements, employment agreements and option agreement, where agreements are commercially reasonable, negotiated at arm's length and entered into with a view to facilitating the operations of the target company rather than providing parties to the agreement with greater consideration for their target shares - Retention agreements consistent with industry practice and provides incentive for target employees and senior officers to remain - Employment agreements consistent with industry practice - Option agreement provides nominal consideration to all holders of out-of-the-money options.

Applicable Ontario Statute

Securities Act, R.S.O. 1990 c. S.5, as am., ss. 97(2), 104(2)(a)

**IN THE MATTER OF
THE SECURITIES LEGISLATION
OF ALBERTA, BRITISH COLUMBIA, SASKATCHEWAN, MANITOBA, ONTARIO, QUEBEC, NOVA SCOTIA AND NEWFOUNDLAND**

AND

**IN THE MATTER OF
THE MUTUAL RELIANCE REVIEW SYSTEM
FOR EXEMPTIVE RELIEF APPLICATIONS**

AND

IN THE MATTER OF UNOCAL CANADA RESOURCES AND NORTHROCK RESOURCES LTD.

MRRS DECISION DOCUMENT

1. **WHEREAS** the local securities regulatory authority or regulator (the "Decision Maker") in each of Alberta, British Columbia, Saskatchewan, Manitoba, Ontario, Quebec, Nova Scotia and Newfoundland (the "Jurisdictions") has received an application from Unocal Canada Resources (together with its affiliates, "Unocal") for a decision under the securities legislation of the Jurisdictions (the "Legislation") that in connection with Unocal's offer (the "Offer") to purchase all of the issued and outstanding common shares (the "Northrock Shares") of Northrock Resources Ltd. ("Northrock") on the basis of $10.10 cash for each Northrock Share accepted for purchase under the Offer, certain agreements defined below (the "Collateral Agreements") that have been or may be entered into among Unocal and certain senior executives and employees of Northrock (collectively, the "Employees") have been made for reasons other than to increase the value of the consideration paid to such persons and may be entered into despite the provision in the Legislation that prohibits an offeror who makes or intends to make a take-over bid and any person acting jointly or in concert with the offeror from entering into any collateral agreement, commitment or understanding with any holder or beneficial owner of securities of the offeree issuer that has the effect of providing to the holder or owner a consideration of greater value than that offered to other holders of the same class of securities (the "Prohibition on Collateral Agreements");

2. **AND WHEREAS** pursuant to the Mutual Reliance Review System for Exemptive Relief Applications (the "System"), the Alberta Securities Commission is the principal regulator for this application;

3. **AND WHEREAS** Unocal has represented to the Decision Makers that:

3.1 Unocal is a general partnership formed under the laws of Alberta and headquartered in Calgary, Alberta, for the purpose of making the Offer. The members of the partnership are indirect, wholly-owned Canadian subsidiaries of Unocal Corporation, an independent oil and gas exploration and production company with its headquarters in El Segundo, California.

3.2 The common shares of Unocal Corporation (the "Unocal Corporation Shares") are listed and posted for trading on the New York Stock Exchange and on the Stock Exchange of Switzerland.

3.3 Unocal Corporation is not a reporting issuer in any jurisdiction in Canada and no securities of Unocal are listed or posted for trading on any stock exchange in Canada.

3.4 Northrock is a corporation amalgamated under the *Business Corporations Act* (Alberta).

3.5 The authorized capital of Northrock consists of an unlimited number of Northrock Common Shares and an unlimited number of preferred shares, issuable in series. As at May 26, 2000, there were 41,549,421 Northrock Shares and no preferred shares issued and outstanding. As at May 26, 2000, there were outstanding options ("Northrock Options") granted under the stock option plan of Northrock providing for the issuance of 3,641,469 Northrock Shares on the exercise of those options.

3.6 Northrock is a reporting issuer or its equivalent in all of the Jurisdictions, and the Northrock Shares are listed and posted for trading on The Toronto Stock Exchange under the symbol "NRK".

3.7 Unocal currently holds 19,763,700 Northrock Shares, representing approximately 47.6% of the outstanding Northrock Shares.

3.8 On May 18, 2000, Northrock and Unocal entered into an agreement (the "Support Agreement") setting out the terms and conditions on which Unocal was prepared to make the Offer and Northrock was prepared to recommend the Offer's acceptance.

3.9 Unocal acquired most of the Northrock Shares that it presently holds through a series of transactions that were completed in May 1999 (the "May 1999 Transactions").

3.10 Concurrently with the signing of the definitive agreement in respect of the May 1999 Transactions, Northrock entered into a letter agreement (the "1999 Retention Agreements") with each of Donald R. Hansen, Northrock's President and Chief Executive Officer, John H. Van de Pol, Northrock's Senior Vice President and Chief Financial Officer(collectively, the "1999 Senior Officers")

3.11 Under the 1999 Retention Agreements, Northrock agreed to pay the 1999 Senior Officers the equivalent of two times their respective annual salaries in installments payable over the two years following completion of the May 1999 Transactions, with half payable in cash and the other half payable in Northrock Shares. Those payments were intended to provide the 1999 Senior Officers with an incentive to remain with Northrock following the change of control of Northrock which occurred as a result of the completion of the May 1999 Transactions.

3.12 Since the May 1999 Transactions were completed, David L. Pearce (together with Hansen and Van de Pol, the "2000 Senior Officers") commenced employment with Northrock as its Senior Vice President.

3.13 On January 27, 2000 Pearce and Northrock entered into an agreement (the "Pearce Retention Agreement") the terms of which are substantially identical to the May 1999 Retention Agreements.

3.14 Unocal and the 2000 Senior Officers have further agreed to amend the terms of the 1999 Retention Agreements and the Pearce Retention Agreement (collectively, the "2000 Retention Agreements") such that, from the time Unocal takes up Northrock Shares deposited under the Offer, the one-half portion of the outstanding installments of the 1999 Retention Agreements and the Pearce Retention Agreement that would have been paid in Northrock Shares will instead be paid in Unocal Corporation Shares.

3.15 Unocal and Northrock have entered into a further agreement (the "Option Agreement") pursuant to which Northrock will make certain payments to holders of those Northrock Options (the "Northrock Option Holders") whose exercise price exceeds the consideration under the Offer (the "Out of the Money Options"). As at May 26, 2000, 2,412,719 or 66.3% of the Northrock Options are Out of the Money Options. Pursuant to the Option Agreement, Northrock Option Holders will be offered $0.20 for each Out of the Money Option. Northrock expects to pay approximately $480,000 under the Option Agreement.

3.16 Unocal and Northrock have agreed that Northrock may pay up to an aggregate of $1.73 million as retention payments to substantially all of the Northrock employees (the "General Retention Agreement") in such amounts as the President and Chief Executive Officer of Northrock may recommend in consultation with Unocal, having regard to each such employee's position with Northrock. Payments under the General Retention Agreement will be paid in cash over the two year period following the date on which Unocal first takes up Northrock Shares deposited under the Offer.

3.17 Employment agreements also exist between Northrock and each of Hansen, Van de Pol and Pearce (the "Northrock Employment Agreements") which contain terms and conditions that are typical of employment agreements with similarly situated senior officers in oil and gas exploration and production companies of Northrock's size.

3.18 Northrock and each of Hansen, Van de Pol and Pearce have entered into new employment agreements, to be effective upon completion of the Offer (the "New Employment Agreements"), the terms of which agreements will be substantially similar to the terms of the Northrock Employment Agreements.

3.19 The 2000 Retention Agreements, the Option Agreement, the General Retention Agreement and the New Employment Agreements (collectively, the "Collateral Agreements") were negotiated at arm's length. The Collateral Agreements are being made for valid business reasons on commercially reasonable terms unrelated to the Employees' holdings of Northrock Shares and not for the purpose of (a) conferring an economic or collateral benefit on such Employees, in their capacties as holders of Northrock Shares, that other holders of Northrock Shares do not enjoy; or (b) increasing the value of the consideration to be paid to the Employees pursuant to the Offer.

3.20 The Offer is being made in compliance with the Legislation of the Jurisdictions, except to the extent that exemptive relief is granted in respect of the Prohibition on Collateral Agreements.

4. **AND WHEREAS** under the System, this MRRS Decision Document evidences the decision of each Decision Maker (collectively, the "Decision");

5. **AND WHEREAS** 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;

6. **THE DECISION** of the Decision Makers under the Legislation is that in connection with the Offer, the Collateral Agreements are being entered into for reasons other than to increase the value of the consideration to be paid to the Employees for their Northrock Shares and such Collateral Agreements may be entered into despite the Prohibition on Collateral Agreements.

DATED at Calgary, Alberta this 14th day of June, 2000.

"Glenda A. Campbell", Vice Chair "James E. Allard", Member

2.1.8 Velvet Exploration Ltd and PanAtlas Energy Inc. - MRRS Decision

Headnote

Mutual Reliance Review System for Exemptive Relief Applications - relief from the identical consideration requirement of the legislation in connection with a take-over bid pursuant to which target shareholders may elect between a cash option and a securities exchange option - non-Canadian target shareholder who elect to receive securities as consideration for their target shares will receive the cash proceeds from the sale of such securities by a depository.

Applicable Ontario Statutes

Securities Act, R.S.O. 1990 c. S.5, as am., ss. 97(1), 104(2)(c).

IN THE MATTER OF
THE SECURITIES LEGISLATION
OF ALBERTA, BRITISH COLUMBIA, SASKATCHEWAN, MANITOBA
ONTARIO, QUEBEC, NEWFOUNDLAND, AND NOVA SCOTIA

AND

IN THE MATTER OF
THE MUTUAL RELIANCE REVIEW SYSTEM
FOR EXEMPTIVE RELIEF APPLICATIONS

AND

IN THE MATTER OF VELVET EXPLORATION LTD.

AND

IN THE MATTER OF PANATLAS ENERGY INC.

MRRS DECISION DOCUMENT

1. **WHEREAS** the local securities regulatory authority or regulator (the "Decision Maker") in each of British Columbia, Alberta, Saskatchewan, Manitoba, Ontario, Quebec, Newfoundland and Nova Scotia (the "Jurisdictions") has received an application from Velvet Exploration Ltd. ("Velvet") for a decision under the securities legislation of the Jurisdictions (the "Legislation") that in connection with Velvet's offer (the "Offer") to purchase all of the issued and outstanding common shares (the "PanAtlas Shares") of PanAtlas Energy Inc. ("PanAtlas") on the basis of, at the election of the holder of PanAtlas Shares, $3.72 (Canadian) in cash, subject to an aggregate maximum of $23.9 million cash available, or 0.70857 of a common share of Velvet (the "Velvet Share"),Velvet shall be exempt from the requirement in the Legislation to offer all holders of the same class of securities identical consideration (the "Identical Consideration Requirement") insofar as certain holders of PanAtlas Shares who accept the Offer will receive the cash proceeds from the sale of Velvet Shares in accordance with the procedure described in paragraph 3.8 below, instead of receiving Velvet Shares;

2. **AND WHEREAS** pursuant to the Mutual Reliance Review System for Exemptive Relief Applications (the "System"), the Alberta Securities Commission is the principal regulator for this application;

3. **AND WHEREAS** Velvet has represented to the Decision Makers that:

3.1 Velvet is a corporation continued under the laws of Alberta. Velvet is a reporting issuer or the equivalent thereof in British Columbia, Alberta, Manitoba, Ontario and Quebec and its securities are listed and posted for trading on The Toronto Stock Exchange (the "TSE") under the symbol "VLV". Velvet's head office is located in Calgary, Alberta.

3.2 Velvet is not in default of any requirement of the Acts.

3.3 On June 2, 2000, Velvet and PanAtlas issued a joint press release announcing that they had entered into an agreement pursuant to which Velvet will make an offer to the PanAtlas Shareholders to acquire all of the outstanding PanAtlas Shares.

3.4 PanAtlas is a corporation continued under the laws of Alberta. It is a reporting issuer or the equivalent thereof in British Columbia, Alberta, Manitoba, Ontario and Quebec and the PanAtlas Shares trade on the TSE under the symbol "PA".

3.5 The Offer is being made in compliance with the Legislation of the Jurisdictions except to the extent that exemptive relief is granted in respect of the Identical Consideration Requirement.

3.6 To the knowledge of Velvet after reasonable inquiry, PanAtlas Shareholders resident in the United Stateshold, in the aggregate, approximately 2.7% of the PanAtlas Shares and residents of other foreign countries hold, in the aggregate, approximately 1.8% of the PanAtlas Shares.

3.7 The Velvet Shares that may be issued under the Offer have not been and will not be registered or otherwise qualified for distribution pursuant to the securities legislation in the United States or any other jurisdiction outside Canada. Velvet cannot lawfully undertake delivery of Velvet Shares to certain residents of such jurisdictions without further action and without becoming subject to registration and continuous disclosure requirements of those jurisdictions (the "Non-Canadian Holders').

3.8 To the extent that Non-Canadian Holders who accept the Offer are entitled to receive Velvet Shares, Velvet proposes to deliver Velvet Shares to Montreal Trust Company (the "Depositary") substantially simultaneously with payment for PanAtlas Shares tendered under the Offer. The Depositary will, as soon as reasonably possible after such delivery, sell the Velvet Shares on behalf of the Non-Canadian Holders. Such sale will be done through the TSE in a manner

that is intended to minimize any adverse effect on the market price of Velvet Shares. As soon as reasonably possible after completion of such sale, and in any event no later than four business days after delivery of the Velvet Shares to the Depositary, the Depositary will send to each Non-Canadian Holder whose Velvet Shares have been sold by the Depositary a cheque in Canadian funds in an amount equal to such Non-Candian Holder's pro rata share of the net proceeds of sale.

4. **AND WHEREAS** under the System, this MRRS Decision Document evidences the decision of each Decision Maker (collectively, the "Decision");

5. **AND WHEREAS** 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;

6. **THE DECISION** of the Decision Makers under the Legislation is that in connection with the Offer, Velvet is exempt from the Identical Consideration Requirement, insofar as Non-Canadian Holders who accept the Offer will receive the cash proceeds from the Depositary's sale of the Velvet Shares in accordance with the procedure set out in paragraph 3.8 above, instead of receiving such Velvet Shares.

DATED at Edmonton, Alberta this 5th day of July, 2000.

"Eric T. Spink", Vice-Chair"Thomas G. Cooke", Q.C., Member

2.2 Orders

2.2.1 Archipelago L.L.C. - s. 211, Regulation

Headnote

Section 211 - order pursuant to section 211 of the Regulation made under the *Securities Act* (Ontario) exempting the Applicant from the requirement in subsection 208(2) of the Regulation that it carry on the business of an underwriter in a country other than Canada.

Statutes Cited

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

Regulations Cited

Regulation made under the Securities Act, R.R.O. 1990, Reg. 1015, as am., ss. 100(3), 208(2) and 211

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

AND

**REGULATION 1015 MADE UNDER THE SECURITIES ACT,
R.R.O. 1990, AS AMENDED (the "Regulation")**

AND

**IN THE MATTER OF
ARCHIPELAGO L.L.C.**

ORDER
(Section 211 of the Regulation)

UPON the application (the "Application") of Archipelago L.L.C. (the "Applicant") to the Ontario Securities Commission (the "Commission"), in connection with its application for registration as an international dealer under the Act, for an order (the "Order") pursuant to section 211 of the Regulation exempting the Applicant from the requirement in subsection 208(2) of the Regulation that it carry on the business of an underwriter in a country other than Canada;

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

AND UPON the Applicant having represented to the Commission that:

1. The Applicant is a limited liability company organized under the laws of the State of Delaware with its registered office in Chicago.

2. The Applicant is a registered broker-dealer under the United States Securities Exchange Act of 1934, and is also registered as an "alternative trading system" pursuant to Regulation ATS in the United States.

3. The Applicant is a member in good standing of the National Association of securities Dealers in the United States and a participant in the Securities Investor Protection Corporation.

4. The Applicant carries on the business of a "dealer" (as defined in subsection 1(1) of the Act) in the United States.

5. The Applicant does not carry on the business of an underwriter (as defined in subsection 1(1) of the Act) in the United States.

6. The Applicant owns and operates an electronic communications network ("ECN") that matches electronic bids and offers for publicly traded equity securities of U.S. registered companies (the "ARCA System"). Archipelago has effectively created a national limit order book for Nasdaq Stock Market securities. Participants are provided with a choice of three methods to connect to the ARCA System. The choices are a dedicated line connection, a virtual private network connection, and a third party private network connection.

7. An application was submitted by the Applicant for registration as an International Dealer on June 30, 2000.

8. In the absence of the relief requested in this Application, the Applicant would not meet the requirements of the Regulation for registration as an International Dealer as it does not carry on the business of an underwriter in a country other than Canada.

9. The Applicant does not intend to act as an underwriter in Ontario and will undertake not to act as an underwriter in Ontario, despite the fact that section 100(3) of the Regulation provides that an International Dealer is deemed to have been granted registration as an underwriter for the purposes of a distribution which it is permitted to make.

AND UPON the Commission being satisfied that to do so would not be prejudicial to the public interest and that in the circumstances of the case there is adequate justification for so doing;

IT IS ORDERED pursuant to section 211 of the Regulation that the Applicant is not subject to the requirement in subsection 208(2) of the Regulation that an applicant for registration as an international dealer must carry on the business of an underwriter in a country other than Canada, provided that notwithstanding subsection 100(3) of the Regulation, the Applicant shall not act as an underwriter in Ontario.

July 18th, 2000.

"J.A. Geller" "Theresa McLeod"

2.2.2 BMO Nesbitt Burns Inc., CIBC World Marketing Inc. and Direct Energy - s. 233, Regulation

Headnote

Section 233 of the Regulation- Issuer is a connected issuer, but not a related issuer, in respect of registrants that are underwriters in proposed distribution of convertible debentures by the issuer - Underwriters exempt from the clause 224(1)(b) of the Regulation.

Regulations Cited

Regulation made under the Securities Act, R.R.O. 1990, Reg. 1015, as am., ss. 219(1), 224(1)(b) and 233.

Rules Cited

Proposed Multi-Jurisdictional Instrument 33-105 Underwriting Conflicts (1998), 21 OSCB 781, as amended (1999), 22 OSCB 149.

IN THE MATTER OF
REGULATION 1015 R.R.O. 1990, AS AMENDED (the "Regulation")
MADE UNDER THE SECURITIES ACT,
R.S.O. 1990, CHAPTER S.5, AS AMENDED (the "Act")

AND

IN THE MATTER OF
BMO NESBITT BURNS INC., CIBC WORLD MARKETS INC. AND DIRECT ENERGY

ORDER
(Section 233 of the Regulation)

UPON the application of BMO Nesbitt Burns Inc. and CIBC World Markets Inc. (collectively, the "Applicants") to the Ontario Securities Commission (the "Commission") for an order pursuant to Section 233 of the Regulation exempting the Applicants from the requirements of clause 224(1)(b) of the Regulation, as varied by Rule 33-5B of the Commission entitled *Limitations on a Registrant Underwriting Securities of a Related Issuer or Connected Issuer* (the "Rule"), in connection with a distribution (the "Offering") of Convertible Subordinated Debentures (the "Debentures") of Direct Energy (the "Issuer") to be made by means of a short form prospectus;

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

AND UPON the Applicants having represented to the Commission as follows:

1. The Issuer is a trust governed by the laws of the Province of Alberta.

2. The Issuer is a reporting issuer under the Act. The Issuer's outstanding Units are listed on The Toronto Stock Exchange.

3. The Issuer has a market capitalization in excess of $500 million.

4. The Issuer intends to enter into an underwriting agreement (the "Underwriting Agreement") with BMO Nesbitt Burns Inc., CIBC World Markets Inc., Merrill Lynch Canada Inc. and Scotia Capital Inc. (collectively, the "Underwriters") with respect to a proposed offering (the "Offering") of the Debentures.

5. The Issuer has filed a preliminary short form prospectus (the "Preliminary Prospectus") with the Commission and with the securities regulatory authorities in each of the other provinces of Canada in order to qualify the Debentures for distribution in those provinces.

6. The proportionate percentage share of the Offering to be underwritten by each of the Underwriters is as follows:

BMO Nesbitt Burns Inc.	40%
CIBC World Markets Inc.	25%
Merrill Lynch Canada Inc.	20%
Scotia Capital Inc.	15%

7. The Issuer has a $105 million credit facility, which is fully drawn, with a syndicate of financial institutions, including the Bank of Montreal and the Canadian Imperial Bank of Commerce (the "Banks") with which the Applicants are affiliated.

8. The nature of the relationship among the Issuer and the Applicants and the Banks is described in the Preliminary Prospectus and will be described in the final short form prospectus relating to the Offering (the "Prospectus").

9. The Prospectus will contain a certificate signed by each Underwriter in accordance with Item 20 of Appendix B of National Policy 47.

10. The net proceeds of the Offering will be used to temporarily reduce the indebtedness under the Issuer's revolving credit facilities.

11. The decision to issue the Debentures, including the determination of the terms of the distribution, was made through negotiation between the Issuer and the Underwriters without involvement of the Banks.

12. The Underwriters will not receive any benefit from the Offering other than the payment of their fees in connection therewith.

13. The Underwriters, in connection with the Offering, do not comply with the proportional requirements of clause 224(1)(b) of the Regulation, as modified by the Rule.

14. The Issuer is not in financial difficulty and is not under any immediate financial pressure to undertake the Offering.

15. The disclosure required by Schedule C to the proposed Multi-Jurisdictional Instrument 33-105 (the

"Proposed Instrument") is provided in the Preliminary Prospectus.

16. The Issuer is not a "related issuer" (as such term is defined in the Proposed Instrument) of any of the Underwriters. In addition, the Issuer is not a "specified party" (as such term is defined in the Proposed Instrument).

IT IS ORDERED pursuant to Section 233 of the Regulation that each of the Applicants is exempt from the requirements of clause 224(1)(b) of the Regulation, as varied by the Rule, in respect of the Offering.

June 6th, 2000.

"Howard I. Wetston" "Stephen N. Adams"

2.2.3 Leroux Steel Inc. - scl. 21(2)(a)(ii)

Headnote

Relief for issuer conducting announced issuer bid from insider reporting requirements with respect to acquisitions of securities under issuer bid, subject to certain conditions including monthly reporting within 10 days of the end of each month in which acquisitions were made.

Statutes Cited

Securities Act, R.S.O. 1990, c.S.5, as am., ss. 1(1), 107, 121(2)(a)(ii)

Regulations Cited

Regulation made under the Securities Act, R.R.O. 1990, Reg. 1015, as am., Part VIII

Policies Cited

National Instrument 55-101- Exemption From Certain Insider Reporting Requirements (2000), 23 OSCB 4212

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

AND

IN THE MATTER OF LEROUX STEEL INC.

ORDER
(Subclause 121(2)(a)(ii) of the Act)

UPON the application of Leroux Steel Inc. ("Leroux") to the Ontario Securities Commission (the "Commission") pursuant to subclause 121(2)(a)(ii) of the Act for an exemption from the reporting requirement set out in section 107 of the Act that Leroux file an insider trading report within 10 days of every purchase for cancellation of Class A Multiple Voting Shares ("Multiple Voting Shares") or Class B Subordinate Voting Shares ("Subordinate Shares") that is made pursuant to its share buyback program (the "Program");

AND UPON Leroux having represented to the Commission that:

1. Leroux is a corporation duly incorporated under the *Companies Act* (Québec) and its Multiple Voting Shares and its Subordinate Shares are listed on the Toronto Stock Exchange ("TSE");

2. pursuant to the Program, Leroux intends to purchase for cancellation, from February 24, 2000 to February 23, 2001, 25,000 Multiple Voting Shares and 578,000 Subordinate Shares representing respectively, as of February 14, 2000, approximately 0.70% of the issued and outstanding Multiple Voting Shares and approximately 10% of the public float of the Subordinate Shares;

3. the Program has been approved by the TSE and the repurchase of the Multiple Voting Shares and the Subordinate Shares will be a normal course issuer bid made in accordance with the rules of the TSE; and

4. the relief requested is consistent with the exemption in section 6.1 of proposed National Instrument 55-101 Exemption from Certain Insider Reporting Requirements for normal course issuer bids.

AND UPON the Commission being satisfied that to do so would be appropriate in the circumstances and that there is adequate justification to do so;

NOW THEREFORE, IT IS ORDERED by the Commission that, pursuant to subclause 121(2)(a)(ii) of the Act, Leroux be exempt from the requirement of section 107 to file an insider trading report within 10 days of each acquisition of Multiple Voting Shares or Subordinate Shares under the Program, provided that:

1. Leroux files an insider trading report, in the form prescribed by Ontario securities legislation, within 10 days of the end of each month in which acquisitions occurred under the Program; and

2. Leroux complies with Section 8 of *Appendix F – Policy statement on normal course issuer bid* of the TSE Company Manual requiring that a report be filed within 10 days of the end of each month in which an acquisition is made, stating the number of securities purchased during that month, giving the dates of the repurchases and the average price paid for the shares.

July 14th, 2000.

"J. A. Geller" "Robert W. Davis"

2.3 Rulings

2.3.1 Ameristar RSP Income Trust - ss. 74(1) & s. 59, Schedule 1, Regulation

Headnote

Ruling exempts from sections 25 and 53 of the Act trades made in connection with the writing of certain over-the-counter covered call options by an investment trust.

Trust also exempts issuer from requirement to pay fees otherwise payable in respect of trades pursuant to the ruling under section 28 of Schedule 1 of the Regulation.

Statutes Cited

Securities Act, R.S.O. 1990, c. s.5, as am., ss. 25, 53 and 74(1).

Regulations Cited

Regulation made under the Securities Act, R.R.O. 1990, Reg. 1015, as am., ss. 28 and 59(1) of Schedule 1.

Rules Cited

Proposed Rule 91-504 Over the Counter Derivates, (1998) [cite to be inserted].

IN THE MATTER OF THE SECURITIES ACT (THE "Act")

AND

IN THE MATTER OF R.R.O. 1990,
REGULATION 1015, AS AMENDED (THE "Regulation")

AND

IN THE MATTER OF
AMERISTAR RSP INCOME TRUST

RULING AND EXEMPTION
(Subsection 74(1) and Section 59 of Schedule 1 of the Regulation)

UPON the application (the "Application") of AmeriStar RSP Income Trust (the "Trust) to the Ontario Securities Commission (the "Commission") for:

(i) a ruling, pursuant to subsection 74(1) of the Act, that the writing of certain over-the-counter covered call options ("OTC Options") by the Trust shall not be subject to section 25 or 53 of the Act; and

(ii) an exemption, pursuant to subsection 59(1) of Schedule 1 of the Regulation, from requirements to pay any fees otherwise required to be paid under section 28 of Schedule 1 of the Regulation in connection with the writing by the Trust of OTC Options pursuant to this ruling;

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

AND UPON the Trust having represented to the Commission that:

1. The Trust is an investment trust established under the laws of the Province of Ontario on December 7, 1999 by a trust agreement between Quadravest Inc., as manager and settlor, and The Royal Trust Company, as trustee.

