

The Ontario Securities Commission

OSC Bulletin

September 14, 2001

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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 Securities Commission
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20 Queen Street West
Toronto, Ontario
M5H 3S8

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

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

Contact Centre - Inquiries, Complaints:	Fax: 593-8122
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Capital Markets - Registration:	Fax: 593-8283
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General Counsel's Office:	Fax: 593-3681
Office of the Secretary:	Fax: 593-2318

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Chapter 1

Notices / News Releases

1.1 Notices

SCHEDULED OSC HEARINGS

1.1.1 Current Proceedings Before The Ontario Securities Commission

September 14, 2001

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

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Howard Wetston, Q.C., Vice-Chair	—	HW
Kerry D. Adams, FCA	—	KDA
Stephen N. Adams, Q.C.	—	SNA
Derek Brown	—	DB
Robert W. Davis, FCA	—	RWD
John A. Geller, Q.C.	—	JAG
Robert W. Korthals	—	RWK
Mary Theresa McLeod	—	MTM
H. Lorne Morphy, Q. C.	—	HLM
R. Stephen Paddon, Q.C.	—	RSP

Date to be announced

Mark Bonham and Bonham & Co. Inc.

s. 127

Staff: TBA

Panel: TBA

November 6-9
November 13-16
December 4, 6,
7, 13, 14, 18 &
20/2001

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)

9:30 a.m.

s. 127

K. Daniels / M. Code / J. Naster / I. Smith in attendance for staff.

Panel: HIW / DB / RWD

December 5
/2001
10:00 a.m.

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

s. 127 and 127.1

Ms. Johanna Superina in attendance for staff.

Panel: HIW

October 3/2001
10:00 a.m.

Rampart Securities Inc.

ss.127

Staff in attendance TBA

Panel: TBA

October 5/2001

Jack Banks et al.

s. 127

Mr. Ian Smith in attendance for staff.

Panel: PMM

October 24/2001. **Sohan Singh Koonar**
10:00 a.m.

s. 127 and 127.1

Ms. Johanna Superina in attendance for staff.

Panel: PMM

December 17 /2001
10:00 a.m. **James Frederick Pincock**

ss. 127

Ms. Johanna Superina in attendance for staff.

Panel: PMM

ADJOURNED SINE DIE

Buckingham Securities Corporation, Lloyd Bruce, David Bromberg, Harold Seidel, Rampart Securities Inc., W.D. Latimer Co. Limited, Canaccord Capital Corporation, BMO Nesbitt Burns Inc., Bear, Stearns & Co. Inc., Dundee Securities Corporation, Caldwell Securities Limited and B2B Trust

Michael Bourgon

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

First Federal Capital (Canada) Corporation and Monter Morris Friesner

Ricardo Molinari, Ashley Cooper, Thomas Stevenson, Marshall Sone, Fred Elliott, Elliott Management Inc. and Amber Coast Resort Corporation

Global Privacy Management Trust and Robert Cranston

Irvine James Dyck

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

Offshore Marketing Alliance and Warren English

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

Southwest Securities

Terry G. Dodsley

PROVINCIAL DIVISION PROCEEDINGS

Date to be announced **Michael Cowpland and M.C.J.C. Holdings Inc.**

s. 122

Ms. M. Sopinka in attendance for staff.

Ottawa

September 17/2001 9:30 a.m. **Einar Bellfield**

s. 122

Ms. Sarah Oseni in attendance for staff.

Courtroom 111, Provincial Offences Court
Old City Hall, Toronto

November 9/2001 1:30 p.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

1.1.2 Proposed Amendments to OSC Rule 45-502 and OSC Rule 45-503 and Proposed Rescission of OSC Rule 72-501

NOTICE OF REQUEST FOR COMMENTS

The Commission is publishing in Chapter 6 of today's Bulletin a Notice requesting comments on: (i) proposed amendments to Rule 45-502 Dividend or Interest Reinvestment and Stock Dividend Plans and Rule 45-503 Trades to Employees, Executives and Consultants; and (ii) proposed rescission of Rule 72-501 Prospectus Exemption for First Trade over a Market Outside Ontario.

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

1.1.3 Multilateral Instrument 45-102 Resale of Securities

**NOTICE OF COMMISSION APPROVAL OF
MULTILATERAL INSTRUMENT 45-102
RESALE OF SECURITIES,
FORM 45-102F1, FORM 45-102F2, FORM 45-102F3
AND
COMPANION POLICY 45-102CP**

On September 12, 2001, the Commission made Multilateral Instrument 45-102 Resale of Securities (the "Multilateral Instrument") as a rule under the Act and adopted Companion Policy 45-102CP (the "Companion Policy") as a policy under the Act. The Multilateral Instrument contains Forms 45-102F1 *Report made under Subsection 2.7 of Multilateral Instrument 45-102 Resale of Securities with respect to an Issuer that has cease to be a Private Company or Private Issuer* ("Form 45-102F1"), Form 45-102F2 *Certificate under Subsection 2.7(2) or (3) of Multilateral Instrument 45-102 Resale of Securities* ("Form 45-102F2"), and Form 45-102F3 *Notice of Intention to Distribute Securities and Accompanying Declaration under Section 2.8 of Multilateral Instrument 45-102 Resale of Securities* ("Form 45-102F3", and, together with Form 45-102F1 and Form 45-102F2, the "Forms"). The Multilateral Instrument, the Forms and the Companion Policy are collectively referred to as the "Instrument".

The Instrument was published for comment on September 8, 2000 at (2000) 23 OSCB 6235.

The Instrument was sent to the Minister on September 12, 2001. The Instrument is being published in Chapter 5 of the Bulletin.

1.1.4 OSC Rule 45-501 Exempt Distributions

**NOTICE OF COMMISSION APPROVAL OF
OSC RULE 45-501 EXEMPT DISTRIBUTIONS,
FORM 45-501F1, FORM 45-501F2, FORM 45-501F3
AND COMPANION POLICY 45-501CP**

AND

**NOTICE OF RESCISSION OF RULE 45-501 EXEMPT
DISTRIBUTIONS AND COMPANION POLICY 45-501CP,
AND RULE 45-504 PROSPECTUS EXEMPTION FOR
DISTRIBUTIONS OF SECURITIES TO PORTFOLIO
ADVISERS ON BEHALF OF FULLY MANAGED
ACCOUNTS**

On September 12, 2001 the Commission made OSC Rule 45-501 *Exempt Distributions* and Form 45-501F1, Form 45-501F2 and Form 45-501F3 as a rule under the Act (the "Rule") and adopted Companion Policy 45-501CP (the "Companion Policy") as a policy under the Act. The Rule becoming effective will result in the rescission of existing OSC Rule 45-501 *Exempt Distributions* and Rule 45-504 *Prospectus Exemption for Distributions of Securities to Portfolio Advisers on Behalf of Fully Managed Accounts*.

The Rule and Companion Policy were delivered to the Minister of Finance on September 12, 2001 and are being published in Chapter 5 of the Bulletin.

1.2 News Releases

1.2.1 CSA News Release: New On-Line Insider Reporting System Provides Benefits To All Market Participants

FOR IMMEDIATE RELEASE
September 6, 2001

NEW ON-LINE INSIDER REPORTING SYSTEM PROVIDES BENEFITS TO ALL MARKET PARTICIPANTS

Vancouver – Beginning this November, insider reports will be filed electronically over a new, secure Internet-based system, providing greater convenience to market participants and more timely information to investors about insider transactions.

National Instrument 55-102 -The System for Electronic Disclosure by Insiders (SEDI) takes effect October 29, 2001. Under the National Instrument, insiders will be required to file insider reports electronically beginning November 13, 2001 and the public will be able to access these reports as of this date.

"With the introduction of SEDI, insider reports will be publicly available on a more timely basis," said Doug Hyndman, Chair of the Canadian Securities Administrators (CSA), the umbrella organization representing the 13 provincial and territorial securities commissions. "Insiders will be able to file their reports on SEDI 24 hours a day, seven days a week."

By filing through SEDI, an insider will satisfy the securities legislation of all CSA jurisdictions that have insider-reporting requirements.

Filing deadlines will be harmonized in all jurisdictions and all insiders will be required to report trades within 10 days of the transaction.

The National Instrument will introduce the following significant changes to the current system:

Investors

- Investors will be able to get insider reports 24 hours a day, seven days a week, at no charge;
- Investors will be able to access reports such as:
 - a weekly summary for all reporting issuers;
 - the details of individual transactions by insiders;
 - a list of registered insiders for each SEDI issuer; and
 - an issuer "event history", which includes a stock dividend, stock split, consolidation, amalgamation, reorganization, merger or other similar event.

Insiders

- SEDI will provide a higher level of convenience for insiders, who need file only one report to comply with all provincial regulations, and can file 24 hours a day, seven days a week, subject to maintenance requirements;

- Insiders will not be required to pay any filing fees;
- Starting with reports due on or after November 13, 2001, all insiders of "SEDI issuers" will be required to file their insider reports on SEDI (the National Instrument defines SEDI issuers to mean reporting issuers, other than mutual funds, that are required to file disclosure documents in electronic format through SEDAR – essentially all Canadian public companies); the electronic reports that must be filed are substantially the same as the current paper reports;
- Individual insiders, representatives of company insiders or authorized agents acting on behalf of these insiders will first be required to register to use SEDI; while SEDI will be available for registration beginning October 29, 2001, insiders and their representatives or agents are encouraged to register only a few days in advance of their first filing;
- After registering, insiders will be required to file electronic profiles, with information identifying the insiders and their relationship to one or more SEDI issuers before they will be able to file insider reports on SEDI;

Public Companies

- SEDI issuers should ensure that their existing SEDAR profile is accurate and complete on or before October 26, 2001;
- SEDI issuers will be required to register and provide information related to their outstanding securities beginning October 29, 2001. Existing issuers will have five business days to fulfil this obligation. Any firm that becomes a reporting issuer after October 29, 2001 will have three business days to comply;
- SEDI issuers will have a new obligation to file a report in SEDI one day after the occurrence of an "issuer event," which includes a stock dividend, stock split, consolidation, amalgamation, reorganization, merger or other similar event; this information will be used by insiders to update information about their insider holdings.

The \$12.2 million SEDI system was developed for the CSA by CDS Inc. (a subsidiary of the Canadian Depository for Securities, Ltd.), which also developed and operates SEDAR. Development costs and on-going operational costs will be recouped by an increase to the existing continuous disclosure fee applied to all reporting issuers that are required to file through SEDAR.

Information sessions will be held at the following locations to help issuers and insiders understand and comply with their electronic reporting requirements:

- Toronto – October 15
- Calgary – October 22
- Vancouver – October 23
- Montreal – October 24

For information on these sessions, check your local securities commission's Web site. Other jurisdictions are also considering public information sessions.

The National Instrument, and the accompanying Notice, Forms and Companion Policy are available on the following websites:

Alberta Securities Commission www.albertasecurities.com

British Columbia Securities Commission www.bcsc.bc.ca

Commission des valeurs mobilières du Québec
www.cvmq.com

Ontario Securities Commission www.osc.gov.on.ca

For more information:

Frank Switzer
Ontario Securities Commission
416-593-8120

Joni Delaurier
Alberta Securities Commission
403-297-4481

Andrew Poon
BC Securities Commission
604-899-6880
1-800-373-6393 (BC only)

Patrice Bourgoïn
Commission des valeurs mobilières du Québec
514-940-2199
1-800-361-5072 (Quebec only)

Pour publication immédiate
Le 6 septembre 2001

LE NOUVEAU SYSTÈME EN LIGNE DE DÉPÔT DES DÉCLARATIONS D'INITIÉ B N FICIERA TOUS LES PARTICIPANTS DU MARCHÉ

Vancouver – À partir du mois de novembre, les déclarations d'initié seront déposées par voie électronique par le recours à un nouveau système Internet sûr, offrant ainsi davantage de commodité tous les participants du marché et plus de renseignements actualisés aux investisseurs relativement aux opérations d'initiés.

La Norme canadienne 55-102, « Système électronique de déclaration des initiés (SEDI) », entrera en vigueur le 29 octobre 2001. En vertu cette norme, les initiés devront produire leurs déclarations par voie électronique dès le 13 novembre 2001 et le public pourra consulter ces déclarations à partir de cette date.

« Suite à la mise en place du SEDI, les déclarations d'initié pourront être offertes plus rapidement au public », a précisé M. Doug Hyndman, président des Autorités canadiennes en valeurs mobilières (ACVM), l'organisme-cadre qui représente les 13 commissions provinciales et territoriales des valeurs mobilières. « Les initiés pourront déposer leurs déclarations sur le SEDI 24 heures sur 24, 7 jours sur 7. »

En déposant sa déclaration à l'aide du SEDI, l'initié respectera les exigences des lois sur les valeurs mobilières de tous les territoires des ACVM qui imposent des conditions quant aux déclarations d'initié.

Le délai pour le dépôt des déclarations sera uniformisé pour tous les territoires : ainsi, les initiés devront signaler les opérations dans les 10 jours de leur exécution.

La Norme canadienne apporte des changements importants au système actuel. Ceux-ci sont indiqués ci-après.

Investisseurs

- Les investisseurs auront un accès gratuit aux déclarations d'initié 24 heures sur 24, 7 jours sur 7.
- Les investisseurs auront accès des rapports tels que
 - un résumé hebdomadaire pour tous les émetteurs assujettis,
 - des précisions sur les opérations des initiés,
 - une liste d'initiés pour chaque émetteur SEDI, et
 - un « compte rendu » de chaque émetteur (qui portera notamment sur les dividendes en actions, fractionnements d'actions, regroupements, fusions, réorganisations et opérations semblables).

Initiés

- Le système SEDI offrira de nombreux avantages aux initiés, qui pourront déposer un seul rapport afin de se conformer avec les réglementations provinciales, et pourront déposer leurs déclarations 24 heures sur 24,

7 jours sur 7, sous réserve des exigences relatives à l'entretien.

- Les initiés n'auront aucuns frais à payer pour le dépôt des déclarations.
- À partir des déclarations qui doivent être produites à compter du 13 novembre 2001, tous les initiés « émetteurs SEDI » devront déposer leur déclaration d'initié à l'aide du SEDI (la Norme canadienne précise que les émetteurs SEDI sont des émetteurs assujettis, sauf les organismes de placement collectif, qui doivent déposer des documents d'information en format électronique par l'intermédiaire du SEDAR : il s'agit essentiellement de toutes les sociétés ouvertes du Canada). Les déclarations électroniques à déposer sont en substance identiques aux déclarations actuelles sur papier.
- Les différents initiés, les représentants des initiés des sociétés ou les agents autorisés qui agissent pour le compte de ces initiés devront d'abord s'inscrire pour pouvoir utiliser le SEDI. L'inscription au SEDI pourra être effectuée à partir du 29 octobre 2001 : on incite toutefois les initiés et leurs représentants ou leurs agents à s'inscrire quelques jours avant leur première déclaration.
- Après leur inscription, les initiés devront transmettre leur profil électronique, qui doit comprendre des renseignements les identifiant et indiquant leur relation avec le ou les émetteurs SEDI, pour pouvoir déposer leurs déclarations d'initié sur le SEDI.

Sociétés ouvertes

- Les émetteurs SEDI doivent vérifier, avant le 29 octobre 2001, si leur profil SEDAR existant est exact et complet.
- Les émetteurs SEDI devront s'inscrire et communiquer des renseignements se rapportant à leurs titres en circulation à partir du 29 octobre 2001. Les émetteurs actuels disposeront d'un délai de cinq jours ouvrables pour respecter cette obligation. Une société qui devient un émetteur assujetti après le 29 octobre 2001 disposera de trois jours ouvrables pour se conformer à cette exigence.
- Les émetteurs SEDI devront, de plus, déposer une déclaration au moyen du SEDI un jour après la réalisation d'une « opération sur titres », terme qui englobe les dividendes en actions, les divisions d'actions, les regroupements d'actions, les fusions, les opérations de restructuration, les regroupements d'entreprises ou toute autre opération semblable. Les initiés pourront se servir de cette information pour mettre à jour les renseignements sur leurs avoirs d'initié.

Le système SEDI a été mis au point par CDS Inc. (filiale de la Caisse canadienne de dépôt de valeurs limitée), qui a développé et opère le système SEDAR, dans le cadre d'un contrat d'une valeur de 12,2 millions de dollars octroyé par les ACVM. Le coût de lancement du système et de son fonctionnement

courant sera récupéré par l'imposition de frais de service annuels à tous les émetteurs assujettis qui doivent déposer des documents d'information continue par l'entremise du SEDAR.

Des séances d'information visant à aider les émetteurs et les initiés à respecter les exigences en matière de déclaration électronique auront lieu dans les villes suivantes :

- Toronto, le 15 octobre
- Calgary, le 22 octobre
- Vancouver, le 23 octobre
- Montréal, le 24 octobre

Pour de plus amples renseignements sur ces séances, consultez le site Web de la commission des valeurs mobilières de votre région.

La Norme canadienne, ainsi que l'avis, les formulaires et la politique s'y rattachant, sont offerts sur les sites Web suivants:

Alberta Securities Commission www.albertasecurities.com

British Columbia Securities Commission www.bcsc.bc.ca

Commission des valeurs mobilières du Québec www.cvmq.com

Commission des valeurs mobilières de l'Ontario www.osc.gov.on.ca

Renseignements:

Frank Switzer
Commission des valeurs mobilières de l'Ontario
416-593-8120

Joni Delaurier
Alberta Securities Commission
403-297-4481

Andrew Poon
BC Securities Commission
604-899-6880
1-800-373-6393 (C.-B seulement)

Patrice Bourgoin
Commission des valeurs mobilières du Québec
514-940-2199
1-800-361-5072 (Québec seulement)

1.2.2 OSC to Consider a Settlement in the Matter of Wayne Umetsu

FOR IMMEDIATE RELEASE
September 7, 2001

ONTARIO SECURITIES COMMISSION TO CONSIDER A SETTLEMENT IN THE MATTER OF WAYNE UMETSU

TORONTO -- On Monday, September 10, 2001, the Ontario Securities Commission (the "Commission") will convene a hearing to consider a settlement reached by Staff of the Commission ("Staff") and the respondent, Mr. Umetsu.

During the material time, Mr. Umetsu was registered with the Commission as a salesperson with F.C. Canada Investments Inc. ("FC Canada") pursuant to the Commodity Futures Act, R.S.O. 1990, c. C.20 (the "Act") between April 8, 1997 and May 2, 1997 and between December 16, 1997 and February 28, 1998. Mr. Umetsu has not been registered with the Commission in any capacity since his employment with F.C. Canada was terminated on February 28, 1998.

Staff alleges that Mr. Umetsu breached the Act by trading in commodity futures contracts without being registered to do so, by holding himself out as being registered to trade in commodity futures contracts and by misappropriating monies provided to him by a client for the purpose of investing in commodity futures contracts.

The terms of Staff's and Mr. Umetsu's settlement agreement are confidential until approved by the Commission. Copies of the Amended Notice of Hearing and Amended Statement of allegations are available on the Commission's website www.osc.gov.on.ca or from the Commission, 20 Queen Street West, Toronto.

For Media Inquiries:

Frank Switzer
Director, Communications
416-593-8120

For Investor Inquiries:

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

1.2.3 OSC does not approve Settlement Agreement in the Wayne Umetsu Matter

FOR IMMEDIATE RELEASE
September 10, 2001

ONTARIO SECURITIES COMMISSION DOES NOT APPROVE SETTLEMENT AGREEMENT IN THE WAYNE UMETSU MATTER

TORONTO – On Monday, September 10, 2001, the Ontario Securities Commission (the "Commission") convened a hearing to consider a settlement reached by Staff of the Commission ("Staff") and the respondent, Mr. Umetsu. The Commission held that the approval of the settlement agreement was not in the public interest.

The terms of the proposed settlement agreement before the Commission are not public. Copies of the Amended Notice of Hearing and Amended Statement of Allegations are available on the Commission's website (www.osc.gov.on.ca) or from the Commission, 20 Queen Street West, Toronto.

For media inquiries:

Frank Switzer
Director, Communications
(416) 593-8120

For investor inquiries:

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

**1.2.4 CSA News Release - Statement By
Canadian Securities Administrators Chair
Douglas Hyndman**

FOR IMMEDIATE RELEASE
September 11, 2001

**STATEMENT BY CANADIAN SECURITIES
ADMINISTRATORS CHAIR DOUGLAS HYNDMAN**

VANCOUVER -- The following statement was issued today by Douglas Hyndman, Chair of the Canadian Securities Administrators (CSA), which represents Canada's 13 provincial and territorial securities commissions:

"In light of the tragic events in the U.S. today, Canadian securities regulators have been in close contact with exchanges, self-regulatory and clearing organizations and trade associations.

We strongly support the action taken by the Investment Dealers Association of Canada to close the domestic bond and money markets, the members of the Investment Funds Institute of Canada to stop purchases, sales, redemptions and switches in the securities of a mutual fund, and Canada's stock exchanges to stop trading earlier today.

The CSA are continuing to monitor the situation. It is expected the disruption in markets will be temporary and that trading will resume as soon as practicable.

The CSA will keep the public advised."

Reference:

Andy Poon
B.C. Securities Commission
604-899-6880

Frank Switzer
Ontario Securities Commission
416-593-8120

Denis Dube
Commission des valeurs mobilières du Québec
514-940-2199 Ext. 4441

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

FOR IMMEDIATE RELEASE
September 11, 2001

**OSC PROCEEDINGS IN THE MATTER OF
LIVENT INC., GARTH H. DRABINSKY,
MYRON I. GOTTLIEB,
GORDON ECKSTEIN, ROBERT TOPOL**

ADJOURNED TO DECEMBER 5, 2001

Toronto – At a hearing on September 11, 2001 before the Ontario Securities Commission (the "Commission"), the proceeding in respect of Livent Inc., Garth H. Drabinsky, Myron I. Gottlieb, Gordon Eckstein and Robert Topol was adjourned to December 5, 2001.

Copies of the Notice of Hearing and Statement of Allegations are available at www.osc.gov.on.ca or from the Commission, 19th Floor, 20 Queen Street West, Toronto, Ontario.

For Media Inquiries:

Frank Switzer
Manager, Corporate Relations
416-593-8120

Joanna Fallone
Acting Director, Enforcement Branch
416-593-8304

For Investor Enquiries:

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

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Chapter 2

Decisions, Orders and Rulings

2.1 Decisions

2.1.1 iUnits MSCI International Equity Index RSP Fund and Barclays Global Investors Canada Limited - MRRS Decision

Headnote

Relief granted from certain provisions of securities legislation for initial and continuous distribution of securities of an exchange-traded fund – relief from registration requirement to permit the fund and its promoter to disseminate sales communication promoting the fund, subject to compliance with Part 15 of NI 81-102 – relief granted for the fund's prospectus and any renewal thereof not to contain an underwriter's certificate.

Statutes Cited

Securities Act, R.S.O. 1990, c. S.5, as amended, ss. 25(1) and 59(1).

Rules Cited

National Instrument 81-102, Mutual Fund - Part 15.

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

AND

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

AND

IN THE MATTER OF
iUNITS MSCI INTERNATIONAL EQUITY INDEX RSP
FUND AND
BARCLAYS GLOBAL INVESTORS CANADA LIMITED

MRRS DECISION DOCUMENT

WHEREAS the local securities regulatory authority or regulator (the "Decision Maker") in each of British Columbia, Alberta, Saskatchewan, Manitoba, Ontario, Quebec, Nova Scotia, Prince Edward Island, New Brunswick, Newfoundland, the Yukon Territory, the Northwest Territories and Nunavut (the

"Jurisdictions") received an application from the iUnits MSCI International Equity Index RSP Fund (the "Fund") and Barclays Global Investors Canada Limited ("Barclays") (together, the "Applicants") for a decision under the securities legislation of the Jurisdictions (the "Legislation") that

- (a) the registration requirement of the Legislation does not apply to Barclays and the Fund, in connection with their proposed dissemination of sales communications relating to the distribution of securities of the Fund, and
- (b) in connection with the proposed distribution of securities of the Fund pursuant to a prospectus, the Fund is exempt from the requirement of the Legislation that its prospectus and any renewal thereof contain a certificate of the underwriter or underwriters who is/are in a contractual relationship with the Fund;

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

AND WHEREAS the Applicants have represented to the Decision Makers as follows:

1. The Fund is a trust established under the laws of Ontario, with Barclays as the trustee. Barclays' head office is located in Toronto, Ontario.
2. Barclays is registered in all provinces and territories, other than the Yukon Territory, as a portfolio manager and investment counsel (or the equivalent categories of registration) under the Legislation of such Jurisdictions.
3. The investment objective of the Fund is to provide long term growth in capital by replicating, to the extent possible, the performance of the MSCI Provisional EAFE Index (the "Provisional Index") initially. The Fund will ultimately be replicating, to the extent possible, the standard MSCI EAFE Index (the "Standard Index") following the change in the methodology used by the Standard Index to that used by the Provisional Index (both indices together, the "EAFE Index").
4. To achieve its investment objective, the Fund will invest primarily in exchange-traded futures contracts based on the stock market indices in countries that are included in the EAFE Index, and in high-quality short-term money market instruments. The Fund will also use forward and futures contracts to match the currency exposure of the EAFE Index, and may invest in the underlying securities of the EAFE Index, index participation units, trust units and other similar instruments.

5. The Fund will issue units of beneficial interest (the "Units"), which will confer on investors a proportionate share of economic benefits similar to those that investors could obtain through individual investments in the securities comprising the EAFE Index. The Units of the Fund are not expected to constitute "foreign property" under the *Income Tax Act* (Canada).
6. The Fund has filed a preliminary prospectus dated June 19, 2001, with all provinces and territories of Canada, in order to qualify the distribution of its Units to the public on a continuous basis. Upon issuance of a receipt for the Fund's (final) prospectus, the Fund will become a "reporting issuer" under the Legislation of each Jurisdiction where such term is applicable.
7. The Units may be purchased directly from the Fund only by one or more registered dealers or brokers who are also members of The Toronto Stock Exchange (the "Exchange") and who have entered into an underwriting agreement with the Fund (the "Underwriters"). Payment for the purchase price of the Units will be made in cash.
8. On the first day on which the Fund accepts purchase orders from the Underwriters, the price will be \$20.00 per Unit. Thereafter, Units of the Fund will be issued to the Underwriters, pursuant to purchase orders, at the Fund's net asset value (the "NAV") per Unit next determined after receipt of the purchase orders.
9. The Underwriters will not receive any fees or commissions in connection with the Fund's issuance of Units to them. Barclays may, at its discretion charge transaction and/or administration fees on the issuance of Units to the Underwriters. As trustee of the Fund, Barclays may also require the Underwriters to compensate the Fund for brokerage commissions incurred in purchasing portfolio assets with the subscription proceeds and for the impact of bid offer spreads on the value of the Fund.
10. The NAV per Unit of the Fund will be calculated and published daily.
11. The Units of the Fund will be listed and posted for trading on the Exchange.
12. Except as described in paragraph 7 above, the Units may not be purchased directly from the Fund. Investors are generally expected to purchase Units of the Fund through the facilities of the Exchange. However, Units of the Fund will be issued directly to its unitholders (the "Unitholders") upon the reinvestment of the Fund's distributions of income or capital gains.
13. Unitholders who wish to dispose of their Units may generally do so by selling such Units on the Exchange. However, a Unitholder may redeem for cash a prescribed number of Units (the "Prescribed Redemption Number") or a number of units greater than the Prescribed Redemption Number, at a redemption price per Unit equal to the NAV per Unit of the Fund on the effective redemption date. A Unitholder may also redeem for cash a number of Units that is less than the Prescribed Redemption Number, at a redemption price

per Unit equal to 95% of the closing trading price of the Fund's Units on the Exchange on the effective redemption date.

14. As trustee of the Fund, Barclays will be entitled to receive from the Fund an annual fee (the "Trustee Fee") equal to 0.35% of the NAV of the Fund. Barclays will be responsible for the payment of the expenses of the Fund, except for the Trustee Fee, brokerage commissions and any withholding taxes and income taxes.

AND WHEREAS under the System, this MRRS Decision Document evidences the decisions of the Decision Makers (collectively the "Decision");

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

THE DECISION of the Decision Makers under the Legislation is that:

- (a) the registration requirement of the Legislation does not apply to Barclays and the Fund, in connection with any dissemination of sales communication relating to the distribution of Units of the Fund, provided that they comply with Part 15 of National Instrument 81-102 Mutual Funds; and
- (b) in connection with the proposed distribution of Units of the Fund pursuant to a prospectus, the Fund is exempt from the requirement of the Legislation that its prospectus and any renewal thereof contain a certificate of the Underwriters who are in a contractual relationship with the Fund.

August 28, 2001.

"Paul Moore"

"R. Stephen Paddon"

2.1.2 NT Global Advisors Inc. - Decision

Headnote

Section 5.1 of Rule 31-506 SRO Membership - Mutual Fund Dealers - mutual fund dealer exempted, subject to a condition, from the requirements of the Rule that it file an application and prescribed fees with the Mutual Fund Dealers Association of Canada - mutual fund dealer intends to cease to be a mutual fund dealer.

Statute Cited

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

Rule Cited

O.S.C. Rule 31-506 SRO Membership - Mutual Fund Dealers, ss. 2.1, 3.1, 5.1.