2. The Trust is a "mutual fund" within the meaning of that term in subsection 1(1) of the Act.

3. The authorized capital of the Trust consists of an unlimited number of units (the "Units").

4. The Trust filed a (final) prospectus (the "Prospectus") dated December 7, 1999 with the Commission and with the securities regulatory authority in each of the other Provinces of Canada with respect to the distribution (the "Offering") of Units. A receipt for the Prospectus was issued by the Director under *Part XV* of the Act on December 8, 1999.

5. Quadravest Capital Management Inc. ("Quadravest") acts as investment manager of the Trust.

6. Quadravest is registered under the Act as an adviser in the categories of "investment counsel" and "portfolio manager" and as a dealer in the category of "mutual fund dealer".

7. The Trust's investment objectives are:

   i) to provide holders of Units with cumulative monthly cash dividends in the amount of $0.17708 per Unit, to yield 8.5per cent per cent; and

   ii) to return the original issue price to holders of the Units, at the time of redemption of such Units, on January 1, 2010.

8. The Trust intends to invest the net proceeds from the Offering directly or indirectly in a diversified portfolio (the "Portfolio") consisting principally of common shares issued by corporations whose shares are included in Standard & Poor's 500 Composite Stock Price Index (the "S&P Index"), with up to 20 per cent of the Portfolio consisting of a direct holding of such shares. The Portfolio will be actively managed by Quadravest. Up to 80 per cent of the Portfolio will consist of short term debt instruments issued by the government of Canada or a Province of Canada, or, short-term commercial paper issued by Canadian corporations with a rating of at least R-1 (mid) by Dominion Bond Rating Service Limited ("DBRS"), or the equivalent rating from another approved rating organization, which will satisfy the Trust's obligations under forward contracts or other derivative instruments providing the right or obligation to acquire common shares issued by corporations whose shares form part of the S&P/TSE 60 Index. Up to 20 per cent of the Portfolio may consist of a direct

holding of common shares issued by corporations whose shares form part of the S&P/TSE 60 Index. No more than 10 per cent of the net asset value of the Trust will be invested at any time in the securities of any one corporation.

9. The Trust will from time to time write covered call options in respect of:

   (i) all or part of the securities in the Portfolio; or

   (ii) forward contracts linked to securities in the Portfolio. Call options written by the Trust may be either exchange traded or OTC Options.

10. The writing of covered call options by the Trust will be managed by Quadravest in a manner consistent with the investment objectives of the Trust. The individual securities within the Portfolio which are subject to call options, and the terms of such call options, will vary from time to time, based on Quadravest's assessment of the market. The writing of OTC Options by the Trust will not be used as a means for the Trust to raise new capital.

11. OTC Options will be written by the Trust only in respect of securities that are in the Portfolio or Securities which the Trust has the right or obligation to acquire under a forward contract. The investment restrictions of the Trust prohibit its sale of securities that are in the Portfolio and which are subject to an outstanding option.

12. The purchasers of OTC Options written by the Trust will generally be major Canadian financial institutions and all purchasers of the OTC Options will be persons or entities described in Appendix "A" of proposed Rule 91-504 *Over the Counter Derivatives* (the "Proposed Rule") as published for comment by the Commission on January 7, 2000.

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

IT IS RULED, pursuant to subsection 74(1) of the Act, that the writing of OTC Options by the Trust, as described above, shall not be subject to section 25 or 53 of the Act, provided that:

i) at the time of the writing of the OTC Option, the adviser advising the Trust with respect to such activities is registered as an adviser under the Act and meets the proficiency requirements for advising with respect to options in the principal jurisdiction in Canada in which the portfolio adviser carries on its business; and

ii) this ruling shall terminate upon the effective date of a rule dealing with the subject matter of the Proposed Rule, or 60 days after the Commission publishes in its Bulletin a notice or a statement to the effect that it does not propose to make such a rule;

AND, IT IS DECIDED, pursuant to section 59 of Schedule 1 to the Regulation, that the Trust is exempt from the fees which would otherwise be payable pursuant to section 28 of Schedule 1 to the Regulation in connection with any OTC Options written by the Trust in reliance on the above ruling.

July 14th, 2000.

"J. A. Geller" "Robert W. Davis"

2.3.2 Evoke Incorporated - ss. 74(1)

Headnote

Subsection 74(1) - issuance of shares to certain Ontario residents by non-reporting issuer pursuant to its directed share program in connection with its U.S. initial public offering exempt from section 53 of Act - first trade is a distribution unless made in accordance with subsection 72(4) or made through the facilities of a stock exchange or market outside of Ontario, subject to certain conditions.

Statutes Cited

Securities Act, R.S.O. 1990, c.S.5, as am., ss. 53, 72(4) and 74(1).

Rules Cited

Ontario Securities Commission Rule 14-501 - *Definitions* ((1997), 20 OSCB 4054, as amended, (1999), 22 OSCB 1173.

Ontario Securities Commission Rule 45-501 - *Prospectus Exempt Distributions* (1998), 21 OSCB 6548.

Ontario Securities Commission Rule 72-501 - *Prospectus Exemption for First Trade Over A Market Outside Ontario* (1998) 21 OSCB 3873.

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

AND

IN THE MATTER OF EVOKE INCORPORATED

RULING (Subsection 74(1))

UPON the application of Evoke Incorporated ("Evoke") to the Ontario Securities Commission (the "Commission") for a ruling pursuant to subsection 74(1) of the Act that certain trades in the shares of common stock of Evoke (the "Shares") to be made pursuant to a proposed Directed Share Program (the "Program") to 9 relatives, 6 friends and 1 business associate of the Chief Financial Officer of Evoke residing in the Province of Ontario, who elect to participate in the Program (the "Ontario Program Participants"), shall not be subject to section 53 of the Act;

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

AND UPON Evoke having represented to the Commission as follows:

1. Evoke is a corporation incorporated under the laws of Delaware and is not a reporting issuer under the Act and has no present intention of becoming a reporting issuer under the Act.

2. Evoke is currently in the process of completing an initial public offering (the "IPO") in the United States and in connection therewith has filed a registration statement on Form S-1, as amended (the "Preliminary Prospectus").

3. Evoke proposes to offer 10,000,000 Shares under the IPO and to reserve up to 700,000 Shares (representing 7% of the Shares offered under the IPO) for the purpose of the Program.

4. Upon completion of the IPO, the Shares will be quoted on the Nasdaq National Market.

5. The Program is being made available to certain directors, officers and employees of Evoke, as well as to some of its customers and suppliers and individuals associated or affiliated with directors, customers and suppliers of Evoke ("Evoke Program Participants"), including the Ontario Program Participants (Evoke Program Participants and Ontario Program Participants collectively known as "Program Participants"), in connection with the IPO, all on the same terms and conditions.

6. Participation in the Program is voluntary and the Preliminary Prospectus and final prospectus prepared in accordance with U.S. Securities laws will be forwarded to each Program Participant who chooses to participate in the Program.

7. The Shares will be offered to Program Participants at a price equal to the price of the Shares offered in connection with the IPO.

8. The Ontario Program Participants consist of 9 relatives, 6 friends and 1 business associate of the Chief Financial Officer of Evoke.

9. The aggregate number of Shares offered to the Ontario Program Participants will not exceed 90,000 (representing less than 1% of the Shares offered under the IPO).

10. After giving effect to the IPO, the aggregate number of Shares held by Ontario Program Participants residing in the Province of Ontario will be less than 1% of the issued and outstanding shares of Evoke.

11. The trades to Ontario Program Participants will be effected by RBC Dominion Securities Inc., a registered dealer under the Act.

12. There is not expected to be a market for the Shares in Ontario and it is intended that any resale of Shares acquired under the Program will be effected through the facilities of the Nasdaq National Market in accordance with its rules and regulations.

13. Ontario Program Participants will be provided with a notice advising that an Ontario Program Participant will not have any rights against Evoke under provincial securities laws and, as a result, must rely on other remedies which may be available, including common law rights of action for damages or rescission or rights of action under the civil liability provisions of U.S. federal securities laws.

14. The annual reports, proxy materials and other materials generally distributed to Evoke shareholders resident in the United States will be provided to Ontario Program Participants at the same time and in the same manner as the documents would be provided to United States resident shareholders.

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

IT IS RULED, pursuant to subsection 74(1) of the Act, that trades in Shares pursuant to the Program to Ontario Program Participants are not subject to section 53 of the Act, provided that the first trade in any of the Shares acquired by an Ontario Program Participant pursuant to this ruling shall be a distribution unless such trade is made in accordance with the following conditions:

A. such trade is made in accordance with the provisions of subsection 72(4) of the Act, as modified by section 3.10 of Commission Rule 45-501 *Prospectus Exempt Distributions*, as if the Shares had been acquired pursuant to an exemption referred to in Subsection 72(4) of the Act, except that, for these purposes, it shall not be necessary to satisfy the requirements in clause 72(4)(a) that the issuer not be in default of any requirement of the Act or the regulations made under the Act if the seller is not in a special relationship with the issuer, or if the seller is in a special relationship with the issuer, the seller has reasonable grounds to believe that the issuer is not in default under the Act or the regulations made under the Act, where, for these purposes, "special relationship" shall have the same meaning as in Commission Rule 14-501 *Definitions*; or

B. such trade is made in accordance with the provisions of Subsection 2.1 of Commission Rule 72-501 *Prospectus Exemption For First Trade Over a Market Outside Ontario*.

July 18th, 2000.

"J. A. Geller" "Theresa MacLeod"

2.3.3 Premium Canadian Income Fund - ss. 74(1) & ss. 59(1), Schedule 1, Regulation

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

AND

IN THE MATTER OF R.R.O. 1990, REGULATION 1015, AS AMENDED (the "Regulation")

AND

IN THE MATTER OF PREMIUM CANADIAN INCOME FUND (the "Fund")

RULING AND EXEMPTION (Subsection 74(1) of the Act and Subsection 59(1) of Schedule 1 of the Regulation)

UPON the application of Mulvihill Fund Services Inc. ("Mulvihill"), as manager of Premium Canadian Income Fund (the "Fund") to the Ontario Securities Commission (the "Commission") for a ruling:

(i) pursuant to subsection 74(1) of the Act that the writing of certain over-the-counter covered call options and cash covered put options (collectively, the "OTC Options") by the Fund are not subject to sections 25 and 53 of the Act; and

(ii) pursuant to subsection 59(1) of Schedule 1 of the Regulation for an exemption from the fees required to be paid under section 28 of Schedule 1 of the Regulation in connection with the writing of certain OTC Options by the Fund;

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

AND UPON Mulvihill having represented to the Commission as follows:

1. The Fund is a mutual fund trust that will be established under the laws of the Province of Ontario pursuant to a trust agreement dated February 8, 2000, as amended, entered into by Mulvihill, as trustee and manager.

2. The Fund has filed a preliminary simplified prospectus (the "Preliminary Prospectus") dated June 21, 2000 and will file a (final) simplified prospectus (the "Prospectus") with the securities regulatory authorities in each province and territory other than Quebec.

3. Mulvihill Capital Management Inc. ("MCM") will act as investment manager of the Fund.

4. MCM is registered under the Act in the categories of investment counsel and portfolio manager, mutual fund dealer and limited market dealer.

5. The Fund's investment objective is to invest its assets in a diversified portfolio (the "Portfolio") of common shares of corporations selected primarily from the TSE 300 Index and up to 25% of the value of the Fund (or such greater amount as may be permitted under applicable tax legislation and which will ensure that the Fund will not be subject to tax under Part XI of the *Income Tax Act* (Canada)) in the Standard & Poor's 500 Index and American Depository Receipts ("ADRs") of the top 200 international corporations, selected on the basis of market capitalization, whose ADRs are trading on the New York Stock Exchange or NASDAQ.

6. The Fund will, from time to time, write covered call options in respect of all or part of the securities in its Portfolio. The investment restrictions of the Fund prohibit the sale of common shares subject to an outstanding call option, and therefore the call option will be covered at all times.

7. The Fund may, from time to time, hold a portion of its assets in cash cover including cash and cash equivalents. The Fund may utilize such cash cover to provide cover in respect of the writing of cash covered put options. Such cash covered put options will only be written in respect of securities in which the Fund is permitted to invest.

8. The purchasers of OTC Options written by the Fund will generally be major Canadian financial institutions and all purchasers of OTC Options will be persons or entities described in Schedule 1 to this ruling.

9. The writing of OTC Options by the Fund will not be used as a means for the Fund to raise new capital.

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

IT IS RULED, pursuant to subsection 74(1) of the Act, that the writing of OTC Options by the Fund, as contemplated by paragraphs 6 and 7 of this ruling, shall not be subject to sections 25 and 53 of the Act provided that:

(i) the portfolio adviser advising the Fund with respect to such activities is registered as an adviser under the Act and meets the proficiency requirements for advising with respect to options in the principal jurisdiction in Canada in which the portfolio adviser carries on its business;

(ii) each purchaser of an OTC Option written by the Fund is a person or entity described in Schedule 1 to this ruling; and

(iii) a receipt for the Prospectus has been issued by the Director under the Act;

AND PURSUANT to section 59 of Schedule 1 to the Regulation the Fund is hereby exempted from the fees which would otherwise be payable pursuant to Section 28 of Schedule 1 to the Regulation in connection with any OTC Options written by such Trust in reliance on the above ruling.

July 14th, 2000.

"J. A. Geller" "Robert W. Davis"

SCHEDULE 1
QUALIFIED PARTIES

Interpretation

1. The terms "subsidiary" and "holding body corporate" used in paragraphs (w), (x) and (y) of subsection (3) of this Appendix have the same meaning as they have in the *Business Corporations Act*.

2. All requirements contained in this Appendix that are based on the amounts shown on the balance sheet of an entity apply to the consolidation balance sheet of the entity.

Qualified Parties Acting as Principal

3. The following are qualified parties for all OTC derivatives transactions, if acting as principal:

Banks

(a) A bank listed in Schedule I or II to the *Bank Act* (Canada).

(b) The Business Development Bank of Canada incorporated under the *Business Development Bank of Canada Act* (Canada).

(c) A bank subject to the regulatory regime of a country that is a member of the Basle Accord, or that has adopted the banking and supervisory rules set out in the Basle Accord, if the bank has a minimum paid up capital and surplus, as shown on its last audited balance sheet, in excess of $25 million or its equivalent in another currency.

Credit Unions and Caisses Populaires

(d) A credit union central, federation of caisses populaires, credit union or regional caisse populaire, located, in each case, in Canada.

Loan and Trust Companies

(e) A loan corporation or trust corporation registered under the *Loan and Trust Corporations Act* (Ontario) or under the *Trust and Loan Companies Act* (Canada), or under comparable legislation in any other province or territory of Canada.

(f) A loan company or trust company subject to the regulatory regime of a country that is a member of the Basle Accord, or that has adopted the banking and supervisory rules set out in the Basle Accord, if the loan company or trust company has a minimum paid up capital and surplus, as shown on its last audited balance sheet, in excess of $25 million or its equivalent in another currency.

Insurance Companies

(g) An insurance company licensed to do business in Canada or a province or territory of Canada if the insurance company has a minimum paid up capital and surplus, as shown on its last audited balance sheet, in excess of $25 million or its equivalent in another currency.

(h) An insurance company subject to the regulatory regime of a country that is a member of the Basle Accord, or that has adopted the banking and supervisory rules set out in the Basle Accord, if the insurance company has a minimum paid up capital and surplus, as shown on its last audited balance sheet, in excess of $25 million or its equivalent in another currency.

Sophisticated Entities

(i) A person or company that

  (i) has entered into one or more transactions involving OTC derivatives with counterparties that are not its affiliates, if

    (A) the transactions had a total gross dollar value of or equivalent to at least $1 billion in notional principal amount; and

    (B) any of the contracts relating to one of these transactions was outstanding on any day during the previous 15-month period, or

  (ii) had total gross marked-to-market positions of or equivalent to at least $100 million aggregated across counterparties, with counterparties that are not its affiliates in one or more transactions involving OTC derivatives on any day during the previous 15-month period.

Individuals

(j) An individual who has a net worth of at least $5 million, or its equivalent in another currency, excluding the value of his or her principal residence.

Governments/Agencies

(k) Her Majesty in right of Canada or any province or territory of Canada and each crown corporation, instrumentality and agency of a Canadian federal, provincial or territorial government.

(l) A national government of a country that is a member of the Basle Accord, or that has adopted the banking and supervisory rules set out in the Basle Accord, and each instrumentality and agency of that government or corporation wholly-owned by that government.

Municipalities

(m) Any Canadian municipality with a population in excess of 50,000 and any Canadian provincial or territorial capital city.

Corporations and other Entities

(n) A company, partnership, unincorporated association or organization or trust, other than an entity referred to in paragraph (a), (b), (c), (d), (e), (f), (g) or (h), with total assets, as shown on its last audited balance sheet, in excess of $25 million or its equivalent in another currency.

Pension Plan or Fund

(o) A pension fund that is regulated by either the Office of the Superintendent of Financial Institutions (Canada) or a provincial pension commission, if the pension fund has total net assets, as shown on its last audited balance sheet, in excess of $25 million, provided that, in determining net assets, the liability of a fund for future pension payments shall not be included.

Mutual Funds and Investment Funds

(p) A mutual fund or non-redeemable investment fund if each investor in the fund is a qualified party.

(q) A mutual fund that distributes its security in Ontario, if the portfolio manager of the fund is registered as an adviser, other than a securities adviser under the Act or securities legislation elsewhere in Canada.

(r) A non-redeemable investment fund that distributes its securities in Ontario, if the portfolio manager of the fund is registered as an adviser, other than a securities adviser under the Act or securities legislation elsewhere in Canada.

Brokers/Investment Dealers

(s) A person or company registered under the Act or securities legislation elsewhere in Canada as a broker or an investment dealer or both.

(t) A person or company registered under the Act as an international dealer if the person or company has total assets, as shown on its last audited balance sheet, in excess of $25 million or its equivalent in another currency.

Futures Commission Merchants

(u) A person or company registered under the CFA as a dealer in the category of futures commission merchant, or in an equivalent capacity elsewhere in Canada.

Charities

(v) A registered charity under the Tax Act with assets not used directly in charitable activities or administration, as shown on its last audited balance sheet, of at least $5 million or its equivalent in another currency.

Affiliates

(w) A wholly-owned subsidiary of any of the organizations described in paragraph (a), (b), (c), (d), (e), (f), (g), (h), (n), (s), (t) or (u).

(x) A holding body corporate of which any of the organizations described in paragraph (w) is a wholly-owned subsidiary.

(y) A wholly-owned subsidiary of a holding body corporate described in paragraph (x).

(z) A firm, partnership, joint venture or other form of unincorporated association in which one or more of the organizations described in paragraph (w), (x) or (y) have a direct or indirect controlling interest.

Guaranteed Party

(aa) A party whose obligations in respect of the OTC derivatives transaction for which the determination is made is fully guaranteed by another qualified party.

Qualified Party Not Acting as Principal

4. The following are qualified parties, in respect of all OTC derivative transactions:

Managed Accounts

1. Accounts of a person, company, pension fund or pooled fund trust that are fully managed by a portfolio manager or financial intermediary referred to in paragraphs (a), (d), (e), (g), (s), (t) or (u) of paragraph (2) or a broker or investment dealer acting as a trustee or agent for the person, company, pension fund or pooled fund trust under section 148 of the Regulation.

Subsequent Failure to Qualify

5. A party is a qualified party for the purpose of any OTC derivatives transaction if it, he or she is a qualified party at the time it, he or she enters into the transaction.

This Page Intentionally left blank

Chapter 3

Reasons: Decisions, Orders and Rulings

THERE IS NO MATERIAL FOR THIS CHAPTER

IN THIS ISSUE

This Page Intentionally left blank

Chapter 4

Cease Trading Orders

4.1.1 Temporary Cease Trading Orders

Company Name	Date of Order or Temporary Order	Date of Hearing	Date of Extending Order	Date of Rescinding Order
Miltec Technology Inc.	July 7/2000	July 19/2000	—	---

4.1.2 Extending Cease Trading Orders

Company Name	Date of Order or Temporary Order	Date of Hearing	Date of Extending Order	Date of Rescinding Order
Cinar Corporation	June 20/2000	---	June 30/2000	---

This Page Intentionally left blank

Chapter 5

Rules and Policies

THERE IS NO MATERIAL FOR THIS CHAPTER

IN THIS ISSUE

This Page Intentionally left blank

Chapter 6

Request for Comments

6.1 Request for Comments

6.1.1 National Instrument 33-102 - Registrant Dealings with Clients and Proposed Companion Policy 33-102CP - Notice of Proposed National Instrument

NOTICE OF PROPOSED NATIONAL INSTRUMENT 33-102
REGISTRANT DEALINGS WITH CLIENTS
AND
PROPOSED COMPANION POLICY 33-102CP

A. Introduction

In November 1997, the Canadian Securities Administrators (the "CSA") published for comment:

Proposed National Instrument 33-102
Distribution of Securities at Financial Institutions
("1997 Draft National Instrument 33-102")

Companion Policy 33-102CP
Distribution of Securities at Financial Institutions
("1997 Draft Policy 33-102CP")

Proposed National Instrument 33-103
Distribution Networks
("1997 Draft National Instrument 33-103")

Proposed National Policy 33-201
Networking and Selling Arrangement Notices
("1997 Draft National Policy 33-201")

Proposed National Instrument 33-104
Selling Arrangements
("1997 Draft National Instrument 33-104")

Companion Policy 33-104CP
Selling Arrangements
("1997 Draft Policy 33-104CP")

(collectively, "1997 Draft Instruments and Policies") along with notices that relate to each National Instrument.[1]

The 1997 Draft Instruments and Policies were based on the *Principles of Regulation Re: Full Service and Discount Brokerage Activities of Securities Dealers in Branches of Related Financial Institutions, Principles of Regulation Re: Distribution of Mutual Funds by Financial Institutions, Principles of Regulation Re: Activities of Registrants Related to Financial Institutions* (the "Principles of Regulation") For further background, please see the Notices that accompanied each of the 1997 Draft Instruments and Policies.

During the comment period on the 1997 Draft Instruments and Policies, which expired on February 27, 1998, the CSA received submissions from seven commentators. The CSA thank all commentators for providing their comments on the 1997 Draft Instruments and Policies.

The CSA have considered at length the comments received on the 1997 Draft Instruments and Policies. In response to these comments, the CSA have substantially revised the 1997 Draft Instruments and Policies. The revision has resulted in the Proposed National Instrument 33-102 Registrant Dealings with Clients (the "Proposed National Instrument") and Proposed Companion Policy 33-102CP Registrant Dealings with Clients (the "Proposed Policy"), which are being published for 60 day comment period. Once the Proposed National Instrument and Proposed Policy are enacted, the Principles of Regulation will cease to exist.

B. Purpose of the Proposed National Instrument and Proposed Policy

The purpose of the Proposed National Instrument and Proposed Policy is to ensure that clients dealing with registrants are fully informed about the products they are purchasing and the risks that they face.

C. Summary of the Changes to the 1997 Draft Instruments and Policies

A chart containing the provisions of the 1997 Draft Instruments and Policies, a summary of the comments received and the CSA response is attached as Appendix A. This Notice discusses the changes made to the 1997 Draft Instruments and Policies.

General Comments

Two comments appeared frequently in the letters received. First, commentators indicated that there ought to be harmonization of the requirements contained in the Principles of Regulation through out the CSA jurisdictions, unless there are compelling reasons for regional differences. Second, commentators submitted that if the rules are required, they ought to apply to all registrants and not just those that operate out of the branches of a financial institution. These two general comments motivated many of the changes that have been proposed.

The following review deals with each of the 1997 Draft Instruments and Policies in turn and highlights the major changes.

---

[1] In Ontario - (1997), 20 OSCB 6274, (1997), 20 OSCB 6285, (1997) 20 OSCB 6283, (1997) 20 OSCB 6289, (1997) 20 OSCB 6294, (1997) 20 OSCB 6293.

1997 Draft National Instrument 33-102 - Distribution of Securities at Financial Institutions

The two most significant changes are (1) that the requirements contained in section 2.1 for identifiably separate premises have been dropped; and (2) that the requirement for networking notices have been dropped.

Section 2.1, as it was proposed, was premised on the belief that client confusion over the entity with which the client is dealing would be reduced by the use of identifiably separate premises. While separate premises do serve to reinforce the message that the client is dealing with a different entity, they may impose substantial costs and inconvenience to registrants. Submissions have been made, and the CSA agree, that concerns regarding client confusion may be dealt with through other means, such as disclosure. As such, the requirement for identifiably separate premises has been eliminated.

The second substantial change follows from the experience that regulators have gained over the years that the Principles of Regulation have been in place. In that time, regulators have gained the experience necessary to state what is and is not acceptable in networking arrangements. Accordingly, all provisions relating to networking notices in this and the other instruments have been deleted. All general rules relating to potential issues raised by networking notices (margin, easy access to loans, tied selling, compensation, transfer of client information, client confusion, etc.) are appropriately dealt with by requirements already in place in CSA jurisdictions or will be addressed by the Proposed National Instrument and the Proposed Policy.

Several provisions of 1997 Draft National Instrument 33-102 have been retained in the Proposed National Instrument and broadened to apply to all registrants. For example, section 7.1 which deals with the settlement of accounts has been included in the Proposed National Instrument. Section 2.3 requiring registrants to give additional disclosure to customers relating to the subject of leverage has been extended to apply to all registrants in their dealings with retail clients.

The requirement for consent to the disclosure of confidential client information is dealt with in Part 6. The requirement now applies to all registrants that propose to share retail client information with any third party. The CSA has examined *An Act Respecting Access to Documents Held by Public Bodies and the Protection of Personal Information,* R.S.Q., c. A-2.1, which is applicable in Québec and the *Personal Information and Protection and Electronic Documents Act*, S.C. 2000, c. C.5 (the "Personal Information Act") which received royal assent on April 13, 2000. The provisions of the Personal Information Act will apply within a province after three years unless the Governor in Council provides an exemption. The CSA is of the view that Part 6 is consistent with the provisions of the Personal Information Act. If in three years, circumstances have changed and a province has introduced legislation covering the disclosure of confidential information, the CSA may reconsider Part 6.

Other provisions have been deleted from 1997 Draft National Instrument 33-102 because the CSA are of the view that securities legislation governs the activities. For example, Part 3 on registrable activities, section 4.1 on duai employment and section 4.2 on compensation are not required as all jurisdictions have other provisions in place governing these areas. Part 5 on referral fees is dealt with in *CSA Notice 33-304 CSA Distribution Structures Committee: Position Paper* published at (1999), 22 OSCB 5257, and, in certain CSA jurisdictions, by legislation.