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

AND

**IN THE MATTER OF
ONTARIO SECURITIES COMMISSION RULE 31-506
SRO MEMBERSHIP- MUTUAL FUND DEALERS**

AND

**IN THE MATTER OF
NT GLOBAL ADVISORS, INC.**

**DECISION
(Section 5.1)**

UPON the application (the "Application") of NT Global Advisors Inc. ("NTGA") to the Director (the "Director") of the Ontario Securities Commission (the "Commission") for a decision pursuant to section 5.1 of Ontario Securities Commission Rule 31-506 SRO Membership - Mutual Fund Dealers (the "Rule") granting relief from section 3.1 of the Rule requiring NTGA to prepare and submit an application for membership with the Mutual Fund Dealers Association of Canada (the "MFDA") no later than the thirtieth day after the effective date of the Rule;

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

AND UPON NTGA having represented to the Director as follows:

1. NTGA is a corporation established under the laws of the Province of Ontario;
2. NTGA is registered as a mutual fund dealer, limited market dealer and adviser in the categories of "investment counsel" and "portfolio manager" and this application is not being made in any other jurisdiction;

3. NTGA relies upon its mutual fund dealer registration to act as principal distributor of the Diversified Fund of Canada;
4. NTGA has determined to conduct all sales by it of units of various sections of the Diversified Fund of Canada (the "Funds") in reliance on its limited market dealer registration;
5. NTGA has a small number of clients that cannot purchase the Funds on a private placement basis (the "Prospectus Clients");
6. NTGA intends to terminate its relationship with the Prospectus Clients and surrender its mutual fund dealer registration;
7. on or about July 23, 2001, NTGA provided written notice to each of its Prospectus Clients of:
 - (i) the fact that NTGA will no longer be servicing the Prospectus Client's account(s) subsequent to September 30, 2001;
 - (ii) the procedures that NTGA will take to assist in transferring the accounts of the Prospectus Client to another registered dealer;
 - (iii) the date by which the Prospectus Client must notify NTGA of the registered dealer of their choice, and the type of information that the Prospectus Client must provide for NTGA to facilitate the transfer of the account(s); and
 - (iv) the name and telephone number of a contact person at the NTGA office who will be available to assist the Prospectus Client with the transfer of his or her account(s);
8. NTGA will make its best efforts to surrender its mutual fund dealer registration by September 30, 2001;
9. immediately following the suspension and/or surrender of NTGA's mutual fund dealer registration, NTGA will cease offering the Funds by way of prospectus;
10. the MFDA was recognized as a self-regulatory organization by the Commission on February 6, 2001; the Rule requires all mutual fund dealers to become members of the MFDA;
11. pursuant to section 3.1 of the Rule, all mutual fund dealers must prepare and submit to the MFDA, an application for membership in the form prescribed by the MFDA, together with the MFDA's prescribed fees no later than the thirtieth day after the date the Rule comes into force; the Rule came into force on April 23, 2001; applications for membership were therefore required to be submitted to the MFDA by May 23, 2001 ("MFDA Application Deadline");
12. pursuant to section 2.1 of the Rule, all mutual fund dealers must become members of the MFDA by July 2, 2002 ("MFDA Membership Deadline");

13. the Rule requires NTGA to prepare and submit an application for membership to the MFDA, together with the MFDA's prescribed fees, by the MFDA Application Deadline, even though NTGA intends to cease to be a mutual fund dealer, prior to the MFDA Membership Deadline;
14. the requirement for NTGA to prepare and file an MFDA application by the MFDA Application Deadline will result in filing of applications and payment of fees which would prove to be both time consuming and costly for NTGA;

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

NOW THEREFORE pursuant to section 5.1 of the Rule, the Director hereby exempts, effective May 23, 2001, NTGA from section 3.1 of the Rule to the extent that section 3.1 requires NTGA to prepare and submit to the MFDA, an application for membership, together with the MFDA's prescribed fees by the MFDA Application Deadline;

PROVIDED THAT:

no later than September 30, 2001, NTGA files with the Commission:

- (i) a consent to the suspension of its registration as a mutual fund dealer pursuant to Ontario Securities Commission Rule 33-501 Surrender of Registration, and
- (ii) a request to surrender its registration as mutual fund dealer.

September 4, 2001.

"Rebecca Cowdery"

2.1.3 United Parcel Service, Inc. - MRRS Decision

Headnote

Mutual Reliance Review System for Exemptive Relief Applications - relief from registration and prospectus requirements granted in respect of certain trades in shares and awards of a US issuer in connection with certain incentive and stock purchase plans.

Applicable Ontario Statutes

Securities Act, R.S.O. 1990, c.S.5, as am., s.- 25, 35(1)(12)(iii), 53, 72(1)(f)(iii), 74(1).

Applicable Ontario Rules

Rule 45-503 Trades to Employees, Executives and Consultants.

Rule 72-501 Prospectus Exemption for First Trade Over a Market Outside Ontario.

**IN THE MATTER OF
THE SECURITIES LEGISLATION OF
BRITISH COLUMBIA, ALBERTA, SASKATCHEWAN AND
ONTARIO**

AND

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

AND

**IN THE MATTER OF
UNITED PARCEL SERVICE, INC.**

MRRS DECISION DOCUMENT

WHEREAS the Canadian securities regulatory authority or regulator (the "Decision Maker") in each of British Columbia, Alberta, Saskatchewan and Ontario (the "Jurisdictions") received an application from United Parcel Service, Inc. ("UPS") for a decision pursuant to the securities legislation of the Jurisdictions (the "Legislation") that the requirements contained in the Legislation to be registered to trade in a security (the "Registration Requirement") and to file and obtain a receipt for a preliminary prospectus and a prospectus (the "Prospectus Requirement") (collectively, the "Registration and Prospectus Requirements") shall not apply to certain trades of options and shares of UPS in connection with the proposed UPS Discounted Employee Stock Purchase Plan (the "Stock Purchase Plan");

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 UPS to the Decision Makers that:

1. UPS is a corporation incorporated under the laws of the State of Delaware.
2. UPS is not and has no present intention of becoming a reporting issuer under the Act or the securities legislation of any province or territory of Canada.
3. UPS is subject to the requirements of the *Securities Exchange Act of 1934* and is not exempt from the reporting requirements of the 1934 Act under any rule.
4. The authorized capital of UPS consists of: (a) 1,533,333,333 Class A-1 common stock (the "Class A-1 Shares"), par value \$0.01 per share; (b) 1,533,333,333 Class A-2 common stock (the "Class A-2 Shares"), par value \$0.01 per share; (c) 1,533,333,334 Class A-3 common stock (the "Class A-3 Shares"), par value \$0.01 per share (the Class A-1 Shares, Class A-2 Shares and Class A-3 Shares are collectively referred to herein as the "Class A Shares"); (d) 5,600,000,000 Class B common stock, par value \$0.01 per share (the "Class B Shares"); and (e) 200,000,000 preferred stock.
5. As at May 9, 2001, there were approximately 876,834,085 Class A Shares and 247,367,532 Class B Shares issued and outstanding. No shares of preferred stock are issued and outstanding.
6. The Class A Shares are not listed on any stock exchange or quoted on an organized over-the-counter market. The Class B Shares are listed on the New York Stock Exchange (the "NYSE").
7. Class A Shares may be converted into Class B Shares at the holder's option, and will be converted into Class B Shares upon transfer to any person other than a "Permitted Transferee" (as set out in Schedule A attached hereto).
8. The Stock Purchase Plan is being established to encourage stock ownership by certain eligible employees (an "Eligible Employee") of UPS and certain UPS subsidiaries (the "UPS Companies") to increase employee interest in UPS and to promote employee retention.
9. At the present time, 20,000,000 Class A Shares will be available for purchase under the Stock Purchase Plan.
10. Participation in the Stock Purchase Plan is voluntary. Eligible Employees will not be induced to participate in the Stock Purchase Plan or to acquire securities under the Stock Purchase Plan by expectation of employment or continued employment with a UPS Company.
11. All Eligible Employees, regardless of residency, will receive substantially the same disclosure in respect of the Stock Purchase Plan.
12. As at June 30, 2001, less than 1% of all Eligible Employees were resident in each Jurisdiction

(collectively referred to herein as the "Canadian Participants").

13. As at June 30, 2001, residents in the Jurisdictions held less than 10% of each of the Class A Shares and Class B Shares issued and outstanding at that time.
14. Generally, each Eligible Employee may elect to make contributions under the Stock Purchase Plan by payroll deductions of any amount, up to, but not exceeding US\$10,000 for a calendar year.
15. Under the Stock Purchase Plan, each Eligible Employee participating in the plan will elect by way of subscription (a "Subscription") to make contributions under the Stock Purchase Plan during a calendar quarter (a "Purchase Period").
16. Each Eligible Employee who has a Subscription in effect for a Purchase Period will be granted an option (an "Option") on the first day of such Purchase Period to purchase a number of Class A Shares (the "Share Limit") equal to US\$6,250 divided by the closing price of a Class B Share on the NYSE (such closing price referred to as the "Stock Sales Price") on the first day of such Purchase Period.
17. An Eligible Employee's Option will be exercised automatically on the last day of the Purchase Period (the "Purchase Date") for the purchase of Class A Shares up to the Share Limit at an exercise price for each Class A Share of the lesser of (i) 90% of the Stock Sales Price on the first day of the Purchase Period or (ii) 90% of the Stock Sales Price on the Purchase Date.
18. An Eligible Employee's participation in the Stock Purchase Plan will be terminated upon the Eligible Employee's termination of employment. However, where an Eligible Employee ceases employment with a UPS Company on or before a Purchase Date for which such Eligible Employee has completed a Subscription and received Options in respect thereof, the Options will be exercised in accordance with the terms of the Stock Purchase Plan.
19. An Eligible Employee will have the right once during any Purchase Period to increase, reduce or cease payroll deductions previously authorized by providing an amended Subscription to the plan administrator.
20. UPS will send concurrently to its securityholders in the Jurisdictions copies of all continuous disclosure material sent by UPS to its securityholders in the United States.

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:

(A) first trades by Canadian Participants and Permitted Transferees in Class A Shares issued pursuant to the Stock Purchase Plan are not subject to the Registration and Prospectus Requirements provided that: (i) such trades are made to Permitted Transferees; and (ii) first trades by Permitted Transferees in Class A Shares to a person or entity that is not a Permitted Transferee shall be a distribution; and

(B) first trades in a Jurisdiction by Canadian Participants and Permitted Transferees in Class B Shares issued on the conversion of Class A Shares previously issued pursuant to the Stock Purchase Plan are not subject to the Prospectus and Registration Requirements, provided that:

(i) at the time of the acquisition of the Class A Shares;

(A) persons or companies whose last address as shown on the books of UPS in that Jurisdiction did not hold more than 10% of the outstanding Class B Shares and did not represent in number more than 10% of the total number of holders of Class B Shares, or

(B) persons or companies who were resident in that Jurisdiction and who beneficially owned Class B Shares did not beneficially own more than 10% of the outstanding Class B Shares and did not represent in number more than 10% of the total number of holders of Class B Shares;

(ii) at the time of the trade of any Class B Shares, UPS is not a reporting issuer under any of the Legislation; and

(iii) such first trade is executed:

(A) through the facilities of a stock exchange outside of Canada; or

(B) on the NASDAQ Stock Market,

in accordance with the rules of such exchange or market and all applicable laws.

September 5, 2001.

"Paul M. Moore"

"R. Stephen Paddon"

SCHEDULE "A"

A "Permitted Transferee" means:

- the transferor's spouse or child if:
 - the transferor is an employee of UPS or one of its subsidiaries
- a trust for the sole benefit of the transferor or the transferor's spouse or child, if
 - the transferor is an employee of UPS or one of its subsidiaries
- the beneficial owner of an individual retirement account if the transferor is the individual retirement account
- the estate of a deceased holder of shares, if
 - the deceased holder was an employee of UPS or one of its subsidiaries on the date of death,
 - and the transfer was made pursuant to the deceased holder's will or the laws of distribution
- the beneficiary of an estate referred to in the preceding item, if that beneficiary is the spouse or child of the deceased holder or a trust for the sole benefit of the spouse or child of the deceased holder
- an employee benefit plan sponsored by UPS or any of its subsidiaries
- a lending institution in connection with a pledge of shares by a person who was an employee of UPS or one of its subsidiaries on the date of the pledge of such shares and such shares are pledged as bona fide collateral for a loan to such person provided such lending institution agrees in writing to immediately offer to sell such shares to UPS in the event such lending institution forecloses on such shares
- a charitable organization that agrees in writing to sell the shares to UPS immediately following the transfer
- UPS or any of its subsidiaries

**2.1.4 Opus 2 Ambassador Growth Portfolio et al.
- MRRS Decision**

Headnote

MRRS Exemptive Relief Application - Extension of lapse date.

Statutes Cited

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

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

AND

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

AND

IN THE MATTER OF

**Opus 2 Ambassador Growth Portfolio
Opus 2 Ambassador Growth RSP Portfolio
Opus 2 Ambassador Balanced Portfolio
Opus 2 Ambassador Balanced RSP Portfolio
Opus 2 Ambassador Conservative Portfolio
Opus 2 Ambassador Conservative RSP Portfolio
Opus 2 Canada Plus Balanced Fund
Opus 2 Direct Canadian Growth Equity Pool
Opus 2 Direct Canadian Value Equity Pool
Opus 2 Direct Canadian Fixed Income Pool
Opus 2 Direct Canadian Money Market Pool
Opus 2 Direct U.S. Growth Equity Pool
Opus 2 Direct U.S. Value Equity Pool
Opus 2 Direct Foreign Equity (E.A.F.E.) Pool
Opus 2 Direct Foreign Equity (RSP) Pool**

MRRS DECISION DOCUMENT

WHEREAS the Canadian securities regulatory authority or regulator (the "Decision Maker") in each of the Provinces of British Columbia, Alberta, Saskatchewan, Manitoba, Ontario, Nova Scotia, New Brunswick, Newfoundland and Prince Edward Island (the "Jurisdictions") has received an application (the "Application") from Opus 2 Direct.com Inc. ("Opus 2 Direct"), the manager of Opus 2 Ambassador Growth Portfolio, Opus 2 Ambassador Growth RSP Portfolio, Opus 2 Ambassador Balanced Portfolio, Opus 2 Ambassador Balanced RSP Portfolio, Opus 2 Ambassador Conservative Portfolio, Opus 2 Ambassador Conservative RSP Portfolio, Opus 2 Canada Plus Balanced Fund (individually, a "Portfolio" and collectively, the "Portfolios"), Opus 2 Direct Canadian Growth Equity Pool, Opus 2 Direct Canadian Value Equity Pool, Opus 2 Direct Canadian Fixed Income Pool, Opus 2 Direct Canadian Money Market Pool, Opus 2 Direct U.S.

Growth Equity Pool, Opus 2 Direct U.S. Value Equity Pool, Opus 2 Direct Foreign Equity (E.A.F.E.) Pool and Opus 2 Direct Foreign Equity (RSP) Pool (individually, a "Pool" and collectively, the "Pools") for a decision pursuant to the securities legislation of the Jurisdictions (the "Legislation") that:

- (a) the lapse date (the "Portfolio Lapse Date") for the renewal in the Provinces of Ontario and New Brunswick of the simplified prospectus and annual information form relating to the Portfolios dated August 29, 2000 (the "Portfolio Prospectus") be extended; and
- (b) the lapse date (the "Pool Lapse Date") for the renewal in all the Jurisdictions of the simplified prospectus and annual information form relating to the Pools dated September 15, 2000 (the "Pool Prospectus") be extended.

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 the Opus 2 Direct to the Decision Makers that:

- 1. Opus 2 Direct is a corporation incorporated under the laws of Ontario. Opus 2 Direct is the manager, trustee and promoter of the Portfolios and Pools.
- 2. The Portfolios and Pools (collectively, the "Funds") are open-ended mutual fund trusts established under the laws of Ontario.
- 3. Each of the Portfolios is a reporting issuer under the legislation of the Provinces of Ontario and New Brunswick, and each of the Pools is a reporting issuer under the legislation of each Province and Territory of Canada, except Quebec. The Funds are not in default of any filing requirements of the Legislation or the Regulations made thereunder.
- 4. The Portfolios are currently offered for sale on a continuous basis in the Provinces of Ontario and New Brunswick pursuant to the Portfolio Prospectus. The current Portfolio Lapse Date is September 13, 2001.
- 5. The Pools are currently offered for sale on a continuous basis in each of the Provinces and Territories of Canada, except Quebec, pursuant to the Pool Prospectus. The Pool Lapse Date is currently September 15, 2001 in each Jurisdiction except Ontario and New Brunswick, and September 21, 2001 in the Provinces of Ontario and New Brunswick.
- 6. It is anticipated that the shares of Opus 2 Direct will be sold and that Opus 2 Direct will undergo a change in ownership (the "Management Reorganization"). As a result of, and concurrently with, the Management Reorganization, the Funds may be restructured so that units of the Funds may not be offered for sale in certain Jurisdictions and/or certain Funds may terminate

following a transfer of assets to other mutual funds (the "Fund Restructuring").

7. An amendment to the Portfolio Prospectus and the Pool Prospectus has been filed in the applicable Provinces and Territories of Canada disclosing the intention of Opus 2 Direct to sell its shares and the potential for Fund Restructuring.
8. The potential changes to Opus 2 Direct and the Funds are such that there is a degree of uncertainty as to the information that would be included in the Portfolio Prospectus and the Pool Prospectus, making it inappropriate to file these documents at this time.

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 are 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 the time limits provided by Legislation as they apply to a distribution of securities under a prospectus are hereby extended to the time limits that would be applicable if

- (a) the Portfolio Lapse Date for the distribution of securities under the Portfolio Prospectus was October 22; and
- (b) the Pool Lapse Date for the distribution of securities under the Pool Prospectus was October 22, 2001.

September 7, 2001.

"Paul Dempsey"

2.1.5 Vaaldiam Resources Ltd. - MRRS Decision

Headnote

MRRS - National Instrument 43-101 - Standards of Disclosure for Mineral Projects ("NI 43-101")- Issuer choosing to base disclosure in final prospectus upon technical report prepared in accordance with NI 43-101 except that qualified person preparing report did not perform site visit as required in section 6.2 - Projects at exploration stage and qualified person able to establish some existing familiarity with the geology and geographic setting of the area - Relief granted to permit disclosure in issuer's final prospectus to be based upon qualified person's report despite site visit required by section 6.2 not performed.

**IN THE MATTER OF
THE SECURITIES LEGISLATION OF
ONTARIO, ALBERTA AND BRITISH COLUMBIA**

AND

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

AND

**IN THE MATTER OF
VAALDIAM RESOURCES LTD.**

MRRS DECISION DOCUMENT

WHEREAS the local securities regulatory authority or regulator (the "Decision Maker" and collectively the "Decision Makers") in each of the Provinces of Ontario, Alberta and British Columbia (the "Jurisdictions") has received an application (the "Application") from Vaaldiam Resources Ltd. (the "Corporation") for an exemption from Section 6.2 of National Instrument 43-101 (the "Instrument") in connection with a final prospectus to be filed by the Corporation;

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

AND WHEREAS the Corporation represented to the Decision Makers that:

1. The Corporation was incorporated under the name of Noble Peak Resources Ltd. under the *Company Act (British Columbia)* on February 28, 1983 and was continued under the *Canada Business Corporations Act* by Articles of Continuation dated March 4, 1987. By Articles of Amendment dated July 31, 1998, the name of the Corporation was changed to Vaaldiam Resources Ltd., at which time the common shares of the Corporation were consolidated on the basis of one new common share for each ten common shares then outstanding.

2. The Corporation's registered office and principal place of business is located at 20 Adelaide Street East, Suite 901, Toronto, Ontario, M5C 2T6.
3. The Corporation is a reporting issuer in various provinces of Canada, including Ontario, British Columbia and Alberta and its common shares are currently traded on the Canadian Venture Exchange (the "CDNX") under the trading symbol "VRL". The Corporation is not on the list of defaulting reporting issuers maintained pursuant to section 72(9) of the *Securities Act (Ontario)*, section 77 of the *Securities Act (British Columbia)* and section 113 of the *Securities Act (Alberta)*.
4. The Corporation filed a preliminary prospectus (the "Preliminary Prospectus") dated July 16, 2001 and intends to file a final prospectus (the "Final Prospectus") with the Decision Makers to qualify for distribution the following:
 - (a) the common shares underlying 1,000,000 previously issued special warrants;
 - (b) one-half of the common shares issuable on exercise of the 100,000 broker's warrants issued in connection with the 1,000,000 previously issued special warrants;
 - (c) that number of units ("Units", comprised of one common share and one-half of one common share purchase warrant) that would amount to a minimum financing of \$2,000,000 and to a maximum financing of \$5,000,000 (the "Offering");
 - (d) one-half of the common shares issuable on exercise of the broker's warrants to be issued in connection with the Offering;
 - (e) 2,110,000 common shares issuable on closing of the Offering, as partial consideration for the acquisition of certain diamond properties; and
 - (f) that number of Units to be issued upon conversion of an outstanding convertible debenture in the principal amount of \$150,000.
5. The Corporation is a mineral exploration and development company whose principal focus is the exploration and development of African diamond deposits. The Corporation has entered into an option and joint venture agreement with SouthernEra Resources Limited ("SouthernEra") to prospect the Prieska, Makoppa and Mooikloof kimberlite diamond projects in South Africa (the "Projects"), the mineral rights for which are controlled by SouthernEra. It is expected that an aggregate amount of approximately \$624,000 of the net proceeds from the minimum financing will be applied towards the Projects, of which approximately \$231,982 will be spent on the Prieska Project.
6. For the purposes of the filing of the Preliminary Prospectus and the Final Prospectus, the Corporation retained NKS Consulting on June 16, 2000 to prepare a geological report on the Projects specific to the standards dictated by National Policy No. 2-A – Guide for Engineers and Geologists and Prospectors Submitting Reports on Mining Properties to Canadian Provincial Securities Administrators. The sole proprietor of NKS Consulting is Nicholas Karl Smithson ("Smithson"), of 8 Robert Carr Avenue, Tokai, Western Cape, 7945, South Africa, who prepared a report as requested by the Corporation, which report is dated June 28, 2001 ("Smithson's Report"). A copy of Smithson's Report has been filed with the Preliminary Prospectus.
 7. Smithson did not complete a personal inspection on the Prieska Project as required by Section 6.2 of the Instrument.
 8. The Prieska Project is an early stage property on which very limited exploration work has been done and no resource has been defined to date.
 9. Smithson held the position of Exploration Manager for Africa for SouthernEra from April 1998 to April 2000, during which time he became very familiar with the geology and geographic setting of the area in which the Prieska Project is located. Smithson has advised that, during the creation of Smithson's Report, he had all of the data he required to prepare his report and that it would not have been beneficial to physically inspect the Prieska Project.
 10. Smithson's Report states that Smithson has not visited the Prieska Property. Smithson's Report further states that during Smithson's tenure with SouthernEra, close liaison was always maintained with the contract exploration services company which conducted the diamond exploration on the Prieska Project on behalf of SouthernEra.
 11. During his time with SouthernEra, a number of kimberlites were discovered in South Africa and Smithson was responsible for their evaluation. Furthermore, the Prieska Project is located in the Kimberley district of South Africa and Smithson has advised that during his tenure with De Beers and SouthernEra, Smithson worked in this area and became very familiar with its geology and geographic setting. At a due diligence session conducted on June 29, 2001, Smithson stated that during his period of employment with SouthernEra he became familiar with the local geology of the Kimberley district and knew the terrain on the Prieska Project to be flat and featureless.
 12. The Final Prospectus will contain disclosure of a scientific or technical nature that is based upon Smithson's Report.

AND WHEREAS under 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 Makers with the jurisdiction to make the Decision has been met;

THE DECISION of the Decision Makers under the Legislation is that the Corporation is exempt from the requirement contained in section 6.2 of the Instrument in connection with the disclosure to be contained in the Final Prospectus that will be based upon Smithson's Report.

August 29, 2001.

"Kathryn Soden"

2.1.6 Fording Inc. - MRRS Decision

Headnote

Mutual Reliance Review System for Exemptive Relief Applications - National Instrument 43-101 Standards of Disclosure for Mineral Projects- Relief granted pursuant to section 9.1 of National Instrument 43-101 from subsection 4.1(1) upon issuer becoming reporting issuer pursuant to spin-out transaction by parent company where substantial and timely disclosure regarding issuer's reserves and resources present in parent company's continuous disclosure record.

Rules Cited

National Instrument 43-101 - Standards of Disclosure for Mineral Projects - ss 4.1(1), 9.1.

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

AND

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

AND

**IN THE MATTER OF
FORDING INC.**

MRRS DECISION DOCUMENT

WHEREAS the local securities regulatory authority or regulator (the "Decision Makers") in British Columbia, Alberta, Saskatchewan, Manitoba, Ontario, Quebec, New Brunswick, Nova Scotia and Prince Edward Island (the "Jurisdictions") has received an application from Fording Inc. (the "Filer") for a decision under the securities legislation of the Jurisdictions (the "Legislation") that the requirements contained in the Legislation to file a current technical report for each material property (the "Technical Report Requirement") will not apply to the Filer upon becoming a reporting issuer in the Jurisdictions;

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

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

1. Canadian Pacific Limited ("CPL") has begun the process of spinning off certain of its wholly owned subsidiaries (the "Transaction") including the Filer, pursuant to an announcement made by CPL on February 13, 2001.

2. The Transaction will for the first time render the Filer a reporting issuer as defined in the Legislation.
3. The Filer has an existing record of public disclosure in the following forms:
 - 3.1 CPL's continuous disclosure of material facts relating to its five subsidiary operating companies, of which the Filer is one, since at least 1996;
 - 3.2 the Filer's annual reviews published in the style of an Annual Information Form and made available to CPL shareholders since 1996; and
 - 3.3 the presentation in CPL's most recent AIF of the Filer's estimates of its reserves and resources in accordance with the Legislation and *Paper 88-21 of the Geological Survey of Canada: A Standardized Coal Resource/Reserve Reporting System for Canada*, as required by the Legislation.
4. The Filer will shortly file and distribute its Initial AIF featuring disclosure of its reserves and resources in accordance with the Legislation and *Paper 88-21 of the Geological Survey of Canada: A Standardized Coal Resource/Reserve Reporting System for Canada*, as recommended by the Legislation;

AND WHEREAS under 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 Makers with the jurisdiction to make the Decision has been met;

THE DECISION of the Decision Makers under the Legislation is that the Filer is exempt from the Technical Report Requirement.

August 28, 2001.

"Agnes Lau"

2.1.7 AldeaVision Inc. - MRRS Decision

Headnote

Rule 61-501 - Mutual Reliance Review System - Related party transactions - Valuation exemption - Applicant proposes to amend the terms of a convertible debenture held by the registered holder of 28.5% of the common shares of the Filer - amendment to extend maturity date of debenture by three years in consideration for a lower conversion price that will still be substantially greater than the current market price of the common shares - Applicant to obtain minority approval at a meeting of its shareholders- amendment fair to the applicant and not structured for the benefit of the registered holder or beneficial owners - amendment subject to approval of The Toronto Stock Exchange - amendment exempt from requirement to prepare valuation.

Ontario Rules Cited

Rule 61-501 - Insider Bids, Issuer Bids, Going Private Transactions and Related Party Transactions, ss. 5.5 and 9.1.

**IN THE MATTER OF
THE SECURITIES LEGISLATION OF
ONTARIO AND QUÉBEC**

AND

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

AND

**IN THE MATTER OF
ALDEAVISION INC.**

MRRS DECISION DOCUMENT

WHEREAS the local securities regulatory authority or regulator (collectively, the "Decision Makers") in each of Québec and Ontario (the "Jurisdictions") has received an application from AldeaVision Inc. (the "Filer") for a decision under the securities legislation of the Jurisdictions (the "Legislation") by the securities regulatory authorities of Canada by way of a Mutual Reliance Review System ("MRRS") decision for an exemption from the valuation requirements respecting related party transactions pursuant to *Policy Statement Q-27* ("Q-27") of the Commission de valeurs mobilières du Québec (the "CVMQ") and Ontario Securities Commission ("OSC") *Rule 61-501* ("Rule 61-501");

AND WHEREAS under the Mutual Reliance Review System for Exemptive Relief Applications (the "System"), the *Commission des valeurs mobilières du Québec* is the principal regulator for this application;

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

1. the Filer was incorporated under the *Canada Business Corporations Act*;

2. the head office of the Filer is located in St. Laurent, Québec;
3. the Filer is a reporting issuer in each of the Jurisdictions and in the other provinces and territories of Canada;
4. the common shares of the Filer are listed on the Toronto Stock Exchange (the "TSE");
5. the Filer issued to Miralta Capital Inc. ("Miralta") a convertible debenture in the principal amount of \$4.6 million as of August 31, 1995 (the "Debenture");
6. the terms of the Debenture were amended on May 12, 1997 and November 22, 1999;
7. Miralta transferred the Debenture in December 1997 to Miralta Capital II Inc. in connection with a corporate re-organization;
8. Miralta Capital II Inc. is currently the registered holder of the Debenture but holds the Debenture for the former shareholders of Miralta pursuant to a Pooling/Voting Representation Agreement which will be in effect until December 4, 2001;
9. the Debenture bears interest at an annual rate of five per cent (5%), matures on January 15, 2002 and is convertible into common shares of the Filer at the option of the holder on the basis of one common share for every \$1.75 principal amount;
10. the Filer recently reached an agreement in principal with Miralta Capital II Inc. with respect to a further amendment to the Debenture;
11. the features of the amendment are as follows:
 - (a) the maturity date of the Debenture shall be January 14, 2005, that is, the term of the Debenture is extended by three years;
 - (b) the price at which the Debenture is convertible into common shares shall \$1.25 so that the Debenture shall be convertible into 3,680,000 common shares; and
 - (c) in the event that the common shares of the Filer trade for a period of not less than 20 consecutive trading days at a price which is less than \$1.75, the Filer shall have the right to force the conversion of the Debenture into common shares at the conversion price of \$1.25;
12. Miralta Capital II Inc. is currently the registered owner of 28.5% of the common shares of the Filer and is therefore a *related party* of the Filer pursuant to the definition provided in Q-27 and Rule 61-501;
13. the amendment to the Debenture may be considered as a *related party transaction*, without recourse to an exemption under Section 5.6 of Q-27 or Part 5.6 of Rule 61-501, thereby requiring a formal valuation and minority approval of the proposed transaction according to Part 5 of Q-27 and Part 5 of Rule 61-501;
14. the Filer will seek minority approval with respect to the amendment to the Debenture at an annual and special meeting of shareholders to be held on June 21, 2001;
15. the Filer applies for an exemption from the valuation requirements respecting related party transactions pursuant to Q-27 and Rule 61-501;
16. the amendment to the Debenture is fair to the Filer and its shareholders and is not structured for the benefit of Miralta Capital II Inc. or the former shareholders of Miralta; and
17. the amendment to the Debenture is subject to the approval of the TSE.

AND WHEREAS under 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 under the Legislation is that:

Pursuant to section 9.1 of Q-27 and section 9.1 of Rule 61-501, the Filer is granted an exemption from the valuation requirements respecting related party transactions as required by Part 5 of Q-27 and Part 5 of Rule 61-501 with respect to the amendment to the Debenture provided in paragraph 11 hereof.

Montréal, this 28th of June 2001.

"Jacques Labelle"

CERTIFIED COPY

Jacques Labelle
Directeur général - exploitation

2.2. Orders

2.2.1 Westgold Resources NL - s. 83

Headnote

Section 83 of the Securities Act - Issuer has 70 beneficial security holders which hold a *de minimus* number of securities - issuer voluntarily delisted from the TSE - issuer withdrawing from Ontario capital market - issuer deemed to have ceased to be a reporting issuer.

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

AND

**IN THE MATTER OF
WESTGOLD RESOURCES NL**

**ORDER
(Section 83 of the Act)**

UPON the application of Westgold Resources NL (the "Filer") to the Ontario Securities Commission (the "Commission") for an order, pursuant to section 83 of the Act, deeming the Filer to have ceased to be a reporting issuer under the Act;

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

AND UPON the Filer having represented to the Commission that:

1. The Filer is an Australian resource corporation formed under the laws of Australia, and its management and head office are located in Perth, Australia.
2. The Filer has effectively ceased to operate in the mining and mineral exploration industry, and is currently seeking a new business direction.
3. The authorized and issued share capital of the Filer consists of 65,404,113 Ordinary Shares (the "Shares"), 715,000 Partly Paid Shares (\$1 paid to \$0.10), and 7,500,000 Partly Paid Shares (\$0.20 paid to \$0.03).
4. The Shares are listed and traded on the Australian Stock Exchange (the "ASX") and it is the Filer's intention to maintain its listing on the ASX.
5. In 1996, the Filer offered 30,833,333 Shares in the province of British Columbia pursuant to an exemption from the prospectus requirement for aggregate proceeds of \$33,000,000 (the "Private Placement").
6. Other than the Private Placement, the Filer never offered its securities in Canada, either by way of a public offering in accordance with the prospectus

requirement, or privately in accordance with an exemption from the prospectus requirement.

7. The Filer became a reporting issuer under the Act on May 12, 1997 when its Shares were listed on The Toronto Stock Exchange (the "TSE").
8. The Filer is not a reporting issuer in any other jurisdiction in Canada.
9. The Filer voluntarily delisted its Shares from the TSE on May 23, 2001 (the "Delisting") because the small trading volume did not warrant the cost to the Filer of remaining listed on the exchange. None of the Filer's securities are listed or quoted on any exchange or market in Canada.
10. On July 13, 2001, in connection with the Delisting, the 5,158,613 Shares that had remained registered in Canada immediately prior to the Delisting were transferred back to the ASX. All other Shares that had been registered in Canada, including Shares that had been issued in connection with the Private Placement, had been transferred back to the ASX prior to the Delisting.
11. The Filer is not in default of any of the requirements of the Act or the rules or regulations made thereunder.
12. The Filer has 204 beneficial shareholders resident in Canada, holding 1,250,300 Shares, or 1.9% of the issued and outstanding Shares. Of these, 70 beneficial shareholders are resident in Ontario, holding in the aggregate 367,500 Shares, representing 0.6% of the issued and outstanding Shares.
13. The Filer has made arrangements with its transfer agent to ensure that all shareholders whose Shares previously traded on the TSE will be able to trade through the facilities of the ASX and shareholders in Ontario will have the ability to resell their Shares through the facilities of the ASX without any resale restrictions under the Act.
14. On January 9, 1998, the Commission granted an order (the "Order") relieving the Filer from certain continuous disclosure requirements under the Act. The Order exempted the Filer from the requirements of subsection 77(1) of the Act to prepare and file quarterly financial statements with Commission, provided that the Filer files with the Commission and delivers to the shareholders of the Filer with registered addresses in Ontario the Filer's interim financial statements for the first six months of each financial year ("Semi-Annuals"). The relief also provided for the annual financial statements ("Annuals") to be delivered to shareholders and include a reconciliation statement explaining the differences between Australian Generally Accepted Accounting Principles and Canadian Generally Accepted Accounting Principles.
15. The Filer is subject to, and in compliance with, the requirements, policies and rules of the ASX and the Corporations Laws of Australia (collectively, the "Australian Laws"), including the reporting obligations

pursuant thereto which are substantially similar to those imposed on reporting issuers under the Act.

16. Pursuant to the requirements of the Australian Laws, the Filer is required to file with the ASX annual reports, quarterly reports, half yearly reports, changes in officers, notice of meetings accompanied by an explanatory memorandum, details of share issues, share buy backs, rights issues and option issues, any proposed change in the activities of the Filer and/or the disposal of major assets, take over documentation and any other information that is considered significant in nature. Copies of all documents filed with the ASX are available either on the website of the ASX or directly from the exchange.
17. Pursuant to the Australian Laws, shareholders resident in Canada will receive annual reports, notices of meetings accompanied by explanatory memoranda, take over documentation, including bid offers and responses, details of share issues, share buy backs, rights issues and option issues and notice of any proposed change in the activities of the Filer and/or the disposal of major assets.
18. Other than the Shares, the Filer has no other securities, including debt securities, outstanding.
19. The Filer does not intend to seek public financing by way of an offering of its securities in Canada.

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

IT IS ORDERED, pursuant to section 83 of the Act, that the Filer be deemed to have ceased to be a reporting issuer under the Act effective as of the date of this order;

September 4, 2001.

"Howard I. Wetston"

"Stephen N. Adam"

Chapter 3

Reasons: Decisions, Orders and Rulings

THERE IS NO MATERIAL FOR THIS CHAPTER
IN THIS ISSUE

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Chapter 4

Cease Trading Orders

4.1.1 Temporary, Extending & Rescinding Cease Trading Orders

Company Name	Date of Order or Temporary Order	Date of Hearing	Date of Extending Order	Date of Rescinding Order
CA-Network Inc.	03 Apr 01	12 Apr 01	12 Apr 01	07 Sep 01
Zconnexx Corporation	30 Aug 01	11 Sep 01	11 Sep 01	-

4.2.1 Management & Insider Cease Trading Orders

Company Name	Date of Order or Temporary Order	Date of Hearing	Date of Extending Order	Date of Lapse/ Expire	Date of Issuer Temporary Order
Dotcom 2000 Inc.	29 May 01	11 Jun 01	11 Jun 01	-	23 Jul 01
St. Anthony Resources Inc.	29 May 01	11 Jun 01	11 Jun 01	23 Jun 01	-
Galaxy OnLine Inc. Melanesian Minerals Corporation	29 May 01	11 Jun 01	11 Jun 01	24 Jul 01	-
Brazilian Resources, Inc. Link Mineral Ventures Ltd. Nord Pacific Limited	30 May 01	12 Jun 01	12 Jun 01	-	23 Jul 01
Landmark Global Financial Corp.	30 May 01	12 Jun 01	12 Jun 01	28 Jun 01	-
Dominion International Investments Inc.	12 Jun 01	25 Jun 01	25 Jun 01	-	23 Jul 01
Zamora Gold Corp.	13 Jun 01	26 Jun 01	26 Jun 01	18 Jul 01	-
Consumers Packaging Inc.	20 Jun 01	03 Jul 01	-	05 Jul 01	-
Systech Retail Systems Inc.	27 Jun 01	10 Jul 01	10 Jul 01	23 Aug 01	-
United Trans-Western, Inc.	05 Jul 01	18 Jul 01	19 Jul 01	-	23 Jun 01
Digital Duplication Inc.	10 Jul 01	23 Jul 01	23 Jul 01	24 Aug 01	-
Online Direct Inc.	22 Aug 01	04 Sep 01	04 Sep 01	-	-
Aquarius Coatings Inc.	23 Aug 01	05 Sep 01	06 Sep 01	-	-
Primenet Communications Inc.	29 Aug 01	11 Sep 01	11 Sep 01	-	-
Unirom Technologies Inc. Zaurak Capital Corporation	30 Aug 01	12 Sep 01	-	-	-

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Chapter 5

Rules and Policies

5.1.1 Multilateral Instrument 45-102

ONTARIO SECURITIES COMMISSION NOTICE

MULTILATERAL INSTRUMENT 45-102 FORMS 45-102F1, 45-102F2 AND 45-102F3 AND COMPANION POLICY 45-102CP

RESALE OF SECURITIES

A. IMPLEMENTATION OF INSTRUMENT

The Ontario Securities Commission (the "Commission") has, under section 143 of the *Securities Act* (Ontario) (the "Act"), made Multilateral Instrument 45-102 Resale of Securities (the "Multilateral Instrument") as a rule under the Act, and has adopted Companion Policy 45-102CP (the "Companion Policy") as a policy under the Act. The Multilateral Instrument contains Forms 45-102F1, 45-102F2 and 45-102F3 (collectively, the "Forms"). The Multilateral Instrument, the Forms and the Companion Policy are collectively referred to as the "Instrument".

The Instrument is an initiative of certain members of the Canadian Securities Administrators (the "CSA"). The Multilateral Instrument has been, or is expected to be, adopted as a rule in each of British Columbia, Alberta, Ontario, Manitoba, Nova Scotia and Newfoundland, as a Commission regulation in Saskatchewan, as a policy in New Brunswick, Prince Edward Island and the Yukon Territory, and as a code in the Northwest Territories and Nunavut. The Companion Policy has been, or is expected to be, implemented as a policy in British Columbia, Alberta, Saskatchewan, Manitoba, Ontario, New Brunswick, Nova Scotia, Newfoundland, Prince Edward Island, the Yukon Territory, the Northwest Territories and Nunavut. The Multilateral Instrument, Forms and Companion Policy will not be adopted in Quebec.

The Multilateral Instrument and the material required by the Act to be delivered to the Minister of Finance were delivered on September 12, 2001. If the Minister does not reject the Multilateral Instrument or return it to the Commission for further consideration by November 12, 2001, or if the Minister approves the Multilateral Instrument, the Multilateral Instrument will come into force, pursuant to section 5.1 therein, on November 30, 2001. The Companion Policy will be adopted on the date that the Multilateral Instrument comes into force.

Concurrently with making the Multilateral Instrument, the Commission has, by regulation, revoked subsection 69(1) and section 70 of the Regulation, amended section 247 of the Regulation, and revoked and amended sections 26 and 27 and subsection 28(3) of Schedule 1 to the Regulation. See "Amendment of the Regulation" below. The regulation is

subject to the approval of the Minister of Finance and will not be effective before the Multilateral Instrument comes into force.

B. PURPOSE AND SUBSTANCE OF MULTILATERAL INSTRUMENT, FORMS AND COMPANION POLICY

1. Introduction

On September 8, 2000, certain members of the CSA published for comment the following proposed instruments (collectively, the "proposed Instrument"):

Multilateral Instrument 45-102 Resale of Securities (the "proposed Multilateral Instrument");

Form 45-102F1 Report Made under Section 2.6 of Multilateral Instrument 45-102 Resale of Securities with respect to an Issuer that has Ceased to Be a Private Company or Private Issuer ("proposed Form 45-102F1");

Form 45-102F2 Certificate under Section 2.7 of Multilateral Instrument 45-102 Resale of Securities ("proposed Form 45-102F2");

Form 45-102F3 Notice of Intention to Distribute Securities and Accompanying Declaration under Section 2.8 of Multilateral Instrument 45-102 Resale of Securities ("proposed Form 45-102F3"); and

Companion Policy 45-102CP (the "proposed Companion Policy").

Proposed Form 45-102F1, proposed Form 45-102F2 and proposed Form 45-102F3 are collectively referred to as the "proposed Forms".

The proposed Instrument was published at (2000) 23 OSCB 6238. The accompanying notice (the "2000 Notice") summarized the proposed Instrument, generally requested comment and specifically requested comment on the following two issues:

- (i) the requirement that a legended certificate representing the securities distributed under section 2.5 of the proposed Multilateral Instrument be provided to investors; and
- (ii) the provision for a four month hold period for investment grade securities.

The CSA received submissions on the proposed Instrument from nine commentators. The commentators are generally supportive of the proposed Instrument and of the CSA's initiative to harmonize and clarify the resale rules. Some commentators stated that the proposed Instrument will provide harmonization and regulatory certainty of the resale rules

which will be beneficial for maintaining the global competitiveness of the adopting jurisdictions as centres for raising capital.

Multilateral Instrument 45-102 was published on April 20, 2001 at (2001) 24 OSCB 2437. By notice dated May 18, 2001, the Commission advised that due to implementation issues that had arisen, Multilateral Instrument 45-102 had been withdrawn from the Minister of Finance. The Multilateral Instrument has now been resubmitted to the Minister of Finance.

The list of commentators on the proposed Instrument is contained in Appendix A to this Notice and a summary of their comments, together with the CSA response to the comments, are contained in Appendix B to this Notice. As a result of the CSA's consideration of the comments received on the proposed Instrument and as a result of further deliberations of the CSA, the Commission is publishing the Instrument in final form.

2. Purpose and Substance of the Instrument

The purpose and substance of the Instrument is to harmonize certain provincial and territorial resale restrictions imposed on first trades of securities initially distributed under an exemption from the prospectus requirement. The Instrument also takes a harmonized approach to distributions from a control block and to trades in securities of a non-reporting issuer over a foreign exchange or market.

For additional information concerning the background of the proposed Instrument, reference should be made to the 2000 Notice that accompanied the publication of the proposed Instrument.

C. SUMMARY OF CHANGES FROM THE PROPOSED INSTRUMENT

This section describes changes made in the Instrument from the proposed Multilateral Instrument, proposed Forms and proposed Companion Policy published for comment in September 2000, except that changes of a minor nature, or those made only for purposes of clarification or drafting reasons, are generally not discussed. The changes made are not material changes. The majority of the changes were made by the CSA in response to comments received; others were made as a result of further deliberations by the CSA.

1. Changes to the Proposed Multilateral Instrument

Section 1.1 Definitions

The definition of "approved rating" has been changed to delete the references to CBRS Inc., Duff & Phelps Credit Rating Co., Thomson Bankwatch, Inc. and their respective ratings due to the recent mergers or consolidation of operations of those rating organizations.

The definition of "current AIF" has been clarified to identify the seven types of document that qualify as a "current AIF" for the purpose of the Instrument.

The definition of "distribution date" has been amended to define the "distribution date" of an underlying security.

The definition of "NP 2-B" has been amended to clarify that "NP 2-B" means the form of that policy in place on the effective date of the Multilateral Instrument.

The definition of "private issuer" has been amended to define "private issuer" in Ontario.

Paragraph (d) of the definition of "qualifying issuer" has been amended to require only that the issuer "has not been notified by the qualified market that it does not meet the requirements to maintain" the listing or quotation standards. This amendment has been made as a result of two comments received and the CSA's further deliberations. The amendment deletes the requirement in the proposed Multilateral Instrument that an issuer must meet the listing or quotation maintenance standards in order to be a qualifying issuer.

Section 2.3 Section 2.5 Applies

Section 2.3 has been amended to clarify that the first trade, rather than any trade, of a security distributed under a prospectus exemption listed in Appendix D is subject to section 2.5 of the Multilateral Instrument.

Section 2.4 Section 2.6 Applies

Section 2.4 has been amended to clarify that the first trade, rather than any trade, of a security distributed under a prospectus exemption listed in Appendix E is subject to section 2.6 of the Multilateral Instrument.

Section 2.5 Restricted Period

The title of this section has been changed from "Hold Period" to "Restricted Period". The wording "subject to securities legislation" in the legend required to be carried on securities certificates has been amended to "unless permitted under securities legislation". This amendment has been made in response to a comment that the wording "subject to securities legislation" is vague and that similar language to the legend required by the Canadian Venture Exchange Inc. ("CDNX") should be used. Section 2.5 also clarifies that the certificate is only required to carry a legend if the distribution date is on or after the effective date of the Multilateral Instrument.

Section 2.6 Seasoning Period

Subsection 2.6(5) is new to the Multilateral Instrument. It provides for a four month seasoning period preceding the date of the trade for securities issued to employees of an issuer or its affiliate, so long as, among other conditions, the issuer became a qualifying issuer after the distribution date by filing a prospectus in a jurisdiction listed in Appendix B and listing or quoting a class of its equity securities on a qualified market. The effect of the amendment is that securities issued to employees of an issuer will be subject to the same seasoning period requirements regardless of whether the employees acquired the securities before or after the issuer's initial public offering ("IPO"). The CSA recognize that many issuers, especially in the high tech industry, issue securities to their employees or employees of their affiliates under prospectus exemptions prior to the IPO of the issuer. The CSA believe that an issuer's employees who acquired its securities prior to its IPO should not be subject to longer seasoning periods than those employees who acquired the issuer's securities after its

IPO. The addition of subsection 2.6(5) will encourage issuers to continue to use employee stock options, stock purchase plans and other similar employee incentives in the issuers' business development strategies prior to their IPOs.

First trades of securities distributed in Ontario under Commission Rule 45-503 Trades to Employees, Executives and Consultants will continue to be governed by Rule 45-503 until consequential amendments to Rule 45-503 are implemented. Once these consequential amendments are implemented, first trades of securities distributed under Rule 45-503 will be governed by the Multilateral Instrument.

Items 2.5(2)7., 2.5(3)7., 2.6(3)5., 2.6(4)5., 2.8(2)5. and 2.8(3)4. In Default of Securities Legislation

Items 2.5(2)7., 2.5(3)7., 2.6(3)5., 2.6(4)5., 2.8(2)5. and 2.8(3)4. have been amended to provide a less onerous resale condition on sellers. In the proposed Multilateral Instrument, if the seller is an insider or officer of the issuer, the seller must have "reasonable grounds to believe that the issuer is not in default of securities legislation". The wording in the proposed Multilateral Instrument would require the seller to have evidence to believe there has been no default. The CSA have decided that a less onerous standard would be sufficient. Accordingly, items 2.5(2)7., 2.5(3)7., 2.6(3)5. and 2.6(4)5. have been amended to require that a seller who is an insider or officer of the issuer, has "no reasonable grounds to believe that the issuer is in default of securities legislation". Items 2.8(2)5. and 2.8(3)4. have been amended to require that the seller has no reasonable grounds to believe that the issuer is in default of securities legislation.

Subsection 2.7(1) Filing of Form 45-102F1

Subsection 2.7(1) is new and provides that an issuer must file Form 45-102F1 when it ceases to be a private company or private issuer.

Section 2.8 Exemption for a Trade by a Control Person

Subsections 2.8(5), 2.8(6), 2.8(7) and 2.8(8) provide clearer instructions on the timing of Form 45-102F3 filings and on when the filing of Form 45-102F3 is no longer required for a person or company who has filed a Form 45-102F3 previously.

Section 2.10 Exemption for a Trade in an Underlying Security if the Convertible Security, Exchangeable Security or Multiple Convertible Security is Qualified by a Prospectus

Section 2.10 is new and reflects existing securities legislation in a number of jurisdictions. It has been added to provide an exemption from the resale rules for underlying securities issued or transferred under the terms of convertible securities, exchangeable securities or multiple convertible securities if the convertible securities, exchangeable securities or multiple convertible securities are distributed under a prospectus. This section has been added in response to two comments that the proposed Instrument does not provide an exemption for underlying securities similar to the exemptions that currently exist.

Section 2.11 Exemption for a Trade in a Security Acquired in a Take-over Bid or Issuer Bid

Section 2.11 is new to the Multilateral Instrument and harmonizes provisions previously existing in securities legislation. It provides an exemption from the resale restrictions in section 2.6 for trades of securities issued in a securities exchange take-over bid or securities exchange issuer bid if a take-over bid circular or an issuer bid circular was filed on SEDAR. The CSA have decided to retain the existing resale exemptions for securities distributed pursuant to take-over bid circulars and issuer bid circulars. However, in some jurisdictions, an issuer becomes a reporting issuer upon the filing of a securities exchange take-over bid circular, in one jurisdiction an issuer becomes a reporting issuer upon completion of the bid and in other jurisdictions an issuer does not become a reporting issuer upon filing a securities exchange take-over bid circular. For the purpose of harmonization, the CSA have imposed a requirement in paragraph (c) of section 2.11 that a selling security holder cannot rely on this exemption unless the offeror was a reporting issuer on the date securities are first taken up under the take-over bid or issuer bid.

Section 2.12 Exemption for a Trade in an Underlying Security if the Convertible Security, Exchangeable Security or Multiple Convertible Security is Qualified by a Securities Exchange Take-over Bid Circular or Issuer Bid Circular

Section 2.12 is new and has been added to provide an exemption for a trade of underlying securities issued or transferred under the terms of convertible securities, exchangeable securities or multiple convertible securities, if the convertible securities, exchangeable securities or multiple convertible securities are distributed under a securities exchange take-over bid circular or a securities exchange issuer bid circular. The CSA have decided to provide this exemption to retain the current resale exemptions under securities legislation for such underlying securities.

Part 3 Current AIF Filing Requirements

Part 3 Current AIF Filing Requirements has been restructured to clarify current AIF filing requirements for those issuers who have not filed an AIF under NI 44-101 or, prior to the effective date of NI 44-101, under NP 47.

Appendix C

The securities legislation references to British Columbia and Saskatchewan have been deleted due to the fact that British Columbia and Saskatchewan will repeal these provisions as part of their consequential amendments.

The reference to subsection 72(4) of the *Securities Act* (Ontario) has been amended to reserve the application of subsection 72(4) in Rule 45-503.

Appendix D

The securities legislation reference for Nova Scotia has been amended to change "77(1)(f)(iii) as applicable" to "subclause 77(1)(f)(iii) of the *Securities Act* (Nova Scotia) if the right to

purchase, convert or exchange was previously acquired under one of the above listed exemptions under the *Securities Act* (Nova Scotia)". This amendment has been made to address the concern of one commentator that "77(1)(f)(iii) as applicable" is too vague. The CSA have decided to make similar clarifications with respect to the references to the legislation of Alberta, Newfoundland and Ontario in Appendix D.

References to sections 74(2)(11)(ii), 74(2)(12) and 74(2)(13) of the *Securities Act* (British Columbia) have been added to the securities legislation references for British Columbia.

Reference to clause 81(1)(e) of *The Securities Act, 1988* (Saskatchewan) has been added to the securities legislation references for Saskatchewan.

Appendix E

The securities legislation reference for Nova Scotia has been amended to change "77(1)(f), as applicable" to "77(1)(f) of the *Securities Act* (Nova Scotia) if not included in Appendix D". Similarly, the securities legislation references for Alberta, Ontario and Newfoundland have also been changed. These amendments are related to the amendments made to Appendix D referred to above. In addition, the securities legislation references for British Columbia and Saskatchewan have also been amended to reflect the changes made to Appendix D.

Appendix F

A new Appendix F has been added to refer to the employee and exercise of an option exemptions from the prospectus requirement in each jurisdiction that imposes a seasoning period on securities acquired under the employee exemption.

2. Changes in the Proposed Forms

Forms 45-102F1, 45-102F2 and 45-102F3

Item 5 of Form 45-102F1 has been restructured to provide clearer instructions on information required to be disclosed. In addition, the requirement to disclose "address" has been replaced by the requirement to disclose "municipality and jurisdiction of residence".

Item 6 of Form 45-102F1 is new and provides that the issuer must prepare and deliver to securities regulatory authorities a statement containing the required information of persons who were beneficial owners of securities of an issuer immediately before the issuer ceased to be a private company or private issuer.

An instruction has been added to Form 45-102F1 to clarify where Form 45-102F1 must be filed.

Notice - Collection and Use of Personal Information has been added to Form 45-102F1 and Form 45-102F3 to comply with the disclosure requirements for collection and use of personal information in various legislation dealing with freedom of information and protection of privacy.

Form 45-102F2 has been amended to reflect the addition of subsection 2.6(5) to the Multilateral Instrument. The issuer completes item 2 of Form 45-102F2 if it has distributed securities under an employee exemption and becomes a qualifying issuer after the distribution date by filing a prospectus in a jurisdiction listed in Appendix B and listing or quoting a class of its equity securities on a qualified market.

Under the heading "Declaration, Certificate and Undertaking" of Form 45-102F3, the term "represents" has been changed to "declares", reflecting the CSA's intention that Form 45-102F3 be a declaration of the selling security holder.

An instruction has been added to Form 45-102F3 to clarify that Form 45-102F3 is only required to be filed in jurisdictions in which the securities are being distributed, and, if applicable, with the exchange in Canada on which the securities that are the subject of the trade are listed. This instruction addresses the concern raised by a commentator that the wording in the proposed Instrument may require the filing of the Forms in all jurisdictions including jurisdictions in which no securities were distributed.

3. Changes In the Proposed Companion Policy

Section 1.1 Application

Subsection 1.1(2) has been added to state that only sections 2.1, 2.8 and 2.9 of Part 2 of the Multilateral Instrument apply in Manitoba, New Brunswick, Prince Edward Island and the Yukon Territory.

Section 1.3 Transition

Section 1.3 is new. Subsection 1.3(1) has been added to clarify that Part 2 of the Multilateral Instrument applies to first trades on or after the effective date of the Multilateral Instrument even if the securities were initially distributed prior to the effective date.

Subsection 1.3(2) points out that items 2.5(2)3. and 2.5(3)3. only impose a legending condition in connection with securities distributed on or after the effective date of the Multilateral Instrument. Similarly, subsection 1.3(3) states that Forms 45-102F1, 45-102F2 and 45-102F3 have to be filed on or after the effective date of the Multilateral Instrument.

Section 1.4 Distribution

Section 1.4 has been deleted.

Section 1.6 Reporting Issuer History

The title of this section (section 1.7 in the proposed Companion Policy) has been changed from Qualifying Issuer to Reporting Issuer History. Section 1.6 has been amended to point out that reporting issuer history in any of the jurisdictions listed in Appendix B satisfies the reporting issuer history requirements in sections 2.5, 2.6 and 2.8 of the Multilateral Instrument if the issuer is a SEDAR filer. If the issuer is not a SEDAR filer, the reporting issuer history must be in the jurisdiction of the purchaser of the securities that are the subject of the trade.

Section 1.7 Eligibility

Section 2.3 Loss of Eligibility in the proposed Companion Policy has been moved to section 1.7 and renamed Eligibility. Section 1.7 points out that the reduced restricted and seasoning periods apply if an issuer is a qualifying issuer at the distribution date even if the issuer ceases to be a qualifying issuer before the first trade.

Section 1.8 Legending of Securities

This section is new and provides an explanation of the legending requirement in the Multilateral Instrument and the CSA's rationale for the legending requirement. Several commentators have raised objections to the legending requirement and the CSA consider it helpful to explain the need for the legending requirement to achieve compliance with restricted period requirements.

Corresponding to the amendment to section 2.5 of the proposed Multilateral Instrument, section 1.8 of the Companion Policy replaces the phrase "subject to securities regulation" with "unless permitted under securities legislation". This amendment has been made in response to a comment that the phrase "subject to securities legislation" is too vague and that similar language to the CDNX legend should be used.

Section 1.9 Calculation of Restricted Periods

Section 1.9 replaces section 1.6 of the proposed Companion Policy and illustrates the calculation of restricted periods through use of an example.

Section 1.11 Employees

Section 1.11 is new and explains that subsection 2.6(5) of the Multilateral Instrument reduces the seasoning period from 12 months to four months if the securities that are the subject of the trade were distributed to employees and the issuer became a qualifying issuer after the distribution date by filing a prospectus in a jurisdiction listed in Appendix B and listing or quoting a class of its equity securities on a qualified market.

Section 1.13 Securities Exchange Take-over Bid or Issuer Bid

Section 1.13 is new and clarifies that if a take-over bid circular or issuer bid circular is prepared in connection with an exempt bid, the circular relied upon for purposes of section 2.11 of the Multilateral Instrument must meet the prospectus disclosure standards applicable to the form and content of a take-over bid circular or issuer bid circular, as the case may be, for a formal bid. Further, the circular must be filed by the offeror on SEDAR.

Section 1.15 Filing of Forms 45-102F1, 45-102F2 and 45-102F3

Subsections 1.15(1), (2) and (3) of the Companion Policy have been amended to discuss where the Forms must be filed. Subsection 2.7(1) of the Multilateral Instrument has been added and requires that Form 45-102F1 be filed if an issuer has ceased to be a private company or private issuer. Subsection 1.15(1) of the Companion Policy comments that

Form 45-102F1 must be filed in each jurisdiction in which the issuer has ceased to be a private company or private issuer and section 2.7 of the Multilateral Instrument has been implemented. Subsection 1.15(2) of the Companion Policy has been amended to specify that Form 45-102F2 is only required to be filed in each jurisdiction in which securities have been distributed to purchasers and section 2.7 of the Multilateral Instrument has been implemented. Section 2.7 has been implemented in Alberta, British Columbia, Newfoundland, Northwest Territories, Nova Scotia, Nunavut, Ontario and Saskatchewan. Further, an instruction has been added to Form 45-102F3 to provide that Form 45-102F3 is only required to be filed in jurisdictions in which the securities are distributed and with the exchange in Canada on which the securities that are the subject of the trade are listed.

The amendments to the Multilateral Instrument and to section 1.15 of the Companion Policy have been made in response to commentators' concern that the proposed Multilateral Instrument and the proposed Companion Policy seem to require the Forms to be filed in jurisdictions in which no securities were distributed. The CSA have made the amendments for clarity.

Section 1.16 Filings in the Local Jurisdiction

Section 1.16 is new and states that sections 2.10, 2.11 and 2.12 of the Multilateral Instrument provide that section 2.6 of the Multilateral Instrument does not apply to a trade on condition that a take-over bid circular, an issuer bid circular or a prospectus was filed under securities legislation of the local jurisdiction of the person or company relying upon the exemption from section 2.6 of the Multilateral Instrument.

Part 2 AIF Requirements

Part 2 AIF Requirements has been restructured in response to the clarification of the definition of "current AIF" in the Multilateral Instrument.

D. AMENDMENT OF THE REGULATION

The Commission has made the following consequential amendments to Regulation 1015 of the Revised Regulations of Ontario, 1990 (the "Regulation"), in conjunction with the making of the Multilateral Instrument as a rule. These amendments come into force at the time the Multilateral Instrument comes into force:

1. Subsection 69(1) of the Regulation is revoked.
2. Section 70 of the Regulation is revoked.
3. Section 247 of the Regulation is amended by striking out "sections 67 and 68, subsection 69(1)".
4. (1) Sections 26 and 27 of Schedule 1 to the Regulation are revoked and the following substituted:
 26. Each of the following documents must be accompanied by a fee of \$250:
 1. A report in Form 45-102F1 of Multilateral Instrument 45-102 *Resale of Securities*.

2. A notice of intention and declaration in Form 45-102F3 of Multilateral Instrument 45-102 *Resale of Securities*.

(2) Subsection 28(3) of Schedule 1 of the Regulation is revoked and the following substituted:

- (3) No fee is payable under subsection (2) in respect of a ruling made under section 74 of the Act that a trade that is a distribution under section 2.5 or 2.6 of Multilateral Instrument 45-102 *Resale of Securities* is not subject to section 53 of the Act.

E. TEXT OF THE MULTILATERAL INSTRUMENT, FORMS AND COMPANION POLICY

The text of the Multilateral Instrument, Forms and Companion Policy follows.

Dated: September 14, 2001

**APPENDIX A
TO NOTICE**

**LIST OF COMMENTATORS ON
MULTILATERAL INSTRUMENT 45-102
FORMS 45-102F1, 45-102F2 AND 45-102F3
COMPANION POLICY 45-102CP**

RESALE OF SECURITIES

1. Simon Romano by letter dated October 18, 2000
2. McKercher McKercher & Whitmore by letter dated October 26, 2000
3. BCE Inc. by letter dated November 14, 2000
4. The Canadian Bankers Association by letter dated December 4, 2000
5. International Northair Mines Ltd. by letter dated December 6, 2000
6. Canadian Capital Markets Association by letter dated December 8, 2000
7. The Canadian Advocacy Council of the Association for Investment Management and Research by letter dated December 8, 2000
8. Stewart McKelvey Stirling Scales by letter dated December 15, 2000*
9. Canadian Venture Exchange Inc. by letter dated January 9, 2001*

* These letters were received following the expiry of the comment period.

**APPENDIX B
TO NOTICE**

**SUMMARY OF COMMENTS RECEIVED ON
PROPOSED MULTILATERAL INSTRUMENT 45-102,
PROPOSED FORMS 45-102F1, 45-102F2 AND 45-102F3
AND PROPOSED COMPANION POLICY 45-102CP**

**AND
RESPONSE OF THE CANADIAN SECURITIES
ADMINISTRATORS**

A. INTRODUCTION

On September 8, 2000, certain members of the CSA published the proposed Instrument for comment. The CSA specifically requested comments on the following two issues:

- (i) the requirement that a legended certificate representing the securities distributed be provided to investors; and
- (ii) the provision for a four month hold period for investment grade securities.