1997 Draft Policy 33-102CP

In light of the large number of amendments proposed for 1997 Draft National Instrument 33-102 and the view that many of the provisions are already covered by existing requirements in securities legislation, only sections 4.5 and 5.2 have been included in the Proposed Policy. The remaining provisions have been deleted.

1997 Draft National Instrument 33-103 - Distribution Networks

This entire instrument has been deleted.

1997 Draft National Instrument 33-104 - Selling Arrangements

The effect of the rule was to prohibit tied selling of products between the financial institution and the securities dealer operating out of its branches. The entire instrument has been deleted and replaced by a provision in the Proposed National Instrument that is based on the prohibition against tied selling contained in National Instrument 81-105 - Mutual Fund Sales Practices.

1997 Draft Policy 33-104CP

This companion policy is not necessary because of the deletion of 1997 Draft National Instrument 33-104.

1997 Draft National Policy 33-201 - Networking and Selling Arrangement Notices

The CSA intend to take the necessary actions to repeal or amend the requirement to file networking notices that appears in the regulations and policies of the CSA jurisdictions. With 10 years experience, the CSA are of the view that registrants are able to determine what is and is not an acceptable networking and selling arrangement through an examination of existing securities legislation and position papers. Accordingly, this policy, which deals with the processing of these notices, is being withdrawn and will not be reformulated.

Most provinces are making changes to their legislation, regulations, rules or policies that have the effect of removing the requirement to file networking notices. However, the British Columbia Securities Commission intends to amend section 84 of the British Columbia Securities Rules to require a registrant that intends to enter into a networking arrangement with a savings institution or insurer to file a notice if the savings institution or insurer is not a related party of the registrant.

D. Specific Comment Requested

Disclosure in the Financial Institutions Act (British Columbia)

In certain circumstances, the British Columbia *Financial Institutions Act* (the "FIA") requires disclosure of specific information to a customer if a person arranges a transaction under which a third party provides a service or product to the customer. One circumstance that triggers application of the FIA occurs when the person, who is acting with the approval of a financial institution, might reasonably be mistaken for an employee or representative of the financial institution.[2] In such an instance, the information that must be disclosed includes

- the relationship between the financial institution and the third party,
- the nature and extent of any business or financial interest that the financial institution and the third party have in each other,
- the nature and extent of any interest the financial institution has in the transaction, including any commission or other remuneration,
- the identity of the person paying the commission or other remuneration, and
- the prohibition against tied selling.

While securities legislation in most jurisdictions requires disclosure of the relationship between registrants and related or connected parties and other conflicts of interest disclosure, that disclosure is not the same as the disclosure required under the FIA.

Specific comment is requested on whether it would be appropriate to include disclosure provisions in National Instrument 33-102 (or other securities legislation) that are similar to the provisions set out in the FIA, given the existing disclosure required by securities legislation. Detailed reasons should accompany any comment.

Bill C-38 - An Act to Establish the Financial Consumer Agency Act of Canada and to Amend Certain Acts in Relation to Financial Institutions

Bill C-38, *An Act to Establish the Financial Consumer Agency Act of Canada and to Amend Certain Acts in Relation to Financial Institutions*, was recently introduced by the federal Parliament. Bill C-38 contains a provision[3] authorising the Governor-in-Council to make regulations respecting the disclosure of information by banks or any prescribed class of banks. The CSA will review with interest any regulations the federal government may introduce and may, at that time, revise the disclosure required under National Instrument 33-102.

Bill C-38 also contains a restriction on coercive tied selling and a provision that a bank shall disclose the prohibition on coercive tied selling.[4] Specific comment is requested on whether it would be appropriate for National Instrument 33-102 to require registrants to provide the same disclosure of the prohibition on tied selling that Bill C-38 requires of banks.

E. Principles of Regulation and Form 4A

Once National Instrument 33-102 is enacted, the Principles of Regulation will cease to exist. Consequently, registrants will no longer be able to use Form 4A or, in Québec, Form 3A for the registration of individuals.

F. Status of Notice 39b in Ontario

Notice 39b - Leveraged Mutual Fund Purchases was published for comment at (1986), 9 OSCB 4375. It was never implemented in Ontario and is hereby withdrawn.

G. Regulation to be amended

In Ontario, the Ontario Securities Commission intends to amend Regulation 1015 of the Revised Regulation of Ontario, 1990 (the "Regulation") in conjunction with the making of the Proposed National Instrument as a rule in Ontario by revoking the definition of "networking arrangement" in subsection 219(1) and deleting section 229. This deletion has the effect of removing the requirement to file networking notices in Ontario. These amendments are advisable to effectively implement the Proposed National Instrument and Proposed Policy.

H. Comments

Interested parties are invited to make written submissions with respect to the Proposed National Instrument and the Proposed Policy. Submissions received by September 19, 2000 will be considered.

Submissions should be made in duplicate to:

British Columbia Securities Commission
Alberta Securities Commission
Saskatchewan Securities Commission
Manitoba Securities Commission
Ontario Securities Commission
Office of the Administrator, New Brunswick
Registrar of Securities, Prince Edward Island
Nova Scotia Securities Commission
Securities Commission of Newfoundland
Registrar of Securities, Northwest Territories
Registrar of Securities, Yukon Territory
Registrar of Securities, Nunavut

c/o John Stevenson, Secretary
Ontario Securities Commission
20 Queen Street West
Suite 1900, Box 55
Toronto, Ontario M5H 3S8
jstevenson@osc.gov.on.ca

Submissions should also be addressed to the Commission des valeurs mobilières du Québec as follows:

---

[2] See section 90(2) *Financial Institutions Act*, R.S.B.C. 1996, c. 141 and B.C. Reg. 333/90 *Marketing of Financial Products Regulation.*

[3] See section 119.

[4] See section 118.

Claude St Pierre, Secretary
Commission des valeurs mobilières du Québec
800 Victoria Square
Stock Exchange Tower
P.O. Box 246, 22nd Floor
Montréal, Québec H4Z 1G3
claude.stpierre@cvmq.com

A diskette containing the submissions (in DOS or Windows format) should also be submitted. As the Act requires that a summary of written comments received during the comment period be published, confidentiality of submissions cannot be maintained.

Questions may be referred to any of:

Wayne Alford
Legal Counsel
Alberta Securities Commission
(403) 297-2092
wayne.alford@seccom.ab.ca

Ross McLennan
Director, Registration
British Columbia Securities Commission
(604) 899-6500
(800) 373-6393 (in B.C.)
rmclennan@bcsc.bc.ca

Douglas R. Brown
Counsel and Director, Legal and Enforcement
Manitoba Securities Commission
(204) 945-0605
dbrown@cca.gov.mb.ca

Andrew Nicholson
Deputy Administrator, Capital Markets
Office of the Administrator, Securities Branch
New Brunswick Department of Justice
(506) 658-3021
Andrew.Nicholson@gnb.ca

Susan W. Powell
Securities Analyst
Securities Commission of Newfoundland
(709) 729-4875
SPOWELL@mail.gov.nf.ca

Katharine Tummon
Registrar of Securities, Northwest Territories
(867) 873-7490
Katharine_Tummon@gov.nt.ca

Elaine Anne MacGregor
Deputy Director, Capital Markets
Nova Scotia Securities Commission
(902) 424-7768
macgreea@gov.ns.ca

Samantha VanGenne
Deputy Registrar of Securities
Registrar of Securities, Nunavut
(867) 920-6354
Samantha_VanGenne@gov.nt.ca

Tracey Stern
Legal Counsel, Market Regulation
Capital Markets Branch
Ontario Securities Commission
(416) 593-8167
tstern@osc.gov.on.ca

Mark Gallant
Deputy Registrar Securities Division
Registrar of Securities, Prince Edward Island
(902) 368-4552
mlgallant@gov.pe.ca

Sophie Jean
Policy Advisor
Commission des valeurs mobilières du Québec
(514) 940-2199 ext. 4578
sophie.jean@cvmq.com

Terry Ford
Deputy Director, Registration
Saskatchewan Securities Commission
(306) 787-5876
terry.ford.ssc@govmail.gov.sk.ca

Richard Roberts
Registrar of Securities, Yukon Territory
(867) 667-5225
rroberts@gov.yk.ca

APPENDIX A

SUMMARY OF COMMENTS RECEIVED AND THE RESPONSE OF THE CANADIAN SECURITIES ADMINISTRATORS

NOV. 1997 DRAFT	REVISED DRAFT	COMMENTS RECEIVED	CSA RESPONSE
1997 PROPOSED NATIONAL INSTRUMENT 33-102 DISTRIBUTION OF SECURITIES AT FINANCIAL INSTITUTIONS			
Section 1.1 Definitions	Deleted	A commentator requested clarification on what constitutes a branch for the purposes of this instrument. Ongoing technological advancements are already making the concept of a physical "branch" irrelevant.	The CSA are of the view that it is not necessary to include a definition of "branch office" in this national instrument. "Branch office" is defined in the securities legislation of certain CSA jurisdictions.
Section 1.2 Application	Proposed NI 33-102 Part 2, Part 3 and Part 6	Some commentators indicated their expectation that the proposed instruments would be applicable only to retail clients. In their view, a number the provisions of 1997 Proposed National Instrument 33-102 will further erode the efficiency with which corporate and institutional markets can be served at a time when Canadian financial institutions are facing increasing competition from global players not subject to similar restrictions. It was suggested that the proposed instruments be revised so as to limit their applicability to retail clients, perhaps to be defined as natural persons.	The CSA agree and require disclosure regarding the nature of the product, leverage and client confidentiality to be provided to retail clients only.
Section 2.1 Branch Office	Deleted	Commentators submitted that the need for floor to ceiling separation will impose significant costs on Canadian financial institutions and their related dealers and is not practical. It was argued that artificial separation of premises and separate telephone lines are not effective means of protecting the investor or alleviating investor confusion. In their view, there is no rationale for making a distinction between bank owned dealers and other market participants who offer a broad range of financial services to their customers all within one office.	The CSA are of the opinion that retail client confusion may be addressed in a number of ways, including disclosure. Disclosure is required by sections 2.1 and 6.2 of the Proposed National Instrument. Section 2.2 of the Companion Policy provides that it is the registrant's responsibility to ensure that clients understand with which legal entity they are dealing.
Section 2.2 Disclosure	Proposed NI 33-102 Section 6.2	Commentators agreed that the terms of the disclosure set out in this section (i.e. securities are not insured by a government deposit insurer, are not insured by the bank and may fluctuate in value) are appropriate. However, given the proliferation of disclosure and other documents that clients receive when opening accounts, and thereafter, they suggested that a separate document not be required. Commentators were also not convinced that this disclosure is significantly more important than other disclosure such as to require that additional steps be required in connection with this disclosure, such as obtaining the client's acknowledgment of the disclosure or making inquiries to determine that the client understands the disclosure.	It is the view of the CSA that it is imperative for retail clients to know and understand the distinction between bank and other products of financial institutions and securities. It is the responsibility of the registrant to ensure that the client knows and understands the distinction. Consequently, the provision requiring disclosure has been maintained. In addition, the registrant must obtain an acknowledgement from the retail client that the client has read the disclosure.
Section 2.3	Proposed NI	Commentators questioned whether clients	The CSA are of the opinion that excessive

NOV. 1997 DRAFT	REVISED DRAFT	COMMENTS RECEIVED	CSA RESPONSE
Additional Disclosure	33-102 Sections 2.1 and 2.2	are confused about the necessity of repaying a loan borrowed to purchase securities. It was suggested that common risk disclosure statement be required. Commentators opposed the requirement to ask every client on each order if the purchase is being funded by a loan and if it is to deliver a written statement. It was thought to be onerous and impractical. One commentator stated: "We would not object to a new requirement to deliver a risk disclosure statement regarding leveraging upon the opening of a new account to ensure clients are aware about the risks associated with leveraging provided that this requirement applies to all dealers..." Commentators requested that dealers be reminded that leveraging is an important factor to consider in determining suitability and that investment advisors have a responsibility in this regard. Commentators requested that this disclosure not be applicable to situation involving dealer margin accounts.	leveraging is a concern and clients need to be informed of the risks of purchasing securities using leverage. The CSA propose to require all registrants to provide this disclosure to a retail client when the client is opening an account, the registrant makes a recommendation to purchase securities by leverage or if the registrant is aware of the client's intent to use leverage. Registrants are exempted from the requirement to provide this disclosure when the registrant has provided the disclosure within six months of the recommendation or the registrant is subject to leverage disclosure requirements of a recognized SRO. In addition, margin accounts have been exempted because comparable language is included in the opening account form.
Subsections 3.1 Prohibited Activities in a Branch Office	Deleted	In the opinion of one commentator, the provision of integrated financial services is a reality for all market participants, not just dealers in financial institution branches. Commentators stated that to require a client to physically shift locations in the branch of the financial institution to obtain different types of investment products is inefficient and not conducive to client needs. Having the client move may provide a facade of client protection, but, in their view, clients are better protected by disclosure made available by the dealer.	The CSA agree that the client protection can be achieved through the use of disclosure and the general rules regarding registrable activities.
Section 3.2 Opening of Accounts in a Branch Office	Deleted	One commentator submitted that the current practice that requires all forms to be reviewed and approved by registered personnel is sufficient.	The CSA are of the opinion that the general rules regarding who can conduct registrable activities are sufficient.
Section 3.3 Roving Registrants	Deleted Proposed Policy 33-102CP Section 2.3	Commentators questioned the rationale behind this provision. In their view, the restrictions are unnecessary and make it more difficult for financial institutions and related dealers to service clients in a cost effective manner relative to the needs of a particular market that may not support full-time staffing of a dealer branch premises.	The CSA have deleted this provision and has provided some guidance in section 2.3 of Proposed Policy 33-102CP regarding supervision. The restriction regarding how often someone may be in a branch to provide investment services to customers has been deleted.

NOV. 1997 DRAFT	REVISED DRAFT	COMMENTS RECEIVED	CSA RESPONSE
Section 3.4 Registration not Required	Deleted	Commentators questioned the distinction between dealer branches operating in financial institutions from other dealers. While one stated that clients should only deal with someone who is registered for all business regarding securities or the opening of an account, most commentators stated that non registered personnel should be able to provide administrative and supporting services outlined in the proposal.	The CSA have deleted the list of non-registrable activities. It is up to the registrant to determine what activities should appropriately and legally be conducted by non-registered personnel.
Section 4.1 Dual Employment	Deleted	Commentators argued that the provision ignores the fact that inherent conflicts of interest exist in all salesperson/investor relationships and are not unique to dealers who have dually employed personnel. One commentator submitted that as long as a representative is a full-time employee of the financial institution group, and sells financial products full-time, she should be permitted to be dually employed. Commentators also indicated that the provision would create problems for boards of directors by precluding financial institution directors from being on the board of a related securities dealer.	All local rules regarding dual/part-time employment apply to all registrants whether or not they are operating in a financial institution branch. In addition, the CSA note that the requirement to implement prudent business guidelines to address potential conflicts of interest is present in securities legislation and the CSA do not intend to develop model guidelines at this time. Dual employment is also discussed in *CSA Notice 33-304 CSA Distribution Structures Committee: Position Paper* published at (1999), 22 OSCB 5257.
Section 4.2 Compensation	Deleted		This provision is covered in National Instrument 81-105 Mutual Fund Sales Practices
Section 4.3 Restriction on Dual Employment	Deleted	Commentators indicated that the restrictions on dual employment go far beyond any need to prevent customer confusion or conflicts. Commentators stated that the lack of legislative harmony is unnecessary and burdensome and urged consistency between the requirements across the provinces.	All local rules regarding dual/part-time employment apply to all registrants whether or not they are operating in a financial institution branch.
Section 5.1 Referral Fees	Deleted		This is dealt with in *CSA Notice 33-304 CSA Distribution Structures Committee: Position Paper* published at (1999), 22 OSCB 5257, and, in some jurisdictions, by legislation.

NOV. 1997 DRAFT	REVISED DRAFT	COMMENTS RECEIVED	CSA RESPONSE
Part 6 Confidential Client Information	Proposed NI 33-102, Part 3 Proposed Policy 33-102CP Section 4.1	Commentators acknowledged the importance the confidentiality of client information and respecting the client's right to privacy. However, they expressed concern about that the tighter rules do not reflect business realities that have come about in compliance with the Principles of Regulation. Commentators stated that the integration of financial services distribution is a reality. Common back offices and centralized administrative services, which may use common systems to hold the records of a variety of financial products, are in place throughout the financial services industry. Client information is housed on financial institution computer systems and employees handling back office processing are employees of the financial institution and not the dealer. In the view of the commentators, making changes would be costly and take a considerable amount of time. Commentators stated that the new rules would not permit a dealer to decline to serve any client who refused to consent to the information sharing necessary to conduct administrative, processing, risk management and similar activities. and therefore, dealers would be forced to develop duplicative back offices and administrative units to accommodate these customers. Commentators also requested that implied and oral consent be sufficient to comply with the requirement in certain circumstances. One commentator expressed concern about having the rules be more restrictive with respect to sharing information with financial institutions.	The CSA have retained the requirement that consent of the retail client must be acquired to disclose confidential information and has extended the requirement to all third parties, not just financial institutions. The requirement applies to retail clients at the time of opening of an account. The CSA acknowledge that disclosure of confidential client information is necessary for some products. Consequently, section 3.2 of the Proposed National Instrument provides that a registrant cannot make it a general condition of opening an account that the retail client consent to the dealer disclosing that client's confidential information, but the dealer may require it if disclosure of the information is reasonably necessary to provide a specific product or service requested by the client. In the opinion of the CSA, this exemption addresses the concerns of commentators.
Section 7.1 Settling Securities Transactions	Proposed NI 33-102 Part 4	Commentators indicated that advances in technology have led to products relying on and priced according to the efficiency of their technology linkages. The proposed rule is a significant change from the Principles of Regulation and will make it impossible for dealers to comply with respect of certain services which rely on emerging technologies. For example, Internet trading services usually require that the dealer be able to access a financial institution account of the client for purposes of settling trades. These accounts are typically with a related financial institution.	In response to comments made, the CSA have provided an exception that indicates that the registrant may require this method of settling if it is reasonably necessary to provide the service or product requested by the client.
Section 8.1 No Notice	Deleted		The CSA have decided to delete the requirement to file networking notices from the regulations/policies of the jurisdictions.
1997 PROPOSED COMPANION POLICY 33-102CP DISTRIBUTION OF SECURITIES AT FINANCIAL INSTITUTIONS			

NOV. 1997 DRAFT	REVISED DRAFT	COMMENTS RECEIVED	CSA RESPONSE
Part 1 Networking Notices	Deleted		The CSA intend to take the necessary actions to repeal or amend the requirement to file networking notices.
Part 2 Branch Office	Deleted		See comments under 1997 NI 33-102 section 3.1.
Part 3 Dual Employment	Deleted		See comments under 1997 NI 33-102 section 4.1
Part 4 Compliance and Supervisory Activities	Proposed Policy 33-102CP Section 2.3		It is the view of the CSA that the content of the deleted provisions are covered by existing securities legislation. Only section 4.5 regarding supervision has been maintained.
Part 5 Record Keeping	Proposed Policy 33-102CP Part 3		It is the view of the CSA that the content of the deleted provision is covered by existing securities legislation. Only section 5.2 regarding safeguards against access to records by third parties has been maintained.
Part 6 Reporting by Canadian Financial Institutions	Deleted	Commentators noted that this provision conflicts with confidentiality of client information provisions.	This issue is indirectly dealt with by *CSA Notice 33-304 CSA Distribution Structures Committee: Position Paper* published at (1999), 22 OSCB 5257.
Part 7 Registrable Activities	Deleted		See comments under 1997 NI 33-102 section 3.4
Part 8 Referral fee Arrangements	Deleted		See comments under 1997 NI 33-102 section 5.1
1997 PROPOSED NATIONAL INSTRUMENT 33-103 DISTRIBUTION NETWORKS			
Part 1 Definitions	Deleted		
Part 2 Toll-free lines	Deleted	Commentators questioned the need for multiple registration, as it would be difficult to ensure that each call is routed to correctly registered personnel. They argued that there is no policy reason to require residency requirements in addition to separate registration requirements.	The CSA are currently working on a mutual reliance/national registration database that would seek to harmonize and simplify residency and office requirements where services are provided to residents of more than one jurisdiction.
Part 3 Electronic Trades of Securities	Deleted	Commentators asked for clarity regarding all aspects of electronic trading.	Trading through electronic systems is not prohibited. The CSA remind registrants that all responsibilities, including maintenance of client confidentiality, suitability, are unchanged when using an electronic system.
Part 4 No Notice	Deleted		This section is not necessary because the CSA intend to repeal or amend the requirement for filing networking notices.

NOV. 1997 DRAFT	REVISED DRAFT	COMMENTS RECEIVED	CSA RESPONSE
1997 PROPOSED NATIONAL INSTRUMENT 33-104 SELLING ARRANGEMENTS AND 1997 PROPOSED COMPANION POLICY 33-104CP SELLING ARRANGEMENTS			
1997 NI 33-104 and 1997 CP 33-104CP	Deleted Proposed NI 33-102 Part 5 and Proposed Policy 33-102CP Part 4	Commentators requested that the proposed instrument be limited to tied-selling type arrangements where there could be seen to be some form of coercive power. In addition, they requested provincial harmony with respect to selling arrangements.	The CSA have replaced these instruments with provisions that track the language prohibiting tied selling in National Instrument 81-105 Mutual Funds Sales Practices
PROPOSED NATIONAL POLICY 33-201 NETWORKING AND SELLING ARRANGEMENT NOTICES			
1997 National Policy 33-201	Deleted	Commentators argued that because the market has evolved since the Principles of Regulation were adopted, they see little need for most networking arrangements to be filed or reviewed.	The CSA intend to take the necessary actions to repeal or amend the requirement to file networking notices.

NATIONAL INSTRUMENT 33-102 REGISTRANT DEALINGS WITH CLIENTS

TABLE OF CONTENTS

PART	TITLE
Part 1	DEFINITIONS 1.1 Definitions
Part 2	DISCLOSURE 2.1 Leverage Disclosure 2.2 Exemption for Margin Accounts
Part 3	DISCLOSURE OF CONFIDENTIAL RETAIL CLIENT INFORMATION 3.1 Consent Required 3.2 Prohibition to Require Consent as a Condition
Part 4	SETTLING SECURITIES TRANSACTIONS 4.1 Settling Securities Transactions
Part 5	TIED SELLING 5.1 Tied Selling
Part 6	DISTRIBUTION OF SECURITIES IN A FINANCIAL INSTITUTION 6.1 Application of Part 6 6.2 Disclosure 6.3 Disclosure in Promotional Material
Part 7	EXEMPTION 7.1 Exemption

NATIONAL INSTRUMENT 33-102 REGISTRANT DEALINGS WITH CLIENTS

PART 1 DEFINITIONS

1.1 Definitions

(1) In this Instrument, "**recognized SRO**" means an SRO that is recognized as a self-regulatory organization by a Canadian securities regulatory authority.

(2) In this Instrument, "**retail client**" means

a) an individual unless the individual has a net worth exceeding $5 million, or

b) a person or company, other than an individual, unless the person or company has total assets or annual revenues exceeding $10 million

but does not include

i) a Canadian financial institution

ii) a person or company registered under Canadian securities legislation.

PART 2 DISCLOSURE

2.1 Leverage Disclosure

(1) If a registrant opens an account for a retail client or if a registrant makes a recommendation to a retail client for purchasing securities by leveraging, or otherwise becomes aware of a retail client's intent to employ leveraged monies for the purpose of investment, the registrant shall provide to the retail client, before the retail client purchases securities by leveraging, a written disclosure statement in substantially the following words:

> Using borrowed money to finance the purchase of securities involves greater risk than a purchase using cash resources only. Should you borrow money to purchase securities, your responsibility to repay the loan as required by its terms remains the same even if the value of the securities purchased declines.

(2) Before executing an order on behalf of a retail client purchasing securities by leveraging, the registrant shall obtain an acknowledgement from the retail client that specifically refers to the written disclosure statement required by subsection (1) and confirms that the retail client has read the written disclosure statement.

(3) A registrant is not required to comply with subsections (1) and (2) if:

(a) the registrant has provided the written disclosure statement required by subsection (1) to the retail client within the six month period prior to making the recommendation for purchasing securities by leveraging, or otherwise becoming aware of a retail client's intent to employ leveraged monies for the purpose of investment, or

(b) the registrant is subject to and complies with the leverage disclosure rules of a recognized SRO.

2.2 **Exemption for Margin Accounts** - Section 2.1 does not apply to purchases of securities by a retail client on margin if the client's margin account is maintained with a registrant that is a member of a recognized SRO and the margin account is operated in accordance with the rules of the recognized SRO.

PART 3 DISCLOSURE OF CONFIDENTIAL RETAIL CLIENT INFORMATION

3.1 **Consent Required** - A registrant shall hold all information about a retail client confidential and shall not disclose the information to any third party, except as required by law or the rules of a recognized SRO, unless, prior to disclosing the information,

(a) the registrant informs the retail client to whom the information pertains:

(i) of the name of the third party to which the information will be disclosed,

(ii) of the relationship between the registrant and the third party,

(iii) of the nature of the information that will be disclosed,

(iv) of the intended use of the information by the third party, including whether the third party will disclose the information to others,

(v) of the right of the retail client to revoke the consent referred to in paragraph (b), and the effect of the revocation, and

(vi) that the retail client's consent under paragraph (b) is not required as a condition of the registrant dealing with the retail client, except in circumstances described in section 3.2; and

(b) the retail client consents to the disclosure of the confidential client information.

3.2 **Prohibition to Require Consent as a Condition** - No registrant shall require a retail client to consent to the registrant disclosing confidential information regarding the retail client as a condition, or on terms that would appear to a reasonable person to be a condition, of supplying products or services, unless the disclosure of the information is reasonably necessary to provide a specific product or service that the retail client has requested.

PART 4 SETTLING SECURITIES TRANSACTIONS

4.1 **Settling Securities Transactions** - No registrant shall require a person or company to settle that person or company's account with the registrant through that person or company's account at a Canadian financial institution as a condition, or on terms that would appear to a reasonable person to be a condition, of supplying products or services, unless this method of settlement is reasonably necessary to provide a specific product or service that the person or company has requested.

PART 5 TIED SELLING

5.1 **Tied Selling** - No person or company shall require another person or company

(a) to invest in particular securities, either as a condition or on terms that would appear to a reasonable person to be a condition, of supplying or continuing to supply products or services; or

(b) to purchase or use any products or services, either as a condition or on terms that would appear to a reasonable person to be a condition, of selling particular securities.

PART 6 DISTRIBUTION OF SECURITIES IN A FINANCIAL INSTITUTION

6.1 **Application of Part 6** - This Part applies only to registrants conducting securities related activities in an office or branch of a Canadian financial institution.

6.2 **Disclosure**

(1) If a registrant opens an account for a retail client, a registrant shall provide a written disclosure statement that the registrant is a separate entity from the Canadian financial institution and, unless otherwise advised by the registrant, securities purchased from or through the registrant

(a) are not insured by a government deposit insurer,

(b) are not guaranteed by a Canadian financial institution, and

(c) may fluctuate in value.

(2) At the time that the account is opened, the registrant shall obtain an acknowledgement from the retail client that specifically refers to the written disclosure statement required by subsection (1) and confirms

that the retail client has read the written disclosure statement.

6.3 **Disclosure in Promotional Material** - A registrant shall include a written statement that contains the information referred to in section 2.1 and section 6.2 of this Instrument in the registrant's promotional material that is distributed by or displayed in an office or branch of a Canadian financial institution.

PART 7 EXEMPTION

7.1 Exemption

(1) The regulator or the securities regulatory authority may grant an exemption to 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.

COMPANION POLICY 33-102CP
REGISTRANT DEALINGS WITH CLIENTS

TABLE OF CONTENTS

PART	TITLE
Part 1	DISCLOSURE 1.1 Leverage Disclosure 1.2 Client Acknowledgement 1.3 Exemption for Margin Accounts
Part 2	COMPLIANCE AND SUPERVISORY ACTIVITIES 2.1 Registrant Premises 2.2 Registrant Responsibility to Prevent Client Confusion 2.3 Supervision of Sub-Branches
Part 3	RECORD KEEPING 3.1 Third Party Access to Information
Part 4	RETAIL CLIENT CONSENT 4.1 Retail Client Consent 4.2 Timing of Retail Client Consent
Part 5	PRODUCTS AND SERVICES 5.1 Opening an Account
Part 6	RELATIONSHIP PRICING 6.1 Relationship Pricing

COMPANION POLICY 33-102CP
REGISTRANT DEALINGS WITH CLIENTS

PART 1 DISCLOSURE

1.1 **Leverage Disclosure** - Registrants are reminded that leveraging is an important factor to consider when determining suitability. National Instrument 33-102 (the "National Instrument") in no way implies that the one time provision of this disclosure statement fulfills the registrant's ongoing duty to its clients to ensure trades are suitable for the investment needs and objectives of its clients. There may be circumstances when a registrant, as part of the registrant's suitability responsibilities, should remind investors about the risks of leveraging.

1.2 **Client acknowledgement** - The acknowledgements of a retail client referred to in subsections 2.1(2) and 6.2(2) of the National Instrument may be obtained by a registrant in a number of ways, including requesting the retail client's signature, requesting that the retail client initial an initial box or requesting that the retail client place a check in a check-off box. The registrant must draw the client's attention to the disclosure provided. The acknowledgement must be specific to the information disclosed to the retail client (i.e. disclosure regarding the risks of using leverage to purchase securities or the description of the nature of securities) and must confirm that the retail client has read the relevant information.

1.3 **Exemption for Margin Accounts** - Section 2.2 of the National Instrument exempts registrants from the requirement to provide additional leverage disclosure to retail clients opening a margin account. The exemption is provided because SRO rules already require that clients with margin accounts acknowledge receipt of leverage disclosure in the account opening form.

PART 2 COMPLIANCE AND SUPERVISORY ACTIVITIES

2.1 **Registrant Premises** - Securities legislation requires that a registrant designate one officer or partner, known as a compliance officer, to be responsible for ensuring compliance by the registrant and its registered personnel with securities legislation and the registrant's written procedures for dealing with its clients. Any office or branch office of the registrant may be designated by the registrant as its central location for a local jurisdiction.

2.2 **Registrant Responsibility to Prevent Client Confusion** - The registrant is responsible for ensuring that clients understand with which legal entity they are dealing, especially if more than one financial service firm is carrying on business in the same location. The client may be informed through various methods, including signage and disclosure. Registrants are reminded of the obligation to carry on all registrable activities in the name of the registrant. Contracts, confirmations and account statements, among other documents, must contain the full legal name of the registrant.

2.3 **Supervision of Sub-Branches** - The Canadian securities regulatory authorities permit the operation of sub-branch offices of registrants in certain circumstances. The activities of registrants operating within a sub-branch office are generally supervised by a branch manager in a location other than the sub-branch. The Canadian securities regulatory authorities are of the view that such supervision is appropriate in most circumstances. However, the Canadian securities regulatory authorities will consider the facts on a case-by-case basis to ensure that an appropriate level of supervision is in place.

PART 3 RECORD KEEPING

3.1 **Third Party Access to Information** - All registrants have a duty to maintain proper books and records and to ensure that there are proper safeguards in place to ensure that there is no unauthorized access to information, particularly confidential client information. If the registrant maintains books and records in a central location to which employees of a third party have access, the registrant should be particularly vigilant in ensuring these safeguards are implemented and effective.

PART 4 RETAIL CLIENT CONSENT

4.1 **Retail Client Consent** - The retail client consent referred to in paragraph 3.1(b) of the National Instrument may be obtained by a registrant in a number of ways, including requesting the retail client's signature, requesting that the retail client initial an initial box or requesting that the retail client place a check in a check-off box. The Canadian securities regulatory authorities note that in some jurisdictions, the form of consent may be prescribed by legislation.

4.2 **Timing of Retail Client Consent** - Consent to the disclosure of confidential retail client information is to be obtained by the registrant when the information is collected (i.e. upon account opening). However, in certain circumstances, consent with respect to the disclosure of the information should be sought after the collection of the information if the registrant wants to provide the information to a third party not previously identified or if the use by the third party was not initially disclosed.

PART 5 PRODUCTS AND SERVICES

5.1 **Opening an Account** - The Canadian securities regulatory authorities note that the "products or services" referred to in section 3.2, section 4.1 and section 5.1 of the National Instrument include the opening of an account.

PART 6 RELATIONSHIP PRICING

6.1 **Relationship Pricing** - The Canadian securities regulatory authorities are aware that industry participants offer financial incentives or advantages to certain clients, a practice that is commonly referred to as relationship pricing. The tied selling provision in Part 5 of the National Instrument is intended to prevent certain abusive sales practices and is not intended to prohibit relationship pricing or other beneficial selling arrangements similar to relationship pricing. By way of example, staff of the Canadian securities regulatory authorities are of the view that Part 5 of the National Instrument would not be contravened in a case where a financial institution offered to make a loan to a client on more favourable terms or conditions than the financial institution would otherwise offer to the client as a result of the client's agreement to acquire securities of mutual funds that are sponsored by the financial institution. Staff are of the view that Part 5 of the National Instrument would be contravened, however, if the financial institution refused to make the loan unless the client acquired securities of mutual funds that are sponsored by the financial institution, where the client otherwise met the financial institution's criteria for making loans.

This Page Intentionally left blank

Chapter 7

Insider Reporting

This chapter is available in the print version of the OSC Bulletin, as well as as in Carswell's internet service SecuritiesScource (see www.carswell.com).

This chapter contains a weekly summary of insider transactions of Ontario reporting issuers in the System for Electronic Disclosure by Insiders (SEDI). The weekly summary contains insider transactions reported during the seven days ending Sunday at 11:59 pm.

To obtain Insider Reporting information, please visit the SEDI website (www.sedi.ca).

Chapter 8

Notice of Exempt Financings

Exempt Financings

The Ontario Securities Commission reminds Issuers of exempt financings that they are responsible for the completeness, accuracy and timely filing of Forms 20 and 21 pursuant to section 72 of the Securities Act and section 14 of the Regulation to the Act. The information provided is not verified by staff of the Commission and is published as received except for confidential reports filed under paragraph E of the Ontario Securities Commission Policy Statement No. 6.1.

Reports of Trades Submitted on Form 45-501f1

Trans. Date	Security	Price ($)	Amount
26Jun00	99Com1-CND Equity Fund, 99Com2 - CDN Bond Fund - Units	2,000,000	196,559
20Jun00	Acuity Pooled Global Equity Fund - Units	509,467	24,662
14Jun00	Acuity Pooled Canadian Equity Fund - Units	160,000	8,372
20Jun00	Acuity Pooled Balanced Fund - Units	150,000	10,187
01Jun00	African Sky Communications Inc. - Units	510,000	1,275,000
06Jun00	Alliance Atlantis Communications - 13% Senior Subordinated Notes due 2009	2,982,000	2,000,000
21Jun00	Arcis Corporation - 9% Series B Unsecured Convertible Debentures	900,000	900,000
30Jun00	Arrow Capital Advance Fund - Class "A" Trust Units	150,000	15,000
30Jun00 & 07Jul00	Arrow Capital Advance Fund - Class"I" Trust Units	224,999	3,592
16Jul00	ASM Litography Holding N.V. - Ordinary Shares	424,580	7,500
09Jun00	BPI American Opportunities Fund - Units	2,461,535	16,599
30Jun00	Caterpillar Financial Services Corporation - Notes	US$20,000,000	$20,000,000
27Jun00	CC&L Private Client Canadian Equity Fund - Units	150,000	13,693
27Jun00	CC&L Global Growth Fund - Units	209,225	20,401
27Jun00	CC&L Private Client Bond Fund - Units	150,000	14,928
28Jun00	Charles River Laboratories International, Inc. - Shares of Common Stock	474,720	20,000
08Jun00	Community Health Systems, Inc. - Common Stock	36,901	1,900
29Jun00	D2W2 Instore Wireless Inc. - Series A Special Shares	600,400	3,800,000

Trans. Date	Security	Price ($)	Amount
01Jun00	Daimler Chrysler North American Holdings Corporation - 8.00% Notes due June 15/10	$60,316,004	$40,000,000
28Jun00	Datawire Communication Networks Inc. - Class B Common Shares	151,062	21,121
14Jun00	Ecopia BioSciences Inc. - Units	5,761,008	3,200,560
28Jun00	epoint technologies inc. - Special Warrants	241,050	137,743
23Jun00	Excalibur Limited Partnership - Units	792,414	4
30Jun00	Fleming Canada Offshore Select Trust - Units	265	942
07Jun00	Ford Motor Credit Company - 7⅞% Global Landmark Securities due June 15, 2010	31,728,608	21,290,000
27Jun00	Friede Goldman Halter, Inc. - Common Stock (Amended)	US$1,55,000	140,000
23Jun00	Galileo Equity Management Inc. -	50,000,000	4,812,319
06Jul00	Greentree Gas & Oil Ltd. - Common Shares	600,000	600,000
30Jun00	Harbour Capital Foreign Balanced Fund - Trust Units	150,000	1,114
01Jun00	Household Capital Trust V - 10% Trust Preferred Securities	339,750	9,000
27Jun00	Independent Equity Research Corp. - Common Shares	247,500	165,000
15Jun00	Inter-American Development Bank - 7% Three Year U.S. Dollar Global Bonds of 2000, due June 16, 2003	73,953,423	50,000,000
11Jul00	International Freegold Mineral Development Inc. - Units	750,000	5,000,000
15May98	InterNetivity Inc. - Preferred Shares	198,333	687,566
30Sep009 8	InterNetivity Inc. - Preferred Shares	616,666	2,137,810
26Apr00	InterNetivity Inc. - Preferred Shares	801,666	1,175,797
26Jun00	Kaoclay Resources Inc. - Common Shares	150,075	20,700
23Jun00	Kast Telecom Inc. - Common Shares	US$150,000	30,000
30Jun00	Kingwest Avenue Portfolio - Units	562,763	30,144
26May00	Laser Healthcare Inc. - Class A Preference Shares	2,400,000	1,050,000
13Jun00	LAUNCHworks Inc. - Class B Special Shares, Series I	6,005,000	800,667
09Jun00	Lifepoints Achievement Fund, Lifepoints Progress Fund, Lifepoints Opportunity Fund, Russell Canadian Fixed Income Fund, Russell Canadian Equity Fund, Russell Global Equity Fund - Units	147,749	2,137
12Jun00	Lifepoints Achievement Fund, Lifepoints Progress Fund, Lifepoints Opportunity Fund, Russell Canadian Equity Fund, Russell Canadian Fixed Income Fund, Russell Global Equity Fund - Units	57,537	475
15Jun00	Lifepoints Achievement Fund, Lifepoints Opportunity Fund, Russell Overseas Equity Fund - Units	507	3

Trans. Date	Security	Price ($)	Amount
14Jun00	Lifepoints Achievement Fund, Lifepoints Progress Fund, Lifepoints Opportunity Fund, Russell Overseas Equity Fund - Units	6,276	48
13Jun00	Lifepoints Achievement Fund, Lifepoints Progress Fund, Lifepoints Opportunity Fund, Russell Overseas Equity Fund - Units	101,854	804
14Jun00	Lifepoints Achievement Fund, Lifepoints Progress Fund, Lifepoints Opportunity Fund, Russell Canadian Equity Fund, Russell Canadian Fixed Income Fund, Russell Global Equity Fund - Units	23, 392	176
15Jun00	Lifepoints Achievement Fund, Lifepoints Progress Fund, Russell Canadian Equity Fund, Russell Global Equity Fund - Untis	59,939	418
06Jun00	Lifepoints Achievement Fund, Lifepoints Progress Fund, Lifepoints Opportunity Fund - Units	109,326	886
03Jun00	Lifepoints Achievement Fund, Lifepoints Progress Fund, Lifepoints Opportunity Fund, Russell Canadian Equity Fund, Russell Canadian Fixed Income Fund, Russell Global Equity Fund - Unit	124	1
06Jun00	Lifepoints Achievement Fund, Russell Canadian Fixed Income Fund, Russell Global Equity Fund - Unit	108	.99
13Jun00	Lifepoints Progress Fund, Lifepoints Opportunity Fund, Russell Global Equity Fund - Units	38,333	311
25May00	Madison Avenue Downtown Toronto Real Estate Limited Partnership, The - Limited Partnership Units	625,000	25
28Jun00	Manufacturers's Services Limited - Shares of Common Stock	1,246,140	52,500
30Jun00	Marquest Balanced Fund # 750	441,075	31,899
30Jun00	Marquest Canadian Equity Fund # 650 -	17,978	1,849
30Jun00	Marquest Canadian Equity Growth Fund # 501	486,913	17,580
30Jun00	Marquest Technology Fund # 401US	1,000,000	104,185
27Jun00	Net Resources - Special Warrants	`266,000	20,000
30Jun00	Norigen Communications Group Inc. - Series I Voting and Series III Non-Voting Senior Convertible Preference Shares	51,000,000, 4,000,000	51,000,000, 4,000,000 Resp.
10Jul00	Normiska Corporation - Special Warrants	75,000	79,948
30May00	NRG Energy, Inc. - Common Shares	22,740	1,000
30Jun00	O'Donnell Capital Group Inc. - Class B Management Shares	300,000	1,200,000
31May00	ONI Systems Corp. - Common Shares	1,397,969	36,825
29Jun00	Ozz Utility Management Ltd. - Common Shares	1,500,000	3,200,000
29Jun00	Procor Limited/Procor Limitee - 7.91% Limited Recourse Notes	33,451,634	3

Trans. Date	Security	Price ($)	Amount
13Jun00	Rediff.com India Limited - American Depository Shares	19,574	1,100
12May00	Reds Bistro & Bar Limited - Units and Promissory Notes	300,000, $299,977	2,275, 299,977 Resp.
07Jun00	Russell Canadian Equity Fund, Lifepoints Opportunity Fund - Units	47,313	376
14Jun00	Russell Canadian Equity Fund - Units	20,644	89
12Jun00	Russell Canadian Equity Fund, Russell Fixed Income Fund, Lifepionts Achievement Fund, Lifepoints Opportunity Fund, Russell Overseas Equity Fund, Russell U.S,. Equity Fund, Russell Global Equity Fund - Units	33,219	266
05Jun00	Russell Canadian Equity Fund, Russell Canadian Fixed Income Fund, Russell US Equity Fund, Russell Overseas Equity Fund, Lifepoints Opportunity Fund, Lifepoints Progress Fund - Units	335,218	2,051
13Jun00	Russell Canadian Equity Fund, Russell Canadian Fixed Income Fund, Russell US Equity Fund, Russell Overseas Equity Fund, Lifepoints Progress Fund, Lifepoints Achievement Fund - Units	228,666	1,799
16Jun00	Russell Canadian Equity Fund, Russell Canadian Fixed Income Fund, Russell Overseas Equity Fund, Lifepoints Achievement Fund - Units	58,474	377
06Jun00	Russell Canadian Equity Fund - Units	9,686	42
12Jun00	Russell Canadian Fixed Income Fund, Lifepoints Achievement Fund, Lifepoints Progress Fund, Lifepoints Opportunity Fund, Russell Canadian Equity Fund, Russell Global Equity Fund, Russell Overseas Equity Fund, Russell US Equity - Units	1,200,000	9,194
13Jun00	Russell Canadian Equity Fund, Lifepoints Opportunity Fund - Units	192,826	960
12Jun00	Russell Canadian Fixed Income Fund, Lifepoints Achievement Fund, Lifepoints Opportunity Fund, Russell Canadian Equity Fund, Russell Global Equity Fund, Russell Overseas Equity Fund - Units	1,200,000	9,160
08Jun00	Russell Canadian Equity Fund - Units	8,080	35
16Jun00	Russell Canadian Fixed Income Fund - Units	3,190	27
06Jun00	Russell Canadian Equity Fund, Russell US Equity Fund - Units	18,901	94
07Jun00	Russell Canadian Equity Fund - Units	27,326	78
06Jun00	Russell Canadian Equity Fund, Russell Overseas Equity Fund - Units	51, 929	307
14Jun00	Russell Canadian Fixed Income Fund, Lifepoints Achievement Fund, Lifepoints Progress Fund, Russell Canadian Equity Fund, Russell Global Equity Fund - Units	1,679	13

Trans. Date	Security	Price ($)	Amount
06Jun00	Russell Canadian Equity Fund, Russell US Equity Fund, Russell Overseas Equity Fund, Lifepoints Opportunity Fund - Units	49,378	266
16Jun00	Russell Overseas Equity Fund - Units	11,461	80
13Jun00	Russell Overseas Equity Fund - Units	11,462	79
09Jun00	Russell Overseas Equity Fund, Lifepoints Progress Fund - Units	10,761	84
08Jun00	Russell US Equity Fund. Lifepoints Achievement Fund - Units	15,195	119
15Jun00	Russell US Equity Fund, Russell Overseas Equity Fund, Lifepoints Opportunity Fund, Lifepoints Achievement Fund - Units	39,777	287
04Jul00	Stacey Investment Limited Partnership - Units	200,001	10,336
20Jun00	SUPPLYFORCE.COM, LLC. - Units	450,003	51,000
01Jun00	Taiwan Semiconductor Manufacturing Company Limited - American Depository Shares	7,503,567	139,000
28Jun00	Total Telcom Inc. - Special Warrants	339,000	300,000
29Jun00	Tralliant Corp. - Units	450,000	2,250,000
28Jun00	Triant Technologies Inc. - Special Warrants	12,698,000	7,936,250
26Jun00 to 30Jun00	Trimark Mutual Funds - Units (See Filing Document for Individual Fund Names)	6,154,300	707,391
10Jul00	Twenty-First Century Funds Inc. - Units	1,500,000	172,614
10Jul00	Twenty-First Century Funds Inc. - Units	750,000	116,000
30Jun00	Twenty-First Century Funds Inc. - Units	750,000	130,680
28Jun00	Virage, Inc. - Common Stock	8,132	500
26Jun00	Wenzel Downhole Tools Ltd. - Special Warrants	4,491,900	2,566,800
30Jun00	ZTEST Electronics Inc. - Units	1,225,600	766,000

Reports Made under Subsection 5 of Subsection 72 of the Act with Respect to Outstanding Securities of a Private Company That Has Ceased to Be a Private Company -- (Form 22)

Name of Company	Date the Company Ceased to be a Private Company
Kirklees Capital Inc.	11Jul00
Ursa Major Minerals Incorporated	12Jun00

Notice of Intention to Distribute Securities Pursuant to Subsection 7 of Section 72 - (Form 23)

Seller	Security	Amount
Shneer, David	Advantedge International Inc. - Voting Shares	300,000
Black, Conrad M.	Hollinger Inc. - Series II Preference Shares	1,611,039
Temple Ridge (1996) Limited	Kasten Chase Applied Research Limited - Common Shares	1,000,000

Seller	Security	Amount
Baran, Steve	Meridian Resources Inc. - Shares	4,500,000
S.E. Malouf Consulting Geologists Limited	Roxmark Mines Limited - Common Shares	1,500,000
Zinc Metal Corporation	Roxmark Mines Limited - Common Shares	1,500,000
Mailon, Andrew J.	Spectra Inc. - Common Shares	200,000
Faye, Michael R.	Spectra Inc. - Common Shares	200,000
126987 Canada Ltd.	Speedware Corporation Inc. - Common Shares	1,499,900
Hawkins, Stanley G.	Tandem Resources Ltd. - Common Shares	2,000,000
Coutts Family Trust, The	Teklogix International Inc. - Common Shares	185,800

Chapter 9

Legislation

THERE IS NO MATERIAL FOR THIS CHAPTER

IN THIS ISSUE

This Page Intentionally left blank

Chapter 11

IPOs, New Issues and Secondary Financings

Issuer Name:
ATS Automation Toolings Systems Inc.
Principal Regulator - Ontario
Type and Date:
Preliminary Short Form Prospectus dated July 17th, 2000
Mutual Reliance Review System Receipt dated July 17th, 2000
Offering Price and Description:
$105,750,000 3,000,000 Common Shares
Underwriter(s), Agent(s) or Distributor(s):
Merrill Lynch Canada Inc.
BMO Nesbitt Burns Inc.
Credit Suuisse First Boston
Griffiths McBurney & Partners
Promoter(s):
N\A
Project #283024

Issuer Name:
Clarington RSP International Equity Fund
Clarington Canadian Equity Class
Clarington Global Communications Class
Clarington Global Equity Class
Clarington Global Small Cap Class
Clarington Navellier U.S. All Cap Class
Clarington Short -Term Income Class
Principal Regulator - Ontario
Type and Date:
Preliminary Simplified Prospectus dated July 18th, 2000
Mutual Reliance Review System Receipt dated July 19th, 2000
Offering Price and Description:
Mutual Fund Securities - Net Asset Value
Underwriter(s), Agent(s) or Distributor(s):
ClaringtonFunds Inc.
Promoter(s):
ClaringtonFunds Inc.
Project #283531

Issuer Name:
Janus American Equity Fund
Janus Global Equity Fund
Principal Regulator - Ontario
Type and Date:
Preliminary Simplified Prospectus dated July 12th, 2000
Mutual Reliance Review System Receipt dated July 14th, 2000
Offering Price and Description:
Mutual Fund Securities - Net Asset Value
Underwriter(s), Agent(s) or Distributor(s):
Investors Group Financial Services Inc.
Investors Group Securities Inc.
Les Services Investors Limitee
Promoter(s):
N/A
Project #282596

Issuer Name:
MAESTRAL Money Market Fund
MAESTRAL Canadian Bond Fund
MAESTRAL Asset Mix Fund
MAESTRAL Canadian Equity Fund
MAESTRAL Growth Fund
MAESTRAL American Equity Fund
MAESTRAL Global Equity Fund
MAESTRAL Global Equity RSP Fund
MAESTRAL Technology & Telecommunications Fund
MAESTRAL Health & Biotechnology Fund
Principal Regulator - Quebec
Type and Date:
Preliminary Simplified Prospectus dated July 10th, 2000
Mutual Reliance Review System Receipt dated July 11th, 2000
Offering Price and Description:
Mutual Fund Securities - Net Asset Value
Underwriter(s), Agent(s) or Distributor(s):
Desjardins Investment Services Inc.
Promoter(s):
Desjardins Trust Inc.
Project #281873

Issuer Name:
Phonetime Inc.
Principal Regulator - Ontario
Type and Date:
Preliminary Prospectus dated July 13th, 2000
Mutual Reliance Review System Receipt dated July 14th, 2000
Offering Price and Description:
$4,000,000 - 8,000,000 Common Shares Issuable upon the exercise of Special Warrants
Underwriter(s), Agent(s) or Distributor(s):
N/A
Promoter(s):
N/A
Project #282683

Issuer Name:
PhotoChannel Networks Inc.
Principal Regulator - British Columbia
Type and Date:
Preliminary Prospectus dated July 10th, 2000
Mutual Reliance Review System Receipt dated July 12th, 2000
Offering Price and Description:
$10,000,000 - 10,000,000 Common Shares and 5,000,000 Warrants upon the exercise or Deemed Exercise of 10,000,000 previously issued Special Warrants
Underwriter(s), Agent(s) or Distributor(s):
Taurus Capital Markets Ltd.
Promoter(s):
N/A
Project #282063

Issuer Name:
Waratah Pharmaceuticals Inc.
Principal Regulator - Alberta
Type and Date:
Preliminary Prospectus dated June 28th, 2000
Mutual Reliance Review System Receipt dated July 13th, 2000
Offering Price and Description:
Underwriter(s), Agent(s) or Distributor(s):
Yorkton Securities Inc.
Canaccord Capital Corporation
Promoter(s):
RTP Pharma Inc.
Project #280464

Issuer Name:
USC Horizon Education Savings Plan
Principal Regulator - Ontario
Type and Date:
Preliminary Prospectus dated July 12th, 2000
Mutual Reliance Review System Receipt dated July 13th, 2000
Offering Price and Description:
Mutual Fund Securities - Net Asset Value
Underwriter(s), Agent(s) or Distributor(s):
N/A
Promoter(s):
N/A
Project #282404, 282394, 282402 & 282398

Issuer Name:
Canadian Scholarship Trust Plan-Optional Plan (Formerly Canadian Scholarship Trust Optional Plan)
Canadian Scholarship Trust Plan-Millennium Plan (Formerly Canadian Scholarship Trust Millennium Plan)
Canadian Scholarship Trust Plan-Millennium Family Plan (Formerly Canadian Scholarship Trust Millennium Family Plan)
Principal Regulator - Ontario
Type and Date:
Final Prospectus dated July 13th, 2000
Mutual Reliance Review System Receipt 18th day of July, 2000
Offering Price and Description:
N\A
Underwriter(s), Agent(s) or Distributor(s):
N\A
Promoter(s):
CST Foundation
Project #264341, 264356 &264361

Issuer Name:
Intrinsyc Software, Inc.
Principal Regulator - British Columbia
Type and Date:
Final Prospectus dated July 12th, 2000
Mutual Reliance Review System Receipt dated 13th day of July, 2000
Offering Price and Description:
$6,000,000.00 - 3,000,000 Units issuable upon the exercise of Special Warrants
Underwriter(s), Agent(s) or Distributor(s):
Loewen,Ondaatje,Mccutcheon Limited
Promoter(s):
Derek W. Spratt
Project #276975