The comment period for these materials expired on December 8, 2000. The CSA received nine submissions on the proposed Instrument. The CSA have considered all submissions received and thank all commentators for providing their comments. The following is a summary of the comments received, together with the CSA's responses, organized by topic.

B. COMMENTS ON ISSUES SPECIFIED BY THE CSA

1. Requirement to Legend Certificates (section 2.5 of the proposed Multilateral Instrument)

Comment (i): Four commentators do not support the requirement that securities certificates include a legend to state that subject to securities legislation, the holder of the securities shall not trade the securities before the expiry of the appropriate restricted period. Two of these commentators note that the market is increasingly relying on the book-entry form of securities and one commentator believes that the legend would not be effective for the book-entry form securities because the lack of physical certificates.

Response: The CSA note the increasing use of book-entry form securities. However, the CSA believe that the legend requirement currently is the most practical manner of providing certainty as to the applicable restricted periods and of ensuring more effective regulation of the exempt market. The CSA maintain the legend requirement in the Multilateral Instrument.

Comment (ii): Two commentators point out that the Canadian market is likely to follow the U.S. market in 2004 to move from the current practice of settling securities in 3 days after the trade ("T+3") to settling securities the day after the trade ("T+1"). These commentators believe that the transition from T+3 to T+1 would require greater automatization and less reliance on physical certificates, and that the legend requirement would be counterproductive and incompatible with the technological requirements of a T+1 system. One commentator suggests that the CSA should seek other options

to make the information required in the legend available to potential purchasers without using physical certificates.

Response: The CSA note the concerns regarding the possible transition from T+3 to T+1 clearance system. However, the transition is not likely to occur until 2004. The CSA will revisit the legend issue prior to the implementation of the T+1 system.

Comment (iii): One commentator believes that the legend requirement would cause problems on resale under the rules of The Toronto Stock Exchange Inc. (the "TSE") and other stock exchanges even after the applicable restricted periods have elapsed.

Response: The CSA do not believe that the legend requirement will cause problems since the legend may be removed by the transfer agent after the applicable restricted periods have expired. In addition, British Columbia and the CDNX have legending requirements and have not experienced any problems relating to the resale after the expiry of the applicable restricted periods.

Comment (iv): One commentator states that the language "subject to securities legislation" in the legend is vague and suggests the CSA adopt the language of the CDNX legend.

Response: The CSA have amended the legend language in the Multilateral Instrument to incorporate wording similar to the CDNX legend.

Comment (v): One commentator proposes that the legend requirement be imposed on non-qualifying issuers but not on qualifying issuers. The commentator believes that the four-month hold period for securities of qualifying issuers is too short to justify the cost and administrative burden of placing the legend.

Response: It is the CSA's view that it is necessary for clarity to impose the legend requirement on both qualifying issuers and non-qualifying issuers.

Comment (vi): One commentator states that a legend requirement is workable for share certificates, special warrants and subscription agreements.

Response: The CSA have maintained the legend requirement.

2. Four Month Restricted Periods for Investment Grade Securities

No comment was received on this issue. The CSA plan to retain the four-month restricted period for investment grade securities.

C. GENERAL COMMENTS

Comment (i): The commentators are generally very supportive of the proposed Instrument. Four commentators expressed their support of CSA's initiative to harmonize and clarify the restrictions on resale of securities previously issued under prospectus exemptions. One commentator states that the harmonization would help all market participants by reducing the cost and complexity for the distribution and resale of securities in Canada. One commentator supports the

proposed Instrument and believes that they will greatly clarify the restricted period and/or resale restrictions when securities issued in one jurisdiction under exemptions are transferred to purchasers in other jurisdictions.

Response: The CSA agree.

Comment (ii): One commentator expresses regret that Quebec is not a party to the Instrument and states that Quebec's absence would be detrimental to Ontario issuers and investors due to the close relationship between the Ontario and Quebec capital markets. The commentator encourages the Commission to seek to harmonize the resale rules with Quebec.

Response: The CSA will continue to seek to harmonize the resale rules to the extent possible.

Comment (iii): One commentator recommends that the CSA take further initiatives to harmonize rules regarding filing of documents and payment of filing fees in order to reduce the filing of duplicate documents and payment of multiple fees under different provincial legislation.

Response: The CSA acknowledge the commentator's concern and agree that harmonization would be beneficial. However, the issues regarding filing of documents and payment of fees are not within the purpose of this Instrument. These issues are currently being assessed by other project groups.

Comment (iv): One commentator believes the proposed Instrument would provide issuers with an incentive to improve their continuous disclosure.

Response: The CSA agree and believe that the shorter restricted period for qualifying issuers will encourage more issuers to file AIFs thereby improving disclosure of issuers in the marketplace.

D. SPECIFIC COMMENTS ON THE PROPOSED MULTILATERAL INSTRUMENT

1. Definition of "Private Company"

Comment: One commentator notes that the Commission has proposed to remove the private company exemption in proposed Commission Rule 45-501 Exempt Distributions which was published for comment on September 8, 2000 at (2000) 23 OSCB 6205 (the "proposed Commission Rule 45-501"). The commentator suggests that in order to avoid confusion, the term "private company" should not be used in the proposed Instrument. Alternatively, the commentator recommends that the "private company" exemption be retained in the proposed Commission Rule 45-501 so that the "private company" definition can also be retained in the proposed Instrument.

Response: The CSA believe that the issue whether to retain the private company exemption should be dealt with by the Commission in the implementation of the proposed Commission Rule 45-501. The CSA note that the "private company" exemption is currently still in effect in Ontario. Furthermore, the CSA recognize that subsequent to the removal of the private company exemption in Ontario by

proposed Commission Rule 45-501, the "private company" exemption or the "private issuer" exemption will remain in effect in other jurisdictions. In Ontario, existing private companies will continue to exist although no new private companies will be created. Accordingly, the CSA have decided to retain the term "private company" in the Instrument.

2. Definition of "Qualified Market"

Comment (i): One commentator suggests that the *Paris Bourse*, now *Euronext*, should be a "qualified market".

Response: The CSA have traditionally accepted documents from the markets listed in the definition and have not amended the definition.

Comment (ii): One commentator disagrees with the exclusion of Tier 3 issuers of CDNX from the definition of "qualified market". The commentator states that Tier 3 issuers are subject to the same continuous disclosure requirements as Tier 1 and Tier 2 issuers. The only difference is that Tier 3 issuers do not have active businesses. The commentator states that a longer hold period for a Tier 3 issuer is not justified provided that the Tier 3 issuer discloses its current state of affairs pursuant to applicable regulations.

Response: The CSA has not amended the definition of "qualified market" to include Tier 3 issuers as Tier 3 issuers do not have active businesses.

Comment (iii): One commentator expresses concern that an issuer may drop from one listing category to another listing category on a multi-tiered market such as the TSE.

Response: An issuer will remain eligible so long as it is listed on the TSE and has not been notified by the exchange that it does not meet the requirements to maintain that listing and is not designated inactive or suspended.

Comment (iv): One commentator asks why CDN is not included as a qualified market particularly if junior capital pools are included.

Response: Most issuers on CDN (now Canadian Unlisted Board or CUB) have been transferred to CDNX. CUB is a trade reporting or quotation system without listing requirements. Accordingly, the CSA have decided not to include CUB as a qualified market.

3. Definition of "Qualifying Issuer"

Comment (i): One commentator supports the adoption of the concept of "qualifying issuer" and believes the shorter restricted period for securities of qualifying issuers would make it easier for listed companies to compete for investment funding without sacrificing investor protection.

Response: The CSA confirm that one of the CSA's objectives is to shorten the restricted period for securities of qualifying issuers. The CSA also believe it is important to set eligibility standards for qualifying issuers.

Comment (ii): One commentator states that often the securities exchanges do not delist or suspend those issuers who fail to meet the listing maintenance standards. The

commentator suggests that in order to be a qualifying issuer, it should be sufficient that an issuer is listed and posted on a qualified market and it should not be required that the issuer meet the listing maintenance standards.

Response: The CSA regard the exchange listing maintenance standards as measures implemented for the protection of the market and of the investors. So long as an issuer has not been notified by an exchange or market that it no longer meets the listing maintenance standards of the securities exchange the issuer will remain a qualifying issuer. This will encourage issuers to be more diligent in maintaining their listing standards, which is beneficial to the market and to the investors.

4. Application to First Trades (sections 2.3, 2.4 and 2.11 of the proposed Multilateral Instrument, now sections 2.3, 2.4 and 2.14 of the Multilateral Instrument)

Comment: One commentator states that sections 2.3, 2.4 and 2.11 of the proposed Multilateral Instrument (now sections 2.3, 2.4 and 2.14 of the Multilateral Instrument) seem to apply to any trade, not just a first trade. The commentator believes this is excessive.

Response: The CSA agree and have amended sections 2.3, 2.4 and 2.14 to refer to first trades. Further, subsection 1.2(2) of the Companion Policy clarifies that exempt trades may be made during a restricted period or seasoning period.

5. Convertible Securities (sections 2.3 and 2.5 and Appendix D of the proposed Multilateral Instrument)

Comment: One commentator notes that there is a contradiction between section 2.3 of the proposed Multilateral Instrument and section 2.13 [sic] of Commission Rule 45-501. Section 2.16 of Commission Rule 45-501 provides an exemption from the prospectus requirement for a trade of underlying securities acquired in accordance with the terms of convertible securities if the convertible securities were distributed under a prospectus. Section 2.3 of the proposed Multilateral Instrument places a restricted period on these underlying securities. Another commentator recommends that the language should be clarified regarding the grant of an exemption for resale of underlying securities similar to the existing exemption in section 77(8) of the *Securities Act* (Nova Scotia).

Response: The CSA agree and have amended the proposed Multilateral Instrument by adding subsection 2.10 to provide an exemption from section 2.6 for underlying securities corresponding to section 2.16 of Commission Rule 45-501. The language regarding section 77(8) of the *Securities Act* (Nova Scotia) has been clarified.

6. Becoming a Reporting Issuer (sections 2.5, 2.6 and 2.8 of the proposed Multilateral Instrument)

Comment: One commentator welcomes the initiative of setting the commencement for the resale restricted period at the date the issuer becomes a reporting issuer in a jurisdiction listed in Appendix B. The commentator believes this will result in more certainty among issuers as to the length of the resale restricted period and will reduce the need for jurisdiction shopping.

Response: The CSA agree.

7. Filing of the Forms (subsections 2.6(3) and 2.8(4) and section 2.7 of the proposed Multilateral Instrument, now subsections 2.6(4) and 2.8(4) and section 2.7 of the Multilateral Instrument)

Comment (i): One commentator raises the question whether the Forms must be filed in all jurisdictions or only in the jurisdictions where the purchasers reside. The commentator states that there could be a constitutional issue if filings are required in a jurisdiction where the issuer has no activity or nexus.

Response: The CSA have clarified in the Multilateral Instrument and the Companion Policy that Form 45-102F3 is to be filed solely in jurisdictions in which the securities are distributed and with the exchange in Canada on which the securities that are the subject of the trade are listed. With respect to the filing of Form 45-102F1, the Companion Policy has been clarified so that filing is only required in each jurisdiction in which an issuer has ceased to be a private company or private issuer and section 2.7 of the Multilateral Instrument has been implemented. Form 45-102F2 must be filed in each jurisdiction in which securities have been distributed to purchasers and section 2.7 of the Multilateral Instrument has been implemented. Section 2.7 of the Multilateral Instrument has been implemented in Alberta, British Columbia, Newfoundland, Northwest Territories, Nova Scotia, Nunavut, Ontario and Saskatchewan.

Comment (ii): One commentator suggests that if filing of the Forms is required in jurisdictions in which no purchasers reside, the filing fees should be waived in these jurisdictions.

Response: The commentator's concern has been addressed by the clarifications to the filing requirements of the Forms as discussed above.

8. Trade by Control Persons (section 2.8 of the proposed Multilateral Instrument)

Comment: One commentator notes that the CSA have introduced new requirements regarding trades by pledgees in section 2.8 of the proposed Multilateral Instrument. The commentator further notes that National 62-101 Control Block Distribution Issues ("NI 62-101") contains provisions regarding control block trades by pledgees. The commentator asks the CSA to adopt a more consistent and logical approach regarding section 2.8 of the proposed Multilateral Instrument and NI 62-101, particularly relating to the following issues:

- (a) The commentator notes that the requirement in subsection 2.8(1) of the proposed Multilateral Instrument that "if such security was acquired by the lender, pledgee, mortgagee or other encumbrancer in a control distribution" is new and seems to change existing law.
- (b) The commentator points out that NI 62-101 still refers to Commission Rule 45-501 regarding restricted periods for control block trades by pledgees and recommends that NI 62-101 be amended;

- (c) The commentator asks the CSA to confirm that the new requirement for pledgees in section 2.8 of the proposed Multilateral Instrument does not affect the pledgees' reliance on the provisions in NI 62-101;
- (d) The commentator states that in NI 62-101, "seller" and "vendor" are construed as "pledgees", while in section 2.8 of the proposed Multilateral Instrument, "creditor" and "seller" are separate concepts. The commentator thinks that the reference to "creditor" and "seller" as different persons may cause problems in items 2.8(2)5. and 2.8(3)5. of the proposed Multilateral Instrument where the creditor must rely on the seller's knowledge as to whether the issuer is not in default of any requirement of securities legislation. Similarly, a creditor may have to rely on a seller's filing of Form 45-102F3 as required in subsection 2.8(5) of the proposed Multilateral Instrument.

Response:

- (a) The CSA disagree and the wording in subsection 2.8(1) of the proposed Multilateral Instrument has been retained as the trade may be a subsequent resale.
- (b) The CSA will recommend that NI 62-101 be amended as a consequential amendment to the implementation of the Multilateral Instrument.
- (c) The CSA will recommend that section 2.2 of NI 62-101 regarding pledgees be deleted as it is unnecessary given subsection 2.9(3) of the Multilateral Instrument.
- (d) The CSA do not agree that the drafting will result in such confusion.
9. Determining Time Periods (section 2.9 of the proposed Multilateral Instrument)

Comment: One commentator suggests that the same language in subsection 2.9(1) of the proposed Multilateral Instrument regarding amalgamating, merged or continuing corporations should be adopted in subsection 2.9(2) of the proposed Multilateral Instrument so that a merger does not restart the seasoning period for trades by control persons.

Response: The CSA have not amended the proposed Multilateral Instrument to permit the inclusion of the period of time that the selling security holder had held the securities of one of the amalgamating, merged or continuing issuers in determining the seasoning period for securities acquired under prospectus exemptions for amalgamation, arrangement and statutory procedures because it is not currently contemplated in securities legislation of the jurisdictions implementing the Multilateral Instrument.

10. Trades by Underwriters (section 2.10 of the proposed Multilateral Instrument, now section 2.13 of the Multilateral Instrument)

Comment: One commentator asks the CSA to clarify the restricted period for trades by underwriters referred to in section 2.10 of the proposed Multilateral Instrument (now section 2.13 of the Multilateral Instrument).

Response: The proposed Multilateral Instrument does not change the current law on trades by underwriters. A trade of securities acquired under the exemption from the prospectus requirement set out in Appendix H is a distribution regardless how long the securities have been held.

11. Replacing Seasoning Requirements

Comment: One commentator suggests that the CSA should replace the seasoning requirements in the Multilateral Instrument with the CDNX proposed Exchange Seed Share Resale Restriction Rules ("SSRR"). SSRR imposes various hold periods from 0 to 3 years depending on the time the securities are held and the price of the securities relative to the price at the issuer's IPO.

Response: The CSA believe it is premature to consider the utilization of SSRR by the CSA before SSRR is finalized. The CSA will reconsider the issue if SSRR is formally adopted by CDNX.

12. Appendix D

Comment: One commentator states that the legislation reference to "clause 77(1)(f)(iii) as applicable" for Nova Scotia is too vague and asks the CSA to clarify that reference.

Response: Appendix D has been amended to clarify the reference to clause 77(1)(f)(iii) for Nova Scotia. Corresponding changes have been made to the Alberta, Newfoundland and Ontario references.

E. SPECIFIC COMMENTS ON THE PROPOSED FORMS

1. Form 45-102F1

Comment: One commentator believes that it is excessive to require an issuer to certify as to beneficial ownership of its securities without a knowledge qualification.

Response: The CSA have amended the form to provide that if, after reasonable effort, it was not possible to identify the beneficial owner, the filer is required to explain why and disclose the registered owner.

2. Form 45-102F3

Comment (i): One commentator notes that paragraph 8 of the proposed Form 45-102F3 uses the term "sales" while the current Form 23 in Ontario uses the term "distribution". The commentator suggests that "distribution" is more flexible and it should replace "sales" in Form 45-102F3.

Response: The CSA agree and have amended paragraph 8 of proposed Form 45-102F3 by replacing the word "sold" with "distributed".

Comment (ii): One commentator asks the CSA to clarify the type of pre-sale activities allowed in private sales that will not be considered as "acts in furtherance of a trade".

Response: The term "distribution" is defined in securities legislation and has been interpreted by securities commissions

and by the courts. The CSA do not consider it necessary to expand upon the meaning of "distribution" in the Instrument.

Comment (iii): One commentator states that it would be difficult for a creditor to state when the creditor decided to sell the securities as required by paragraph 11 of proposed Form 45-102F3.

Response: The language has been deleted.

Response: The CSA do not believe it is unduly difficult for an issuer to obtain the information referred to in section 1.14 of the Companion Policy at the time of the initial distribution.

F. SPECIFIC COMMENTS ON THE PROPOSED COMPANION POLICY

1. Connecting Jurisdiction (section 1.3 of the proposed Companion Policy)

Comment: One commentator considers the connecting jurisdiction concept in subsection 1.3(1) of the proposed Companion Policy is inappropriate as it changes the current state of the law. The commentator believes the current state of the law should be maintained so that a trade is only subject to the legislation of the jurisdictions in which the purchasers reside.

Response: Section 1.3 of the proposed Companion Policy has been deleted. The CSA believe it is more appropriate to deal with this issue in proposed MI 72-101 Distributions Outside of the Local Jurisdiction. Further, see section D7 Filing of the Forms above.

2. Resale of Securities of a Non-Reporting Issuer (section 1.9 of the proposed Companion Policy, now section 1.14 of the Companion Policy)

Comment (i): One commentator suggests that section 1.9 of the proposed Companion Policy should be moved to the Multilateral Instrument.

Response: The CSA do not consider it necessary to move section 1.9 of the proposed Companion Policy (now section 1.14 of the Companion Policy) to the Multilateral Instrument. The Companion Policy is designed to provide information relating to the manner in which the provisions of the Multilateral Instrument are intended to be interpreted or applied. Section 1.14 of the Companion Policy provides guidance on how certain information required in the Multilateral Instrument is to be obtained and accordingly the CSA consider it appropriate for this section to remain in the Companion Policy.

Comment (ii): One commentator believes section 1.9 of the proposed Companion Policy (now section 1.14 of the Companion Policy) imposes an unreasonable limit on Canadian residents in reselling foreign securities over foreign markets, if such resales are deemed to be distributions in Canada.

Response: The CSA believe the restrictions are appropriate.

Comment (iii): One commentator states it is difficult for sellers to obtain information required by section 1.9 of the proposed Companion Policy (now section 1.14 of the Companion Policy) to determine the percentage of securities holding in Canada, particularly if the information required is of a historical date.

MULTILATERAL INSTRUMENT 45-102
RESALE OF SECURITIES

APPENDIX.H

FORM 45-102F1

FORM 45-102F2

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**MULTILATERAL INSTRUMENT 45-102
RESALE OF SECURITIES**

PART 1 DEFINITIONS

1.1 Definitions - In this Instrument

"AIF" means an annual information form of an issuer;

"approved rating" means, for a security, a rating at or above one of the following rating categories issued by an approved rating organization for the security or a rating category that preceded or replaces a category listed below:

Approved Rating Organization	Long Term Debt	Short Term Debt	Preferred Shares
Dominion Bond Rating Service Limited	BBB	R-2	Pfd-3
Fitch, Inc.	BBB	F3	BBB
Moody's Investors Service, Inc.	Baa	Prime-3	baa
Standard & Poor's Corporation	BBB	A-3	BBB

"approved rating organization" means each of Dominion Bond Rating Service Limited, Fitch, Inc., Moody's Investors Service, Inc., Standard & Poor's Corporation, and any of their predecessors or successors;

"control distribution" means a trade described in the provisions of securities legislation listed in Appendix A;

"convertible security" means a security of an issuer that is convertible into, or carries the right of the holder to purchase or otherwise acquire, or of the issuer to cause the purchase or acquisition of, a security of the same issuer;

"CPC" means a capital pool company as defined in a CPC instrument and, in Manitoba, a keystone company as defined in Manitoba Securities Commission Rule 44-501 Keystone Companies;

"CPC information circular" means an information circular filed by an issuer and accepted under a CPC instrument in connection with a qualifying transaction;

"CPC instrument" means a rule or regulation of a jurisdiction, or a rule, regulation or policy of an exchange in Canada, that applies only to CPCs;

"current AIF" means

- (a) an AIF that is a current AIF filed under NI 44-101 in at least one of the jurisdictions listed in Appendix B,

- (b) an AIF that is a "Current AIF" as defined in NP 47 filed under NP 47 in at least one of the jurisdictions listed in Appendix B,

- (c) an AIF in the form required by Form 44-101F1 filed in at least one of the jurisdictions listed in Appendix B by an issuer not eligible to use NI 44-101 and containing audited financial statements for the issuer's most recently completed financial year,

- (d) an AIF that is a current AIF filed under British Columbia Instrument 45-506 or Alberta Rule 45-501,

- (e) a prospectus which has been filed in any jurisdiction that includes audited financial statements for the issuer's most recently completed financial year, other than

- (i) a short form prospectus filed under NI 44-101,

- (ii) a short form prospectus filed under NP 47, or

- (iii) a prospectus filed under a CPC instrument,

- (f) a CPC information circular filed in any jurisdiction that includes

- (i) audited financial statements for the issuer's most recently completed financial year,

- (ii) audited financial statements for the target issuer's most recently completed financial year, and

- (iii) a pro forma balance sheet that gives effect to the qualifying transaction accompanied by a compilation report of an auditor, and

- (g) a current annual report on Form 10-K or Form 20-F under the 1934 Act for the issuer's most recently completed financial year filed in any jurisdiction by an issuer that has securities registered under section 12 of the 1934 Act or has a reporting obligation under subsection 15(d) of the 1934 Act;

"distribution date" means

- (a) in respect of a trade that is not a control distribution, the date the security that is the subject of the trade was distributed in reliance on an exemption from the prospectus requirement by the issuer or, in the case of a control distribution, by the selling security holder,

- (b) in respect of a trade that is a control distribution, the date the security that is the subject of the trade was acquired by the selling security holder,

- (c) in respect of a trade of an underlying security that is not a control distribution, the date the

convertible security, exchangeable security or multiple convertible security that, directly or indirectly, entitled or required the holder to acquire the underlying security was distributed in reliance on an exemption from the prospectus requirement by the issuer or, in the case of a control distribution, by the selling security holder, or

- (d) in respect of a trade of an underlying security that is a control distribution, the date the convertible security, exchangeable security or multiple convertible security that, directly or indirectly, entitled or required the holder to acquire the underlying security was acquired by the selling security holder;

"exchangeable security" means a security of an issuer that is exchangeable for, or carries the right of the holder to purchase or otherwise acquire, or of the issuer to cause the purchase or acquisition of, a security of another issuer;

"multiple convertible security" means a security of an issuer that is convertible into, or exchangeable for, or carries the right of the holder to purchase or otherwise acquire, or of the issuer to cause the purchase or acquisition of, a convertible security, an exchangeable security or another multiple convertible security;

"NI 13-101" means National Instrument 13-101 System for Electronic Document Analysis and Retrieval (SEDAR);

"NI 43-101" means National Instrument 43-101 Standards of Disclosure for Mineral Projects;

"NI 44-101" means National Instrument 44-101 Short Form Prospectus Distributions;

"NP 47" means National Policy Statement No. 47 Prompt Offering Qualification System;

"NP 2-B" means National Policy Statement No. 2-B Guide for Engineers and Geologists Submitting Oil and Gas Reports to Canadian Provincial Securities Administrators in the form in place on the effective date of this Instrument;

"private company" has the meaning ascribed to that term in securities legislation;

"private issuer" has the meaning ascribed to that term in securities legislation except in Ontario where "private issuer" means a person that

- (a) is not a reporting issuer or a mutual fund,
- (b) is an issuer all of whose issued and outstanding shares
- (i) are subject to restrictions on transfer contained in the constating documents of the issuer or one or more agreements

among the issuer and the holders of its securities; and

- (ii) are beneficially owned, directly or indirectly, by not more than 50 persons or companies, counting any two or more joint registered holders as one beneficial owner, exclusive of persons

(A) that are employed by the issuer or an affiliated entity of the issuer, or

(B) that beneficially owned, directly or indirectly, shares of the issuer while employed by it or an affiliated entity of it and at all times since ceasing to be so employed have continued to beneficially own, directly or indirectly, at least one share of the issuer, and

- (c) has not distributed any securities to the public;

"qualified market" means any of

- (a) The Toronto Stock Exchange Inc.,
- (b) Tier 1 or Tier 2 of the Canadian Venture Exchange Inc.,
- (c) Bourse de Montréal Inc.,
- (d) the American Stock Exchange,
- (e) Nasdaq National Market,
- (f) Nasdaq SmallCap Market,
- (g) the New York Stock Exchange,
- (h) the London Stock Exchange Limited, and
- (i) any predecessor or successor to any of the entities referred to in paragraphs (a) through (h);

"qualifying issuer" means an issuer

- (a) that is a reporting issuer in a jurisdiction listed in Appendix B,
- (b) that is an electronic filer under NI 13-101,
- (c) that has a current AIF filed on SEDAR,
- (d) that
- (i) has a class of equity securities listed or quoted on a qualified market, has not been notified by the qualified market that it does not meet the requirements to maintain that listing or quotation and is not designated inactive, suspended or the equivalent, or
- (ii) has a class of securities outstanding that has an approved rating,

- (e) if it is not qualified to file a short form prospectus under NI 44-101, or prior to the effective date of NI 44-101 was not qualified to file a short form prospectus under NP 47, and has a mineral project or oil and gas producing activities, including exploration, that has filed with its current AIF, as if the current AIF were a prospectus, technical reports in accordance with NI 43-101 if the current AIF was filed after the effective date of NI 43-101, or a technical report and certificate prepared in accordance with NP 2-B,
- (f) that, if it has received a notice in writing from any regulator that its current AIF, including any technical reports, is unacceptable, has satisfied the regulator that its current AIF is acceptable, and
- (g) that, if it is a CPC, has filed a CPC information circular;

"qualifying transaction" means a transaction that, if completed, would result in the issuer no longer being a CPC;

"SEDAR" has the meaning ascribed to that term in NI 13-101; and

"underlying security" means a security issued or transferred, or to be issued or transferred, in accordance with the terms of a convertible security, an exchangeable security or a multiple convertible security.

PART 2 FIRST TRADES

- 2.1 Application** - Except for sections 2.1, 2.8 and 2.9, this Part does not apply in Manitoba, New Brunswick, Prince Edward Island and the Yukon Territory.
- 2.2 Removal of Resale Provisions** - The provisions in securities legislation listed in Appendix C do not apply.
- 2.3 Section 2.5 Applies** - If a security was distributed under any of the provisions listed in Appendix D, the first trade of that security is subject to section 2.5.
- 2.4 Section 2.6 Applies** - If a security was distributed under any of the provisions listed in Appendix E, the first trade of that security is subject to section 2.6.
- 2.5 Restricted Period**
 - (1) Unless the conditions in subsection (2) or (3) are satisfied, a trade that is specified by section 2.3 or other securities legislation to be subject to this section is a distribution.
 - (2) If the issuer of the securities was a qualifying issuer at the distribution date, the conditions are:

- 1. The issuer is and has been a reporting issuer in a jurisdiction listed in Appendix B for the four months immediately preceding the trade.
- 2. At least four months have elapsed from the distribution date.
- 3. If the distribution date is on or after the effective date of this Instrument, a certificate representing the securities was issued that carried a legend stating:

"Unless permitted under securities legislation, the holder of the securities shall not trade the securities before [insert the date that is four months and a day after the distribution date]."
- 4. The trade is not a control distribution.
- 5. No unusual effort is made to prepare the market or to create a demand for the securities that are the subject of the trade.
- 6. No extraordinary commission or consideration is paid to a person or company in respect of the trade.
- 7. If the selling security holder is an insider or officer of the issuer, the selling security holder has no reasonable grounds to believe that the issuer is in default of securities legislation.

(3) If the issuer of the securities was not a qualifying issuer at the distribution date, the conditions are:

- 1. The issuer is and has been a reporting issuer for the 12 months immediately preceding the trade
 - (a) in a jurisdiction listed in Appendix B, if the issuer is an electronic filer under NI 13-101; or
 - (b) in the local jurisdiction of the purchaser of the securities that are the subject of the trade, if the issuer is not an electronic filer under NI 13-101.
- 2. At least 12 months have elapsed from the distribution date.
- 3. If the distribution date is on or after the effective date of this Instrument, a certificate representing the securities was issued that carried a legend
 - (a) if the issuer is a reporting issuer in a jurisdiction listed in Appendix B and is an electronic filer under NI 13-101 on the distribution date, stating:

"Unless permitted under securities legislation, the holder of the securities shall not trade the securities before [insert the date that is 12 months and a day after the distribution date]."; or

- (b) if the issuer is not a reporting issuer in a jurisdiction listed in Appendix B at the distribution date, stating:

"Unless permitted under securities legislation, the holder of the securities shall not trade the securities before the earlier of (i) the date that is 12 months and a day after the date the issuer first became a reporting issuer in any of Alberta, British Columbia, Manitoba, Nova Scotia, Ontario, Quebec and Saskatchewan, if the issuer is a SEDAR filer; and (ii) the date that is 12 months and a day after the later of (A) the distribution date, and (B) the date the issuer became a reporting issuer in the local jurisdiction of the purchaser of the securities that are the subject of the trade."

4. The trade is not a control distribution.
5. No unusual effort is made to prepare the market or to create a demand for the securities that are the subject of the trade.
6. No extraordinary commission or consideration is paid to a person or company in respect of the trade.
7. If the selling security holder is an insider or officer of the issuer, the selling security holder has no reasonable grounds to believe that the issuer is in default of securities legislation.

2.6 Seasoning Period

- (1) Unless the conditions in subsection (3), (4) or (5) are satisfied, a trade that is specified by section 2.4 or other securities legislation to be subject to this section is a distribution.
- (2) The first trade of securities issued by a private company or private issuer made after the issuer has ceased to be a private company or private issuer is a distribution unless the conditions in subsection (4) are satisfied.
- (3) If the issuer of the securities was a qualifying issuer at the distribution date, the conditions are:
 1. The issuer is and has been a reporting issuer in a jurisdiction listed in Appendix B

for the four months immediately preceding the trade.