Issuer Name:
Normiska Corporation
Type and Date:
Final Prospectus dated July 10th, 2000
Receipted 11th day of July, 2000
Offering Price and Description:
$630,000 - 663,158 Common Shares Issuable upon the exercise of 663,158 Special Warrants
Underwriter(s), Agent(s) or Distributor(s):
Goepel McDermid Inc.
Promoter(s):
David Graham
John M Arnold
Project #277111

Issuer Name:
Plaintree Systems Inc.
Principal Regulator - Ontario
Type and Date:
Final Prospectus dated July 10th, 2000
Receipted 13th day of July, 2000
Offering Price and Description:
N\A
Underwriter(s), Agent(s) or Distributor(s):
Taurus Capital Markets Ltd.
Promoter(s):
N\A
Project #278107

Issuer Name:
Manhattan Minerals Corp.
Principal Regulator - British Columbia
Type and Date:
Final Short Form Prospectus dated July 11th, 2000
Mutual Reliance Review System Receipt dated 12th day of July, 2000
Offering Price and Description:
$15,290,980.00 - 4,704,917 Common Shares to be issued upon the exercise of 4,704,917 previously issued Special Warrants
Underwriter(s), Agent(s) or Distributor(s):
National Bank Financial Inc.
Sprott Securities Limited
Promoter(s):
N/A
Project #279450

Issuer Name:
Wi-LAN Inc.
Principal Regulator - Alberta
Type and Date:
Final Short Form Prospectus dated July 13th, 2000
Mutual Reliance Review System Receipt dated 17th day of July 2000
Offering Price and Description:
6,000,000 Common Shares Issuable Upon the Exercise of Special Warrants
Underwriter(s), Agent(s) or Distributor(s):
Montreal Trust Company of Canada
Promoter(s):
N/A
Project #278208

Issuer Name:
Dynamic Infinity American Fund (Formerly Dynamic Infinity International Fund)
Dynamic Infinity Canadian Fund
Dynamic Infinity Income and Growth Fund
Dynamic Infinity T-Bill Fund
Dynamic Infinity Wealth Management Fund
Principal Regulator - Ontario
Type and Date:
Final Simplified Prospectus and Annual Information Form dated July 10th, 2000
Mutual Reliance Review System Receipt 14th day of July, 2000
Offering Price and Description:
Mutual Fund Securities - Net Asset Value
Underwriter(s), Agent(s) or Distributor(s):
Registered Dealer
Promoter(s):
N/A
Project #272202

Issuer Name:
Fidelity Canadian Aggressive Fund
Fidelity American Opportunities Fund
Fidelity RSP American Opportunities Fund
Fidelity Focus Telecommunications Fund
Fidelity RSP Focus Telecommunications Fund
Principal Regulator - Ontario
Type and Date:
Final Simplified Prospectus and Annual Information Form dated July 17th, 2000
Mutual Reliance Review System Receipt 18th day of July, 2000
Offering Price and Description:
Mutual Fund Securities - Net Asset Value
Underwriter(s), Agent(s) or Distributor(s):
N/A
Promoter(s):
Fidelity Investments Canada Limited
Project #264439

Issuer Name:
Georgian Global Financial Services Fund (Formerly Georgian Global Financial Services Fund I)
Georgian Global 24 Fund (Formerly Georgian Global 24 Fund I)
Georgian Northern 24 Fund (Formerly Georgian Northern 24 Fund I)
Georgian Bond Fund (Formerly Georgian Bond Fund I)
Principal Jurisdiction - Ontario
Type and Date:
Final Simplified Prospectus and Annual Information Form dated July 13th, 2000
Mutual Reliance Review System Receipt 17th day of July, 2000
Offering Price and Description:
Mutual Fund Securities - Net Asset Value
Underwriter(s), Agent(s) or Distributor(s):
Registered Dealers
Promoter(s):
Georgian Capital Partners Inc.
Project #224871

Issuer Name:
Imperial Money Market Pool
Imperial Short-Term Bond Pool
Imperial Canadian Bond Pool
Imperial International Bond Pool
Imperial Canadian Equity Pool
Imperial Registered U.S. Equity Index Pool
Imperial U.S. Equity Pool
Imperial Registered International Equity Index Pool
Imperial International Equity Pool
Imperial Emerging Economies Pool
Principal Jurisdiction - Ontario
Type and Date:
Final Simplified Prospectus and Annual Information Form dated July 6th, 2000
Mutual Reliance Review System Receipt 18th day of July, 2000
Offering Price and Description:
Mutual Fund Securities - Net Asset Value
Underwriter(s), Agent(s) or Distributor(s):
CIBC Securities Inc.
Promoter(s):
N/A
Project #269256

Issuer Name:
Sentry Select Internet Technology Fund 2001
Sentry Select Biotechnology Fund 2001
Sentry Select Wireless Communications Fund 2001
Sentry Select Wealth Management Fund 2001
Principal Regulator - Ontario
Type and Date:
Final Simplified Prospectus and Annual Information Form dated July 14th, 2000
Mutual Reliance Review System Receipt 17th day of July, 2000
Offering Price and Description:
Mutual Fund Securities - Net Asset Value
Underwriter(s), Agent(s) or Distributor(s):
David M. Schwartz
Promoter(s):
John Vooglaid
Project #279346 & 276746

Issuer Name:
Stone & Co. Flagship Stock Fund Canada
Principal Regulator - Ontario
Type and Date:
Final Simplified Prospectus and Annual Information Form dated July 5th, 2000
Mutual Reliance Review System Receipt 14th day of July, 2000
Offering Price and Description:
Mutual Fund Securities - Net Asset Value
Underwriter(s), Agent(s) or Distributor(s):
Stone & Co. Flagship Stock Fund Canada
Promoter(s):
Stone & Co. Flagship Stock Fund Canada
Project #270499

Chapter 12

Registrations

12.1.1 Securities

Type	Company	Category of Registration	Effective Date
New Registration	Brompton Securities Limited Attention: Moyra Mackay First Canadian Place Suite 5822, P.O. Box 61 Toronto, ON M5X 1B1	Limited Market Dealer	July 12/00
New Registration	DLJ Asset Management Group, Inc. Attention: Linda G. Currie Box 50 1 First Canadian Place, Suite 6600 Toronto, ON M5X 1B8	International Adviser Investment Counsel & Portfolio Manager	July 12/00
Change in Category	Murray Johnstone International Limited Attention: Prema K.R. Thiele c/o Borden Ladner Gervais 40 King Street West, Scotia Plaza Suite 4400 Toronto, ON M5H 3Y4	From: International Adviser Investment Counsel & Portfolio Manager To: Non-Canadian Adviser Investment Counsel & Portfolio Manager	July 7/00
Change in Category	Faiz & Associates Inc. Attention: George Patrick Kurcin 75 Front St. E. Suite 303 Toronto, ON M5E 1V9	From: Mutual Fund Dealer Limited Market Dealer To: Mutual Fund Dealer Limited Market Dealer Investment Counsel & Portfolio Manager	July 14/00
Change of Name	BNP Paribas Asset Management Attention: Kathleen Ward 152928 Canada Inc. Commerce Court West Suite 5300 Toronto, ON M5L 1B9	From: Paribas Asset Management S.A. To: BNP Paribas Asset Management	May 22/00
New Registration	JTB Visionquest Corp. Attention: Eric R. Elvidge c/o Blakes Extra-Provincial Services Inc. 20th Floor, 45 O'Connor St. Ottawa, ON K1P 1A4	Limited Market Dealer	July 14/00

Type	Company	Category of Registration	Effective Date
New Registration	Archipelago L.L.C. Attention: Frank J. Turner 1 First Canadian Place, Box 50 Osler, Hoskin & Harcourt LLP Toronto, ON M5X 1B8	International Dealer	July 19/00
New Registration	Kingsgate Securities Limited Attention: Walter Bobko Jr. 195 The West Mall Suite 300 Toronto, ON M9C 5K1	Investment Dealer Equities	July 18/00

Chapter 13

SRO Notices and Disciplinary Proceedings

13.1 SRO Notices and Disciplinary Decisions

13.1.1 Randall Harrett - Discipline Penalties Imposed

BULLETIN # 2742
July 10, 2000

Discipline Penalties Imposed on Randall Harrett - Violation of By-law 29. 1 – Conduct Unbecoming

Person Disciplined

The Ontario District Council of the Investment Dealers Association of Canada has imposed discipline penalties on **Randall Harrett** at the relevant times a Registered Representative and Chief Financial Officer with Nikko Securities Co. Canada Ltd., a Member of the Association.

By-laws, Regulations, Policies Violated

On July 6, 2000, the District Council considered, reviewed and accepted a Settlement Agreement that had been negotiated by the Association Enforcement Division staff with Mr. Harrett. Under the Settlement Agreement Mr. Harrett agreed that he improperly attempted to transfer corporate funds to a client account to eliminate a debit balance he had inadvertently created and thereby engaged in business conduct which is unbecoming or detrimental to the public interest contrary to By-law 29.1.

Penalty Assessed

The discipline penalty assessed against Mr. Harrett is an Order of a fine of $20,000 to be paid to the Association within one year of the date of acceptance of this Settlement Agreement by the District Council. Also, Mr. Harrett is suspended from receiving approval from acting as an officer with any Member of the Association for a period of ten years, commencing December 28, 1998. Then, if Mr. Harrett seeks re-registration for approval with the Association, he must re-write and pass the Conduct and Practices Handbook examination administered by the Canadian Securities Institute.

Summary of Facts

An error occurred in October, 1997 at Nikko Securities Co. Canada Ltd. when a cancellation order for a stock purchase was not executed properly. The shares subsequently were placed in a client account that should have been reconciled by Randall Harrett immediately. However, Harrett did not properly reconcile this account and erroneously placed the shares in the account of the client who cancelled the order. When the error was later discovered by Nikko staff, Randall Harrett attempted to transfer corporate funds to the client account to conceal the error.

Susanne M. Barrett
Association Secretary

13.1.2 Randall Harrett - Settlement Agreement

In the Matter of Discipline Pursuant to By-law 20 of the Investment Dealers Association of Canada

Re: Randall William Harrett

Settlement Agreement

I. INTRODUCTION

1. The staff ("Staff") of the Investment Dealers Association of Canada ("the Association") has conducted an investigation (the "Investigation") into the conduct of Randall William Harrett ("the Respondent"). The Investigation concerning the Respondent was initiated due to a filing with the Association of a Uniform Termination Notice by Nikko Securities Co. Canada Ltd. ("Nikko"), a former Member of the Association.

2. The Investigation discloses matters for which the District Council of the Association (the "District Council") may penalize the Respondent by imposing discipline penalties.

II. JOINT SETTLEMENT RECOMMENDATION

3. Staff and the Respondent consent and agree to the settlement of these matters by way of this Settlement Agreement in accordance with By-law 20.25.

4. This Settlement Agreement is subject to its acceptance, or the imposition of a lesser penalty or less onerous terms, or the imposition, with the consent of the Respondent, of a penalty or terms more onerous, by the District Council in accordance with By-law 20.26.

5. Staff and the Respondent jointly recommend that the District Council accept this Settlement Agreement.

6. If at any time prior to the acceptance of this Settlement Agreement, or the imposition of a lesser penalty or less onerous terms, or the imposition, with the consent of the Respondent, of a penalty or terms more onerous, by the District Council, there are new facts or issues of substantial concern in the view of Staff regarding the facts or issues set out in Section III of this Settlement Agreement, Staff will be entitled to withdraw this Settlement Agreement from consideration by the District Council.

III. STATEMENT OF FACTS

(i) Acknowledgment

7. Staff and the Respondent agree with the facts set out in this Section III and acknowledge that the terms of the settlement contained in this Settlement Agreement are based upon those specific facts.

(ii) Factual Background

a) The Respondent

8. The Respondent was registered as an Officer, Vice-President and Chief Financial Officer at Nikko since starting employment there in 1988. He has completed the Canadian Securities Course, Conduct and Practice Handbook Course and the Partner, Director and Officer course offered by the Canadian Securities Institute.

9. The Respondent has not been registered in the securities industry since his termination from Nikko on September 23, 1998.

10. The Respondent has not been the subject of any other professional discipline action.

b) The Account of Rosanna Cheng and the Inadvertent Purchase

11. Rosanna Cheng ("Ms. Cheng") maintained a retail cash account at Nikko composed of securities and cash positions in a variety of currencies. Nikko did not generally operate margin accounts.

12. Prior to September 1997, Ms. Cheng purchased 5,000 shares of New World Development Limited ("New World"), a stock listed on the Hong Kong Stock Exchange. Ms. Cheng placed a second order for 5,000 shares of New World but sought to cancel this second trade before it was executed.

13. Through inadvertence, the second trade was executed. During this period, one trade was placed in the Nikko Asia Holdings account and one was placed in the Nikko Euro-Clear Account. The Respondent was responsible for reconciling the Euro-Clear trading account on a daily basis.

c) The Discovery of the Error

14. The error was not discovered until March 1998. At that time, the shares were placed in Ms. Cheng's account because she was the only retail client who had previously purchased New World securities. The transaction was backdated to October 23, 1997.

15. The transaction resulted in a debit balance in the Hong Kong Dollars portion of Ms. Cheng's account. This debit balance was offset by credit positions held by Ms. Cheng in other currencies.

16. In March 1998, Nikko advised Ms. Cheng that it was closing all retail accounts. She requested six months in order to arrange her affairs and sell securities in her account. As Ms. Cheng liquidated other portions of her portfolio, the credit balance diminished to the extent that, as of August 31, 1998, the net balance of her account was in a debit position.

17. As Nikko did not generally permit the operation of a margin account, William MacLean, the President, immediately noticed the debit balance. He spoke with the Respondent and requested that the debit balance be cleared immediately.

18. Over the next two weeks, Mr. MacLean spoke with the Respondent on a number of occasions regarding the debit

balance in Ms. Cheng's account. He was reassured that Ms. Cheng would be sending a cheque to cover the debit or that dividends received by her would be credited to the account and the debit balance eliminated. Ms. Cheng, who had been contacted by the Registered Representative responsible for her account, had no knowledge as to why there should be a debit balance and confirmed that she had not purchased 5,000 shares of New World.

d) The Respondent's Actions

19. On or about September 17, 1998 the Respondent caused a transfer of funds from Nikko's Euro-Clear account to its Bank of Montreal ("BMO") account. A credit advice was received from BMO in the sum of US$ 23,138.86. This transfer, converted to Canadian Dollars is in the approximate amount of the debit balance in Ms. Cheng's account.

20. Ms. Nancy Sawdon, ("Ms. Sawdon"), an accounting assistant employed by Nikko was responsible for the reconciliation of the daily settlement report received from Euro-Clear with Nikko's internal records.

21. Ms. Sawdon performed the reconciliation for the activity on September 17, 1998 on the morning of September 18, 1998. She noted the discrepancy between the US Dollar account in the Euro-Clear report and the internal records of Nikko. She also noted that the US$ 23,138.86 transfer from Euro-Clear to BMO had not been posted.

22. Ms. Sophia Sciouris, ("Ms. Sciouris"), Vice-President and Operations Manager at Nikko reviewed the draft reconciliation prepared by Ms. Sawdon. Ms. Sciouris observed the Respondent on that day and noted that he took the Euro-Clear settlement report into his office and a few minutes later, went to the Euro-Clear terminal where he printed a new report. This new report was filed in a drawer and not returned to Ms. Sciouris.

23. Shortly thereafter, Ms. Sciouris observed the Respondent rip up a piece of paper in his office. The paper was later retrieved and was found to be one of Ms. Sawdon's reconciliation attempts, noting the discrepancy in the US$ account.

24. Upon reviewing the Euro-Clear report placed in the drawer by the Respondent, Ms. Sciouris noted that it had been altered in two ways. The Respondent had inserted a new Closing Cash Balance and Trial Consolidation Record and highlighted both documents as though the accounts reconciled. In addition, the Respondent had removed a Cash Movements page received from Euro-Clear and detailing the transfer of US$ 23,138.86 funds from the Euro-Clear account to the BMO account.

25. Ms. Sciouris advised Mr. MacLean of her observations and they together approached the Respondent. Immediately prior to confronting the Respondent, Ms. Sciouris was advised that a transfer of US$ 23,138.86 had been made from Nikko's BMO account to Ms. Cheng's retail account.

26. The transfer was made from Ms. Sawdon's computer terminal, at a time when she was out of the office for lunch. The Respondent had access to Ms. Sawdon's computer terminal and arranged for the transfer of the funds to Ms. Cheng's retail account to eliminate the debit balance.

IV. CONTRAVENTIONS

27. During the period September 17 to September 18, 1998 the Respondent improperly attempted to transfer corporate funds to the retail account of Ms. Cheng to eliminate a debit balance he had inadvertently created and thereby engaged in business conduct which is unbecoming or detrimental to the public interest contrary to By-law 29.1.

V. ADMISSION OF CONTRAVENTIONS AND FUTURE COMPLIANCE

28. The Respondent admits the contravention of the By-laws of the Association noted in Section IV of this Settlement Agreement. In the future, the Respondent shall comply with these and all By-laws, Regulations, Rulings and Policies of the Association.

VI. DISCIPLINE PENALTIES

29. The Respondent accepts the discipline penalties imposed by the Association pursuant to this Settlement Agreement as follows:

    (a) a fine in the amount of $20,000 payable to the Association within one (1) year of the effective date of this Settlement Agreement;

    (b) as a condition of his re-approval in any capacity with a Member of the Association, re-writing and passing the examination based on the *Conduct and Practices Handbook for Securities Industry Professionals*, administered by the Canadian Securities Institute; and

    (c) a suspension on his approval as an officer with any Member of the Association for a period of ten years commencing December 28, 1998; and

    (d) a prohibition on his re-approval in any capacity until such time as the fine and costs are paid in full.

VII. ASSOCIATION COSTS

30. Pursuant to By-law 20.12 the Respondent shall pay the Association's costs of this proceeding in the amount of $7,500.00 payable to the Association within one (1) year of the effective date of this Settlement Agreement.

VIII. EFFECTIVE DATE

31. This Settlement Agreement shall become effective and binding upon the Respondent and Staff in accordance with its terms upon:

    (a) its acceptance; or

(b) the imposition of a lesser penalty or less onerous terms; or

(c) the imposition, with the consent of the Respondent, of a penalty or terms more onerous,

by the District Council.

IX. WAIVER

32. If this Settlement Agreement becomes effective and binding, the Respondent hereby waives his right to a hearing under the Association By-laws in respect of the matters described herein and further waives any right of appeal or review which may be available pursuant to such By-laws or any applicable legislation.

X. STAFF COMMITMENT

33. If this Settlement Agreement becomes effective and binding, Staff will not proceed with any disciplinary proceedings under Association By-laws in relation to the facts set out in Section III of the Settlement Agreement.

XI. PUBLIC NOTICE OF DISCIPLINE PENALTY

34. If this Settlement Agreement becomes effective and binding:

(a) the Respondent shall be deemed to have been penalized pursuant to By-law 20.10 for the purpose of giving written notice to the public thereof by publication in an Association Bulletin and by delivery of the notice to the media, the securities regulators and such other persons, organizations or corporations, as required by Association By-laws and any applicable Securities Commission requirements;

(b) the Settlement Agreement and the Association Bulletin shall remain on file and shall be disclosed to members of the public upon request.

XII. EFFECT OF REJECTION OF SETTLEMENT AGREEMENT

35. If the District Council rejects this Settlement Agreement:

(a) the provisions of By-laws 20.10 to 20.24, inclusive, shall apply, provided that no member of the District Council rejecting this Settlement Agreement shall participate in any hearing conducted by the District Council with respect to the same matters which are the subject of the Settlement Agreement; and

(b) the negotiations relating thereto shall be without prejudice and may not be used as evidence or referred to in any hearing.

AGREED TO by the Respondent at the city of Toronto, in the Province of Ontario, this 25th day of June, 2000.

WITNESS RESPONDENT

AGREED TO by Staff at the City of Toronto, in the Province of Ontario, this 27th day of June, 2000.

WITNESS

"Jeffrey Kehoe"
Enforcement Counsel on behalf of Staff of the Investment Dealers Association of Canada

ACCEPTED by the Ontario District Council of the Investment Dealers Association of Canada, at the City of Toronto, in the Province of Ontario, this 6th day of July, 2000.

INVESTMENT DEALERS ASSOCIATION OF CANADA
(ONTARIO DISTRICT COUNCIL)

Per : "Robert F. Reid", Q.C.

Per: "Michael Walsh"

Per : "Derek Nelson"

13.1.3 Robert Kyle - Discipline Penalties Imposed

BULLETIN # 2738
July 11, 2000

Discipline Penalties Imposed on Robert Kyle – Violation of By-law 29.1

Person Disciplined

The Ontario District Council of the Investment Dealers Association of Canada has imposed discipline penalties on **Malcolm Robert Bruce Kyle** ("Kyle"), at the relevant time President and CEO of Derivative Services Inc. ("DSI"), a Member of the Association. The District Council has also imposed discipline penalties on DSI, including a termination of Membership (see Bulletin #2738).

By-laws, Regulations, Policies Violated

By written decision dated May 5, 2000 (now reported at 23 O.S.C.B. 3492), the District Council concluded that both Kyle and DSI engaged in business conduct or practice that is unbecoming or detrimental to the public interest by failing to provide documents or other information requested by Association staff in the course of an investigation pursuant to By-law 19 of the Association, contrary to By-law 29.1 of the Association.

Penalty Assessed

By written decision dated June 29, 2000, the District Council assessed the following penalties on Kyle: a fine in the amount of $45,000; a revocation of approval; and a bar on re-approval until the above fine is paid, until the fine imposed on DSI is paid, until Kyle and DSI have paid the costs ordered payable to the Association, and until DSI has complied with the relevant request for documents and information. The District Council also ordered Kyle and DSI to pay $5,000.00 towards the Association's costs in the matter.

Summary of Facts

In December 1997, the District Council issued an order setting out certain terms and conditions of membership applicable to DSI. In early 1998, the Enforcement Division of the Association commenced an investigation concerning compliance by DSI with the terms and conditions in that order. In June 1998, in the course of that investigation, an investigator with the Enforcement Division sent Kyle a written request for relevant documents and information from DSI. Neither Kyle nor DSI complied with the request.

Suzanne Barrett
Association Secretary

13.1.4 Derivative Services Inc. - Discipline Penalties Imposed

BULLETIN # 2737
July 11, 2000

Discipline Penalties Imposed on Derivative Services Inc. – Violation of By-law 29.1 – Termination of Membership

Person Disciplined

The Ontario District Council of the Investment Dealers Association of Canada has imposed discipline penalties on **Derivative Services Inc.** ("DSI"), a Member of the Association. The District Council has also imposed discipline penalties on Malcolm Robert Bruce Kyle, at the relevant time President and CEO of DSI (see Bulletin #2738).

By-laws, Regulations, Policies Violated

By written decision dated May 5, 2000 (now reported at 23 O.S.C.B. 3492), the District Council concluded that both Kyle and DSI engaged in business conduct or practice that is unbecoming or detrimental to the public interest by failing to provide documents or other information requested by Association staff in the course of an investigation pursuant to By-law 19 of the Association, contrary to By-law 29.1 of the Association.

Penalty Assessed

By written decision dated June 29, 2000, the District Council assessed the following penalties on DSI: a fine in the amount of $35,000; a termination of Membership; and a bar on re-instatement until the above fine is paid, until Kyle and DSI have paid the costs ordered payable to the Association, and until DSI has complied with the relevant request for documents and information. The District Council also ordered Kyle and DSI to pay $5,000.00 towards the Association's costs in the matter.

Summary of Facts

In December 1997, the District Council issued an order setting out certain terms and conditions of membership applicable to DSI. In early 1998, the Enforcement Division of the Association commenced an investigation concerning compliance by DSI with the terms and conditions in that order. In June 1998, in the course of that investigation, an investigator with the Enforcement Division sent Kyle a written request for relevant documents and information from DSI. Neither Kyle nor DSI complied with the request.

Suzanne M. Barrett
Association Secretary

13.1.5 Derivative Services Inc. and Malcolm Robert Bruce Kyle

IN THE MATTERS OF THE INVESTMENT DEALERS ASSOCIATION OF CANADA

AND

DERIVATIVE SERVICES INC. and MALCOLM ROBERT BRUCE KYLE

PENALTY DECISION OF THE ONTARIO DISTRICT COUNCIL

Hearing:

June 7, 2000

District Council:
Philip Anisman, Chair

Sandra L. Rosch
Bruce S. Schwenger

Counsel:

Brian Awad, for the Investment Dealers Association of Canada
Mary L. Biggar, for the respondents, Derivative Services Inc. and Malcolm Robert Bruce Kyle

A. Introduction

In its decision of May 5, 2000 (the "Prior Decision"), the District Council found that the respondents, Derivative Services Inc. ("DSI") and Malcolm Robert Bruce Kyle, engaged in conduct that is unbecoming and detrimental to the public interest, contrary to paragraph 29.1 of the By-laws of the Investment Dealers Association of Canada (the "Association") by failing to provide documents requested by the Association's staff in the course of an investigation, as required by paragraph 19.5 of the By-laws; see (2000) 23 O.S.C.B. 3492 (May 12). This hearing was convened to hear submissions on penalties.

B. The District Council's Discretion: General Principles

Paragraph 20.10 of the Association's By-Laws authorizes the District Council to impose specified penalties where an individual or a member fails to comply with the Association's By-laws, Regulations or other rules. These penalties include any one or a combination of (i) a reprimand, (ii) a fine up to $1,000,000 per offence or an amount equal to three times the pecuniary benefit obtained as a result of any violation, whichever is greater, (iii) suspension for a specified period of a member's rights and privileges or of an individual's approval to act as a partner, director, officer or employee of a member, possibly on terms, (iv) termination of a member's membership and the accompanying rights and privileges or revocation of an individual's approval, (v) expulsion of a member from the Association or prohibition of an individual's approval for any period of time, and (vi) terms and conditions on a member or conditions on a subsequent approval or continued approval of an individual, as the District Council considers appropriate in the circumstances. As paragraph 20.10 provides no guidance on the imposition of the penalties it authorizes, the penalty is left to the discretion of the District Council to be determined in light of the circumstances of each case.

The District Council's main concerns in determining an appropriate penalty are protection of the investing public, the Association's membership and the integrity of the Association's processes and the securities markets and prevention of a repetition of conduct of the type under consideration; see generally *In the Matter of Edward Richard Milewski*, (1999) 22 O.S.C.B. 5404 (August 27) at 5407. The penalty should reflect the District Council's assessment of the measures necessary in the specific case to accomplish these goals, ranging from a reprimand to an absolute bar, and may take into account the seriousness of the respondent's conduct and specific and general deterrence.

In making its determination the District Council may look for guidance to sources that reflect industry understandings and expectations. One such source is The Toronto Stock Exchange's *Penalty Guidelines for Disciplinary Proceedings* (November 5, 1996) (the "TSE Guidelines"). Although the TSE Guidelines are not binding on the District Council, they may be of assistance. In its *Milewski* decision the District Council held it reasonable to treat them as indicative of industry expectations and as relevant to a penalty determination, although neither exhaustive nor determinative.

Mr. Awad, counsel for the Association, also provided the District Council with excerpts from the *NASD Sanction Guidelines* (1998) (the "NASD Guidelines") published by the National Association of Securities Dealers (the "NASD") in the United States, submitting that they may also assist the District Council as they are similar in purpose and content to the TSE Guidelines and contain a fuller discussion of sanctioning principles. He stated that the main reason for referring to them was to show the correspondence between the NASD's range of sanctions and those in the TSE Guidelines for conduct like the respondents' in this case.

The District Council accepts that the NASD Guidelines may provide some assistance on sanctioning principles in view of the fact that the NASD is a recognized self-regulatory organization under United States securities laws performing self-regulatory functions similar to those performed by the Association. Nevertheless, care must be taken to recognize differences in the regulatory requirements in Canada and the United States and, more importantly, differences in industry and regulatory expectations, including previous sanctioning practices, that may inform the NASD Guidelines.

C. Submissions of the Parties

1. The Association's Submissions

Mr. Awad's submissions were based primarily on the factors in the TSE Guidelines. He identified five factors as relevant to the penalty determination in this matter, namely, (i) prior or other similar misconduct of the respondents, (ii) whether the respondents' violation represented an intentional or reckless disregard for the Association's requirements, as opposed to carelessness or inadvertence, (iii) whether the respondents' conduct constituted a complete or partial failure to provide requested information, (iv) whether there was evidence of any *bona fide* efforts by the respondents to comply, and (v) whether the investigation suffered as a result of their failure to do so. He placed the respondents' conduct at the serious end of the spectrum, presenting evidence of prior disciplinary proceedings for a similar offence and arguing that the respondents' violation was an intentional and complete failure to provide requested information, exhibiting no efforts to comply and bringing the Association's investigation to a standstill.

Characterizing paragraph 19.5 as an important element of the Association's self-regulatory obligations, he argued that the respondents' violation was for this reason a serious one requiring a substantial penalty. He requested the maximum penalties in the TSE Guidelines, a fine of $50,000 for both DSI and Mr. Kyle, the expulsion of DSI from membership and a permanent bar against approval of Mr. Kyle, or, alternatively, that Mr. Kyle be suspended at least until the fines are paid by both respondents and he complies with the request under paragraph 19.5.

2. The Respondents' Submissions

Although she addressed three of these factors, Ms. Biggar's submissions focussed primarily on explanations for the violation which, she argued, presented mitigating factors. She submitted that the investigation was unprecedented in view of Mr. Haddad's evidence that investigations not based on complaints are very rare and that he could not recall another investigation relating to an Association order. She argued that the unprecedented nature of the investigation, in conjunction with the Association's failure to provide the respondents with a copy of the complaint or respond to her letter of May 14, 1998 (Exhibit 1, Tab 11) in a satisfactory manner, suggested that this was a case of selective enforcement amounting to a "singling out" of the respondents. In her submission, the proceeding raised issues for which no precedent existed, and the only way in which they could be tested was to allow the matter to proceed to a hearing in which they might be raised, as they were in the preliminary motion concerning the Association's jurisdiction; see (1999) 22 O.S.C.B. 5544 (September 3) (the "Preliminary Motion"). Ms. Biggar also argued that the respondents' reliance on her legal advice constituted a mitigating factor, as did Mr. Kyle's belief concerning the regulatory effect of his letter of January 29, 1998. Finally, she emphasized that the respondents' conduct did not result in injury to any of DSI's clients, or anyone else, and that there was no attempt on the part of the respondents to conceal information.

Ms. Biggar submitted that Mr. Kyle has, in effect, been suspended from working for any member of the Association since February, 1998, almost two and one-half years. She argued that this is longer than the maximum suspension recommended in the TSE Guidelines for a violation where mitigating circumstances exist and constitutes a more serious penalty than a fine. In her submission, the District Council should treat this period as a suspension and impose no additional penalty on Mr. Kyle or, implicitly, DSI.

The respondents' submissions are based on a very limited factual record and require careful analysis. In its Prior Decision the District Council noted suggestions made during the hearing by Ms. Biggar to the effect that Mr. Kyle believed he had no continuing obligations to the Association after January 29, 1998, but that there was no direct evidence of his beliefs on this matter or of any explanation for his failure to provide the information requested, as Mr. Kyle did not testify at the hearing. The District Council said it would be of assistance to hear from Mr. Kyle at the penalty hearing; see 23 O.S.C.B. at 3498.

At the beginning of this penalty hearing the Chair of the District Council asked Ms. Biggar whether she intended to call Mr. Kyle to give evidence on these matters. She declined to do so stating that he was prepared to answer specific questions that the District Council might ask during the course of the hearing. This lack of evidence affects the weight that might be given to several of the respondents' submissions.

D. Relevant Factors

1. Aggravating Factors

(a) Disciplinary History

Prior violations of the Association's rules are highly relevant to the determination of an appropriate penalty. Recidivist activities may illuminate a respondent's character, understanding of the obligations and responsibilities of a member of the securities industry, and respect for its rules and process. It is an important consideration with respect to specific deterrence, the likely effect of a penalty on the respondent's future conduct.

Mr. Awad provided the District Council with copies of two notices to members published by The Toronto Futures Exchange (the "TFE"), both dated December 8, 1997, announcing the acceptance of a settlement agreement resolving disciplinary proceedings brought against Mr. Kyle and DSI (Notices to Members, TFE 97-79 and TFE 97-80) (the "TFE Notices"), along with a copy of the Settlement Agreement dated October 30, 1997 signed by Mr. Kyle on his own behalf and on behalf of DSI (the "Settlement Agreement"). The parties to the Settlement Agreement agreed that DSI had failed to maintain the required risk adjusted capital on four days and had failed to time-stamp its order forms, as required under the TFE General By-law, and that Mr. Kyle had contravened the TFE By-law "by failing to provide full and necessary information" to the TFE during the course of an investigation. The TFE Notice relating to Mr. Kyle summarized the relevant paragraphs from the "Statement of Facts Agreed Upon" in the Settlement Agreement (paras. 23 and 24), stating that Mr. Kyle had told two investigators, in separate interviews, "that he had been time-stamping DSI's trade tickets when in fact he had only been making attempts to purchase and utilize a time-stamp machine".

DSI agreed in the Settlement Agreement to pay a fine of $25,000 and Mr. Kyle agreed to pay a fine of $40,000. As the TFE Hearing Committee reduced Mr. Kyle's fine when it accepted the settlement, both DSI and Mr. Kyle were required to pay fines of $25,000.

Ms. Biggar argued that the District Council should not attach any weight to the facts contained in the TFE Notices and Settlement Agreement as they do not constitute a decision but are summaries prepared by staff of the self-regulatory organization. She said that a settlement agreement is unlike a plea bargain in criminal proceedings, as the judge in a criminal case asks the accused to confirm the correctness of the facts agreed on and presented in court. She also argued that because of a respondent's need to continue to work, there is an implicit coercion to enter into a settlement agreement and the facts agreed to may reflect this pressure. She requested the District Council to take notice that the settlement process is inherently coercive and not to rely on the facts in the earlier TFE proceeding, as the District Council had no mechanism to ascertain whether they were correct.

When asked whether she was suggesting that the respondents had agreed to facts contained in the Settlement Agreement which were not true, she said that this was the case. In response to the suggestion that such an assertion should be supported by evidence, she said she had not intended to call Mr. Kyle to give evidence, but was relying on a general understanding of what goes on that is well known in the industry, of which the District Council could take notice. The District Council then adjourned the hearing to permit Ms. Biggar to take instructions, indicating that if she desired to call Mr. Kyle on this issue, it would wish to hear submissions from both counsel on whether such evidence should be received.

After the adjournment, Ms. Biggar proposed to call Mr. Kyle to give evidence on the accuracy of the facts contained in the TFE Notices and the Settlement Agreement. She relied on her previous submissions and argued, in addition, that a settlement agreement should not be treated as a precedent as it is only a contract. In her submission a District Council should always accept evidence on the accuracy of the facts underlying such an agreement. In this respect she distinguished between the "record", which she characterized as the result, that is, the fine imposed for the contravention of the TFE's By-laws, and the facts contained in the TFE Notices and Settlement Agreement, stating that she wished to lead evidence only with respect to the accuracy of the latter. Asserting that the Settlement Agreement signed by the respondents was not part of the record, she submitted that the issue was the use to which a settlement agreement could be put and the context in which it was made.

The settlement process in the securities industry is not as unlike the criminal process as Ms. Biggar submitted. A respondent agrees to the accuracy of the facts contained in a settlement agreement by signing it. This is equivalent to an oral affirmation of a factual summary presented in court. A settlement agreement must be accepted by an independent arbiter, in the Association's case a District Council pursuant to the procedures in paragraphs 20.25 to 20.27 of the By-laws. The settlement agreement is part of and usually constitutes the "record" in such a proceeding. A District Council considering whether to accept a settlement agreement relies on the accuracy of the facts agreed to by the parties to it. It does not customarily ask a respondent whether the facts are accurate, as the signing of the agreement constitutes such an admission. In the respondents' case, the Settlement Agreement was accepted by a panel of the TFE Hearing Committee, which performed an analogous function (and reduced the fine agreed to by Mr. Kyle).

After hearing the submissions of counsel, the District Council ruled that it would not permit Mr. Kyle to be called to give evidence on the accuracy of the facts contained in the Settlement Agreement. To do so would, as Mr. Awad submitted, permit a collateral attack on facts accepted by a hearing panel in a disciplinary proceeding to which the respondents previously agreed. In the District Council's view, a respondent is not entitled to adduce evidence to contradict the facts contained in such a settlement agreement. Doing so is inconsistent with the purpose of settlement agreements, as it would permit relitigation of matters previously resolved, where the District Council may not have a means of obtaining evidence on the prior matter from any person other than the respondent.[1] While the District Council would be prepared to hear an explanation of extenuating circumstances relating to a previous disciplinary matter, allowing evidence on the accuracy of the facts found or agreed to in it would amount to a new hearing of the prior matter. The District Council concluded for these reasons that Mr. Kyle's evidence on these matters should not be permitted.

The District Council is not prepared to take notice that the settlement process in the securities industry is inherently coercive or that the facts agreed to in settlements are unreliable. A settlement agreement is entered into voluntarily. Even if a respondent's economic circumstances, or desire to continue to work, may impose pressure to enter into such an agreement, there is no necessity for the respondent to do so or to agree to facts that are untrue. Settlement agreements frequently contain a statement of facts representing the position of the respondent, which may be viewed as mitigating factors. Ms. Biggar's submission amounts to a request that the District Council take notice that the Association's and other securities regulatory settlement processes are inherently unfair. In the District Council's view, this is not the case.

A penalty imposed under a settlement agreement is relevant to consideration of the appropriate penalty in a subsequent proceeding, especially if the settlement agreement grows out of similar conduct. The fact that a respondent admitted a violation and the amount of the penalty agreed to in a prior disciplinary proceeding are particularly relevant with respect to considerations of specific deterrence. This would be so even if the District Council had determined not to consider

1 Without identifying them, Ms. Biggar stated that the same individuals who were at the TFE in 1997 are now employed by the Association and are thus available to give evidence on the earlier settlement. (The Settlement Agreement, in para. 24, identifies Mr. Haddad as one of the investigators to whom Mr. Kyle made an incorrect statement.) This will not always be the case. In any event, this submission highlights the fact that allowing such evidence would require a hearing to determine facts agreed to and accepted in the prior proceeding.

the facts constituting the violation previously agreed to, as is implicit in Ms. Biggar's submission concerning the "record".

In the District Council's view, the prior Settlement Agreement and the facts agreed to in it are significant factors in this case.

(b) Intention vs. Inadvertence

There is no doubt that the respondents' failure to comply with the Association's request was intentional. It cannot in any manner be characterized as an oversight. As the District Council found, Mr. Kyle was aware of the request; he addressed the investigation directly with Mr. Welch and through counsel; see Exhibit 1, Tab 11.[2] In addition, he had previously been disciplined by the TFE for a similar violation and thus was aware of the significance of an investigative request, as well as his obligation to comply. In the end, the respondents simply refused to respond in any manner to the request made on June 5, 1998 under paragraph 19.5 of the Association's By-laws.

The fact that this refusal was intentional is confirmed by the explanations advanced on the respondents' behalf based on Mr. Kyle's belief that he was not subject to the Association's requirements after the January 29, 1998 letter of resignation and the respondents' reliance on legal advice and the submission that only a refusal would enable them to test the Association's investigation requirements and procedures. The significance of these submissions as mitigating factors is addressed below.

(c) Complete vs. Partial Non-compliance

Ms. Biggar submitted that the respondents' conduct did not constitute a complete failure to respond to the request for documents. She submitted that Mr. Kyle initially telephoned Mr. Welch, requested a copy of the complaint and agreed to supply documentation to him concerning DSI's books and records. She argued that he only refused to provide them when the Association failed to give him the requested copy of the complaint and after he obtained legal advice and that it was not fair to treat his failure to respond to the request of June 5, 1998 as a complete failure to respond as there was no precedent to which Mr. Kyle could look and as there had been no previous investigation concerning compliance with a reinstatement order.

The respondents failed to respond to the formal request for information made under paragraph 19.5. The nature of the failure is not affected by the reasons for it, although they may raise issues of mitigation (which are addressed below). Even though Mr. Kyle initially expressed a willingness to provide copies of DSI's books and records, he subsequently failed to do so, and he and DSI maintained this position after May 22, 1998 when their counsel was informed by Mr. Walker that the investigation was not based on a complaint (Exhibit 9). In any event, a statement of willingness to comply does not make the failure to do so anything other than complete, if a respondent does not follow through and provide the information; see, e.g., *In the Matter of Bert Perry Meszaros*, [1999] I.D.A.C.D. No. 35 (Alta. D.C., November 3, 1999).

(d) Impact on the Investigation

Mr. Awad submitted that the respondents' refusal to supply the requested documents effectively ended the Association's investigation and argued that this impact should be viewed as an aggravating factor in light of the TSE Guidelines. In the District Council's view, this effect cannot in this case be separated from the violation of the By-laws. A refusal which impedes an investigation into conduct affecting investors or other third parties may exacerbate the adverse consequences of the violation being investigated and may thus increase the seriousness of the violation. When the only effect of a refusal, as here, is on the continuation of the investigation, treating the effect as a separate aggravating factor is equivalent to treating the violation itself as an aggravating factor. The District Council, therefore, has not taken the impact of the respondents' violation on the investigation into account in determining an appropriate penalty.

(e) Willingness to Comply

Mr. Awad submitted that there was no evidence of any intention on the part of the respondents to cooperate by providing the requested documents in response to the District Council's Prior Decision on the merits. The District Council does not consider this lack of compliance as an aggravating factor; the respondents are entitled to pursue their remedies without complying with a decision that they may wish to appeal. In response to questions on this issue, Mr. Awad took the position that this fact merely demonstrates that there is no mitigation based on subsequent compliance.

A respondent's willingness to comply with Association requirements may be a relevant factor in a penalty determination, as it relates to the respondent's attitude concerning compliance and the likelihood of continuation or repetition of a violation. The District Council asked Ms. Biggar whether the respondents are prepared to comply with the request under paragraph 19.5, if the District Council's Prior Decision is upheld after all remedial avenues have been exhausted. She responded that she was not in a position to provide an answer to this question in view of the respondents' intention to appeal and the possibility that the appeal process might not be concluded for as long as five years. This response might be taken as an aggravating factor, as it indicates a refusal by the respondents to accept their obligations to comply with valid Association requirements. Nevertheless, the District Council determined not to give it significant weight in its penalty determination in view of the respondents' entitlement to pursue any remedies available to them.

2 The deliberate nature of the respondents' decision is also reflected in a statement in Mr. Welch's June 5, 1998 letter that Ms. Biggar advised the Association in a letter dated May 22, 1998 that DSI would not comply with the "informal" request of May 5, 1998; Exhibit 1, Tab 12. As this correspondence between Ms. Biggar and the Association was not entered in evidence, see Prior Decision, 23 O.S.C.B. at 3499 (App.: Ruling 1), the District Council reached its conclusion on the respondents' intention without taking this comment into account.

2. Mitigating Factors

(a) Selective Prosecution

Ms. Biggar characterized the investigation into the respondents' activities as unprecedented because of two facts, first, that a very small number of investigations are initiated without a prior complaint and second, that the Association had not previously conducted an investigation based on compliance with a reinstatement order. It is difficult to understand how these facts are mitigating factors, as the respondents understood, or should have understood, their obligation to comply with the terms of the Reinstatement Order of December 2, 1997 and their obligation to cooperate in an investigation.

The novelty of the circumstances leading to an investigation or of the nature of the violation under investigation is not a mitigating factor. Nor does either suggest that the respondents in this case were singled out in a manner that is discriminatory or otherwise improper. While the information provided by the Association's staff in response to the requests made by Mr. Kyle and Ms. Biggar did not specifically describe the concerns of the Association with respect to DSI's risk adjusted capital and principal trading, this failure does not suggest any animus toward the respondents. The District Council found that initiation of the investigation was reasonable on the basis of the information available to the Association and that the respondents were given adequate notice of the nature of the investigation and knew or should have known of the issues with which it was concerned.[3] As it said in its Prior Decision, there is no evidence to suggest any improper motivation on the part of the Association or its staff; see 23 O.S.C.B. at 3497-98.

(b) Test Case

Ms. Biggar submitted that the only way to test the issues raised in the Preliminary Motion was to refuse to comply with the request under paragraph 19.5. While an individual or a member firm is entitled to rely on its rights and seek a determination of them in a hearing, such conduct is not necessarily a mitigating factor. A conscious intention to test the rules carries with it acceptance of a risk that penalties will follow if the respondent's position is not sustained. It must be recognized that other courses are available, for example, through meetings with the staff investigator or senior officers of the Association. In any event, a person who determines to test the rules, as in instances of civil disobedience, must bear the risk that the rules will be upheld.

In this case, there is no evidence to indicate that this was the respondents' motivation. Ms. Biggar stated in her submissions that this course of action was the only means of determining the respondents' rights, but Mr. Kyle did not testify or make any direct representations. There is thus no evidence before the District Council to support the submission that the purpose of the respondents' refusal was to test their rights by raising the issues addressed in the Preliminary Motion or that they did so out of any concern for principle.[4]

(c) Reliance on Legal Advice

A similar difficulty is presented by the submission concerning reliance on legal advice. The District Council accepts that reasonable reliance by a respondent on legal advice may constitute a mitigating factor. While it is clear from the record that the respondents were represented by Ms. Biggar, there is no evidence before the District Council on the advice received by them or the manner in which that advice affected their decision not to comply with the request for documents.[5] Although legal advice may have played a part in their decision, the nature of the advice and of the respondents' reliance on it can be little more than matters for speculation. The District Council is of the view that this submission cannot be given any weight in view of the lack of evidence concerning it.

(d) Effect of Letter of Resignation : Respondents' Belief

There was some evidence indicating that Mr. Kyle believed the respondents had no continuing obligations to the Association after he submitted the resignation letter of January 29, 1998. The District Council referred to this evidence in its Prior Decision, stating that it might be relevant to an appropriate penalty and that it would be helpful to hear from Mr. Kyle on this matter. The respondents determined not to call Mr. Kyle to give evidence and he did not otherwise attempt himself to explain his belief or any of the other elements relating to the respondents' decision not to provide the requested documents.

---

3 In her submissions Ms. Biggar stated that Mr. Kyle had conversations with Mr. Walker that led him to believe there was a complaint, on which the District Council would have heard evidence, had it required Mr. Walker to testify as she requested. The District Council decided not to call Mr. Walker, as there was uncontradicted direct evidence that the investigation was not based on a complaint; see Prior Decision, 23 O.S.C.B. at 3500 (Ruling 7). As the evidence suggested in Ms. Biggar's submission relates primarily to Mr. Kyle's belief concerning the existence of a complaint and the reasons for his response, or non-response, to the request for documents, it could have been adduced by calling Mr. Kyle, which the respondents chose not to do.

4 In fact, Ms. Biggar's submission indicates that one issue raised in the Preliminary Motion, the effect of the Reinstatement Order of December 2, 1997, was not a matter of principle but was intended to clarify what she characterized as a "grey area"; see 22 O.S.C.B. at 5547-48.

5 Ms. Biggar's submissions referred to "grey areas", emphasizing a lack of precedent on issues such as the effect of a reinstatement order and the consequent inability to determine their legal effect. This argument suggests no more than uncertainty, albeit based on legal advice. If this uncertainty was a factor in the respondents' decision not to provide documents, as Ms. Biggar stated, it would not constitute reasonable reliance on legal advice, as in her submission this question could not be answered without a hearing. The issue it raises is addressed in the preceding section.

The District Council has previously found that any such belief was in error, as the respondents had a continuing obligation to comply with an investigation request; see Preliminary Motion, 22 O.S.C.B. at 5548. Although the District Council accepts that a genuine belief, even if mistaken, may constitute a mitigating factor, in the circumstances of this case Mr. Kyle's alleged belief cannot be given weight in view of the limited amount of evidence to support its existence and the lack of any evidence on the manner in which it affected the respondents' decision.

The evidence before the District Council concerning Mr. Kyle's belief does not demonstrate that it related to DSI's and his obligations concerning the investigation request of June 5, 1998, but rather to trading, and possibly other activities, by DSI after January 29, 1998, when the letter of resignation was sent (see Exhibit 1, Tab 3 and Exhibit 3, p. 1). DSI subsequently consented to the February 9, 1998 order suspending its rights and privileges as a member; see Prior Decision, 23 O.S.C.B. at 3494. It thus was or should have been clear that it remained a member of the Association subject to applicable by-laws. On May 4, 1998, Mr. Welch faxed a copy of By-Law 19 to Mr. Kyle (Exhibit 1, Tab 9; Exhibit 3, p.2) and Mr. Welch's letter of May 5, 1998 referred to paragraph 19.5 (Exhibit 1, Tab 10). Prior to their refusal to comply with the request of June 5, 1998, the respondents had retained counsel and received Mr. Walker's letter of May 22, 1998, which paraphrased paragraph 8.5 of the Association's By-Laws and stated that DSI's resignation could not become effective while an investigation was pending (Exhibit 9, p. 2). More evidence than is contained in the record is necessary to enable the District Council to treat Mr. Kyle's belief as a mitigating factor.

(e) Efforts to Comply

Mr. Awad submitted that the respondents made no efforts to comply with the request, characterizing their conduct as a complete failure to respond to it. While this submission accurately describes the response to the request of June 5, 1998, it does not present a full picture of the sequence of events relating to the respondents' violation. In his evidence, Mr. Welch stated that he was concerned about two issues, principal trading and maintenance by DSI of its risk adjusted capital. DSI sent a letter of resignation when difficulties arose with respect to its capital account. Ms. Biggar submitted that this action protected DSI's clients and that no client suffered any injury. In view of the fact that the Settlement Agreement with the TFE in 1997 related to a failure by DSI to comply with regulatory capital requirements, DSI's letter of resignation may suggest that the prior disciplinary proceedings had an impact and that DSI was attempting to address a similar difficulty expeditiously in a manner that protected both it and its clients. While this conduct does not explain the respondents' failure to comply with the request under paragraph 19.5, it may suggest an initial desire on their part to comply with regulatory requirements. In the District Council's view, DSI's attempt to resign is arguably a mitigating factor, as Mr. Awad acknowledged, although it does not carry much weight in the circumstances.

E. The Penalty

The range of penalties recommended in the TSE Guidelines for a complete failure to respond to a request for information pursuant to an investigation is a fine in the amount of $10,000 to $50,000, along with a permanent bar in more serious cases and a suspension for six months to two years where mitigating circumstances exist.

The District Council views a refusal to comply with a request for information pursuant to an Association investigation as a serious matter. Membership in the Association and employment by a member firm carry with them obligations to comply with the Association's By-laws, Regulations and other rules, including paragraph 19.5 of the By-laws, which is a key element of the Association's investigation powers. Full cooperation with a request under it is necessary if the Association is to be able to fulfill its self-regulatory supervisory functions with respect to its members and their approved persons. Failure to provide information requested in an investigation undermines the integrity of the self-regulatory system and the effectiveness of its operations.

A similar conclusion is reflected in the *Meszaros* decision of the Alberta District Council, which imposed a fine of $15,000 for a failure to provide a written statement requested in the course of an investigation, while fining the respondent only $5,000 for failing to fulfill his suitability obligations; see *In the Matter of Bert Perry Meszaros*, [1999] I.D.A.C.D. No. 35 (Nov. 3, 1999). The higher fine indicates the seriousness of the process violation, as the Alberta District Council emphasized by directing that Mr. Meszaros "appear before a Panel of the Association and explain his failure to cooperate with the investigation process" if he subsequently applies for approval. The obvious import of this requirement is that the respondent should not receive approval and "reinstitution to the profession" unless his explanation is satisfactory.

The respondents' failure to respond to the request under paragraph 19.5 was a serious violation of the Association's By-laws. While the respondents recognized DSI's inability to continue to comply with the Reinstatement Order because of its capital deficiency, their determination not to comply with the request for documents was intentional. Indeed, the submissions advanced as justification or mitigating factors for their failure so to comply themselves demonstrate the deliberate nature of the violation. While the respondents' violation is not as egegious as an attempt to conceal conduct harmful to investors or to retain an improperly obtained profit,[6] it remains a serious and unacceptable disregard of the Association's process.

It is all the more so in view of the respondents' prior disciplinary history. This is the second time Mr. Kyle, as the senior officer of DSI, failed to provide full information to the staff of a self-regulatory organization conducting an investigation into DSI's affairs. Although DSI itself was not disciplined by the TFE for a similar contravention, the conduct for which it was disciplined was part of the same course of action. The prior disciplinary proceedings by the TFE that resulted in the Settlement Agreement are applicable to both respondents. In the District Council's view, any penalty imposed should reflect this history.