2. The trade is not a control distribution.
 3. No unusual effort is made to prepare the market or to create a demand for the securities that are the subject of the trade.
 4. No extraordinary commission or consideration is paid to a person or company in respect of the trade.
 5. If the selling security holder is an insider or officer of the issuer, the selling security holder has no reasonable grounds to believe that the issuer is in default of securities legislation.
- (4) If the issuer of the securities was not a qualifying issuer at the distribution date, the conditions are:
1. The issuer is and has been a reporting issuer for the 12 months immediately preceding the trade
 - (a) in a jurisdiction listed in Appendix B, if the issuer is an electronic filer under NI 13-101; or
 - (b) in the local jurisdiction of the purchaser of the securities that are the subject of the trade, if the issuer is not an electronic filer under NI 13-101.
 2. The trade is not a control distribution.
 3. No unusual effort is made to prepare the market or to create a demand for the securities that are the subject of the trade.
 4. No extraordinary commission or consideration is paid to a person or company in respect of the trade.
 5. If the selling security holder is an insider or officer of the issuer, the selling security holder has no reasonable grounds to believe that the issuer is in default of securities legislation.
- (5) Despite subsection (4), if
- (a) the selling security holder acquired the securities under any of the provisions listed in Appendix F or a provision of securities legislation that specifies that the first trade of securities distributed to an employee, executive, consultant or administrator is subject to this section, and
 - (b) the issuer of the securities became a qualifying issuer after the distribution date by filing a prospectus in a jurisdiction listed

in Appendix B and listing or quoting a class of its equity securities on a qualified market,

the conditions are the issuer is and has been a reporting issuer in a jurisdiction listed in Appendix B for the four months immediately preceding the trade and the conditions in items (4)2., 3., 4. and 5.

2.7 Filing of Forms 45-102F1 and 45-102F2

(1) If an issuer ceases to be a private company or private issuer on or after the effective date of this Instrument, the issuer shall file Form 45-102F1.

(2) If

(a) an issuer, or a selling security holder in the case of a control distribution, has distributed securities under any of the provisions listed in Appendix D or E or a provision of securities legislation that specifies that the first trade of the securities is subject to section 2.5 or 2.6,

(b) the distribution date is on or after the effective date of this Instrument, and

(c) the issuer was a qualifying issuer on the distribution date,

the issuer, or the selling security holder in the case of a control distribution, shall file Form 45-102F2 on or before the tenth day after the distribution date.

(3) If

(a) an issuer has distributed securities under any of the provisions listed in Appendix F or a provision of securities legislation that specifies that the first trade of securities distributed to an employee, executive, consultant or administrator is subject to section 2.6,

(b) the issuer was not a qualifying issuer on the distribution date, and

(c) the issuer becomes a qualifying issuer on or after the effective date of this Instrument by filing a prospectus in a jurisdiction listed in Appendix B and listing or quoting a class of its equity securities on a qualified market,

the issuer shall file Form 45-102F2.

(4) The issuer, or the selling security holder in the case of a control distribution, shall file Form 45-102F2 on SEDAR.

2.8 Exemption for a Trade by a Control Person

(1) The prospectus requirement does not apply to a control distribution, or a distribution by a lender,

pledgee, mortgagee or other encumbrancer for the purpose of liquidating a debt made in good faith by selling or offering for sale a security pledged, mortgaged or otherwise encumbered in good faith as collateral for the debt if the security was acquired by the lender, pledgee, mortgagee or other encumbrancer in a control distribution, if the conditions in subsections (2) or (3) are satisfied.

(2) If the issuer of the securities was a qualifying issuer at the distribution date, the conditions are:

1. The issuer is and has been a reporting issuer in a jurisdiction listed in Appendix B for the four months immediately preceding the trade.

2. The selling security holder, or the lender, pledgee, mortgagee or other encumbrancer if the distribution is for the purpose of liquidating a debt, has held the securities for at least four months.

3. No unusual effort is made to prepare the market or to create a demand for the securities that are the subject of the trade.

4. No extraordinary commission or consideration is paid to a person or company in respect of the trade.

5. The selling security holder has no reasonable grounds to believe that the issuer is in default of securities legislation.

(3) If the issuer of the securities was not a qualifying issuer at the distribution date, the conditions are:

1. The issuer is and has been a reporting issuer for the 12 months immediately preceding the trade

(a) in a jurisdiction listed in Appendix B, if the issuer is an electronic filer under NI 13-101; or

(b) in the local jurisdiction of the purchaser of the securities that are the subject of the trade, if the issuer is not an electronic filer under NI 13-101.

2. No unusual effort is made to prepare the market or to create a demand for the securities that are the subject of the trade.

3. No extraordinary commission or consideration is paid to a person or company in respect of the trade.

4. The selling security holder has no reasonable grounds to believe that the issuer is in default of securities legislation.

5. The selling security holder, or the lender, pledgee, mortgagee or other encumbrancer if the distribution is for the purpose of liquidating a debt has held the securities for
 - (a) at least 12 months, if the securities were distributed to the selling security holder under any of the provisions listed in Appendix D or a provision of securities legislation that specifies that the first trade of the securities is subject to section 2.5, and
 - (b) in all other cases, at least six months.
- (4) The selling security holder, or the lender, pledgee, mortgagee or other encumbrancer if the distribution is for the purpose of liquidating a debt, under subsection (2) or (3) shall
 - (a) sign and file Form 45-102F3 at the times set out in subsections (6) and (7), and
 - (b) file, within three days after the completion of any trade, a report of the trade in the form required to be filed by a person or company in order to comply with the insider reporting requirements.
- (5) A person or company required to file Form 45-102F3 shall sign the form no earlier than one business day before its filing.
- (6) Subject to subsections (7) and (8), a person or company required to file Form 45-102F3 shall file the form
 - (a) at least seven days and not more than 14 days before the first trade that forms part of the distribution,
 - (b) on the 60th day after the date of filing under paragraph (a), and
 - (c) thereafter at the end of each 28 day period.
- (7) Subject to subsection (8), if a person or company has filed a Form 23 Notice of Intention to Distribute Securities or equivalent form before the effective date of this Instrument, the person or company shall file Form 45-102F3
 - (a) on the 60th day after the date of filing of the Form 23 or equivalent form, and thereafter at the end of each 28 day period, or
 - (b) on the 28th day after the date of filing of the renewal Form 23 or equivalent form, and thereafter at the end of each 28 day period, if a renewal form has been filed before the effective date of this Instrument.
- (8) A person or company is not required to file Form 45-102F3 under paragraph 6(b), 6(c), 7(a) or 7(b) if

- (a) all of the securities specified under the original form have been sold, or
- (b) a notice has been filed in the jurisdictions in which a Form 45-102F3 would otherwise have been filed, which states that the securities specified under the original form, or the unsold part, are no longer for sale.

2.9 Determining Time Periods

- (1) In determining the period of time that an issuer has been a reporting issuer for the purposes of section 2.6 or 2.8, in the case of securities distributed under any of the provisions listed in Appendix G, the period of time that one of the amalgamating, merging or continuing issuers was a reporting issuer immediately before the amalgamation, merger or continuation may be included.
- (2) In determining the period of time that a selling security holder has held a security for the purposes of section 2.5 or 2.8, if the security was acquired by the selling security holder from an affiliate of the selling security holder, the period of time that the security had been held by the affiliate before the transfer to the selling security holder may be included.
- (3) In determining the period of time that a selling security holder has held an underlying security for the purposes of section 2.8, the period of time the selling security holder has held the convertible security, exchangeable security or multiple convertible security may be included.
- (4) In determining the period of time that a lender, pledgee, mortgagee or other encumbrancer has held a security under item 2.8(2)2. or 2.8(3)5., the period of time the security has been held by the debtor may be included.
- (5) In determining the period of time that a lender, pledgee, mortgagee or other encumbrances has held an underlying security under item 2.8(2) or 2.8(3)(5), the period of time the convertible security, exchangeable security or multiple convertible security has been held by the debtor may be included.

2.10 Exemption for a Trade in an Underlying Security if the Convertible Security, Exchangeable Security or Multiple Convertible Security is Qualified by a Prospectus - Section 2.6 does not apply to a trade in an underlying security issued or transferred under the terms of a convertible security, exchangeable security or multiple convertible security if

- (a) a receipt was obtained for a prospectus qualifying the distribution of the convertible security, exchangeable security or multiple convertible security;
- (b) the trade is not a control distribution; and

- (c) the issuer of the underlying security is a reporting issuer at the time of the trade.

2.11 Exemption for a Trade in a Security Acquired in a Take-over Bid or Issuer Bid - Section 2.6 does not apply to a trade of a security of an offeror acquired by the selling security holder upon the exchange by or for the account of the offeror with the security holders of the offeree issuer in connection with a take-over bid or issuer bid if

- (a) when the exemption from the prospectus requirement was relied upon, a securities exchange take-over bid circular or securities exchange issuer bid circular relating to the distribution of the securities was filed by the offeror on SEDAR;
- (b) the trade is not a control distribution; and
- (c) the offeror was a reporting issuer on the date securities of the offeree issuer are first taken up under the take-over bid or issuer bid.

2.12 Exemption for a Trade in an Underlying Security if the Convertible Security, Exchangeable Security or Multiple Convertible Security is Qualified by a Securities Exchange Take-over Bid Circular or Issuer Bid Circular - Section 2.6 does not apply to a trade in an underlying security issued or transferred under the terms of a convertible security, exchangeable security or multiple convertible security if

- (a) when the exemption from the prospectus requirement was relied upon, a securities exchange take-over bid circular or a securities exchange issuer bid circular relating to the distribution of the convertible security, exchangeable security or multiple convertible security was filed by the offeror on SEDAR;
- (b) the trade is not a control distribution;
- (c) the offeror was a reporting issuer on the date securities of the offeree issuer are first taken up under the take-over bid or issuer bid; and
- (d) the issuer of the underlying security is a reporting issuer at the time of the trade.

2.13 Trades by Underwriters - A trade by an underwriter of securities distributed under any of the provisions listed in Appendix H is a distribution.

2.14 First Trades in Securities of a Non-Reporting Issuer Distributed under a Prospectus Exemption

- (1) The prospectus requirement does not apply to the first trade of a security distributed under an exemption from the prospectus requirement if

- (a) the issuer of the security was not a reporting issuer in any jurisdiction at the distribution date;

- (b) at the distribution date, after giving effect to the issue of the security and any other securities of the same class and series that were issued at the same time as or as part of the same distribution as the security, residents of Canada

- (i) did not own directly or indirectly more than 10 percent of the outstanding securities of the class or series, and
- (ii) did not represent in number more than 10 percent of the total number of owners directly or indirectly of securities of the class or series; and

- (c) the trade is made

- (i) through an exchange, or a market, outside of Canada, or
- (ii) to a person or company outside of Canada;

- (2) The prospectus requirement does not apply to the first trade of an underlying security if

- (a) the convertible security, exchangeable security or multiple convertible security that, directly or indirectly, entitled or required the holder to acquire the underlying security was distributed under an exemption from the prospectus requirement;

- (b) the issuer of the underlying security was not a reporting issuer in any jurisdiction at the distribution date of the convertible security, exchangeable security or multiple convertible security;

- (c) the conditions in paragraph (1)(b) would have been satisfied for the underlying security at the time of the initial distribution of the convertible security, exchangeable security or multiple convertible security; and

- (d) the condition in paragraph (1)(c) is satisfied.

PART 3 CURRENT AIF FILING REQUIREMENTS

3.1 Current AIF

- (1) An issuer that has not filed an AIF

- (a) under NI 44-101, or

- (b) prior to the effective date of NI 44-101, under NP 47

may file a current AIF under this Instrument at any time.

(2) An issuer filing a current AIF as defined in paragraphs (c), (d), (e), (f) or (g) of the definition of current AIF shall file a notice on SEDAR

(a) advising that it has filed a current AIF, and

(b) identifying the SEDAR project number under which the current AIF was filed.

PART 4 EXEMPTION

4.1 Exemption

(1) The regulator or the securities regulatory authority may grant an exemption from this Instrument, in whole or in part, subject to such conditions or restrictions as may be imposed in the exemption.

(2) Despite subsection (1), in Ontario, only the regulator may grant such an exemption.

PART 5 EFFECTIVE DATE

5.1 Effective Date - This Instrument comes into force on November 30, 2001.

**APPENDIX A
TO
MULTILATERAL INSTRUMENT 45-102
RESALE OF SECURITIES**

CONTROL DISTRIBUTIONS

JURISDICTION	SECURITIES LEGISLATION REFERENCE
Alberta	Sections 1(c.2) and 1(f)(iii) of the <i>Securities Act</i> (Alberta)
British Columbia	Paragraph (c) of the definition of "distribution" contained in section 1(1) of the <i>Securities Act</i> (British Columbia)
Manitoba	Paragraph (b) of the definition of "primary distribution to the public" contained in subsection 1(1) of the <i>Securities Act</i> (Manitoba)
Newfoundland	Clause 2(1)(l)(iii) of the <i>Securities Act</i> (Newfoundland)
Northwest Territories	Definition of "control person" and paragraph (iii) of the definition of "distribution" contained in subsection 1(1) of Blanket Order No. 1 of the Registrar of Securities.
Nova Scotia	Clause 2(1)(l)(iii) of the <i>Securities Act</i> (Nova Scotia)
Nunavut	Definition of "control person" and paragraph (iii) of the definition of "distribution" contained in subsection 1(1) of Blanket Order No. 1 of the Registrar of Securities.
Ontario	Paragraph (c) of the definition of "distribution" contained in subsection 1(1) of the <i>Securities Act</i> (Ontario)
Saskatchewan	Subclauses 2(1)(r)(iii), (iv) and (v) of <i>The Securities Act, 1988</i> (Saskatchewan)

**APPENDIX B
TO
MULTILATERAL INSTRUMENT 45-102
RESALE OF SECURITIES**

REPORTING ISSUER JURISDICTIONS

Alberta
British Columbia
Manitoba
Nova Scotia
Ontario
Quebec
Saskatchewan

**APPENDIX C
TO
MULTILATERAL INSTRUMENT 45-102
RESALE OF SECURITIES**

**NON-APPLICABLE RESALE PROVISIONS
(Section 2.2)**

JURISDICTION	SECURITIES LEGISLATION REFERENCE
Alberta	Sections 109, 109.1, 110, 110.1, 110.2, 111 with respect to underwriters and 112 of the <i>Securities Act</i> (Alberta)
Nova Scotia	Subsections 77(5), 77(6), 77(7), 77(7A), 77(7B), 77(8), 77(9), 77(10)(a) and 77(11) of the <i>Securities Act</i> (Nova Scotia)
Ontario	Subsections 72(4) (except as referred to in Rule 45-503 Trades to Employees, Executives and Consultants), 72(5), 72(6) as it relates to clause 72(1)(r), and 72(7) of the <i>Securities Act</i> (Ontario)

**APPENDIX D
TO
MULTILATERAL INSTRUMENT 45-102
RESALE OF SECURITIES**

**RESTRICTED PERIOD TRADES
(Section 2.3)**

Sections 107(1)(a), (b), (c), (d), (l), (m), (p), (q), (t), (t.1), (u) and (z) of the *Securities Act* (Alberta), and section 107(1)(f)(iii) of the *Securities Act* (Alberta) if the right to purchase, convert or exchange was previously acquired under one of the above-listed exemptions under the *Securities Act* (Alberta)

Sections 74(2)(1) to (6), (16), (18), (19), (23) and (25) of the *Securities Act* (British Columbia)

Sections 128(a), (b), (c), (e), (f) and (h) of the *Securities Rules* (British Columbia)

Sections 74(2)(11)(ii) and 74(2)(13) of the *Securities Act* (British Columbia) if the security acquired by the selling security holder was initially acquired by a person or company under any of the sections of the *Securities Act* (British Columbia), or the *Securities Rules* (British Columbia) referred to in this Appendix

Section 74(2)(12) of the *Securities Act* (British Columbia) if the security acquired by the selling security holder under the realization on collateral was initially acquired by a person or company under any of the sections of the *Securities Act* (British Columbia) or the *Securities Rules* (British Columbia) referred to in this Appendix

Clauses 73(1)(a), (b), (c), (d), (l), (m), (p) and (q) of the *Securities Act* (Newfoundland) and subclause 73(1)(f)(iii) of the *Securities Act* (Newfoundland) if the right to purchase, convert or exchange was previously acquired under one of the above listed exemptions under the *Securities Act* (Newfoundland)

Paragraphs 3(a), (b), (c), (k), (l), (m), (r), (s), (t), (u), (w) and (z), and clause 3(e)(iii) of Blanket Order No. 1 of the Registrar of Securities (Northwest Territories)

Clauses 77(1)(a), (b), (c), (d), (l), (m), (p), (q), (u), (w), (y), (ab) and (ad) of the *Securities Act* (Nova Scotia), and subclause 77(1)(f)(iii) of the *Securities Act* (Nova Scotia) if the right to purchase, convert or exchange was previously acquired under one of the above listed exemptions under the *Securities Act* (Nova Scotia)

Paragraphs 3(a), (b), (c), (k), (l), (m), (r), (s), (t), (u), (w) and (z), and clause 3(e)(iii) of Blanket Order No.1 of the Registrar of Securities (Nunavut)

Clauses 72(1)(a), (b), (c), (d), (l), (m), (p) and (q) of the *Securities Act* (Ontario) and subclause 72(1)(f)(iii) of the *Securities Act* (Ontario) if the right to purchase, convert or exchange was previously acquired under one of the above-listed exemptions under the *Securities Act* (Ontario)

Clauses 81(1)(a), (b), (c), (d), (m), (n), (s), (t), (v), (w), (z), (bb) and (ee) of *The Securities Act, 1988* (Saskatchewan)

Subclauses 81(1)(f)(iii) and (iv) of *The Securities Act, 1988* (Saskatchewan) if the convertible security, exchangeable security or multiple convertible security was acquired under one of the exemptions of *The Securities Act, 1988* (Saskatchewan) referred to in this Appendix

Clause 81(1)(e) of *The Securities Act, 1988* (Saskatchewan) if the person or company from whom the securities were acquired obtained the securities under one of the exemptions of *The Securities Act, 1988* (Saskatchewan) referred to in this Appendix

APPENDIX E
TO
MULTILATERAL INSTRUMENT 45-102
RESALE OF SECURITIES

SEASONING PERIOD TRADES
(Section 2.4)

Sections 107(1)(f) if not included in Appendix D of this Instrument, (i), (j), (j.1), (k), (k.1) prior to its repeal by section 5 of the *Securities Amendment Act, 1989* (Alberta), and (n) of the *Securities Act* (Alberta)

Sections 74(2)(7) to (11), (13), (22) and (24) of the *Securities Act* (British Columbia)

Section 128(g) of the *Securities Rules* (British Columbia)

Section 74(2)(12) of the *Securities Act* (British Columbia), if the security acquired by the selling security holder under the realization on collateral was initially acquired by a person or company under any of the sections of the *Securities Act* (British Columbia) or the *Securities Rules* (British Columbia) referred to in this Appendix

Clauses 73(1)(f) if not included in Appendix D of this Instrument, (i), (j), (k) and (n) of the *Securities Act* (Newfoundland)

Clauses 3(e)(i) and (ii) and paragraphs 3(f), (g), (h), (i), (n), (x), (y) and (mm) of Blanket Order No. 1 of the Registrar of Securities (Northwest Territories)

Clause 77(1)(f) of the *Securities Act* (Nova Scotia) if not included in Appendix D of this Instrument, and clauses 77(1)(h), (i), (j), (k), (n), (v), (va), (ac), (ae) and (af) of the *Securities Act* (Nova Scotia), and clause 78(1)(a) of the *Securities Act* (Nova Scotia) as it relates to clause 41(2)(j) of the *Securities Act* (Nova Scotia) and Blanket Order No. 5A

Clauses 3(e)(i) and (ii) and paragraphs 3(f), (g), (h), (i), (n), (x), (y) and (mm) of Blanket Order No. 1 of the Registrar of Securities (Nunavut)

Clauses 72(1)(f), (i), (j), (k) and (n) of the *Securities Act* (Ontario), except for a trade made under subclause 72(1)(f)(iii) of the *Securities Act* (Ontario) that is

- (i) included in Appendix D of this Instrument,
- (ii) to an associated consultant or investor consultant as defined in Ontario Securities Commission Rule 45-503 Trades to Employees, Executives and Consultants, or
- (iii) contemplated by section 6.5 of Ontario Securities Commission Rule 45-501 Exempt Distributions

Clauses 81(1)(a.1), (e) if not included in Appendix D of this Instrument, (f) if not included in Appendix D of this Instrument, (f.1), (g), (h), (i), (i.1), (j), (k), (o), (cc) and (dd) of *The Securities Act, 1988* (Saskatchewan)

APPENDIX F
TO
MULTILATERAL INSTRUMENT 45-102
RESALE OF SECURITIES

EMPLOYEE TRADES
(Section 2.6)

Sections 107(1)(f)(iii) (if the convertible security was distributed under section 107(1)(n)) and (n) of the *Securities Act* (Alberta)

Sections 74(2)(9) and 74(2)(11)(iii) (if the convertible security was distributed under section 74(2)(9) of the *Securities Act* (British Columbia) or under British Columbia Instrument 45-507 Trades to Employees, Executives and Consultants (other than to an associated consultant or investor consultant)) of the *Securities Act* (British Columbia)

Sections 73(1)(f)(iii) (if the convertible security was distributed under section 73(1)(n)) and (n) of the *Securities Act* (Newfoundland)

Paragraphs 3(e) (if the convertible security was distributed under paragraph 3(n)) and (n) of Blanket Order No. 1 of the Registrar of Securities (Northwest Territories)

Subclause 77(1)(f)(iii) (if the convertible security was distributed under clause 77(1)(n)) and clause 77(1)(n) of the *Securities Act* (Nova Scotia) and Blanket Order No. 5A

Paragraphs 3(e) (if the convertible security was distributed under paragraph 3(n)) and (n) of Blanket Order No. 1 of the Registrar of Securities (Nunavut)

Subclause 72(1)(f)(iii) (if the convertible security was distributed under clause 72(1)(n) of the *Securities Act* (Ontario) or under Ontario Securities Commission Rule 45-503 Trades to Employees, Executives and Consultants (other than to an associated consultant or investor consultant)) and clause 72(1)(n) of the *Securities Act* (Ontario)

Subclause 81(1)(f)(iii) (if the convertible security was distributed under clause 81(1)(o)) and clause 81(1)(o) of *The Securities Act, 1988* (Saskatchewan)

**APPENDIX G
TO
MULTILATERAL INSTRUMENT 45-102
RESALE OF SECURITIES**

**AMALGAMATIONS OR MERGERS
(Section 2.9)**

Section 107(1)(i) of the *Securities Act* (Alberta)
Section 74(2)(8) of the *Securities Act* (British Columbia)
Clause 58(1)(b) of the *Securities Act* (Manitoba)
Clause 73(1)(i) of the *Securities Act* (Newfoundland)
Paragraph 3(g) of Blanket Order No.1 of the Registrar of Securities (Northwest Territories)
Clause 77(1)(i) of the *Securities Act* (Nova Scotia)
Paragraph 3(g) of Blanket Order No. 1 of the Registrar of Securities (Nunavut)
Clause 72(1)(i) of the *Securities Act* (Ontario) and section 2.8 of Rule 45-501 Exempt Distributions
Clause 2(3)(k) of the *Securities Act* (Prince Edward Island)
Clause 81(1)(i) of *The Securities Act, 1988* (Saskatchewan)

**APPENDIX H
TO
MULTILATERAL INSTRUMENT 45-102
RESALE OF SECURITIES**

**UNDERWRITERS
(Section 2.13)**

Section 107(1)(u.1) of the *Securities Act* (Alberta)
Section 74(2)(15) of the *Securities Act* (British Columbia)
Clause 73(1)(r) of the *Securities Act* (Newfoundland)
Paragraph 3(v) of Blanket Order No.1 of the Registrar of Securities (Northwest Territories)
Clause 77(1)(r) of the *Securities Act* (Nova Scotia)
Paragraph 3(v) of Blanket Order No. 1 of the Registrar of Securities (Nunavut)
Clause 72(1)(r) of the *Securities Act* (Ontario)
Clause 81(1)(u) of *The Securities Act, 1988* (Saskatchewan)

FORM 45-102F1

Report Made under Subsection 2.7(1) of Multilateral Instrument 45-102 Resale of Securities with respect to an Issuer that has Ceased to be a Private Company or Private Issuer

1. Name and address of the issuer that has ceased to be a private company or private issuer.
2. Date when the issuer ceased to be a private company or private issuer.
3. Jurisdiction of incorporation, organization or continuation of the issuer.
4. List, as of the time immediately before the issuer ceased to be a private company or private issuer, the number or amount and designation of the authorized and outstanding securities of each class of securities of the issuer.
5. Particulars of the outstanding securities.

Name of Owner of Securities and Municipality and Jurisdiction of Residence	Number or Amount	Designation of Securities
----------------------------------------------------------------------------	------------------	---------------------------

If, after reasonable effort, it was not possible to identify the beneficial owner, explain why and disclose the registered owner.

6. The issuer has prepared, certified and delivered to the securities regulatory authority a statement containing the full legal name of, the full residential address of, and the number or amount and designation of securities of the issuer held by, each person or company who was a beneficial owner of securities of the issuer immediately before the issuer ceased to be a private company or private issuer and, if, after reasonable effort, it was not possible to identify the beneficial owner at the time the statement was delivered, has explained why.

(Make certain the totals as to beneficial and as to registered owners given in this item reconcile, in each case, with the totals given in items 4 and 5.)

7. The undersigned certifies that the information given in this report is true and complete in every respect.

Date
 (name of issuer that has ceased to be a private company or private issuer)

By:.....
 (signature)

.....
 (official capacity)

.....
 (name of individual whose signature appears above)

INSTRUCTION:

If the issuer ceases to be a private company or private issuer on or after the effective date of Multilateral Instrument 45-102, file this form with the securities regulatory authority in each jurisdiction in which the issuer has ceased to be a private company or private issuer and section 2.7 of Multilateral Instrument 45-102 has been implemented. Section 2.7 has been implemented in Alberta, British Columbia, Newfoundland, Northwest Territories, Nova Scotia, Nunavut, Ontario and Saskatchewan.

Notice - Collection and Use of Personal Information

The personal information required under this form is collected on behalf of and used by the securities regulatory authorities set out below for the purposes of the administration and enforcement of the securities legislation in Alberta, British Columbia, Newfoundland, Northwest Territories, Nova Scotia, Nunavut, Ontario and Saskatchewan. All of the information required under this form, except for the information contained in the statement required under item 6, is made available to the public pursuant to Multilateral Instrument 45-102 and the securities legislation in each of the jurisdictions indicated above. If you have any questions about the collection and use of this information, contact the securities regulatory authorities in the jurisdiction(s) in which the form is filed, at the address(es) set out below.

Alberta Securities Commission

4th Floor, 300 - 4th Avenue SW
Calgary, AB T2P 3C4
Attention: Information Officer
Telephone: (403) 297-6454
Facsimile: (403) 297-6156

British Columbia Securities Commission

P.O. Box 10142, Pacific Centre
701 West Georgia Street
Vancouver, B.C. V7Y 1L2
Attention: Manager, Financial and Insider Reporting
Telephone: (604) 899-6730 or (800) 373-6393 (in B.C.)
Facsimile: (604) 899-6506

Securities Commission of Newfoundland

P.O. Box 8700
2nd Floor, West Block
Confederation Building
75 O'Leary Avenue
St. John's NFLD A1B 4J6
Attention: Director of Securities
Telephone: (709) 729-4189
Facsimile: (709) 729-6187

Department of Justice, Northwest Territories

Legal Registries
P.O. Box 1320
1st Floor, 5009-49th Street
Yellowknife, NWT X1A 2L9
Attention: Director, Legal Registries
Telephone: (867) 873-7490
Facsimile: (867) 873-0243

Nova Scotia Securities Commission

2nd Floor, Joseph Howe Building
1690 Hollis Street
Halifax, NS B3J 3J9
Attention: Corporate Finance
Telephone: (902) 424-7768
Facsimile: (902) 424-4625

Department of Justice, Nunavut

Legal Registries Division
P.O. Box 1000 - Station 570
1st Floor, Brown Building
Iqaluit, NT X0A 0H0
Attention: Director, Legal Registries Division
Telephone: (867) 975-6190
Facsimile: (867) 975-6194

Ontario Securities Commission

Suite 1903, Box 55
20 Queen Street West
Toronto, ON M5H 3S8
Attention: Administrative Assistant to the Director of Corporate Finance
Telephone: (416) 593-8200
Facsimile: (416) 593-8177

Saskatchewan Securities Commission

800 - 1920 Broad Street
Regina, SK S4P 3V7
Attention: Deputy Director, Legal
Telephone: (306) 787-5879
Facsimile: (306) 787-5899

FORM 45-102F2

Certificate under Subsection 2.7(2) or (3) of
Multilateral Instrument 45-102 Resale of Securities

Complete 1. or 2.

1. [Name of Issuer or Selling Security Holder] has distributed securities under a provision listed in Appendix D or E to Multilateral Instrument 45-102 or a provision of securities legislation that specifies that the first trade of the securities is subject to section 2.5 or 2.6 of Multilateral Instrument 45-102 and hereby certifies that in respect of a distribution on [date] of [amount or number and type of securities] of [Name of Issuer], [Name of Issuer] was a qualifying issuer within the meaning of Multilateral Instrument 45-102 Resale of Securities at the distribution date.
2. [Name of Issuer] has distributed securities under a provision listed in Appendix F to Multilateral Instrument 45-102 or a provision of securities legislation that specifies that the first trade of securities distributed to an employee, executive, consultant or administrator is subject to section 2.6 of Multilateral Instrument 45-102 and hereby certifies that in respect of a distribution on [date] of [amount or number and type of securities] of [Name of Issuer], [Name of Issuer] became after the distribution date by filing a prospectus in a jurisdiction listed in Appendix B to Multilateral Instrument 45-102 and listing or quoting a class of its equity securities on a qualified market, and now is, a qualifying issuer within the meaning of Multilateral Instrument 45-102.

DATED at _____ this ____ day of _____, 2__.

[Name of Issuer or Selling Security Holder]

By: _____
[type name]
[title]

INSTRUCTIONS:

1. If the distribution date is on or after the effective date of Multilateral Instrument 45-102 and the issuer or selling security holder has completed 1. above, file this form on or before the tenth day after the distribution date with the securities regulatory authority in each jurisdiction in which a purchaser of the securities is located and section 2.7 of Multilateral Instrument 45-102 has been implemented. Section 2.7 has been implemented in Alberta, British Columbia, Newfoundland, Northwest Territories, Nova Scotia, Nunavut, Ontario and Saskatchewan.
2. If the issuer has completed 2. above, file this form with the securities regulatory authority in each jurisdiction in which a purchaser of the securities is located and section 2.7 of Multilateral Instrument 45-102 has been implemented.