1. Fine

Under the terms of the Settlement Agreement, DSI agreed to a fine of $25,000 and Mr. Kyle to a fine of $40,000. As noted above, the TFE Hearing Committee accepted the Settlement Agreement but reduced the amount of Mr. Kyle's fine to $25,000. Nevertheless, the respondents have again committed a similar offence by refusing to comply with the request of June 5, 1998 when they were clearly aware of their obligations to do so. In the District Council's view, a greater fine is necessary to address specific deterrence in this case; *cf. In the Matter of Edward Richard Milewski*, 22 O.S.C.B. at 5408.

Although Mr. Kyle's and DSI's violations were the same in this case, the amount of the fine need not be identical for each. The fine should reflect the fact that there was only one decision not to comply, which was made by Mr. Kyle, DSI's president, chief executive officer and sole director, whose decision resulted in violations by both respondents.

As it appeared that Mr. Kyle could also be the principal of DSI, the District Council considered that it might be appropriate to impose a fine applicable to both respondents on him alone. If Mr. Kyle were the sole owner of DSI, a fine on DSI would serve no purpose and could indirectly result in a higher fine on Mr. Kyle than would have been imposed were his conduct considered separately. On the other hand, if he were not, a fine might address general deterrence in recognition of the shareholders' participation in a corporation's activities and their selection of its directors. There was, however, no evidence before the District Council on the ownership of DSI.

In the course of these deliberations the District Council identified an additional consideration that was not addressed at the penalty hearing. When the TSE Guidelines were adopted, fines imposed by a self-regulatory organization on its members and their approved persons were not deductible as business expenses for income tax purposes; see Revenue Canada Interpretation Bull. IT-104R2, May 1993, para. 7. In light of a decision of the Supreme Court of Canada in November 1999, this is no longer the case with respect to member firms that violate self-regulatory requirements in order to earn income; see *65302 British Columbia Ltd. v. M.N.R.*, (1999) 248 N.R. 216.

As a result of these considerations, the District Council requested the parties to provide information on DSI's ownership in supplementary written submissions and to address the implications of this information for any fine that might be imposed on the respondents. It requested, as well, that the submissions address the effect of the Supreme Court's decision on the District Council's treatment of the TSE Guidelines.

In the District Council's view, the Supreme Court's recent decision is relevant to the manner in which it should exercise its discretion to fine, both with respect to the ranges in the TSE Guidelines and to the specifics of each case. A failure to reflect the potential deductibility and after-tax impact of a fine may undermine the deterrence, both specific and general, that the District Council may intend to achieve; *cf. 65302 British Columbia Ltd. v. M.N.R.*, 248 N.R. at 262 (*per* Bastarache J.). Deductibility of a fine is, therefore, a factor that may be considered by the District Council in determining the amount of the fine.

The District Council has nevertheless not taken tax factors into account in this case, in part because of the submissions of the parties.[7] As the Supplementary Submissions both advocated this result, neither addressed the deductibility of a fine by DSI or its impact on the parties. In any event, it appears unlikely that DSI would be entitled to deduct any fine imposed on it; as it failed to comply with the request for documents after it had submitted its resignation, its violation was not committed for the purpose of earning income; see 248 N.R. at 231-32.[8]

The Supplementary Submissions disclosed that DSI is a wholly owned subsidiary of Derivative Services Holding Inc.

---

6 Referring to the release of DSI's subordinated loans, Ms. Biggar submitted that no injury to investors was caused by DSI's conduct. This submission has some support in the evidence, in particular a statement concerning acceptance by the Association of DSI's auditors' report in her letter of May 14, 1998 (Exhibit 1, Tab 11) and acknowledgement of this fact by Mr. Walker in his reply of May 22, 1998 (Exhibit 9). But this is not a mitigating factor; rather, it goes to the seriousness of the violation that was committed by the respondents.

7 In their written submissions (the "Supplementary Submissions") counsel for the Association and the respondents both opposed consideration of deductibility, although on different grounds.

8 As expenses incurred to earn income from employment are generally not deductible, the issue is not relevant to Mr. Kyle.

("DSHI"). Mr. Kyle owns 77.2 per cent of the outstanding shares of DSHI and the remaining 22.8 per cent are owned by two individuals and a numbered corporation. Again, counsel for the Association and the respondents took similar positions, both relying on the separate legal identity of a corporation and the individuals who own it and manage its affairs to argue, in effect, that the ownership of DSI should not be a factor in any fine that might be imposed.

Although the District Council may take the realities of a wholly owned corporation into account when exercising its discretion under paragraph 20.10 of the Association's By-laws, it is unnecessary to address this issue in detail in this case in view of the fact that Mr. Kyle is not, directly or indirectly, the sole owner of DSI. The District Council has determined, therefore, that it is appropriate to impose a fine on each of the respondents, recognizing that any fine paid by DSI will be borne in part by Mr. Kyle through his shareholdings in DSHI.

The District Council has concluded that DSI should be required to pay a fine in the amount of $35,000 and Mr. Kyle in the amount of $45,000. These fines are toward the higher end of the range recommended in the TSE Guidelines, reflecting the respondents' intentional violations despite the knowledge of their responsibilities concerning an investigation which was, or should have been, impressed on them in the TFE proceedings. They are less than the maximum fine recommended in the TSE Guidelines and advocated by Mr. Awad because the respondents' violations, for the reasons outlined above, are not the most egregious examples of a refusal to cooperate in an investigation.

DSI's fine takes into account the prior TFE proceedings, including the amount of the fine imposed on it in them and the fact that the violations to which it agreed did not directly relate to investigative compliance. This fine reflects, as well, the fact that the decision not to comply with the request under paragraph 19.5 was made by Mr. Kyle, as the sole directing mind of DSI.

Mr. Kyle's fine takes into account his role in the violation and the amount of the fine to which he agreed in the Settlement Agreement, as that was the penalty he accepted, even though it was subsequently reduced by the TFE Hearing Committee. In the District Council's view, specific deterrence warrants a fine higher than $40,000 for Mr. Kyle.

2. Other Sanctions

Mr. Awad requested, in effect, a permanent bar for both respondents. DSI sought to resign from the Association. Acceptance of its resignation has been held in abeyance because of the investigation that is the subject of this proceeding. An order of expulsion as requested, would in effect grant its request for resignation, and a suspension would merely continue the status quo, albeit with a greater stigma attached.

The sanctions available to the District Council under paragraph 20.10(b) include a suspension of DSI's rights and privileges as a member for a specific period, termination of those rights, and expulsion of DSI from the Association. In addition, the District Council may impose terms and conditions it considers appropriate. In exercising its discretion, the District Council has attempted to tailor the sanction to the circumstances of this case.

Although a failure to cooperate in an investigation is a serious matter, the respondents' refusal appears to have affected no one but DSI itself. It was not an attempt to avoid detection of conduct that was injurious to investors or to maintain an improperly obtained profit. In the circumstances of this case, the District Council is of the view that expulsion of DSI, the ultimate sanction, is not warranted.

The District Council has decided to exercise its discretion to terminate DSI's rights, privileges and membership in the Association and to impose additional terms, namely, that DSI not be entitled to apply for reinstatement as a member of the Association until the fine specified above and the costs awarded to the Association have been paid and until it has complied with the request under paragraph 19.5.

Once again, it is not necessary that the respondents be treated identically. A suspension or permanent bar against an individual may have more significant consequences than expulsion of a corporation from membership, as it would preclude the individual from being employed in any capacity requiring the Association's approval by any of its member firms and would affect the individual's ability to earn a livelihood. In view of Mr. Kyle's attempt to address DSI's capital deficiency by submitting its resignation from membership and the fact that there was no conduct injurious to investors, the District Council has concluded that a permanent bar should not be imposed in this case.

Here too, the District Council has the discretion to select from a number of alternative sanctions. It may also suspend an individual's approval for a specified period or revoke the approval. In addition, it may impose conditions that it considers appropriate on a subsequent or continued approval. The District Council has concluded that in the circumstances of this case a suspension of approval for a specified period would be inappropriate, as Mr. Kyle should not be entitled to be associated with a member firm for so long as he refuses to comply with the request for documents.

The District Council has, therefore, decided to revoke Mr. Kyle's approval and to impose a condition that no subsequent approval be granted him, unless he and DSI have paid the fines imposed and costs awarded under this decision and have complied with the request of June 5, 1998. These conditions take into account the fact that Mr. Kyle controls DSI and owns a majority of the shares of DSHI.

In imposing these conditions the District Council also recognizes that compliance with the request for documents may (or may not) lead to further proceedings with respect to the subject matter of the investigation or may (or may not) provide evidence for consideration by the Association on a subsequent application for approval, depending on the facts discovered once the documents have been produced. These are not matters before the District Council in this proceeding. If the requested documents are produced, it anticipates only that events will unfold in light of whatever facts the documents may reveal.

3. Costs

Paragraph 20.12 of the Association's By-laws grants the District Council discretion to require a respondent to "pay the whole or part of the costs of the proceedings" and any related investigation. Mr. Awad requested costs in the amount of $5,000, based on time spent by the investigator and by him as counsel in connection with the preliminary motion and the hearing on the merits. He submitted that the amount of $5,000 is a conservative one and takes into account the fact that the respondents raised issues in this matter which were "interesting". Ms. Biggar made no submissions with respect to costs.

The District Council has decided to award the Association costs of $5,000 against the respondents jointly and severally, so that each respondent is responsible for the full amount of the costs, although, of course, the total amount of the costs to be paid will not exceed $5,000.

F. Penalty Decision

The District Council orders that:

1. (a) DSI shall pay a fine in the amount of $35,000, and

   (b) DSI's membership in the Association and accompanying rights and privileges are terminated and shall not be reinstated, unless

      (i) DSI has fully paid the fine of $35,000,

      (ii) DSI has complied with the request of June 5, 1998, and

      (iii) the costs awarded against the respondents have been paid in full to the Association;

2. (a) Mr. Kyle shall pay a fine in the amount of $45,000, and

   (b) his approval by the Association is revoked and shall not be reinstated in any capacity, unless the fines imposed on him and on DSI and the costs awarded against them have been fully paid and DSI has complied with the request of June 5, 1998; and

3. the respondents shall pay costs to the Association in the amount of $5,000 and shall be responsible for payment of these costs jointly and severally.

June, 2000.

"Philip Anisman", Chair

"Sandra L. Rosch", Member

"Bruce S. Schwenger", Member

13.1.6 Mark Fridgant - Discipline Penalties Imposed

BULLETIN # 2741
July 12, 2000

**Discipline Penalties Imposed on
Mark Fridgant - Violation of By-law 29.1, Regulations 1300.1(b) and 1300.1(c)**

Person Disciplined

The Ontario District Council of the Investment Dealers Association of Canada has imposed discipline penalties on Mark Fridgant, at the relevant time a Registered Representative with Moss, Lawson & Co. Limited (now HSBC Securities (Canada) Inc.) ("Moss Lawson") and Nesbitt Burns Inc. (now BMO Nesbitt Burns Inc.) ("Nesbitt Burns") both Members of the Association.

By-laws, Regulations, Policies Violated

On June 9, 2000, the District Council concluded a discipline proceeding concerning allegations made by Enforcement Staff that Mr. Fridgant violated Association By-laws. The District Council found that Mr. Fridgant contravened Association By-laws as follows:

1. In or about March 1990 to July 1996 Mr. Fridgant effected 56 transactions in a client's RRIF on a deferred sales charge basis in order to generate excessive commissions, contrary to By-law 29.1;

2. In or about December 1991 to July 1996 Mr. Fridgant effected transactions in a client's RRIF account that created or increased a debit balance and created a potential tax liability for the client, contrary to Regulation 1300.1(b); and
3. In or about March 1990 to July 1996 Mr. Fridgant failed to exercise due diligence to ensure the recommendations for a client's RRIF account were appropriate, contrary to Regulation 1300.1(c).

Penalty Assessed

The discipline penalties assessed against Mr. Fridgant are a fine in the amount of $55,000, suspension for a period of 1 month to be followed by strict supervision of his activities for a period of two years. Mr. Fridgant is required to re-write the Conduct and Practices Exam within 90 days of the date of the decision, and pay costs of $7,000 to the Association.

Summary of Facts

Commencing in or about March 1990 through to July 1996, Mr. Fridgant handled the RRIF account of his client while working at Moss, Lawson and subsequently at Nesbitt Burns. During this time Mr. Fridgant completed 56 transactions in the RRIF account and his client incurred a total of $59,032 in deferred sales charges or redemption fees and switching fees. During the same time the client's account declined in value from $125,500 to $81,032.71, of which $32,212.06 was withdrawn by the client from the RRIF pursuant to mandatory de-registration provisions of the Income Tax Act.

During this time on at least 18 occasions Mr. Fridgant effected transactions that created or increased a debit balance in the RRIF account and thereby created a potential tax liability for the client.

The client has since been compensated for his losses in the RRIF account. Mr. Fridgant contributed $20,000 to a compensation package paid to the client. Moss, Lawson and Nesbitt Burns made contributions to the package as well.

Mr. Fridgant is currently employed by Canaccord Capital Corporation.

Suzanne Barrett
Association Secretary

13.1.7 Mark Fridgant

**IN THE MATTER OF
THE INVESTMENT DEALERS ASSOCIATION OF CANADA**

AND

MARK FRIDGANT

DECISION OF THE ONTARIO DISTRICT COUNCIL

District Council:

The Honourable Robert Reid, Q. C. Chair
Hugh McNabney, Member
Robert Guilday, Member

Appearances:

Natalija Popovic,
for the Investment Dealers Association of Canada

Paul LeVay and Elaine Shin for Mark Fridgant.

Mark Fridgant in attendance.

Reasons for Decision

The hearing in this matter was convened on June 9th, 2000 pursuant to a Notice of Hearing dated May 29, 2000.

The Notice of Hearing is attached as Appendix 'A' and Mr. Fridgant's Reply is attached as Appendix 'B'.

The Notice of Hearing contained the following charges:

Count #1
On or between March 19, 1990 to July 31, 1996, Mark Fridgant effected 56 transactions in a client's RRIF account involving the sale and purchase of various mutual fund units on a deferred sales charge basis in order to generate excessive commissions. He thereby engaged in business conduct or practice that is unbecoming of a Registered Representative or detrimental to the public interest, contrary to By-law 29.1.

Count #2
On or between December 21, 1991 to July 31, 1996, Mark Fridgant effected transactions in a client's RRIF account that, on at least 18 occasions, either created or increased a debit balance in the RRIF account and created a potential tax liability for the client. He thereby failed to exercise due diligence to ensure that the acceptance of orders for a client account were within the bounds of good business practice, contrary to Regulation 1300.1(b).

Count #3
On or between March 19, 1990 to July 31, 1996, Mark Fridgant failed to exercise due diligence to ensure that recommendations for a client's RRIF account were appropriate and suitable for the client, contrary to Regulation 1300.1(c).

Ms. Popovic and Mr. LeVay presented joint submissions in respect of the facts and penalty.

We reached a decision after somewhat lengthy consideration. We would like to thank Counsel for their assistance. We noted what is reflected in point number one of Mr. Fridgant's Reply, which is to the effect that:

> "The Respondent, Mark Fridgant, admits the facts alleged and the conclusions drawn by the Investment Dealers Association in the Notice of Hearing and Particulars."

That was in direct response to the three counts with which Mr. Fridgant was charged and which were set out in the Notice Hearing. It was not necessary for the panel to make a determination as to liability, since liability was accepted.

The panel accepted Counsels' joint submissions which were to the following effect:

First, Mr. Fridgant agreed to a significant monetary penalty of $62,000, which includes payment to the Association of $7,000 for the costs of its investigation into this matter.

This amount will be paid in accordance with a payment schedule which has been accepted by Counsel for the Association.

Second, there be a one month suspension.

Third, Mr. Fridgant's conduct and operations will be strictly supervised over a period of two years, to follow the end of the suspension period. His present employer, Canaccord Capital has furnished an undertaking under the hand of James Miller, who is the Vice-President of Compliance, to the effect that they were aware of the proposed penalty of the one month suspension, and they stated that:

> "During the period of suspension another Registered Representative of Canaccord will service Mr. Fridgant's clients' accounts."
>
> In relation to the two-year supervision proposed, the letter reads:
>
> "A compliance officer will supervise this arrangement. I note that these individuals will assume these responsibilities in addition to their own normal day to day responsibilities, and thus the arrangement will increase their work load..."

There is a direct undertaking in relation to the proposed supervision period, as follows:

> "I have been advised of the proposed penalty for Mr. Fridgant arising from this matter. Canaccord has made arrangements for Mr. Fridgant's continued and strict supervision should the penalty be imposed by the District Council."

We approved the proposal that there be two years of strict supervision, and we accepted the undertaking made by Canaccord to supervise in accordance with that direction. However, the panel was concerned also to add that, in the event that Mr. Fridgant leaves his present employment and joins another firm, an undertaking satisfactory to Association Counsel similar to the one referred to above, be given before that employment change occurs. That was acceptable to both Counsel.

The suspension period will start effective June 9th, 2000 and will run until July 9th, 2000. Mr. Fridgant could return to work on July 10th, 2000.

It was further jointly proposed, and we accepted, that Mr. Fridgant re-write the Conduct and Practices Handbook (the CPH), and that is to be done with 90 days of June 9, 2000.

We noted the statement in the Reply filed on Mr. Fridgant's behalf that he has no prior convictions on charges at the Association.

These reasons are supplementary to our decision rendered at the conclusion of the hearing on June 9th, 2000. Our decision was effective from its pronouncement.

Dated this 10th day of July 2000.

The Honourable "Robert Reid", Chair

"Hugh McNabny", Member

"Robert Guilday", Member

APPENDIX A

IN THE MATTER OF A DISCIPLINE HEARING PURSUANT TO BY-LAW 20 OF THE INVESTMENT DEALERS ASSOCIATION OF CANADA

RE: MARK FRIDGANT

NOTICE OF HEARING

Notice is hereby given that a hearing will be held before the Ontario District Council ("the District Council") of the **Investment Dealers Association of Canada** ("the Association"), on Friday June 9, 2000 at 121 King St. West, Main Boardroom, 16th floor, Toronto, Ontario, at 1 PM., or so soon thereafter as the hearing can be held, regarding a disciplinary action brought by the Association concerning **Mark Fridgant** ("the Respondent").

Notice is further given that the staff of the Association allege the following violations of the By-laws, Regulations or Policies of the Association:

Count #1
On or between March 19, 1990 to July 31, 1996, **Mark Fridgant** effected 56 transactions in a client's RRIF account involving the sale and purchase of various mutual fund units on a deferred sales charge basis in order to generate excessive commissions. He thereby engaged in business conduct or practice that is unbecoming of a Registered Representative or detrimental to the public interest, contrary to By-law 29.1.

Count #2
On or between December 21, 1991 to July 31, 1996, **Mark Fridgant** effected transactions in a client's RRIF account that, on at least 18 occasions, either created or increased a debit balance in the RRIF account and created a potential tax liability for the client. He thereby failed to exercise due diligence to ensure that the acceptance of orders for a client account were within the bounds of good business practice, contrary to Regulation 1300.1(b).

Count#3
On or between March 19, 1990 to July 31, 1996, **Mark Fridgant** failed to exercise due diligence to ensure that recommendations for a client's RRIF account were appropriate and suitable for the client, contrary to Regulation 1300.1(c).

PARTICULARS

NOTICE is further given that the following is a summary of the facts alleged and intended to be relied upon and the conclusions drawn by the Association at the said hearing:

SUMMARY OF FACTS

1. The Respondent has been employed in the securities industry since 1982. His work history is as follows:

Regal Capital Inc.	Jan '82 to Jul '85	Mutual Funds Salesman
Moss Lawson & Co. Ltd.	Jul '85 to Aug '85	Mutual Funds Salesman
	Aug '85	Registered Mutual Funds Rep.
	Oct '85	Registered Representative
	Nov '86	Registered Options Representative
	Aug '91	Vice-President (Trading)
Burns Fry Ltd.*	Aug '92 to May '97	Registered Representative
		Registered Options Rep.
Midland Walwyn Inc.**	May '97 to Apr '99	Registered Representative
Canaccord Capital Corp.	Apr'99 to present	Registered Representative

(*Nesbitt Burns Inc. since company merger on October 1, 1994)
(**Merill Lynch Canada Inc. since company merger on August 26, 1998)

2. Mr. Roy Graydon ("Graydon") initially became a client of the Respondent while the Respondent was employed by Regal Capital Planners. The Respondent transferred his employment to the Mississauga, Ontario branch office of Moss Lawson & Co. Ltd. ("Moss Lawson") in August of 1985.

MOSS LAWSON

3. On or about March 9, 1990, at the suggestion of the Respondent, Graydon transferred his RRSP and RRIF accounts from Mackenzie Trust ("Mackenzie") to a single RRIF account to be handled by the Respondent at Moss Lawson. At that time, Graydon was over 65 years old and retired. His annual income was less than $50,000, his net worth was over $200,000 and he had approximately $125,000 capital available to invest. His investment objectives were documented as 90% mutual funds and 10% long-term growth and his investment knowledge was indicated as being "limited".

4. The Respondent completed the transfer application form for Graydon and specified that the assets in Graydon's RRSP and RRIF accounts at Mackenzie be transferred "in cash" rather than "in kind", thereby compelling the sale of the front-end loaded Industrial Growth Fund mutual fund units held in those accounts. Once the cash was received by Moss Lawson, the Respondent effected the purchase of $125,500 worth of Industrial Bond Fund mutual fund units on a Deferred Sales Charge ("DSC") basis.

5. Mutual fund units purchased on a DSC basis are subject to a redemption charge between 3.5% to 6.5% if sold within the first year after being purchased and thereafter on a declining scale of redemption charges for each subsequent year that the units are held. Mutual funds purchased on a DSC basis are generally considered to be

a long-term growth investment vehicle with an investment time horizon of 7 to 9 years.

6. On December 4, 1990, 9 months after the initial purchase, the Respondent effected the sale of approximately ½ of the units of the Industrial Bond Fund units in Graydon's RRIF account and a redemption fee in the amount of $1,669 was charged to Graydon.

7. On December 7, 1990, 3 days later, the Respondent used the proceeds from the sale of the Industrial Bond Fund mutual units to effect the purchase of $66,000 worth of mutual fund units of Industrial Horizon Fund on a DSC basis.

8. The Industrial Bond Fund and the Industrial Horizon Fund were in the same family of mutual funds offered by the Mackenzie Group of Funds. The Respondent could have effected a switch of the DSC mutual fund units for a nominal switching fee between 0% to 2%, which is charged at the Respondent's discretion, rather than having Graydon incur a redemption fee of $1,669 for the sale of the Industrial Bond Fund units.

9. On February 20, 1991, the Respondent effected the sale of the remaining units of the Industrial Bond Fund from Graydon's RRIF account and a further redemption fee in the amount of $2,193 was charged to Graydon.

10. On February 22, 1991, 2 days later, the Respondent used the proceeds from the sale of the remaining units of the Industrial Bond Fund to purchase $60,500 worth of mutual fund units of United Accumulative Retirement Fund ACQ on a DSC basis.

11. On June 14, 1991, approximately 6 ½ months after the purchase, the Respondent effected the sale of all of the mutual units of the Industrial Horizon Fund, thereby causing Graydon to incur redemption fees of $1,432.

12. On June 20, 1991, 6 days later, the Respondent used the proceeds from the sale of the Industrial Horizon Fund to purchase $73,700 worth of mutual fund units of AGF Canadian Equity Fund on a DSC basis.

13. On July 26, 1991, 5 months after the purchase, the Respondent effected the sale of all of the mutual fund units of the United Accumulative Retirement Fund ACQ and purchased approximately $60,000 worth of mutual fund units of AGF High Income Fund on a DSC basis. Graydon was charged a redemption fee of $8,041 as a result of the sale.

14. On October 23, 1991, 3 months after the purchase, the Respondent effected the sale of the units of AGF High Income Fund and purchased approximately $60,000 worth of mutual fund units of AGF Canadian Equity Fund on a DSC basis. Graydon was charged a redemption fee of $2,700 as a result of the sale.

15. The Respondent could have simply effected a switch of the mutual fund units from the AGF High Income Fund to the AGF Canadian Equity Fund since both funds are within the AGF family of mutual funds. By selling the DSC based mutual fund units and then purchasing further mutual fund units within the same family of mutual funds, the Respondent generated increased commissions for himself and subjected Graydon to unnecessary redemption fees.

16. On December 16, 1991, less than 2 months after the purchase, the Respondent effected the sale of the units of AGF Canadian Equity Fund, thereby causing Graydon to incur a redemption fee of $3,826.

17. On December 20, 1991, 4 days later, the Respondent effected the purchase of $60,000 worth of mutual fund units of AGF Canadian Bond Fund on a DSC basis. Once again, the Respondent could have switched the units of the AGF Canadian Equity Fund for the units of the AGF Canadian Bond Fund since both funds are within the same family of AGF mutual funds, thereby avoiding the unnecessary imposition of redemption fees on Graydon.

18. On December 22 and 23, 1991, the Respondent effected the purchase of a further $62,000 worth of mutual fund units of AGF Canadian Bond Fund on a DSC basis. This created an impermissible debit balance of $57,775 in Graydon's RRIF account.

19. Section 146.3(2)(c)(ii) of the *Income Tax Act* specifically prohibits property held in connection with an RRIF from being "pledged, assigned or in any way alienated as security for a loan". The debit balance created by the Respondent in Graydon's RRIF account created a potential tax liability for Graydon. Revenue Canada could have de-registered Graydon's RRIF due to the impermissible debit balance in the account and Graydon would have had to include the $57,775 amount as a part of his taxable income for the 1991 taxation year.

20. On January 20, 1992, the Respondent effected the sale of $62,500 worth of units of AGF Canadian Equity Fund in order to wipe out the debit balance in Graydon's RRIF account. Graydon incurred a redemption fee of $3,585 as a result of the sale.

21. On March 23, 1992, only 3 months after the purchase, the Respondent effected the sale of all of the units of AGF Canadian Bond Fund, causing Graydon to incur a redemption fee of $6,863.

22. Further on March 23, 1992, the Respondent used the proceeds from the sale of the units of AGF Canadian Bond Fund to purchase $112,000 worth of mutual fund units of Jones Heward Canadian Balanced Fund on a DSC basis.

23. On May 22, 1992, the Respondent effected the purchase of 2,000 shares of Toronto Dominion Bank, causing a debit balance of $34,000 in Graydon's RRIF account and charging Graydon $762.80 in commission. The debit balance remained in the RRIF account until June 3, 1992, thereby exposing Graydon again to potential tax liability.

24. On June 3 and 19, 1992, less than 3 months after the purchase, the Respondent effected the sale of approximately $50,000 worth of Jones Heward Canadian Balanced Fund units, thereby wiping out the debit balance in the account and causing Graydon to incur a total of $2,530 in redemption fees. The Jones Heward group of

mutual funds charge 5% in redemption fees if units are redeemed within the first year of purchase.