FORM 45-102F3

Notice of Intention to Distribute Securities and Accompanying Declaration under Section 2.8 of Multilateral Instrument 45-102 Resale of Securities

- 1. Name and address of reporting issuer
- 2. Date and jurisdictions where issuer became a reporting issuer

<u>Date</u>	<u>Jurisdiction</u>
.....	
.....	
- 3. Name and address of the selling security holder
- 4. State whether the selling security holder is an insider or officer of the issuer. (if an officer state title).
- 5. Amount or number and designation of securities of the issuer beneficially owned, directly or indirectly, by the selling security holder.
- 6. Amount or number and designation of securities of the issuer proposed to be sold by the selling security holder.
- 7. State, to the extent known to the selling security holder, the following particulars about the control position of the issuer: name(s), securities of the issuer held, offices or positions with the issuer or selling security holder and any other material particular regarding such control position.
- 8. State whether the securities will be distributed privately or on an exchange or a market (state name of exchange or market).
- 9. Proposed date of sale or date of commencement of sale.
- 10. If the selling security holder is a lender, pledgee, mortgagee or other encumbrancer selling securities distributed under an exemption in securities legislation from the prospectus requirement for a trade to a lender, pledgee, mortgagee or other encumbrancer from the holdings of a control person for the purpose of giving collateral for a debt made in good faith, state the date and amount of the loan, pledge, mortgage or other encumbrance, reasons for liquidating the debt and the circumstances of default.
- 11. State the date that the selling security holder or lender, pledgee, mortgagee or other encumbrancer acquired the securities.
- 12. If this Form is not an initial filing, provide the following information:
 - (a) date of filing of the initial Form 45-102F3
 - (b) date of the most recently filed renewal Form 45-102F3
 - (c) number of securities proposed to be sold as stated in the initial Form 45-102F3
 - (d) number of securities sold from the date of the initial Form 45-102F3 to the date of this renewal Form 45-102F3
 - (e) number of securities proposed to be sold, as stated in the initial Form 45-102F3, that are no longer for sale
 - (f) number of securities remaining for sale

Declaration, Certificate and Undertaking

The selling security holder for whose account the securities are to be sold, and to which this certificate relates, hereby:

- (1) declares that the selling security holder has no knowledge of a material fact or material change with respect to the issuer of the securities that has not been generally disclosed;
- (2) declares that to the best of the selling security holder's information and belief:
 - (a) no unusual effort has been made to prepare the market or to create a demand for the securities to be sold and no extraordinary commission or other consideration has been paid in respect of such trade,

Rules and Policies

- (b) the transaction to which this notice of intention and declaration relate is an arm's length transaction made in good faith, and
- (c) the securities have been held for the period of time required under section 2.8 of Multilateral Instrument 45-102 Resale of Securities and the other conditions of the applicable subsection of that section have been met;
- (3) undertakes that no unusual effort will be made to prepare the market or to create a demand for the securities to be sold and no extraordinary commission or other consideration will be paid in respect of such trade;
- (4) undertakes that this Form will be renewed and filed on the 60th day after the date of filing this Form and thereafter at the end of each 28 day period; and
- (5) certifies that the information given in the answers to the questions in this Form are true.

Date
.....
(name of selling security holder)

By:.....
(signature of selling security holder, and if a company, signature of authorised signatory)

.....
(name and office of authorised signatory)

INSTRUCTION:

File this form with the securities regulatory authority in each jurisdiction in which the securities are being distributed and with the exchange in Canada on which the securities that are the subject of the distribution are listed.

Notice - Collection and Use of Personal Information

The personal information required under this form is collected on behalf of and used by the securities regulatory authorities set out below for the purposes of the administration and enforcement of the securities legislation in Alberta, British Columbia, Newfoundland, Northwest Territories, Nova Scotia, Nunavut, Ontario and Saskatchewan. All of the information required under this form is made available to the public pursuant to Multilateral Instrument 45-102 and the securities legislation in each of the jurisdictions indicated above. If you have any questions about the collection and use of this information, contact the securities regulatory authorities in the jurisdiction(s) in which the form is filed, at the address(es) set out below.

Alberta Securities Commission
4th Floor, 300 - 4th Avenue SW
Calgary, AB T2P 3C4
Attention: Information Officer
Telephone: (403) 297-6454
Facsimile: (403) 297-6156

British Columbia Securities Commission
P.O. Box 10142, Pacific Centre
701 West Georgia Street
Vancouver, B.C. V7Y 1L2
Attention: Manager, Financial and Insider Reporting
Telephone: (604) 899-6730 or (800) 373-6393 (in B.C.)
Facsimile: (604) 899-6506

Securities Commission of Newfoundland
P.O. Box 8700
2nd Floor, West Block
Confederation Building
75 O'Leary Avenue
St. John's NFLD A1B 4J6
Attention: Director of Securities
Telephone: (709) 729-4189
Facsimile: (709) 729-6187

**Department of Justice, Northwest Territories
Legal Registries**
P.O. Box 1320
1st Floor, 5009-49th Street
Yellowknife, NWT X1A 2L9
Attention: Director, Legal Registries
Telephone: (867) 873-7490
Facsimile: (867) 873-0243

Nova Scotia Securities Commission
2nd Floor, Joseph Howe Building
1690 Hollis Street
Halifax, NS B3J 3J9
Attention: Corporate Finance
Telephone: (902) 424-7768
Facsimile: (902) 424-4625

**Department of Justice, Nunavut
Legal Registries Division**
P.O. Box 1000 - Station 570
1st Floor, Brown Building
Iqaluit, NT X0A 0H0
Attention: Director, Legal Registries Division
Telephone: (867) 975-6190
Facsimile: (867) 975-6194

Ontario Securities Commission

Suite 1903, Box 55
20 Queen Street West
Toronto, ON M5H 3S8
Attention: Administrative Assistant to the Director of Corporate
Finance
Telephone: (416) 593-8200
Facsimile: (416) 593-8177

Saskatchewan Securities Commission

800 - 1920 Broad Street
Regina, SK S4P 3V7
Attention: Deputy Director, Legal
Telephone: (306) 787-5879
Facsimile: (306) 787-5899

**COMPANION POLICY 45-102CP
TO MULTILATERAL INSTRUMENT 45-102
RESALE OF SECURITIES**

PART 1 APPLICATION

1.1 Application

- (1) Multilateral Instrument 45-102 ("MI 45-102") has been implemented in all jurisdictions except Quebec.
- (2) Except for sections 2.1, 2.8 and 2.9, Part 2 of MI 45-102 does not apply in Manitoba, New Brunswick, Prince Edward Island and the Yukon Territory.

1.2 Purpose

- (1) MI 45-102 provides that first trades of securities distributed under certain exemptions from the prospectus requirement are distributions unless certain conditions are met. The conditions impose restrictions on the resale of the securities. If the securities were distributed under any of the provisions listed in Appendix D to MI 45-102, the conditions include that the issuer is and has been a reporting issuer for a seasoning period and that a restricted period has elapsed from the date of the initial distribution. If the securities were distributed under any of the provisions listed in Appendix E to MI 45-102, the conditions include that the issuer is and has been a reporting issuer for a seasoning period. If the issuer is a qualifying issuer, MI 45-102 reduces the restricted period and seasoning period. MI 45-102 also provides an exemption for a control distribution and a sale by a pledgee of pledged securities if the sale would be a distribution for the purposes of securities legislation.
- (2) Nothing in MI 45-102 is intended to restrict the ability of a purchaser to resell securities during the restricted period or seasoning period in reliance upon a prospectus or an exemption from the prospectus requirement.

1.3 Transition

- (1) Part 2 of MI 45-102 applies to first trades of securities made on or after the effective date of this Instrument, even if the securities were distributed, or acquired by the selling security holder in the case of a trade that is a control distribution, prior to the effective date of this Instrument. As a result, in determining whether the restricted period in section 2.5 or 2.8 of MI 45-102 or the seasoning period in subsection 2.6(3) or (4) or subsection 2.8(2) or (3) of MI 45-102 has expired, a seller making a first trade must determine whether the issuer was a qualifying issuer at the date the security that is the subject of the trade was distributed or, in the

case of a trade that is a control distribution, the date the security that is the subject of the trade was acquired by the control person selling the security. In the case of a trade of an underlying security, the seller must determine whether the issuer of the underlying security was a qualifying issuer at the date the convertible security, exchangeable security or multiple convertible security that, directly or indirectly, entitled or required the holder to acquire the underlying security was distributed.

- (2) Items 2.5(2)3. and 2.5(3)3. of MI 45-102 impose a condition that if the security that is the subject of the trade was distributed on or after the effective date of MI 45-102, the certificate representing the securities must carry a legend disclosing the resale restriction. Certificates representing securities distributed prior to the effective date of MI 45-102 do not have to be legended under MI 45-102.
- (3) Form 45-102F1 is required to be filed under subsection 2.7(1) of MI 45-102 if an issuer ceases to be a private company or a private issuer on or after the effective date of MI 45-102. Similarly, Form 45-102F2 is filed under subsection 2.7(2) of MI 45-102 if the issuer of the securities is a qualifying issuer and the distribution date is on or after the effective date of MI 45-102. Form 45-102F2 is filed under subsection 2.7(3) of MI 45-102 if the issuer becomes a qualifying issuer in certain circumstances on or after the effective date of MI 45-102.

1.4 Open System Jurisdictions - Sections 2.5 and 2.6 of MI 45-102 do not apply in the provinces of Manitoba, New Brunswick and Prince Edward Island and in the Yukon Territory as those jurisdictions do not impose restrictions on first trades in securities distributed under an exemption from the prospectus requirement in those jurisdictions unless the trade is a control distribution.

1.5 Example of Application of Section 2.5 - If an issuer distributes securities to a purchaser in British Columbia, the issuer must file a prospectus or rely upon a prospectus exemption under the securities legislation of British Columbia. If the issuer relies upon a British Columbia prospectus exemption listed in Appendix D to MI 45-102, section 2.3 of MI 45-102 applies and the first trade of the securities is subject to section 2.5 of MI 45-102. Section 2.5 provides that the first trade is a distribution unless, among other conditions, a four or 12 month restricted period has elapsed. If the British Columbia purchaser seeks to resell the securities into Ontario, a prospectus must be filed in Ontario or a prospectus exemption relied upon unless the conditions in subsection 2.5(2) or (3) of MI 45-102 are satisfied.

1.6 Reporting Issuer History - If an issuer is a SEDAR filer, reporting issuer history in any of the jurisdictions listed in Appendix B will satisfy the reporting issuer

history requirements in sections 2.5, 2.6 and 2.8 of MI 45-102. If the issuer is not a SEDAR filer, the reporting issuer history must be in the jurisdiction of the purchaser of the securities that are the subject of the trade.

1.7 Eligibility - Securities that were distributed when an issuer had a current AIF and met the other eligibility requirements of a qualifying issuer may be sold in accordance with subsection 2.5(2) or 2.6(3) of MI 45-102, even if the issuer is no longer a qualifying issuer at the time of the trade. However, if the issuer subsequently distributes securities at a time when it is not a qualifying issuer, purchasers of those securities may not rely upon the reduced restricted period or seasoning period in subsection 2.5(2) or 2.6(3) of MI 45-102.

1.8 Legending of Securities - Items 2.5(2)3. and 2.5(3)3. of MI 45-102 require that, for securities distributed under any of the provisions listed in Appendix D to MI 45-102 or another prospectus exemption subject to the resale restrictions in section 2.5 of MI 45-102, if the distribution date is on or after the effective date of MI 45-102 a certificate representing the securities must have been issued that carried a legend stating that, unless permitted under securities legislation, the holder of the securities shall not trade the securities before the expiry of the applicable restricted period. Placing a restricted period legend on a share certificate is the most practical manner of providing certainty as to the applicable restricted period and of ensuring more effective regulation of the exempt market in the closed system jurisdictions.

1.9 Calculation of Restricted Periods - The restricted periods in items 2.5(2)2. and 2.5(3)2. of MI 45-102 are calculated from the distribution date, that is, the date the securities were distributed in reliance on an exemption from the prospectus requirement by the issuer or a control person. For example, if an issuer or control person distributes securities under a private placement exemption to a purchaser in Saskatchewan and the private placee resells the securities during the restricted period to a purchaser in Alberta under a further private placement exemption, upon resale by the Alberta purchaser, that purchaser will determine whether the restricted period has expired by calculating the time period from the date the issuer or control person distributed the securities to the Saskatchewan purchaser.

In the case of a trade that is a control distribution, the restricted periods in items 2.8(2)2. and 2.8(3)5. of MI 45-102 are calculated from the distribution date, that is, the date the securities were acquired by the control person that is selling the securities.

1.10 Underlying Securities - The restricted period or seasoning period applicable to trades in underlying securities is calculated from the distribution date of the convertible security, exchangeable security or multiple convertible security.

1.11 Employees - Section 2.6 of MI 45-102 provides that the first trade of securities distributed under an exemption from the prospectus requirement for employees is a distribution unless certain conditions are met. If the issuer is a qualifying issuer at the distribution date, the conditions include a seasoning period of four months. If the issuer is not a qualifying issuer at the distribution date, the seasoning period is 12 months. However, if the securities were distributed under an employee exemption or exercise of an option exemption at a time when the issuer was not a qualifying issuer and the issuer of the securities subsequently becomes a qualifying issuer after the distribution date by filing a prospectus in a jurisdiction listed in Appendix B and listing or quoting a class of its equity securities on a qualified market, the conditions include that the issuer is and has been a reporting issuer for a four month seasoning period.

1.12 Control Block Distributions - In addition to the provisions of MI 45-102, in particular section 2.8, the provisions of National Instrument 62-101 Control Block Distribution Issues may also apply to a trade of securities that is a control block distribution by an institutional investor.

1.13 Securities Exchange Take-over Bid or Issuer Bid - Section 2.11 of MI 45-102 provides relief from the seasoning requirement for a trade of securities issued in connection with a securities exchange take-over bid or securities exchange issuer bid in circumstances in which, among other things, a securities exchange take-over bid circular or securities exchange issuer bid circular is filed by the offeror under securities legislation of the local jurisdiction. The basis for this exemption is that a securities exchange take-over bid circular or securities exchange issuer bid circular for a formal bid is required to contain prospectus disclosure for the offeror or other issuer whose securities are being offered in exchange for the securities of the offeree issuer. In the view of the securities regulatory authority, if a take-over bid circular or issuer bid circular is prepared in connection with an exempt bid, the circular must meet the disclosure standards in securities legislation relating to the form and content of a take-over bid circular or issuer bid circular, as the case may be, for a formal bid in order for the exemption in section 2.11 to be available. If a take-over bid circular or issuer bid circular is prepared in connection with a formal bid, the circular must be filed under the take-over bid or issuer bid requirements of securities legislation. If the circular is prepared in connection with an exempt bid, the circular must be filed by the offeror on SEDAR.

1.14 Resales of Securities of a Non-Reporting Issuer

- (1) For the purposes of section 2.14 of MI 45-102, it is the view of the securities regulatory authority that, in determining the percentage of the outstanding securities of the class or series that are directly or indirectly owned by residents of Canada and the number of owners directly or

indirectly that are residents of Canada, an issuer should use reasonable efforts to

- (a) determine securities held of record by a broker, dealer, bank, trust company or nominee for any of them for the accounts of customers resident in Canada;
- (b) count securities beneficially owned by residents of Canada as reported on reports of beneficial ownership; and
- (c) assume that a customer is a resident of the jurisdiction or foreign jurisdiction in which the nominee has its principal place of business if, after reasonable inquiry, information regarding the jurisdiction or foreign jurisdiction of residence of the customer is unavailable.

- (2) Lists of beneficial owners of securities maintained by intermediaries pursuant to SEC Rule 14a-13 under the 1934 Act or other securities law analogous to proposed National Instrument 54-101 Communication with Beneficial Owners of Securities of a Reporting Issuer may be useful in determining the percentages referred to in subsection (1).

1.15 Filing of Forms 45-102F1, 45-102F2 and 45-102F3

- (1) Subsection 2.6(2) of MI 45-102 provides that the first trade of securities issued by a private company or private issuer made after the issuer has ceased to be a private company or private issuer is a distribution unless the conditions in subsection 2.6(4) are satisfied. Subsection 2.7(1) of MI 45-102 requires an issuer to file Form 45-102F1 if the issuer ceases to be a private company or private issuer on or after the effective date of MI 45-102. Form 45-102F1 must be filed in each jurisdiction in which the issuer has ceased to be a private company or private issuer and section 2.7 of MI 45-102 has been implemented. Section 2.7 has been implemented in Alberta, British Columbia, Newfoundland, Nova Scotia, Nunavut, Ontario and Saskatchewan.
- (2) Subsection 2.7(2) of MI 45-102 provides that if an issuer, or a selling security holder in the case of a control distribution, has distributed securities under a provision listed in Appendix D or E or a provision of securities legislation that specifies that the first trade of the securities is subject to section 2.5 or 2.6 of MI 45-102, Form 45-102F2 must be filed on or before the tenth day after the distribution date if the issuer is a qualifying issuer. However, if an issuer has distributed securities under a provision listed in Appendix F or a provision of securities legislation that specifies that the first trade of securities distributed to an employee, executive, consultant or administrator is subject to section 2.6 of MI 45-102, and the issuer becomes a qualifying

issuer after the distribution date by filing a prospectus and listing or quoting equity securities on a qualified market, the issuer must file Form 45-102F2 even though the issuer was not a qualifying issuer at the distribution date. Form 45-102F2 must be filed in the jurisdictions of the purchasers of the securities in which section 2.7 of MI 45-102 has been implemented, being Alberta, British Columbia, Newfoundland, Northwest Territories, Nova Scotia, Nunavut, Ontario and Saskatchewan. Form 45-102F2 should be filed on SEDAR under the issuer's profile under "Continuous Disclosure - SHAIIF - Other" until the SEDAR filer manual is updated to include MI 45-102 filings. Purchasers of securities will be able to determine whether the applicable restricted period or seasoning period is four months or 12 months from a review of SEDAR filings.

- (3) Section 2.8 of MI 45-102 provides that the prospectus requirement does not apply to a control distribution if the conditions in subsection (2) or (3) of section 2.8 are met. Subsection 2.8(4) requires a person or company selling securities under subsection 2.8(2) or (3) of MI 45-102 to file Form 45-102F3. Form 45-102F3 must be filed whether the distribution date is before or after the effective date of MI 45-102.

1.16 Filings in the Local Jurisdiction - Sections 2.10, 2.11 and 2.12 of MI 45-102 state that section 2.6 of MI 45-102 does not apply to a trade in an underlying security if the convertible security, exchangeable security or multiple convertible security is qualified by a prospectus, a trade of a security issued in connection with a take-over bid or issuer bid and a trade in an underlying security if the convertible security, exchangeable security or multiple convertible security is qualified by a securities exchange take-over bid circular or issuer bid circular, respectively. Each of the exemptions from section 2.6 is subject to a condition that a take-over bid circular, an issuer bid circular or a prospectus was filed under securities legislation of the local jurisdiction of the person or company relying upon the exemption from section 2.6. Similarly, the exemptions in sections 2.10 and 2.12 of MI 45-102 require that the issuer of the underlying security be a reporting issuer in the local jurisdiction at the time of the trade. The exemptions in sections 2.11 and 2.12 of MI 45-102 are subject to a condition that the offeror was a reporting issuer in the local jurisdiction on the date securities of the offeree issuer are first taken up under the take-over bid or issuer bid.

PART 2 AIF REQUIREMENTS

2.1 Filing of Current AIF - Issuers that want to enable their security holders to take advantage of a provision of MI 45-102 that requires an issuer to have a current AIF may file a current AIF at any time. An issuer filing a current AIF for the purposes of MI 45-102 should file the notice and the current AIF, if not

already filed, under "Continuous Disclosure - SHAIIF" on SEDAR selecting the appropriate filing subtype/document type (i.e. either an AIF, amended AIF or notice) until the SEDAR filer manual is updated to include MI 45-102 filings. A filer that elects to use a current AIF that has previously been filed on SEDAR is not required to refile the document for the purposes of MI 45-102.

2.2 Most Recent Financial Year - Issuers wishing to file a current AIF before they have filed their audited financial statements for the most recently completed financial year may include the audited financial statements for the financial year preceding the most recently completed financial year. For example, an issuer with a December 31 financial year end could continue to use a current AIF containing or incorporating by reference audited annual financial statements for the year ended December 31, 2000 during the first 139 days of 2002, until such time as annual audited financial statements for the year ended December 31, 2001 have been prepared and filed in accordance with securities legislation.

2.3 Review of Current AIF - An issuer's current AIF may be reviewed at any time and, as a result of this review, changes may need to be made to the current AIF. If an issuer is advised by any regulator that its current AIF does not comply with securities legislation, any of a wide range of compliance actions may be taken by the securities regulatory authorities, from requiring the next AIF to be filed correctly, or a clarifying press release to be issued, to more serious actions such as issuing a cease trade order against the issuer's securities, or initiating appropriate enforcement proceedings against the issuer and its directors and officers.

2.4 Review before Distribution - If the current AIF is reviewed before a distribution of securities and an issuer is advised by any regulator that its current AIF is unacceptable, an issuer will not be a qualifying issuer at the distribution date unless the issuer has made the necessary changes to the current AIF. Security holders that acquire securities under the distribution will not be able to take advantage of subsection 2.5(2), 2.6(3) or 2.8(2) of MI 45-102.

2.5 Review after Distribution - If the current AIF is reviewed after a distribution of securities, and an issuer is advised by any regulator that its current AIF is unacceptable, securities that were distributed while the issuer was a qualifying issuer may be sold in accordance with subsection 2.5(2), 2.6(3) or 2.8(2) of MI 45-102 if the other conditions in the relevant subsection are met.

PART 3 FEES

3.1 Fees - An issuer filing a current AIF under section 3.1 of MI 45-102 must pay the filing fees for the AIF required by securities legislation, unless the current AIF is in the form of a prospectus for which the regulator has issued a receipt.

5.1.2 OSC Rule 45-501 Exempt Distributions

**NOTICE OF RULE, POLICY AND FORMS
UNDER THE SECURITIES ACT
RULE 45-501 EXEMPT DISTRIBUTIONS
COMPANION POLICY 45-501CP
FORM 45-501F1, FORM 45-501F2, FORM 45-501F3**

AND

**RESCISSION OF EXISTING RULE 45-501 AND
COMPANION POLICY 45-501CP AND
RULE 45-504 PROSPECTUS EXEMPTION FOR
DISTRIBUTIONS OF SECURITIES
TO PORTFOLIO ADVISERS ON BEHALF OF FULLY
MANAGED ACCOUNTS**

Notice of Rule, Companion Policy and Forms

The Commission has made revised Rule 45-501 *Exempt Distributions* (the "Rule") and Forms 45-501F1, 45-501F2 and 45-501F3 (the "Forms") under section 143 of the *Securities Act* (the "Act").

The Rule, the Forms and the material required by the Act to be delivered to the Minister of Finance were delivered on September 12, 2001. If the Minister approves the Rule, does not reject the Rule and the Forms or return them to the Commission for further consideration, the Rule and the Forms will come into force on November 30, 2001.

The Commission has adopted Companion Policy 45-501 *Exempt Distributions* (the "Policy") under section 143.8 of the Act. The Policy will come into force on the date that the Rule and the Forms come into force.

The Rule replaces existing Rule 45-501 *Exempt Distributions* (the "existing Rule") which came into force on December 22, 1998 and was published in final form at (1999) 22 O.S.C.B. 56. The existing Rule will expire on the date that the Rule comes into force.

On July 13, 2001, the Commission republished a proposed draft of the Rule, together with three proposed Forms and a proposed Companion Policy, at (2001) 24 O.S.C.B. 4247 (the "July Materials"). The Commission received submissions on the July Materials from 5 commentators. The Commission is of the view that none of the revisions to the Rule, including those resulting from the latest comments received on the July Materials, are material. Accordingly, the Rule is not subject to a further comment period. For a summary of these comments and the Commission's response, please see Appendix A to this Notice.

The Rule is intended to replace the existing Rule and to implement the suggestions of the Task Force on Small Business Financing (the "Task Force") as set out in the October 1996 Report of the Task Force as it was presented to the Commission (the "Report"). On May 7, 1999, the Commission published a concept paper entitled "Revamping the Regulation of the Exempt Market" ((1999) 22 O.S.C.B. 2835) (the "Concept Paper") which was based on the recommendations contained in the Report and outlined the Commission's proposals.

On September 8, 2000, the Commission published for comment a proposed draft of the Rule, together with three proposed Forms and a proposed Companion Policy (the "September Materials"). The Commission received submissions on the September Materials from 26 commentators. For a summary of these comments and the Commission's response, please see (2001) 24 O.S.C.B. 2196.

On April 6, 2001, the Commission republished a proposed draft of the Rule, together with three proposed Forms and a proposed Companion Policy, at (2001) 24 O.S.C.B. 2187 (the "April Materials"). The Commission received comments from 17 commentators. For a summary of these comments and the Commission's response, please see (2001) O.S.C.B. 4250.

The Rule will also replace Rule 45-504 *Prospectus Exemption for Distributions of Securities to Portfolio Advisers on Behalf of Fully Managed Accounts* which is being repealed upon the coming into force of the Rule, as its provisions will be incorporated in the Rule.

Substance and Purpose of the Rule and the Forms

The purpose of revising the existing Rule and Forms is to create an approach to private market regulation that is consistent with the needs of that market and its investors.

The Commission hopes that the new exempt market regime contemplated under the Rule will be viewed as an improvement over the existing exempt market regulations. The existing Rule was introduced as an interim consolidation of the exempt distribution provisions that had previously not been consolidated. The Rule is intended to implement the recommendations of the Task Force as set out in the Report and the views of the staff of the Commission on those recommendations as well as consideration of the views of the many commentators who expressed views on the Concept Paper, the September Materials, the April Materials and the July Materials.

This Notice summarizes minor changes that have been made since the publication of the July Materials. For additional information concerning the background to the Rule, reference should be made to the September Materials and the April Materials. Also, a detailed summary of the Rule may be found in the Notice published with the September Materials at (2000) 23 O.S.C.B. 6205.

Substance and Purpose of Companion Policy

The purpose of the Policy is to set forth the views of the Commission as to the manner in which the Rule and the provisions of the Act relating to exempt distributions are to be interpreted and applied.

Summary of Changes to the Rule

There were no material changes made to the Rule from the version published in the July Materials. The Commission has made minor changes to the Rule based on comments received on the July Materials, including the following:

- the definition of "closely-held issuer" has been revised to exclude current or former directors

and officers of an issuer or an affiliated entity of an issuer from the 35 security holder limitation;

- a new subsection 2.12(2) has been added to expand part of the exemptive relief for sales of private pooled funds to funds managed by a non-resident under an exemption from adviser registration in Rule 35-502 *Non-Resident Advisers*;
- a new subsection 2.13(2) has replaced section 3.5 to provide greater consistency in determining the number of purchasers or prospective purchasers for the purposes of the government incentive security exemption in subsection 2.13(1);
- sections 6.6 and 6.8 in the July Materials were reconstituted as a single section (section 6.6) in substantially the form of the predecessor section in the existing Rule, to avoid any interpretation that a change was made when none was intended; and
- the exempt trade reporting exception in subsection 7.5(7) of the Rule has been expanded to include persons or companies referred to in paragraphs (a) through (d) of section 1.1 of the Rule.

For details of certain other minor changes, please see Appendix A to this Notice.

Summary of Changes to the Policy

The Policy sets forth the views of the Commission as to the manner in which certain provisions of the Act and the rules relating to exempt distributions are to be interpreted and applied. No material changes have been made to the Policy since the version published in the July Materials.

Authority for the Rule and Forms

The following sections of the Act provide the Commission with authority to adopt the Rule and Forms. Paragraphs 143(1)8 and 20 authorize the Commission to make rules which provide for exemptions from the registration and prospectus requirements under the Act and for the removal of exemptions from those requirements. Paragraph 143(1)11 authorizes the Commission to make rules regulating the listing or trading of publicly traded securities and paragraph 143(1)13 authorizes the Commission to make rules regulating trading or advising in securities to prevent trading or advising that is fraudulent, manipulative, deceptive or unfairly detrimental to investors. Paragraph 143(1)39 authorizes the Commission to make rules requiring or respecting the media, format, preparation, form, content, execution, certification, dissemination and other use, filing and review of all documents required under or governed by this Act, the regulations or the rules and all documents determined by the regulations or the rules to be ancillary to the documents and paragraph 143(1)43 authorizes the Commission to make rules prescribing fees.

Related Instruments

The Rule and Policy are related in that they deal with the same subject matter. The Policy is related to Parts XII and XVII of the Act and Parts III and V of the Regulation.

Conflicting Regulations

In connection with the implementation of the Rule, it is the intention of the Commission to amend the Regulation under the Act to the extent that certain provisions of the Regulation require consequential amendment. The implementation of the Rule requires that the following amendments to the Regulation be made:

1. Subsections 149(1), (2) and (3), which deal with applications for exempt purchaser recognition, will be revoked since the exemptions for persons or companies that are exempt purchasers will no longer be available.
2. The definition of "COATS security" in section 152 of the Regulation will be amended by striking out "or" at the end of clause (d) and adding the following clause:

(d.1) a security of a closely-held issuer as such term is defined in section 1.1 of Ontario Securities Commission Rule 45-501 *Exempt Distributions*, or
3. Clause 154(1)(c) refers to the exemptions from the prospectus requirement under clauses 72(1)(a), (c) and (d) of the Act, all of which will no longer be available. Clause 154(1)(c) will be amended to delete the references to these exemptions and to refer to the exemption for accredited investors as set out in the Rule.
4. The definition of "designated institution" in subsection 204(1) of the Regulation will be amended to delete clause (i), which refers to an exempt purchaser, and to add a new clause (i) as follows:

(i) a company or a person, other than an individual, that is an accredited investor as defined in section 1.1 of Ontario Securities Commission Rule 45-501 *Exempt Distributions*,
5. Subsection 45(1) of Schedule 1 - Fees will be revoked since applications for exempt purchaser recognition will no longer be accepted. Section 7.6 of the Rule prescribes the amount of fees payable in respect an application for accredited investor recognition.
6. Form 11, Application For Recognition As An Exempt Purchaser will be revoked since the related exemptions from the registration and prospectus requirements will no longer be available.

Text of Rule

The text of the Rule, the Forms and the Companion Policy and the Forms follows.

Rescission of Existing Rule

The Rule will result in the rescission of existing Rule 45-501 *Exempt Distributions* and Rule 45-504 *Prospectus Exemption for the Distributions of Securities to Portfolio Advisers on Behalf of Fully Managed Accounts*. The text of the proposed rescission will be as follows:

"Rule 45-501 *Exempt Distributions* is hereby rescinded."

"Rule 45-504 *Prospectus Exemption for Distributions of Securities to Portfolio Advisers on Behalf of Fully Managed Accounts* is hereby rescinded."

September 14, 2001.

APPENDIX A

SUMMARY OF COMMENTS RECEIVED BY THE COMMISSION ON PROPOSED RULE 45-501 - EXEMPT DISTRIBUTIONS

This is a summary of the comments received by the Commission during the 30 day comment period from July 13, 2001 to August 13, 2001.

The Commission received submissions from five commentators (listed in Schedule A) during the most recent comment period and would like to take this opportunity to thank each of the commentators for their views on this initiative.

Comments Regarding the Rule and OSC Responses

Several commentators expressed their support for the Commission's decision to preserve the status quo with respect to the regulation of distributions of pooled funds until such time as it completes a more detailed review of the pooled fund regulatory regime.

Two commentators noted that, by virtue of the definition of "portfolio adviser" combined with the language in subsection 2.12(c), the pooled fund exemption in subsection 2.12(c) does not extend to pooled funds managed by advisers that are not resident in Ontario that are exempt from registration under OSC Rule 35-502 - Non Resident Advisers.

The definition of "portfolio adviser" has been amended to reflect the above comments.

One commentator suggested expanding the scope of the government incentive security exemption in section 2.13 to permit an issuer to trade in units comprised of government incentive securities and other securities.

The Commission does not believe it is appropriate to expand the scope of this exemption. The Task Force recommended the removal of the government incentive security because the exemption raised compliance concerns. The Commission followed the Task Forces's recommendation in the September Materials. However, after considering submissions from the Prospectors and Developers Association of Canada and others (which submissions are more fully discussed in the Notice accompanying the July 13, 2001 publication at 24 OSCB 4256) the Commission reinstated the exemption in the July 13, 2001 publication but only for the narrow purpose of facilitating offerings of flow-through securities.

One commentator suggested removing the disclosure requirements in subsection 2.13(c) or alternatively requested that the Commission prescribe in the Companion Policy the information it expects in an offering memorandum.

The Commission is of the view that prospective purchasers of government incentive securities should, among other things, receive an offering memorandum and have access to substantially the same information as that provided in a prospectus. The Commission is of the view that the issuer and its legal advisors are best suited to determine the amount and

types of disclosure that an issuer includes in its offering memorandum.

One commentator suggested retaining the \$150,000 exemption and the private company exemption until "all or most" of the other CSA jurisdictions adopt a similar rule because otherwise it will become increasingly difficult to explain the rules in Canada to non-Canadians.

The Commission believes that the issue raised by the above commentator is greatly outweighed by the benefits to the Ontario capital markets of implementing the Rule in accordance with the recommendations of the Task Force.

One commentator suggested modifying the definition of "closely-held issuer" to delete references to securities other than shares, or to reflect debt securities held by non-Canadian financial institutions and accredited investors. The commentator also asked for guidance regarding the nature of the required restrictions.

The Commission has modified the definition of "closely-held issuer" to address each of these points. First, the requirement for restrictions on transfer will only apply to shares so that debt securities are not affected. Second, the provision has been modified to clarify that the required restriction on transfer is approval by the directors or shareholders of a closely-held issuer.

One commentator suggested that paragraph (b) of the definition of "closely held issuer" should only relate to persons in Ontario.

The Commission is of the view that in order for the "closely-held issuer" exemption to be meaningful it must encompass all security-holders of the issuer (other than those specifically excluded in the definition) and not only residents in Ontario.

One commentator suggested that paragraph (z) of the definition of "accredited investor" should be expanded to allow US institutional investors as well as French, German, Japanese and Italian institutional investors to benefit from the exemptions similar to those referred to in (k) and (x).

The Commission has amended paragraph (z) to include a reference to paragraph (k). However, the Commission does not believe it is appropriate to include a reference to paragraph (x) because the rules relating to the activities contemplated in paragraph (x) are quite different in other jurisdictions.

One commentator suggested that paragraph (aa) of the definition of "accredited investor", like paragraph (v), should only refer to owners in Ontario.

The purpose of paragraph (aa) is to allow accredited investors to hold their securities indirectly through a holding company; paragraph (aa) is not intended to permit an entity to be formed that would be owned by persons or companies that are not accredited investors, wherever they may reside.

One commentator suggested expanding paragraph (q) of the definition of "accredited investor" to include grandchildren.

The Commission decided not to include this group because it is of the view that grandchildren may not have sufficient access to the knowledge of the directors, officers and/or promoters described in paragraph (q) to justify being covered by this exemption.

One commentator noted that the definition of "exchange issuer" refers to a reporting issuer, and thereby seems to avoid dealing with issuers whose securities are exchangeable into securities of a non-reporting issuer.

Section 2.7 which provides a prospectus exemption for an "exchange issuer" is simply an extension of subsection 72(1)(h) of the Act and is not intended to deal with non-reporting issuers. This provision has not been modified from the existing Rule.

One commentator questioned how section 7.3 reflects the Commission's previously announced 20% fee reduction.

The 20% fee reduction applies to all fees referred to in the Rule in the same way that the discount applies to all other current rules.

One commentator suggested that the definition of "related liabilities", referred to in paragraph (m) of the definition of "accredited investor", seems inappropriate where a lender takes general security over all assets, since non-financial assets would not be treated equivalently. If non-financial assets do not count as assets then they should not count as liabilities. The commentator suggested ending the sentence after the words "financial assets".

The Commission is of the view that a lender taking general security is generally not applicable to individuals; while lenders may take a general security interest over all assets with respect to corporate loans, loans made to individuals are typically either unsecured or secured by charges on fixed assets.

One commentator suggested that the language in section 2.1(c) should conform to that in section 2.13(d).

The Commission is of the view that this would not be appropriate as the rationale underlying these exemptions is quite different.

One commentator suggested that subsection 2.1(2) and the 35 beneficial holders in the "closely-held issuer" definition should have a knowledge (after reasonable inquiry) qualifier on beneficial ownership, as it is often difficult for a company to know or determine the beneficial holders of its securities.

The Commission is of the view that issuers with share transfer restrictions and limited numbers of security holders should be in a position to readily determine their beneficial owners.

One commentator suggested that section 2.5 should have a knowledge qualifier regarding defaults.

The Commission does not believe it is appropriate to make the suggested revision. This section has not changed from the existing Rule.

One commentator questioned whether section 2.10 should be broadened to cover Canadian school boards and boards of education generally.

The Commission does not consider this change to be appropriate as it has not received any comments from these entities. However, any of these entities is free to apply for accredited investor status based on its own factual circumstances.

Comments Regarding the Companion Policy

One commentator suggested the Commission clarify the status of National Policy 48 because, according to the commentator, the Companion Policy published on July 13, 2001 suggested that NP 48 is viewed by the Commission as no longer being applicable.

National Policy Statement 48 - Future Oriented Financial Information is still in effect and applicable. It is currently being reformulated as National Instrument 52-101.

Other Comments

One commentator stated that it is generally impossible to obtain copies of offering memoranda from the Commission or Micromedia and queried whether this is appropriate.

Offering memoranda are required to be "delivered" rather than "filed" under the existing Rule as well as the Rule. As such, there is no statutory requirement to make offering memoranda publicly available. In these circumstances, Commission staff generally do not place offering memoranda on the public file in situations where these documents are delivered with a request that they remain confidential. The Commission does not believe that this raises a general public interest concern.

SCHEDULE A - LIST OF COMMENTATORS

Investment Funds Institute of Canada
Marvin Singer
Simon Romano
Merrill Lynch Investment Managers
RT Investment Management Holdings Inc.

**ONTARIO SECURITIES COMMISSION RULE 45-501
EXEMPT DISTRIBUTIONS**

PART 1 DEFINITIONS

1.1 Definitions - In this Rule

"accredited investor" means

- (a) a bank listed in Schedule I or II of the Bank Act (Canada), or an authorized foreign bank listed in Schedule III of that Act;
- (b) the Business Development Bank incorporated under the Business Development Bank Act (Canada);
- (c) a loan corporation or trust corporation registered under the Loan and Trust Corporations Act or under the Trust and Loan Companies Act (Canada), or under comparable legislation in any other jurisdiction;
- (d) a co-operative credit society, credit union central, federation of caisses populaires, credit union or league, or regional caisse populaire, or an association under the Cooperative Credit Associations Act (Canada), in each case, located in Canada;
- (e) a company licensed to do business as an insurance company in any jurisdiction;
- (f) a subsidiary of any company referred to in paragraph (a), (b), (c), (d) or (e), where the company owns all of the voting shares of the subsidiary;
- (g) a person or company registered under the Act or securities legislation in another jurisdiction as an adviser or dealer, other than a limited market dealer;
- (h) the government of Canada or of any jurisdiction, or any crown corporation, instrumentality or agency of a Canadian federal, provincial or territorial government;
- (i) any Canadian municipality or any Canadian provincial or territorial capital city;
- (j) any national, federal, state, provincial, territorial or municipal government of or in any foreign jurisdiction, or any instrumentality or agency thereof;
- (k) a pension fund that is regulated by either the Office of the Superintendent of Financial Institutions (Canada) or a provincial pension commission or similar regulatory authority;
- (l) a registered charity under the Income Tax Act (Canada);

- (m) an individual who beneficially owns, or who together with a spouse beneficially own, financial assets having an aggregate realizable value that, before taxes but net of any related liabilities, exceeds \$1,000,000;
- (n) an individual whose net income before taxes exceeded \$200,000 in each of the two most recent years or whose net income before taxes combined with that of a spouse exceeded \$300,000 in each of those years and who, in either case, has a reasonable expectation of exceeding the same net income level in the current year;
- (o) an individual who has been granted registration under the Act or securities legislation in another jurisdiction as a representative of a person or company referred to in paragraph (g), whether or not the individual's registration is still in effect;
- (p) a promoter of the issuer or an affiliated entity of a promoter of the issuer;
- (q) a spouse, parent, grandparent or child of an officer, director or promoter of the issuer;
- (r) a person or company that, in relation to the issuer, is an affiliated entity or a person or company referred to in clause (c) of the definition of distribution in subsection 1(1) of the Act;
- (s) an issuer that is acquiring securities of its own issue;
- (t) a company, limited partnership, limited liability partnership, trust or estate, other than a mutual fund or non-redeemable investment fund, that had net assets of at least \$5,000,000 as reflected in its most recently prepared financial statements;
- (u) a person or company that is recognized by the Commission as an accredited investor;
- (v) a mutual fund or non-redeemable investment fund that, in Ontario, distributes its securities only to persons or companies that are accredited investors;
- (w) a mutual fund or non-redeemable investment fund that, in Ontario, distributes its securities under a prospectus for which a receipt has been granted by the Director;
- (x) a managed account if it is acquiring a security that is not a security of a mutual fund or non-redeemable investment fund;
- (y) an account that is fully managed by a trust corporation registered under the Loan and Trust Corporations Act;

- (z) an entity organized outside of Canada that is analogous to any of the entities referred to in paragraphs (a) through (g) and paragraph (k) in form and function; and
- (aa) a person or company in respect of which all of the owners of interests, direct or indirect, legal or beneficial, are persons or companies that are accredited investors;

"closely-held issuer" means an issuer, other than a mutual fund or non-redeemable investment fund, whose

- (a) shares are subject to restrictions on transfer requiring the approval of either the board of directors or the shareholders of the issuer (or the equivalent in a non-corporate issuer) contained in constating documents of the issuer or one or more agreements among the issuer and holders of its shares; and
- (b) outstanding securities are beneficially owned, directly or indirectly, by not more than 35 persons or companies, exclusive of
 - (i) persons or companies that are, or at the time they last acquired securities of the issuer were, accredited investors; and
 - (ii) current or former directors, officers or employees of the issuer or an affiliated entity of the issuer, or current or former consultants as defined in Rule 45-503 Trades to Employees, Executives and Consultants, who in each case beneficially own only securities of the issuer that were issued as compensation by, or under an incentive plan of, the issuer or an affiliated entity of the issuer;

provided that:

- (A) two or more persons who are the joint registered holders of one or more securities of the issuer shall be counted as one beneficial owner of those securities; and
- (B) a corporation, partnership, trust or other entity shall be counted as one beneficial owner of securities of the issuer unless the entity has been created or is being used primarily for the purpose of acquiring or holding securities of the issuer, in which event each beneficial owner of an equity interest in the entity or each beneficiary of the entity, as the case may be, shall be counted as a separate beneficial owner of those securities of the issuer;

"convertible security" means a security of an issuer that is convertible into, or carries the right of the holder to purchase, or of the issuer to cause the purchase of, a security of the same issuer;

"entity" means a company, syndicate, partnership, trust or unincorporated organization;

"exchangeable security" means a security of an issuer that is exchangeable for, or carries the right of the holder to purchase, or of the exchange issuer to cause the purchase of, a security of another issuer;

"exchange issuer" means an issuer that distributes securities of a reporting issuer held by it in accordance with the terms of an exchangeable security of its own issue;

"financial assets" means cash, securities, or any contract of insurance or deposit or evidence thereof that is not a security for the purposes of the Act;

"government incentive security" means

- (a) a security, or unit or interest in a partnership that invests in a security, that is issued by a company and for which the company has agreed to renounce in favour of the holder of the security, unit or interest, amounts that will constitute Canadian exploration expense, as defined in subsection 66.1(6) of the ITA, or Canadian development expense, as defined in subsection 66.2(5) of the ITA, or Canadian oil and gas property expense, as defined in subsection 66.4(5) of the ITA; or
- (b) a unit or interest in a partnership or joint venture that is issued in order to fund Canadian exploration expense as defined in subsection 66.1(6) of the ITA or Canadian development expense as defined in subsection 66.2(5) of the ITA or Canadian oil and gas property expense as defined in subsection 66.4(5) of the ITA;

"managed account" means an investment portfolio account of a client established in writing with a portfolio adviser who makes investment decisions for the account and has full discretion to trade in securities of the account without requiring the client's express consent to a transaction;

"multiple convertible security" means a security of an issuer that is convertible into or exchangeable for, or carries the right of the holder to purchase, or of the issuer or exchange issuer to cause the purchase of, a convertible security, an exchangeable security or another multiple convertible security;

"MI 45-102" means Multilateral Instrument 45-102 Resale of Securities;

"portfolio adviser" means

- (a) a portfolio manager; or
- (b) a broker or investment dealer exempted from registration as an adviser under subsection 148(1) of the Regulation if that broker or investment dealer is not exempt from the by-laws or regulations of The Toronto Stock Exchange or the Investment Dealers' Association of Canada referred to in that subsection;

"Previous Rule" means Rule 45-501 Exempt Distributions as it read when it was published on January 8, 1999 at (1999) 22 OSCB 56;

"related liabilities" means liabilities incurred or assumed for the purpose of financing the acquisition or ownership of financial assets and liabilities that are secured by financial assets;

"spouse", in relation to an individual, means another individual to whom that individual is married, or another individual of the opposite sex or the same sex with whom that individual is living in a conjugal relationship outside marriage;

"Type 1 trade" means a trade in a security under an exemption from the prospectus requirement in clause 72(1)(a), (b), (c), (d), (l), (m), (p) or (q) of the Act, or section 2.3, 2.12, 2.13 or 2.14 of this Rule, or section 2.4, 2.5 or 2.11 of the Previous Rule;

"Type 2 trade" means a trade in a security under an exemption from the prospectus requirement in clause 72(1)(f) (other than a trade to an associated consultant or investor consultant as defined in Rule 45-503 Trades to Employees, Executives and Consultants), (h), (i), (j), (k) or (n) of the Act, or section 2.5 or 2.8 of this Rule; and

"underlying security" means a security issued or transferred, or to be issued or transferred, in accordance with the terms of a convertible security, an exchangeable security or a multiple convertible security.

1.2 Interpretation

- (1) In this Rule a person or company is considered to be an affiliated entity of another person or company if one is a subsidiary entity of the other, or if both are subsidiary entities of the same person or company, or if each of them is controlled by the same person or company.
- (2) In this Rule a person or company is considered to be controlled by a person or company if
 - (a) in the case of a person or company,
 - (i) voting securities of the first-mentioned person or company carrying more than 50 percent of the votes for the election of directors are held, otherwise than by way of security only, by or for the benefit of the other person or company, and
 - (ii) the votes carried by the securities are entitled, if exercised, to elect a majority of the directors of the first-mentioned person or company;
 - (b) in the case of a partnership that does not have directors, other than a limited partnership, the second-mentioned person or company holds more than 50 percent of the interests in the partnership; or

- (c) in the case of a limited partnership, the general partner is the second-mentioned person or company.

- (3) In this Rule a person or company is considered to be a subsidiary entity of another person or company if

- (a) it is controlled by,

- (i) that other, or

- (ii) that other and one or more persons or companies each of which is controlled by that other, or

- (iii) two or more persons or companies, each of which is controlled by that other; or

- (b) it is a subsidiary entity of a person or company that is the other's subsidiary entity.

PART 2 EXEMPTIONS FROM THE REGISTRATION AND PROSPECTUS REQUIREMENTS OF THE ACT

2.1 Exemption for a Trade in a Security of a Closely-held Issuer

- (1) Sections 25 and 53 of the Act do not apply to a trade in a security of a closely-held issuer if
 - (a) following the trade, the issuer will be a closely-held issuer and the aggregate proceeds received by the issuer, and any other issuer engaged in common enterprise with the issuer, in connection with trades made in reliance upon this exemption will not exceed \$3,000,000;
 - (b) no promoter of the issuer has acted as a promoter of any other issuer that has issued a security in reliance upon this exemption within the twelve months preceding the trade; and
 - (c) no selling or promotional expenses are paid or incurred in connection with the trade, except for services performed by a dealer registered under the Act.
- (2) If a trade is made under subsection 2.1(1), the seller shall provide an information statement substantially similar to Form 45-501F3 to the purchaser of the security at least four days prior to the date of the trade unless, following the trade, the issuer will have not more than five beneficial holders of its securities.

2.2 Exemption for a Trade in a Variable Insurance Contract

- (1) Sections 25 and 53 of the Act do not apply to a trade by a company licensed under the Insurance Act in a variable insurance contract that is
 - (a) a contract of group insurance;
 - (b) a whole life insurance contract providing for the payment at maturity of an amount not less than three quarters of the premiums paid up to age 75 for a benefit payable at maturity;
 - (c) an arrangement for the investment of policy dividends and policy proceeds in a separate and distinct fund to which contributions are made only from policy dividends and policy proceeds; or
 - (d) a variable life annuity.
- (2) For the purposes of subsection (1), "contract", "group insurance", "life insurance" and "policy" have the respective meanings ascribed to them by sections 1 and 171 of the Insurance Act.

2.3 Exemption for a Trade to an Accredited Investor
- Sections 25 and 53 of the Act do not apply to a trade in a security if the purchaser is an accredited investor and purchases as principal.

2.4 Exemption for a Trade by a Control Person in a Security Acquired under a Formal Take-Over Bid

- (1) Section 53 of the Act does not apply to a trade that is a control person distribution in a security that was acquired under a formal bid as defined in Part XX of the Act, if
 - (a) the offeree issuer had been a reporting issuer for at least 12 months at the date of the bid;
 - (b) subject to subsection (2), the intention to make the trade was disclosed in the take-over bid circular for the take-over bid;
 - (c) the trade is made within the period commencing on the date of the expiry of the bid and ending 20 days after that date;
 - (d) a notice of intention and a declaration prepared in accordance with Form 45-102F3 are filed by the seller before the trade;
 - (e) an insider report prepared in accordance with Form 55-102F2 or Form 55-102F6, as applicable, is filed by the seller within three days after the completion of the trade; and

- (f) no unusual effort is made to prepare the market or to create a demand for the securities and no extraordinary commission is paid for the trade.

- (2) Paragraph (1)(b) does not apply to a trade to another person or company that has made a competing formal bid for securities of the same issuer for a per security price not greater than the per security consideration offered by that other person or company in its take-over bid.

2.5 Exemption for a Trade in Connection with a Securities Exchange Issuer Bid

- Sections 25 and 53 of the Act do not apply to a trade in a security that is exchanged by or for the account of the offeror with a securityholder of the offeror in connection with an issuer bid as defined in Part XX of the Act if, at the time of the trade, the issuer whose securities are being issued or transferred is a reporting issuer not in default under the Act or the regulations.

2.6 Exemption for a Trade upon Exercise of Conversion Rights in a Convertible Security

- Sections 25 and 53 of the Act do not apply to a trade by an issuer in an underlying security of its own issue to a holder of a convertible security or multiple convertible security of the issuer on the exercise by the issuer of its right under the convertible security or multiple convertible security to cause the holder to convert into or purchase the underlying security or on the automatic conversion of the convertible security or multiple convertible security, if no commission or other remuneration is paid or given to others for the trade except for administrative or professional services or for services performed by a registered dealer.

2.7 Exemption for a Trade upon Exercise of Exchange Rights in an Exchangeable Security

- Sections 25 and 53 of the Act do not apply to a trade by an exchange issuer in an underlying security to a holder of an exchangeable security or multiple convertible security of the exchange issuer on the exercise by the exchange issuer of its right under the exchangeable security or multiple convertible security to cause the holder to exchange for or purchase the underlying security or on the automatic exchange of the exchangeable security or multiple convertible security, if the exchange issuer delivers to the Commission a written notice stating the date, amount, nature and conditions of the proposed trade, including the net proceeds to be derived by the exchange issuer if the underlying securities are fully taken up and either

- (a) the Commission has not informed the exchange issuer in writing within 10 days after the delivery of the notice that it objects to the proposed trade, or
- (b) the exchange issuer has delivered to the Commission information relating to the

underlying security that is satisfactory to and accepted by the Commission.

2.8 Exemption for a Trade on an Amalgamation, Arrangement or Specified Statutory Procedure - Sections 25 and 53 of the Act do not apply to a trade in a security of an issuer in connection with

- (a) a statutory amalgamation or statutory arrangement; or
- (b) a statutory procedure under which one issuer takes title to the assets of another issuer that in turn loses its existence by operation of law or under which one issuer merges with one or more issuers, whether or not the securities are issued by the merged issuer.

2.9 Exemption for a Trade in a Security under the Execution Act - Sections 25 and 53 of the Act do not apply to a trade in a security by a sheriff under the Execution Act, if

- (a) there is no published market as defined in Part XX of the Act in respect of the security;
- (b) the aggregate acquisition cost to the purchaser is not more than \$25,000; and
- (c) each written notice to the public soliciting offers for the security or giving notice of the intended auction of the security is accompanied by a statement substantially as follows:

These securities are speculative. No representations are made concerning the securities, or the issuer of the securities. No prospectus is available and the protections, rights and remedies arising out of the prospectus provisions of the Securities Act, including statutory rights of rescission and damages, will not be available to the purchaser of these securities.

2.10 Exemption for a Trade in Debt of Conseil Scolaire de L'île de Montréal - Sections 25 and 53 of the Act do not apply to a trade if the security being traded is a bond, debenture or other evidence of indebtedness of the Conseil Scolaire de L'île de Montréal.

2.11 Exemption for a Trade to a Registered Retirement Savings Plan or a Registered Retirement Income Fund - Sections 25 and 53 of the Act do not apply to a trade in a security by an individual or an associate of an individual to a RRSP or a RRIF established by or for that individual or under which that individual is a beneficiary.

2.12 Exemption for Certain Trades in a Security of a Mutual Fund or Non-Redeemable Investment Fund

(1) Sections 25 and 53 of the Act do not apply to a trade in a security of a mutual fund or non-redeemable investment fund that is not a reporting issuer if

- (a) the purchaser purchases as principal;
- (b) either (i) the security has an aggregate acquisition cost to the purchaser of not less than \$150,000 or (ii) the security is issued by a mutual fund or non-redeemable investment fund in which the purchaser then owns securities having either an aggregate acquisition cost or an aggregate net asset value of not less than \$150,000; and
- (c) the mutual fund or non-redeemable investment fund is managed by a portfolio adviser or a trust corporation registered under the Loan and Trust Corporations Act.

(2) Sections 25 and 53 of the Act do not apply to a trade in a security of a mutual fund or non-redeemable investment fund that is not a reporting issuer if

- (a) the purchaser purchases as principal;
- (b) the security has an aggregate acquisition cost to the purchaser of not less than \$150,000; and
- (c) the mutual fund or non-redeemable investment fund is managed by a person or company, not ordinarily resident in Ontario, to whom the adviser registration requirement does not apply pursuant to Part 7 of Rule 35-502 *Non-Resident Advisers*.

2.13 Exemption for a Trade by a Promoter or Issuer in a Government Incentive Security

(1) Sections 25 and 53 of the Act do not apply to a trade by an issuer or by a promoter of an issuer in a security of the issuer that is a government incentive security, if

- (a) in the aggregate in all jurisdictions, not more than 75 prospective purchasers are solicited resulting in sales to not more than 50 purchasers;
- (b) before entering into an agreement of purchase and sale, the prospective purchaser has been supplied with an offering memorandum that includes information
 - (i) identifying every officer and director of the issuer,

- (ii) identifying every promoter of the issuer,
 - (iii) giving the particulars of the professional qualifications and associations during the five years before the date of the offering memorandum of each officer, director and promoter of the issuer that are relevant to the offering,
 - (iv) indicating each of the directors that will be devoting his or her full time to the affairs of the issuer, and
 - (v) describing the right of action referred to in section 130.1 of the Act that is applicable in respect of the offering memorandum;
- (c) the prospective purchaser has access to substantially the same information concerning the issuer that a prospectus filed under the Act would provide and
- (i) because of net worth and investment experience or because of consultation with or advice from a person or company that is not a promoter of the issuer and that is an adviser or dealer registered under the Act, is able to evaluate the prospective investment on the basis of information about the investment presented to the prospective purchaser by the issuer or selling securityholder, or
 - (ii) is a senior officer or director of the issuer or of an affiliated entity of the issuer or a spouse or child of any director or senior officer of the issuer or of an affiliated entity of the issuer,
- (d) the offer and sale of the security is not accompanied by an advertisement and no selling or promotional expenses have been paid or incurred for the offer and sale, except for professional services or for services performed by a dealer registered under the Act; and
- (e) the promoter, if any, has not acted as a promoter of any other issue of securities under this exemption within the calendar year.
- (2) For the purpose of determining the number of purchasers or prospective purchasers under paragraph (1)(a), a corporation, partnership, trust or other entity shall be counted as one purchaser or prospective purchaser unless the entity has been created or is being used primarily for the purpose of purchasing a security of the issuer, in which event each beneficial owner of an equity interest in the entity or each beneficiary of the entity, as the case may be,

shall be counted as a separate purchaser or prospective purchaser.

2.14 Exemption for a Trade in a Security Distributed under Section 2.13 - Sections 25 and 53 of the Act do not apply to a trade in a security that was previously distributed under the exemption in section 2.13, if each of the parties to the trade is one of the not more than 50 purchasers.

PART 3 REMOVAL OF CERTAIN EXEMPTIONS FROM THE REGISTRATION AND PROSPECTUS REQUIREMENTS

3.1 Removal of Certain Exemptions Generally - The exemptions from the registration requirement in paragraphs 3, 4, 5, 18 and 21 of subsection 35(1) and paragraph 10 of subsection 35(2) of the Act and the exemptions from the prospectus requirement in clauses (a), (c), (d), (l) and (p) of subsection 72(1) and clause (a) of subsection 73(1) as it relates to paragraph 10 of subsection 35(2) of the Act are not available for a trade in a security.

3.2 Removal of Exemptions for Bonds, Debentures and Other Evidences of Indebtedness - The exemption from the registration requirement in subparagraph 1(c) of subsection 35(2) and the corresponding exemption from the prospectus requirement referred to in clause 73(1)(a) of the Act are not available for a trade in a bond, debenture or other evidence of indebtedness that is subordinate in right of payment to deposits held by the issuer or guarantor of the bond, debenture or other evidence of indebtedness.

3.3 Removal of Exemptions for Securities of a Private Mutual Fund with a Promoter or Manager - The exemption from the registration requirement in paragraph 3 of subsection 35(2) and the corresponding exemption from the prospectus requirement referred to in clause 73(1)(a) of the Act are not available for trades in a security of a private mutual fund if it is administered by a trust company and there is a promoter or manager of the mutual fund other than the trust company.

3.4 Removal of Registration Exemptions for Market Intermediaries

- (1) The exemptions from the registration requirement in sections 2.1, 2.2, 2.3, 2.5, 2.6, 2.7, 2.8, 2.9, 2.12, 2.13 and 2.14 are not available to a market intermediary.
- (2) A limited market dealer may act as a market intermediary in respect of a trade referred to in subsection (1).

PART 4 OFFERING MEMORANDUM

- 4.1 Application of Statutory Right of Action** - The right of action referred to in section 130.1 of the Act shall apply in respect of an offering memorandum delivered to a prospective purchaser in connection with a trade made in reliance upon an exemption from the prospectus requirement in section 2.1, 2.3, 2.12 or 2.13.
- 4.2 Description of Statutory Right of Action in Offering Memorandum** – If the seller delivers an offering memorandum to a prospective purchaser in connection with a trade made in reliance upon an exemption from the prospectus requirement in section 2.1, 2.3, 2.12 or 2.13, the right of action referred to in section 130.1 of the Act shall be described in the offering memorandum.
- 4.3 Delivery of Offering Memorandum to Commission** - If an offering memorandum is provided to a purchaser of securities in respect of a trade made in reliance upon an exemption from the prospectus requirement in section 2.1, 2.3, 2.12 or 2.13, the seller shall deliver to the Commission a copy of the offering memorandum within 10 days of the date of the trade.

PART 5 DEALER REGISTRATION

- 5.1 Removal of Exemption unless Dealer Registered for Trade Described in the Exemption** - An exemption from the registration requirement or from the prospectus requirement in the Act or the regulations that refers to a registered dealer is not available for a trade in a security unless the dealer is registered in a category that permits it to act as a dealer for the trade described in the exempting provision.

PART 6 RESTRICTIONS ON REALE OF SECURITIES DISTRIBUTED UNDER CERTAIN EXEMPTIONS

- 6.1 Resale of a Security Distributed to a Promoter Under Certain Exemptions** – If a security of an issuer is distributed to a promoter of the issuer under an exemption from the prospectus requirement in section 2.1, 2.3, 2.12, 2.13 or 2.14, the first trade in that security by that promoter is a distribution unless the conditions in subsection (2) or (3) of section 2.8 of MI 45-102 are satisfied.
- 6.2 Resale of a Security Distributed under Section 2.1** – If a security is distributed under the exemption from the prospectus requirement in section 2.1, the first trade in that security, other than a trade referred to in section 6.1, is subject to section 2.6 of MI 45-102.
- 6.3 Resale of a Security Distributed under Section 2.3, 2.12, 2.13 or 2.14** - If a security is distributed under an exemption from the prospectus requirement in section 2.3, 2.12, 2.13 or 2.14, the first trade in that

security, other than a trade referred to in section 6.1, is subject to section 2.5 of MI 45-102.

- 6.4 Resale of a Security Distributed under Clause 72(1)(h) of the Act** - If a security is distributed under the exemption from the prospectus requirement in clause 72(1)(h) of the Act, the first trade in that security, other than a trade to which section 6.5 applies, is subject to section 2.6 of MI 45-102.
- 6.5 Resale of an Underlying Security of a Multiple Convertible Security, Convertible Security or Exchangeable Security Distributed under Certain Exemptions** - If an underlying security is distributed under an exemption from the prospectus requirement on conversion or exchange of a multiple convertible security, convertible security or exchangeable security acquired in a Type 1 trade, the first trade in that underlying security is subject to section 2.5 of MI 45-102.
- 6.6 Resale of a Security Distributed under Section 2.6 or 2.7** – If an underlying security is distributed under an exemption from the prospectus requirement in section 2.6 or 2.7 on a forced conversion or exchange of a multiple convertible security, convertible security or exchangeable security acquired

- (a) in a Type 2 trade; or
- (b) under an exemption from the prospectus requirement in section 2.2, 3.1, 3.2, 3.3, 5.1 or 8.1 of Rule 45-503 *Trades to Employees, Executives and Consultants*, other than a trade by an associated consultant or investor consultant as defined in Rule 45-503 *Trades to Employees, Executives and Consultants*;

the first trade in that underlying security is subject to section 2.6 of MI 45-102.