25. On June 23, 1992, the Respondent effected the purchase of 2,000 shares of an initial public offering of Newgrowth Corp., for a total purchase price of $15,460.

26. On June 24, 1992, the next day, 300 shares of TD Bank were sold to cover the purchase of the Newgrowth Corp. shares and Graydon was charged $132.89 commission for this transaction.

27. On July 7, 1992, the Respondent effected the purchase of 1,700 shares of Moore Corp., for a total purchase price of $37,064.70 plus $727.20 commission.

28. On July 8, 1992, the next day, the remaining 1,700 shares of TD Bank in Graydon's RRIF account were sold to cover the purchase price of the Moore Corp. shares. Graydon was charged $690.43 commission to cover this transaction. The purchase and sale of the 2,000 TD Bank shares resulted in a net profit of $2,463.79 while it cost Graydon $1,586.21 in commissions.

29. On July 14, 1992, the Respondent effected the sale of the 2,000 shares of Newgrowth Corp. in Graydon's RRIF account. Graydon realized a net profit of $319, but was charged a total of $474.74 commission.

30. On July 21, 1992, the Respondent effected the re-purchase of $11,000 worth of mutual fund units of Jones Heward Canadian Balance Fund on a DSC basis. Units of this fund had been sold only one month earlier (on July 3 and 19, 1992) at $11.84/unit plus DSC charges. The units were now being re-purchased at a cost of $12.3/unit with new DSC charges applying.

31. Between October 31, 1990 to August 11, 1992, Graydon's RRIF account generated a net profit of only $1,204.45. During the same period, Graydon was charged approximately $31,254.15 in deferred sales charges on 10 redemptions of mutual fund units and $2,784.69 in commissions on 5 stock transactions, for a total cost of $34,038.84.

NESBITT BURNS

32. On July 31, 1992, the Respondent transferred his employment from Moss Lawson to Burns Fry Ltd. (herein referred to as "Nesbitt Burns"). On August 3, 1992, Graydon transferred his RRIF account to Nesbitt Burns to continue to be handled by the Respondent. The new account documentation for Graydon indicated that his investment objectives were 60% mutual funds, 20% income and 20% long-term growth and his investment knowledge was "fair".

33. On October 27, 1992, the Respondent effected the purchase of $21,000 worth of mutual fund units of Industrial Bond Fund on a DSC basis, creating a debit balance of $19,807 in Graydon's RRIF account and a potential tax liability for Graydon.

34. On November 4, 1992, the Respondent effected a further purchase of $10,000 worth of mutual fund units of Industrial Bond Fund on a DSC basis, thereby further increasing the debit balance in Graydon's RRIF account.

35. On November 16, 1992, the Respondent effected the sale of 1,700 shares of Moore Corp., effectively reducing the debit balance in the account to zero. In total, the purchase and sale of the Moore Corp. shares in Graydon's RRIF account resulted in a net loss of $5,632.02 plus $1,382.02 in commission charges.

36. On November 27, 1992, the Respondent effected the purchase of an additional $30,000 worth of mutual fund units of Industrial Bond Fund on a DSC basis, again creating a debit balance of $28,500 in Graydon's RRIF account.

37. The debit balance in Graydon's RRIF account was not eliminated until December 11, 1992, when the Respondent effected the sale of Jones Heward Canadian Balanced Fund units. Graydon was charged a redemption fee of $1,327 since these mutual fund units were purchased only 10 months prior to the sale.

38. On December 14, 1992, Graydon's RRIF account was charged $122.10 interest for the debit balance in the account.

39. On February 2, 8 and 25, 1993, the Respondent effected the purchase of mutual fund units of Ivy Canadian Fund on a DSC basis, creating an impermissible debit balance in Graydon's account.

40. On February 22, 1993, the Respondent effected the sale of $20,000 worth of Jones Heward Canadian Balanced Fund, partially offsetting the debit balance in Graydon's account. At the end of February, the account had a debit balance of $56,096. Graydon was charged a redemption fee of $854 for the sale of the Jones Heward Canadian Balanced Fund units as they were held for less than 1 year.

41. On February 25, 1993, Graydon's RRIF account was debited $150.74 for interest charges on the debit balance in his account.

42. On March 1, 1993, the Respondent effected the sale of $32,000 worth of Jones Heward Canadian Fund units, reducing the account debit balance to $25,582 and subjecting Graydon to a redemption fee of $1,440.

43. On March 2, 1993, the Respondent effected the further purchase of $18,000 worth of Ivy Canadian Fund units on a DSC basis, increasing the debit balance in Graydon's RRIF to $43,582.

44. On March 23 and April 1, 1993, 5 months after the purchase, the Respondent effected the sale of about $45,000 worth of Industrial Bond Fund units, thereby eliminating the debit balance in the RRIF account and subjecting Graydon to redemption fees of $1,991.

45. Between February 2 and April 1, 1993, Graydon's RRIF account was debited $432.93 in interest on the outstanding debit balance in the account.

46. On August 17, 1993, the Respondent effected the sale of the remaining units of the Industrial Bond Fund in the account and Graydon was charged $962 in redemption fees.

47. From September to December 1993, the Respondent began purchasing mutual fund units of Jones Heward Canadian Balanced Fund on a DSC basis. The Respondent had sold units of this same mutual fund from Graydon's RRIF account less than a year ago in December of 1992, with DSC redemption charges being applied.

48. On November 24, 1993, 9 months after the purchase, the Respondent effected the sale of $53,000 worth of Ivy Canadian Fund units. On December 10 and 20, 1993, the remaining units of Ivy Canadian Fund were sold out of Graydon's account. Graydon was charged a total of $4,621.81 in redemption fees.

49. On November 29, December 15 and 23, 1993, the Respondent used the proceeds from the sale of the Ivy Canadian Fund units to purchase further units of Jones Heward Canadian Balanced Fund on a DSC basis

50. On May 12 and 27, 1994, the Respondent effected the sale of all of the units of Jones Heward Canadian Balanced Fund from Graydon's RRIF and Graydon was charged a total of $5,500 in redemption fees.

51. On May 18 and June 1, 1994, the Respondent effected the purchase of mutual fund units of Global Strategy Canadian Growth Fund on a DSC basis, causing Graydon's entire RRIF account to be invested in this fund apart from approximately $180 which was held in a Moneymax Fund.

52. On September 14, 1994, 4 months after the purchase, $5,000 worth of Global Strategy Canadian Growth Fund units were sold, costing Graydon $284.26 in redemption fees. The amount of $4,897 was then de-registered from the RRIF and paid out to Graydon as required by the *Income Tax Act*.

53. The prospectus for the Global Strategy Group of Funds provides that, "On redemption of excess units held by a RRIF plan or for a regular automatic withdrawal, Contingent Deferred Sales Charges may be waived on the portion of the payment that is less than a specified percentage of the account balance at the time. For RRIF plans, currently the percentage is reset to 10% on January 1 each year and declines on each subsequent redemption by the percentage that the redemption represents of the account balance at the time."

54. The $284.26 redemption fee charged to Graydon could have been avoided as Graydon was entitled to withdraw up to 10% of the account balance without incurring redemption charges. The Respondent failed to assist Graydon in taking advantage of this redemption allowance.

55. On November 3, 1994, the Respondent effected the switch of all of the units of Global Strategy Canadian Growth Fund in Graydon's account to units of Global Strategy Diversified Japan Plus Fund on a DSC basis. Graydon was charged a switching fee of $1,074.81 (1.13%) by the Respondent.

56. On December 6, 1994, $4,697.73 was transferred into Graydon's RRIF account from an RRSP account that he had held at Montreal Trust.

57. On December 14, 1994, the Respondent effected the purchase of $4,700 worth of Global Strategy Diversified Japan Plus Fund units on a DSC basis. Sixteen days later, on December 30, the Respondent effected the sale of $1,000 worth of Global Strategy Diversified Japan Plus Fund units and charged Graydon $58.77 in redemption fees.

58. On January 20, 1995, the Respondent effected the purchase of $9,000 worth of mutual fund units of Global Strategy Europe Plus Fund on a DSC basis, creating a debit balance of approximately $8,900 in Graydon's RRIF. This debit balance remained in the account until February 20, 1995, and Graydon was charged $84.85 interest on the debit balance.

59. On February 20, 1995, the Respondent effected the sale of $9,200 worth of Global Strategy Diversified Japan Plus Fund units, thereby eliminating the debit balance in the account and charging Graydon $394.77 in redemption fees.

60. On April 19, 1995, the Respondent effected the sale of $500 worth of Global Strategy Diversification Japan Plus Fund units, costing Graydon a further $31.24 in redemption fees. The Respondent could have effected the sale utilizing the 10% redemption allowance provision and thus avoid charging Graydon redemption fees.

61. On November 1, 1995, $4392.25 was paid out of the RRIF account to Graydon pursuant to the mandatory provisions under the *Income Tax Act*. This created a debit balance of $4,111.56 in the account.

62. On December 18, 1995, the Respondent effected the sale of approximately $8,200 worth of Global Strategy Diversified Japan Plus Fund units, costing Graydon $522.30 in redemption fees. The proceeds were used to reduce the debit balance in the account and to facilitate the purchase $4,000 worth of units of Global Strategy Europe Plus Fund on a DSC basis. A debit balance of $466.84 remained in the account at the end of December.

63. The Respondent could have switched units of Global Strategy Diversified Japan Plus Fund for units of Global Strategy Europe Plus Fund as the funds are within the Global family of mutual funds. The Respondent elected to sell the mutual fund units and charge Graydon $522.30 (6.34%) in redemption fees.

64. On April 1, 1996, the Respondent effected the purchase of $50,000 worth of Dynamic Fund of Canada mutual fund units on a DSC basis, creating a debit balance of $50,600.59 in the account and a potential tax liability for Graydon.

65. On April 22, 1996, approximately $50,000 worth of Global Strategy Diversified Japan Plus Fund units were sold and $3,360.03 (6.34%) in redemption fees were charged to Graydon. The proceeds of the sale reduced the debit balance in the account to $1,202. Interest charges of $241.55 were charged to Graydon's account as a result of the debit balance.

66. On June 14, 1996, the Respondent effected the sale of $5,657 worth of Global Strategy Diversified Japan Plus Fund units and Graydon was charged $342.73 (5.7%) in redemption fees. The proceeds of the sale were used to eliminate the debit balance in the account. A cheque for $4,212.49 was issued to Graydon from the account pursuant to the mandatory de-registration provisions of the *Income Tax Act*. Once again, the Respondent could have effected the sale utilizing the 10% annual redemption allowance and thereby avoid charging Graydon redemption fees. The Respondent failed to do so.

67. In July of 1996, Graydon transferred the assets in his RRIF account to another financial institution and ceased all further trading activity through the Respondent.

68. Graydon incurred a total of $59,032 in deferred sales charges or redemption fees and switching fees between March 20, 1990 to July 1996, while his account was being handled by the Respondent at Moss Lawson and Nesbitt Burns. During the same period of time, Graydon's account declined in value by $44,467.29, from $125,500 to $81,032.71. Of this amount a total of $32,212.06 was withdrawn by Graydon from the RRIF, pursuant to the mandatory de-registration provisions of the *Income Tax Act*.

69. Graydon has since been compensated for the losses in his RRIF account. In May 1999, the Respondent contributed $20,000 to the settlement paid to Graydon to resolve his civil claims against the Respondent, Nesbitt Burns and Moss Lawson. Graydon has since acknowledged to the Association, through his counsel, his satisfaction with the terms of the settlement.

Notice is further given that the Respondent shall be entitled to appear and be heard and be accompanied by counsel or agent at the hearing and to call, examine and cross-examine witnesses.

Notice is further given that Association By-laws provide that if, in the opinion of the District Council, the Respondent has failed to comply with or carry out the provisions of any applicable federal or provincial statute relating to trading or advising in respect of securities or commodities or of any regulation or policy made pursuant thereto; has failed to comply with or carry out the provisions of any By-law, Regulation, Ruling or Policy of the Association; has engaged in any business conduct or practice which such District Council in its discretion considers unbecoming or not in the public interest; or is otherwise not qualified whether by integrity, solvency, training or experience, the District Council has the power to impose any one or more of the following penalties:

(a) a reprimand;

(b) a fine not exceeding the greater of:

  (1) $1,000,000.00 per offence; and

  (2) an amount equal to three times the pecuniary benefit which accrued to such person as a result of committing the violation;

(c) suspension of approval of the person for such specific period and upon such terms as such District Council may determine;

(d) revocation of approval of such person;

(e) prohibition of approval of the person in any capacity for any period of time;

(f) such conditions of approval or continued approval as may be considered appropriate by the District Council.

Notice is further given that the District Council may, in its discretion, require that the Respondent pay the whole or part of the costs of the proceedings before the District Council and any investigation relating thereto.

NOTICE is further given that the District Council may accept as having been proven any facts alleged or conclusions drawn by the Association in the Notice of Hearing and Particulars that are not specifically denied, with a summary of the facts alleged and conclusions drawn based on those alleged facts, in a **Reply**.

NOTICE is further given that the Respondent has ten (10) days from the date on which this Notice of Hearing and Particulars was served, to serve a **Reply** upon:

Investment Dealers Association of Canada
Suite 1600
121 King St. West,
Toronto, Ontario
M5H 3T9
Attention: Natalija Popovic, Enforcement Counsel

A **Reply** may either:

(i) specifically deny (with a summary of the facts alleged and intended to be relied upon by the Respondent, and the conclusions drawn by the Respondent based on all the alleged facts) any or all of the facts alleged or the conclusions drawn by the Association in the Notice of Hearing and Particulars; or

(ii) admit the facts alleged and conclusions drawn by the Association in the Notice of Hearing and Particulars and plead circumstances in mitigation of any penalty to be assessed.

NOTICE is further given that if the Respondent fails to serve a **Reply** or attend at the hearing, notwithstanding that a **Reply** may have been served, the District Council may proceed with the hearing of the matter on the date and at the time and place

set out in this notice, or on any subsequent date, at any time and place, without further notice to and in the absence of the Respondent, and the District Council may accept the facts alleged or the conclusions drawn by the Association in this notice as having been proven and may impose any of the penalties prescribed by the By-laws of the Association.

DATED at Toronto this 29th day of May, 2000.

"Fredric L. Maefs"
Vice-President
Enforcement Division

Investment Dealers Association of Canada
121 King St. W., Ste 1600
Toronto, ON M5H 3T9

APPENDIX B

IN THE MATTER OF A DISCIPLINE HEARING PURSUANT TO BY-LAW 20 OF THE INVESTMENT DEALERS ASSOCIATION OF CANADA

RE: MARK FRIDGANT

REPLY

1. The Respondent Mark Fridgant admits the facts alleged and conclusions drawn by the Investment Dealers Association in the Notice of Hearing and Particulars.

2. The Respondent respectfully requests that the District Council take the following circumstances into consideration when deliberating upon this matter:

   a) The Respondent has fully co-operated with the Association during its investigation of this matter;

   b) The Respondent has agreed to make an early plea, admitting to the alleged conduct, and has agreed to a joint submission as to penalty, and thereby has avoided the necessity of a full disciplinary hearing;

   c) The Respondent has agreed to a significant monetary penalty of $62,000.00, which includes payment to the Association of $7,000.00 for the costs of its investigation into this matter;

   d) The Respondent has agreed to a one month suspension, which will result in income loss during this period;

   e) The Respondent has agreed to be subject to lengthy ongoing strict supervision of his conduct for a period of two years following the end of the suspension;

   f) The conduct involves a single client account;

   g) The Respondent has no prior conviction on charges at the Association;

   h) The Client has received compensation from the Respondent in the amount of $20,000 and the Client, through his counsel, has acknowledged his satisfaction with the terms of the settlement;

   i) This matter has been the subject of some media attention, which has reflected negatively upon the Respondent; and

   j) The Respondent regrets his conduct, as evidenced by his co-operation with the Association, early plea agreement and willingness to comply with the terms of the agreed upon penalty.

3. The Respondent wishes to acknowledge the seriousness of his actions, convey his remorse and finally resolve this matter, in order to allow him to move forward.

4. The Respondent wishes to assure the Investment Dealers Association that his future conduct will meet the standards set by the Association.

ALL OF WHICH IS RESPECTFULLY SUBMITTED

"STOCKWOOD SPIES"
The Sun Life Tower
Suite 2512
150 King Street W.
Toronto, Ontario
M5H 1J9

Paul Le Vay
Elaine Shin
Telephone: 416-593-7200
Facsimile: 416-593-9345
Solicitors for the Respondent Mark Fridgant

This Page Intentionally left blank

Chapter 25

Other Information

25.1.1 Securities

TRANSFER WITHIN ESCROW

COMPANY NAME	DATE	FROM	TO	NO. AND TYPE OF SHARES
Syscan International Inc.	July 17, 2000	Daniel C. Benoit	AXYN Canada Corporation	1,401 Common Shares
Syscan International Inc.	July 17, 2000	2977541 Canada Inc.	AXYN Canada Corporation	5,978,615 Common Shares
TD Capital Group Ltd.	July 17, 2000	COM DEV International Ltd.	The Toronto Dominion Bank	1,143,865 Common Shares

This Page Intentionally left blank

Index

Alcatel
MRRS Decision 4948

Ameristar RSP Income Trust
Ruling - ss. 74(1) & s. 59, Schedule 1, Reg. 4969

Archipelago L.L.C.
New Registration 5056
Order - s. 211, Regulation 4965

ATS Automation Toolings Systems Inc.
Preliminary Short Form Prospectus.......................5051

Blue Range Resource Corporation
MRRS Decision 4946

BMO Nesbitt Burns Inc.
Order - s. 233, Regulation 4966

BNP Paribas Asset Management
Change of Name 5055

Brompton Securities Limited
New Registration 5055

Canadian Scholarship Trust Plan-Millennium Family Plan
Final Prospectus...5052

Canadian Scholarship Trust Plan-Millennium Plan
Final Prospectus...5052

Canadian Scholarship Trust Plan-Optional Plan
Final Prospectus...5052

CIBC World Marketing Inc.
Order - s. 233, Regulation 4966

Cinar Corporation
Extending Cease Trading Order...........................4979

Clarington Canadian Equity Class
Preliminary Simplified Prospectus 5051

Clarington Global Communications Class
Preliminary Simplified Prospectus 5051

Clarington Global Equity Class
Preliminary Simplified Prospectus 5051

Clarington Global Small Cap Class
Preliminary Simplified Prospectus 5051

Clarington Navellier U.S. All Cap Class
Preliminary Simplified Prospectus 5051

Clarington RSP International Equity Fund
Preliminary Simplified Prospectus 5051

Clarington Short -Term Income Class
Preliminary Simplified Prospectus 5051

Current Proceedings Before The Ontario Securities Commission
Notice 4929

Derivative Services Inc.
Disciplinary Decision 5062
Disciplinary Decision - Discipline Penalties Imposed 5061

Dialogue with the OSC
Notice 4932

Digital Cybernet Corporation
Decision..4945

Direct Energy
Order - s. 233, Regulation 4966

DLJ Asset Management Group, Inc.
New Registration 5055

Draig Energy Ltd.
MRRS Decision 4947

Dynamic Infinity American Fund
Final Simplified Prospectus 5053

Dynamic Infinity Canadian Fund
Final Simplified Prospectus 5053

Dynamic Infinity Income and Growth Fund
Final Simplified Prospectus 5053

Dynamic Infinity T-Bill Fund
Final Simplified Prospectus 5053

Dynamic Infinity Wealth Management Fund
Final Simplified Prospectus 5053

Evoke Incorporated
Ruling - ss. 74(1) 4971

Faiz & Associates Inc.
Change in Category..5055

Fidelity American Opportunities Fund
Final Simplified Prospectus 5053

Fidelity Canadian Aggressive Fund
Final Simplified Prospectus 5053

Fidelity Focus Telecommunications Fund
Final Simplified Prospectus 5053

Fidelity RSP American Opportunities Fund
Final Simplified Prospectus 5053

Fidelity RSP Focus Telecommunications Fund
Final Simplified Prospectus 5053

Fridgant, Mark
Disciplinary Decision 5071

Fridgant, Mark
Disciplinary Decision - Discipline Penalties Imposed 5070

Georgian Bond Fund
Final Simplified Prospectus 5053

Georgian Global 24 Fund
Final Simplified Prospectus 5053

Georgian Global Financial Services Fund
Final Simplified Prospectus 5053

Georgian Northern 24 Fund
Final Simplified Prospectus 5053

Harrett , Randall
Disciplinary Decision - Discipline Penalties Imposed 5057

Harrett, Randall
Settlement Agreement 5058

Imperial Canadian Bond Pool
Final Simplified Prospectus 5054

Imperial Canadian Equity Pool
Final Simplified Prospectus 5054

Imperial Emerging Economies Pool
Final Simplified Prospectus 5054

Imperial International Bond Pool
Final Simplified Prospectus 5054

Imperial International Equity Pool
Final Simplified Prospectus 5054

Imperial Money Market Pool
Final Simplified Prospectus 5054

Imperial Registered International Equity Index Pool
Final Simplified Prospectus 5054

Imperial Registered U.S. Equity Index Pool
Final Simplified Prospectus 5054

Imperial Short-Term Bond Pool
Final Simplified Prospectus 5054

Imperial U.S. Equity Pool
Final Simplified Prospectus 5054

Intrinsyc Software, Inc.
Final Prospectus 5052

Janus American Equity Fund
Preliminary Simplified Prospectus 5051

Janus Global Equity Fund
Preliminary Simplified Prospectus 5051

JTB Visionquest Corp.
New Registration 5055

Kingsgate Securities Limited
New Registration 5056

Kinlin, Patrick Joseph
Commission Issues - Notice of Hearing 4943
Notice of Hearing - s. 127(1) 4940
Notice of Hearing - Statement of Allegations 4940

Kyle, Malcolm Robert Bruce
Disciplinary Decision 5062

Kyle, Robert
Disciplinary Decision - Discipline Penalties Imposed 5061

Leroux Steel Inc.
Order - scl. 21(2)(a)(ii) 4967

Lifeco Split Corporation Inc.
MRRS Decision 4957

MAESTRAL American Equity Fund
Preliminary Simplified Prospectus 5051

MAESTRAL Asset Mix Fund
Preliminary Simplified Prospectus 5051

MAESTRAL Canadian Bond Fund
Preliminary Simplified Prospectus 5051

MAESTRAL Canadian Equity Fund
Preliminary Simplified Prospectus 5051

MAESTRAL Global Equity Fund
Preliminary Simplified Prospectus 5051

MAESTRAL Global Equity RSP Fund
Preliminary Simplified Prospectus 5051

MAESTRAL Growth Fund
Preliminary Simplified Prospectus 5051

MAESTRAL Health & Biotechnology Fund
Preliminary Simplified Prospectus 5051

MAESTRAL Money Market Fund
Preliminary Simplified Prospectus 5051

MAESTRAL Technology & Telecommunications Fund
Preliminary Simplified Prospectus 5051

Manhattan Minerals Corp.
Final Short form Prospectus 5053

Miltec Technology Inc.
Temporary Cease Trading Order 4979

Murray Johnstone International Limited
Change in Category 5055

NAL Oil & Gas Trust
MRRS Decision 4947

National Instrument 33-102 - Registrant Dealings with Clients and Proposed Companion Policy 33-102CP
Request for Comments 4983

Newbridge Networks Corporation
MRRS Decision 4948

Normiska Corporation
Final Prospectus 5052

Northrock Resources Ltd.
MRRS Decision 4961

Otis-Winston Ltd.
Decision 4945

Overseas Partners Ltd.
MRRS Decision 4955

PanAtlas Energy Inc.
MRRS Decision 4963

Phonetime Inc.
Preliminary Prospectus 5051

PhotoChannel Networks Inc.
Preliminary Prospectus 5051

Plaintree Systems Inc.
Final Prospectus 5052

Premium Canadian Income Fund
Ruling - ss. 74(1) & s. 59, Schedule 1, Reg. 4972

Proposed Companion Policy 33-102CP - Notice of Proposed National Instrument 33-102 - Registrant Dealings with Clients
Request for Comments...4983

Request for Comments - Proposed National Instrument 33-102 Registrant Dealings with Clients
Notice 4939

RT Capital Management Inc.
News Release 4943

Scotia Capital Inc
MRRS Decision 4957

Sentry Select Biotechnology Fund 2001
Final Simplified Prospectus 5054

Sentry Select Internet Technology Fund 2001
Final Simplified Prospectus 5054

Sentry Select Wealth Management Fund 2001
Final Simplified Prospectus 5054

Sentry Select Wireless Communications Fund 2001
Final Simplified Prospectus 5054

Stone & Co. Flagship Stock Fund Canada
Final Simplified Prospectus 5054

Syscan International Inc.
Transfer Within Escrow 5081

TD Capital Group Ltd.
Transfer Within Escrow 5081

Unocal Canada Resources
MRRS Decision 4961

USC Horizon Education Savings Plan
Preliminary Prospectus 5052

Velvet Exploration Ltd
MRRS Decision 4963

Waratah Pharmaceuticals Inc.
Preliminary Prospectus 5052

Wi-LAN Inc.
Final Short Form Prospectus 5053

Xillix Technologies Corp.
Decision 4945

Securities Writer/Analyst

CCH Canadian has been a leader in providing information to professionals in the fields of tax, human resources, law and business for over 50 years. We currently have an opening for a writer/analyst, who will serve as the securities expert in our editorial department.

This person will provide high-level analysis and writing about securities law and the industry. As well, he or she will work with our partners in the securities industry, and will lead our editorial securities team in developing our information offerings for this industry.

We are looking for a professional with sound practical knowledge of the securities field, proven writing and communications skills, and excellent analytical, planning, and organizational abilities.

We offer an opportunity to play a key role in the continued development of our securities products, and to work in a highly collegial, team-based environment. We offer a flexible work environment, including flexible hours, work-at-home arrangement, and a strong commitment to work/life balance.

Please fax your resume to Human Resources at **(416) 224-1067** or email your resume to **deborah_roberts@ca.cch.com**.

Annotated Ontario Securities Legislation

19th edition, 2000 with Annotations by McCarthy Tétrault

This completely revised edition offers the full text of the Ontario *Securities Act*, Regulations, Rules, National Instruments and Policy Statements. Also included are the CSA and OSC Notices, OSC Blanket Orders and Rulings and much more. Plus, a detailed table of contents and topical index assist in navigation through the material.

Annotations by McCarthy Tétrault
Rene Sorrell and his team at McCarthy Tétrault provide extensive annotations to present the complete picture of the Ontario securities regulatory scheme, linking the *Securities Act* to related material in the regulations, rules, policies, notices and communiquès.

Price: $59.95
Softcover
1,650 pages
Book No. B603
ISBN 1-555141-148-2

Order Your Copy Today
Call Toll Free 1-800-268-4522

9760