- 6.7 Resale of a Security Distributed under Section 2.5 or 2.8** - If a security is distributed under an exemption from the prospectus requirement in section 2.5 or 2.8, the first trade in that security is subject to section 2.6 of MI 45-102.
- 6.8 Resale of a Security Distributed under Section 2.11** – If a security is distributed under the exemption from the prospectus requirement in section 2.11, the first trade in that security is subject to section 2.5 or 2.6 of MI 45-102, whichever section would have been applicable to a first trade in that security by the person or company making the exempt distribution under section 2.11.

PART 7 FILING REQUIREMENTS AND FEES

7.1 Form 45-501F1 - Every report that is required to be filed under subsection 72(3) of the Act or subsection 7.5(1) shall be filed in duplicate and prepared in accordance with Form 45-501F1.

7.2 Form 45-501F2 - Every report that is required to be filed under subsection 7.5(2) shall be filed in duplicate and prepared in accordance with Form 45-501F2.

7.3 Fees for Form 45-501F1

(1) A report filed in Form 45-501F1 shall be accompanied by a fee equal to the greater of

- (a) \$100; and
- (b) subject to subsection (2), the amount calculated using the formula,

$$A + B$$

where

"A" is 0.02 percent of the aggregate gross proceeds realized in Ontario from the distribution of securities, other than special warrants, for which the report filed in Form 45-501F1 is filed, and

"B" is 0.04 percent of the aggregate gross proceeds realized in Ontario from the distribution of special warrants for which the report filed in Form 45-501F1 is filed.

(2) The amount calculated under subsection (1) is considered to be \$100 if the report filed in Form 45-501F1 is filed for,

- (a) a trade in securities if there is no change in beneficial ownership of the securities as a result of the trade;
- (b) a subsequent trade in securities acquired under an exemption from the prospectus requirement in clause 72(1)(b) or (q) of the Act or section 2.3; or
- (c) a subsequent trade in securities acquired prior to November 30, 2001 under an exemption from the prospectus requirement in clause 72(1)(a), (c), (d), (l) or (p) of the Act or section 2.4, 2.5 or 2.11 of the Previous Rule.

7.4 Fees for Form 45-501F2 - A report filed in Form 45-501F2 shall be accompanied by a fee of \$100.

7.5 Exempt Trade Reports

(1) Subject to subsections (7) and (8), if a trade is made in reliance upon an exemption from the

prospectus requirement in section 2.3, 2.13 or 2.14, other than

- (a) a trade to a person or company referred to in paragraphs (p) through (s) of the definition of "accredited investor" in section 1.1, or
- (b) a trade to an entity referred to in paragraph (aa) if all of the owners of interests referred to in that paragraph are persons or companies referred to in paragraphs (p) through (s) of the definition of "accredited investor" in section 1.1,

the seller shall, within 10 days of the trade, file a report in accordance with section 7.1.

- (2) If a trade is made in reliance upon the conditions in subsection (2) or (3) of section 2.5 of MI 45-102 being satisfied, the seller shall, within 10 days of the trade, file a report in accordance with section 7.2.
- (3) If a trade is made in reliance upon the conditions in subsection (2) or (3) of section 2.8 of MI 45-102 being satisfied, the seller shall comply with the requirements of subsections (4) to (7) of that section.
- (4) If a trade is made under section 2.6, the issuer shall file the notice and pay the fees prescribed by section 20 of Schedule 1 to the Regulation as if the underlying security had been acquired in a distribution exempt from section 53 of the Act by subclause 72(1)(f)(iii) of the Act.
- (5) If a trade is made under section 2.7, the exchange issuer shall pay the fees prescribed by section 21 of Schedule 1 to the Regulation as if the security had been acquired in a distribution exempt from section 53 of the Act by clause 72(1)(h) of the Act.
- (6) If a trade is made under section 2.8, the issuer shall pay the fees prescribed by section 23 of Schedule 1 to the Regulation as if section 23 referred to section 2.8 instead of clause 72(1)(i) of the Act.
- (7) A report is not required under subsection (1) where, by a trade under section 2.3, a person or company referred to in paragraph (a), (b), (c) or (d) of section 1.1 acquires from a customer an evidence of indebtedness of the customer or an equity investment in the customer acquired concurrently with an evidence of indebtedness.
- (8) Despite subsection (1), a report in respect of a trade in a security of a mutual fund or non-redeemable investment fund made in reliance upon the exemption from the prospectus requirement in section 2.3 may be filed not later than 30 days after the financial

year end of the mutual fund or non-redeemable investment fund.

- 7.6 **Fees for Accredited Investor Application** - An application for recognition, or for renewal of recognition, as an accredited investor shall be accompanied by a fee of \$500.
- 7.7 **Report of a Trade Made under Section 2.12** - If a trade is made in reliance upon an exemption from the prospectus requirement in section 2.12, the issuer shall, not later than thirty days after the financial year end of the issuer in which the trade occurred, file a report, in duplicate, prepared in accordance with Form 45-501F1 and the report shall be accompanied by a fee calculated in accordance with section 7.3.

PART 8 TRANSITIONAL PROVISIONS

- 8.1 **Accredited Investor Definition Includes Exempt Purchaser** - The definition of "accredited investor" in section 1.1 includes, prior to November 30, 2002, a person or company that is recognized by the Commission as an exempt purchaser.
- 8.2 **Resale of a Security Distributed under Section 2.4, 2.5 or 2.11 of the Previous Rule** - If a security was distributed under an exemption from the prospectus requirement in section 2.4, 2.5 or 2.11 of the Previous Rule, the first trade in that security is subject to section 2.5 of MI 45-102.
- 8.3 **Resale of an Underlying Security of a Multiple Convertible Security, Convertible Security or Exchangeable Security Distributed under Certain Exemptions in the Previous Rule** - If an underlying security was distributed on conversion or exchange of a multiple convertible security, convertible security or exchangeable security acquired in a distribution under an exemption from the prospectus requirement in section 2.4, 2.5 or 2.11 of the Previous Rule, the first trade in that underlying security is subject to Section 2.5 of MI 45-102.
- 8.4 **Resale of a Security Distributed to a Promoter under Section 2.3 or 2.15 of the Previous Rule** - If a security was distributed to a promoter under an exemption from the prospectus requirement in section 2.3 or 2.15 of the Previous Rule, the first trade in that security is a distribution unless the conditions in subsection (2) or (3) of section 2.8 of MI 45-102 are satisfied.
- 8.5 **Resale of a Security Distributed under Section 2.9 or 2.10 of the Previous Rule** - If an underlying security was distributed under an exemption from the prospectus requirement in section 2.9 or 2.10 of the Previous Rule on a forced conversion or exchange of a multiple convertible security, convertible security or exchangeable security acquired by the holder in a Type 2 trade, the first trade in that underlying security is subject to section 2.6 of MI 45-102.

- 8.6 **Resale of a Security Distributed under Section 2.7, 2.8 or 2.17 or Subsection 2.18(1) of the Previous Rule** - If a security was distributed under an exemption from the prospectus requirement in section 2.7, 2.8 or 2.17 of the Previous Rule, or in subsection 2.18(1) of the Previous Rule after the issuer had ceased to be a private issuer for purposes of the Securities Act (British Columbia), the first trade in that security is subject to section 2.6 of MI 45-102.

PART 9 EFFECTIVE DATE

- 9.1 **Effective Date** - This instrument shall come into force on November 30, 2001.

FORM 45-501F1

Securities Act (Ontario)

Report under Section 72(3) of the Act or Section 7.5(1) of Rule 45-501

(To be used for reports of trades made in reliance upon clause 72(1)(b) or (q) of the Act, or Section 2.3, 2.12, 2.13 or 2.14 of Rule 45-501)

1. Full name and address of the seller.
2. Full name and address of the issuer of the securities traded.
3. Description of the securities traded.
4. Date of the trade(s).
5. Particulars of the trade(s).

<u>Name of Purchaser and Municipality and Jurisdiction of Residence</u>	<u>Amount or Number of Securities Purchased</u>	<u>Purchaser Price</u>	<u>Total Purchase Price (Canadian \$)</u>	<u>Exemption Relied Upon</u>
-----------------------------------------------------------------------------	-----------------------------------------------------	------------------------	---------------------------------------------------	----------------------------------

6. The seller has prepared and certified a statement containing the full legal name and the full residential address of each purchaser identified in section 5 and a certified true copy of the list will be provided to the Commission upon request.
7. State the name and address of any person acting as agent in connection with trade(s) and the compensation paid or to be paid to such agent.
8. Calculation of Fees payable upon filing Form 45-501F1: (See section 7.3 of Rule 45-501 Exempt Distributions).
Total Fees payable: \$
9. Certificate of seller or agent of seller.

The undersigned seller hereby certifies, or the undersigned agent of the seller hereby certifies to the best of the agent's information and belief, that the statements made in this report are true and correct.

DATED at

this ____ day of _____, 20 ____.

(Name of seller or agent - please print)

(Signature)

(Official capacity - please print)

(Please print name of individual whose signature appears above, if different from name of seller or agent printed above)

Notice + Collection and Use of Personal Information

The personal information prescribed by this form is collected on behalf of and used by the Ontario Securities Commission for purposes of administration and enforcement provisions of the securities legislation in Ontario. All of the information prescribed by this form, except for the information contained in the statement required to be prepared and certified by the seller under section 6 of this form, is made available to the public under the securities legislation of Ontario. If you have any questions about the collection and use of this information, contact the Ontario Securities Commission at the address below:

Ontario Securities Commission
Suite 1903, Box 55,
20 Queen Street West
Toronto, Ontario M5H 3S8
Attention: Administrative Assistant to the Director of Corporate Finance
Telephone: (416) 593-8200
Facsimile: (416) 593-8177

Instructions:

1. In answer to section 7 give the name of the person or company who has been or will be paid remuneration directly related to the trade(s), such as commissions, discounts or other fees or payments of a similar nature. It is not necessary to include payments for services incidental to the trade such as clerical, printing, legal or accounting services.
2. If the space provided for any answer is insufficient, additional sheets may be used and must be cross-referred to the relevant item and properly identified and signed by the person whose signature appears on the report.
3. Cheques must be made payable to the Ontario Securities Commission in the amount determined in section 8 above.
4. Please print or type and file two signed copies with:

Ontario Securities Commission
Suite 1900, Box 55,
20 Queen Street West
Toronto, Ontario M5H 3S8

FORM 45-501F2

Securities Act (Ontario)
Report under section 7.5(2) of Rule 45-501

1. Full name and address of the seller.
2. Full name and address of reporting issuer whose securities were traded.
3. Particulars of the trade(s).

<u>Date of Trade</u>	<u>Type of Security</u>	<u>Amount or Number of Securities Traded</u>	<u>Selling Price</u>
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4. Full name and municipality of residence of the party from whom the seller acquired the securities and the date of acquisition.
5. Certificate of seller or agent of seller.

The undersigned seller hereby certifies, or the undersigned agent of the seller hereby certifies to the best of the agent's information and belief, that:

- (1) the information given in this report is true and correct, and
- (2) (a) no unusual effort has been made to prepare the market or create a demand for the securities, and
(b) no extraordinary commission or consideration has been or has been agreed to be paid in respect of the trade covered by this report.

Instructions:

1. If the space provided for any answer is insufficient, additional sheets may be used and must be cross-referred to the relevant item and properly identified and signed by the person whose signature appears on the report.
2. Cheques must be made payable to the Ontario Securities Commission in the amount prescribed in section 7.4 of Rule 45-501 Exempt Distributions.
3. Please print or type and file two signed copies with:

Ontario Securities Commission
Suite 1900, Box 55,
20 Queen Street West
Toronto, Ontario M5H 3S8

DATED at

this ____ day of _____, 20____.

(Name of seller or agent - please print)

(Signature)

(Official capacity - please print)

(Please print name of individual whose signature appears above, if different from name of seller or agent printed above)

Notice + Collection and Use of Personal Information

The personal information prescribed by this form is collected on behalf of and used by the Ontario Securities Commission for purposes of administration and enforcement provisions of the securities legislation in Ontario. All of the information prescribed by this form, except for the information contained in the statement required to be prepared and certified by the seller, is made available to the public under the securities legislation of Ontario. If you have any questions about the collection and use of this information, contact the Ontario Securities Commission at the address below:

Ontario Securities Commission
Suite 1903, Box 55,
20 Queen Street West
Toronto, Ontario M5H 3S8
Attention: Administrative Assistant to the Director of Corporate Finance
Telephone: (416) 593-8200
Facsimile: (416) 593-8177

**FORM 45-501F3
FORM OF INFORMATION STATEMENT**

Introduction

Ontario securities laws have been relaxed to make it easier for small businesses to raise start-up capital from the public. Some potential investors may view this change in securities laws as an opportunity to "get in on the ground floor" of emerging businesses and to "hit it big" as these small businesses grow into large ones.

Statistically, most small businesses fail within a few years. Small business investments are among the most risky that investors can make. This information statement suggests matters for you to consider in deciding whether to make a small business investment.

Risks and Investment Strategy

A basic principle of investing in a small business is: **NEVER MAKE A SMALL BUSINESS INVESTMENT THAT YOU CANNOT AFFORD TO LOSE IN ITS ENTIRETY.** Never use funds that might be needed for other purposes, such as a post-secondary education, retirement, loan repayment or medical expenses, and never borrow money to make such an investment. Instead use funds that you already have set aside and that otherwise would be used for a consumer purchase, such as a vacation.

Never believe that the investment is not risky. Among other risk factors, small business investments generally are highly illiquid. In particular, until the company goes public there are significant restrictions on the resale of its securities. Even after a small business goes public there may be very little liquidity in its shares. This lack of liquidity means that, if the company takes a turn for the worse or if you suddenly need the funds you have invested in the company, you may not be able to sell your securities.

Also, it is important to realize that, just because the proposed offering of securities is permitted under Ontario securities law does not mean that the particular investment will be successful. Neither the Ontario Securities Commission nor any other government agency evaluates or endorses the merits of investments.

Analyzing the Investment

Although there is no magic formula for making successful investment decisions, certain factors are often considered particularly important by professional venture investors. Some questions to consider are as follows:

1. How long has the company been in business?
2. Is management putting itself in a position where it will be accountable to investors? For example, is management taking salaries or other benefits that are too large in light of the company's stage of development? Will outside investors have any voting power to elect representatives to the board of directors?

3. How much experience does management have in the industry and in operating a small business? How successful were the managers in previous businesses?
4. Do you know enough about the industry to be able to evaluate the company and make a wise investment?
5. Does the company have a realistic business plan? Does it have the resources to successfully market its product or service?
6. How reliable is the financial information, if any, that has been provided to you? Is the information audited?
7. Is the company subject to any lawsuits?
8. What are the restrictions on the resale of the securities?

There are many other questions to be answered, but you should be able to answer these before you consider investing. If you have not been provided with the information you need to answer these and any other questions you may have about the proposed investment, make sure that you obtain the information you need from people authorized to speak on the company's behalf (e.g., management or the directors) before you advance any funds or sign any commitment to advance funds to the company. It is generally a good idea to meet with management of the company face-to-face.

Making Money on Your Investment

There are two classic methods for making money on an investment in a small business: (1) through resale of the securities in the public securities markets following a public offering; and (2) by receiving cash or marketable securities in a merger or other acquisition of the company.

If the company is the type that is not likely to go public or be acquired within a reasonable time (*i.e.*, a family-owned or closely-held corporation), it may not be a good investment for you irrespective of its prospects for success because of the lack of opportunity to cash in on the investment. Management of a successful private company may receive a return indefinitely through salaries and bonuses but it is unlikely that there will be profits sufficient to pay dividends commensurate with the risk of the investment.

Conclusion

When successful, small businesses enhance the economy and provide jobs for its citizens. They also provide investment opportunities. However, an opportunity to invest must be considered in light of the inherently risky nature of small business investments.

In considering a small business investment, you should proceed with caution and make an informed investment decision based on your circumstances and expectations. Above all, never invest more than you can afford to lose.

**COMPANION POLICY 45-501CP TO
ONTARIO SECURITIES COMMISSION RULE 45-501
EXEMPT DISTRIBUTIONS**

PART 1 PURPOSE AND DEFINITIONS

1.1 Purpose - This policy statement sets forth the views of the Commission as to the manner in which certain provisions of the Act and the rules relating to the exemptions from the prospectus and registration requirements are to be interpreted and applied.

1.2 Definitions - In this Policy, "private placement exemptions" means the prospectus and registration exemptions available for

- (a) sales of securities of closely-held issuers under section 2.1 of Rule 45-501; and
- (b) sales of securities to accredited investors under section 2.3 of Rule 45-501.

PART 2 EXEMPTIONS FROM THE REGISTRATION AND PROSPECTUS REQUIREMENTS OF THE ACT

2.1 Interaction of Private Placement Exemptions - The Commission recognizes that a seller of securities may, in connection with any distribution of securities, rely concurrently on more than one private placement exemption. The Commission notes that where the seller is paying or incurring selling or promotional expenses in connection with the distribution, other than for the services of a dealer registered under the Act, the seller may not be able to rely on the exemption in section 2.1. The Commission takes the view that expenses incurred in connection with the preparation and delivery of an offering memorandum do not constitute selling or promotional expenses in this context.

2.2 Accredited Investor Status For Individuals

- (1) Paragraph (m) of the "accredited investor" definition in section 1.1 of Rule 45-501 refers to an individual who beneficially owns, or who together with a spouse beneficially own, financial assets having an aggregate net realizable value that, before taxes but net of any related liabilities, exceeds \$1,000,000. As a general matter, it should not be difficult to determine whether financial assets are beneficially owned by an individual, an individual's spouse, or both, in any particular instance. However, financial assets held in a trust or in other types of investment vehicles for the benefit of an individual may raise questions as to whether the individual beneficially owns the financial assets in the circumstances. The Commission is of the view that the following factors are indicative of beneficial ownership of financial assets:

- (a) physical or a constructive possession of evidence of ownership of the financial asset;
- (b) entitlement to receipt of any income generated by the financial asset;
- (c) risk of loss of the value of the financial asset; and
- (d) the ability to dispose of the financial asset or otherwise deal with it as the individual sees fit.

By way of example, securities held in a self-directed RRSP for the sole benefit of an individual would be beneficially owned by that individual. In general, financial assets in a spousal RRSP would also be included for purposes of the threshold test because paragraph (m) takes into account financial assets owned beneficially by a spouse. However, financial assets held in a group RRSP under which the individual would not have the ability to acquire the financial assets and deal with them directly would not meet this beneficial ownership requirement.

- (2) The Commission notes that paragraphs (m) and (n) of the "accredited investor" definition are designed to treat spouses as an investing unit such that either spouse may qualify as an accredited investor if both spouses, taken together, beneficially own the requisite amount of financial assets or earn the requisite net income. As well, it is the Commission's view that the financial asset test and the net income test prescribed in paragraphs (m) and (n), respectively, are to be applied only at the time of the trade such that there is no obligation on the seller to monitor the purchaser's continuing qualification as an accredited investor after the completion of the trade. Furthermore, the Commission considers that the references to "years" and "current year" in paragraph (n) mean calendar years or current calendar year, as applicable.
- (3) Paragraph (q) of the "accredited investor" definition refers to certain family members of an officer or director of the issuer. The Commission notes that officers and directors of an issuer or its affiliated entities are, in effect, treated as accredited investors under Rule 45-503 Trades to Employees, Executives and Consultants.

2.3 Closely-Held Issuer Exemption

- (1) The exemption in section 2.1 relating to securities of closely-held issuers is available to the closely-held issuer itself in respect of an issue of its own securities and to any holder of the issuer's securities in respect of a sale of the securities. A closely-held issuer may issue its own securities in reliance upon the exemption in

section 2.1 so long as it is able to meet the criteria for the availability of the exemption in that section. In particular, a closely-held issuer may no longer use the closely-held issuer exemption once it has received aggregate proceeds of \$3,000,000 from trades made in reliance upon the exemption. However, a holder of securities of a closely-held issuer may rely upon the exemption in section 2.1 in connection with any resale of the securities so long as the issuer continues to be a closely-held issuer after the resale. The issuer does not cease to be a closely-held issuer solely because it has raised \$3,000,000 in aggregate proceeds using the exemption.

- (2) The Commission notes that a closely-held issuer will generally be in a position to facilitate the use of the exemption in section 2.1 for the resale of its securities by limiting the number of its security holders through, among other things, use of the share transfer restrictions in its constating documents or in an agreement with its shareholders. Once the issuer no longer meets the closely-held issuer definition, a resale of securities distributed under the exemption in section 2.1 may only be made in reliance upon another exemption or by complying with the relevant provisions of Multilateral Instrument 45-102 Resale of Securities ("MI 45-102").
- (3) The Commission notes that the limitation on the use of the closely-held issuer exemption in paragraph (a) of subsection 2.1(1), which refers to aggregate proceeds of \$3,000,000, is based on the aggregate of all proceeds received by the issuer at any time from trades made in reliance upon the exemption in section 2.1. Proceeds received by the issuer from trades made in reliance upon other exemptions, including exemptions available prior to the date when the exemption in section 2.1 first became available, are not relevant. In particular, the proceeds realized by the issuer from trades to accredited investors need not be included in determining whether the \$3,000,000 threshold would be exceeded in respect of any proposed trade under section 2.1. However, if the issuer has not filed a report on Form 45-501F1 in respect of a trade with an accredited investor where such a filing is required, it will be presumed that the trade was made in reliance upon section 2.1, in which case the proceeds of that trade must be counted for purposes of the aggregate proceeds limit.
- (4) The Commission notes that the term "common enterprise" in paragraph (a) of subsection 2.1(1) is intended to operate as an anti-avoidance mechanism to the extent that multiple business entities are organized for the purposes of financing what is essentially a single business enterprise in order to benefit from continued or excessive use of the closely-held issuer

exemption. The Commission takes the view that commonality of ownership combined with commonality of business plans will be particularly indicative of a "common enterprise".

- (5) The Commission considers that the reference to "the date of the trade" for purposes of the information statement delivery requirement in subsection 2.1(2) means the settlement date or closing date of the trade, as applicable.

2.4 Sunset of Pooled Fund Rulings – Prior to the implementation of Rule 45-501 on November 30, 2001, the Commission has granted numerous rulings under subsection 74(1) of the Act providing exemptive relief from the prospectus and registration requirements to pooled fund issuers in respect of, among other things, the sale of additional pooled fund interests to investors that previously purchased pooled fund interests under an exemption. In general, these rulings contained a "sunset" provision stating that the ruling would terminate following the adoption of a rule regarding trades in securities of pooled funds. Rule 45-501 contains a "transitional" exemption in section 2.12 that exempts the sale of securities of a private pooled fund to an investor acquiring at least \$150,000 of such securities and, if the fund's adviser is registered under the Act, the sale of additional securities of the same fund to such an investor. The Commission considers that this transitional pooled fund exemption, together with the accredited investor exemption in section 2.3 of Rule 45-501 which exempts sales of securities to certain types of accredited investors, provide adequate transitional relief from the prospectus and registration requirements for trades in pooled fund interests to investors. OSC Rule 81-501 Mutual Fund Reinvestment Plans also continues to apply to securities of pooled funds that are issued to investors under reinvestment plans whereby distributions of income, capital or capital gains to investors are reinvested in additional securities of that pooled fund. Accordingly, the Commission takes the view that the rulings described above expire upon implementation of Rule 45-501. The Commission considers that section 2.12 is a "transitional" exemption that maintains the status quo for pooled funds until such time as the Commission determines the appropriate regulatory regime for pooled funds.

2.5 Trades on an Amalgamation, Arrangement or Specified Statutory Procedure - Clause 72(1)(i) of the Act and section 2.8 of Rule 45-501 provide exemptions for trades in securities in connection with a statutory amalgamation or arrangement or other statutory procedure. The Commission is of the view that the references to statute in these provisions refer to any statute of a jurisdiction or foreign jurisdiction under which the entities involved have been incorporated or created and exist or under which the transaction is taking place.

2.6 Three-Cornered Amalgamations - Certain corporate statutes permit a so-called "three-cornered merger or amalgamation" under which two

companies will amalgamate or merge and security holders of the amalgamating or merging entities will receive securities of a third party affiliate of one amalgamating or merging entity. Section 2.8 of Rule 45-501 exempts these trades as the exemption applies to any trade made in connection with an amalgamation or merger.

2.7 Other Exemptions - There are various other exemptions from the prospectus and registration requirements that are available to sellers of securities in prescribed circumstances, including Rule 45-503 Trades to Employees, Executives and Consultants which exempts sales of securities of an issuer to its employees and executives, among others. The Commission notes, in particular, that certain exemptions previously contained in Rule 45-501 as it read when it was originally adopted are now contained in MI 45-102. Market participants engaged in the purchase and sale of securities under exemptions from the prospectus and registration requirements should read MI 45-102 together with Rule 45-501 to ensure that they have duly considered all regulatory requirements applicable to exempt distributions of securities in Ontario.

2.8 Applications for Accredited Investor Recognition - Paragraph (u) of the "accredited investor" definition in section 1.1 of Rule 45-501 contemplates that a person or company may apply to be recognized by the Commission as an accredited investor. The Commission will consider applications for accredited investor recognition submitted by or on behalf of investors that do not meet any of the other criteria for accredited investor status but nevertheless have the requisite sophistication or financial resources. The Commission has not adopted any specific criteria for granting accredited investor recognition to applicants as the Commission believes that the "accredited investor" definition generally covers all of the types of investors that do not require the protection of the prospectus and registration requirements under the Act. If the Commission considers it appropriate in the circumstances, it may grant accredited investor recognition to an investor on terms and conditions, including a requirement that the investor apply annually for renewal of accredited investor recognition. The Commission notes that section 8.1 of Rule 45-501 provides, as a transitional matter, that a person or company recognized by the Commission as an exempt purchaser will be considered an accredited investor for the remaining term of the recognition order up to one year from the effective date of Rule 45-501. The Commission believes that a person or company previously recognized as an exempt purchaser should have little difficulty qualifying as an accredited investor under Rule 45-501 after its exempt purchaser recognition expires, unless the person or company has experienced a change in its financial circumstances.

PART 3 CERTIFICATION OF FACTUAL MATTERS

3.1 Seller's Due Diligence - It is the seller's responsibility to ensure that its trades in securities are made in compliance with applicable securities laws. In the case of a seller's reliance upon exemptions from the prospectus and registration requirements, the Commission expects that the seller will exercise reasonable diligence for the purposes of determining the availability of the exemption used in any particular circumstances. The Commission will normally be satisfied that a seller has exercised reasonable diligence in relying upon a particular exemption if the seller has obtained statutory declarations or written certifications from the purchasers, unless the seller has knowledge that any facts set out in the declarations or certifications are incorrect. In circumstances where a seller has recently obtained a statutory declaration or a written certification from a purchaser with whom a further trade is being made on an exempt basis, the seller may continue to rely upon the recently obtained statutory declaration or certification unless the seller has reason to believe that the statutory declaration or certification is no longer valid in the circumstances.

PART 4 OFFERING MEMORANDA

4.1 Use of Offering Memoranda in Connection with Private Placements

(1) Part 4 of Rule 45-501 provides for the application of the statutory right of action referred to in section 130.1 of the Act if an offering memorandum is delivered to a prospective investor in connection with a trade made in reliance upon a prospectus exemption in section 2.1, 2.3, 2.12 or 2.13 of Rule 45-501. In this case, the statutory right of action must be described in the offering memorandum and a copy of the offering memorandum must be delivered to the Commission. With the exception of the government incentive security exemption in section 2.13, there is no obligation to prepare an offering memorandum for use in connection with a trade made in reliance upon the above-noted prospectus exemptions. However, business practice may dictate the preparation of offering material that is delivered voluntarily to purchasers in connection with exempt trades under section 2.1, 2.3, or 2.12. This offering material may constitute an "offering memorandum" as defined in Ontario securities law. The statutory right of rescission or damages applies when the offering memorandum is provided mandatorily in connection with an exempt trade made under section 2.13, or voluntarily in connection with exempt trades made under section 2.1, 2.3 or 2.12, including an exempt trade made under section 2.3 to a government or financial institution that is an accredited investor. However, a document delivered in connection with a sale of securities made otherwise than in reliance upon the above-noted exemptions does

not give rise to the statutory right of action or subject the seller to the requirements of Part 4.

- (2) With the exception of an offering memorandum that is provided in respect of a trade in government incentive securities made under the exemption in section 2.13, Ontario securities law generally does not prescribe what an offering memorandum should contain.
- (3) The Commission cautions against the practice of providing preliminary offering material to certain prospective investors before furnishing a "final" offering memorandum unless the material contains a description of the statutory right of action available to purchasers in situations when the statutory right of action applies and a description is required. The only material prepared in connection with the private placement for delivery to investors, other than a "term sheet" (representing a skeletal outline of the features of an issue without dealing extensively with the business and affairs of the issuer), should consist of an offering memorandum describing the statutory right of action and complying in all other respects with Ontario securities law.

securityholder and their advisors. If Commission staff becomes aware of an offering memorandum that fails to disclose material information relating to the securities that are the subject of the transaction, staff may seek to intervene to effect remedial action.

PART 5 RESTRICTIONS ON RESALE OF SECURITIES

- 5.1 Incorporation of Multilateral Instrument 45-102 Resale of Securities** - Parts 6 and 8 of the Rule imposes resale restrictions on the first trades in securities distributed under certain exemptions from the prospectus requirements. Different types of resale restrictions are imposed depending upon the nature of the prospectus exemption under which the securities were distributed. In each case, the applicable resale restrictions are incorporated by reference to a specific section of MI 45-102. Sellers of securities are reminded that these resale restrictions need not apply if the seller is able to rely upon another prospectus exemption in the Act or in a Commission rule in respect of the resale of the securities in question.

PART 6 COMMISSION REVIEW

- 6.1 Review of Offering Material** - Although sellers of securities who rely upon the private placement exemptions are required to deliver to the Commission copies of offering material that they use in connection with the exempt trades if the offering material constitutes an "offering memorandum" as defined in Ontario securities law, the offering material is not generally reviewed or commented upon by Commission staff.
- 6.2 Other Regulatory Approvals** - Given the self-policing nature of exempt distributions and the fact that offering memoranda are not routinely reviewed by Commission staff, the decision relating to the appropriate disclosure in an offering memorandum rests with the issuer, the selling

Chapter 6

Request for Comments

6.1.1 Proposed Amendments to OSC Rule 45-502 and OSC Rule 45-503, and Proposed Rescission of OSC Rule 72-501

NOTICE OF PROPOSED AMENDMENTS TO RULE 45-502 DIVIDEND OR INTEREST REINVESTMENT AND STOCK DIVIDEND PLANS

AND

RULE 45-503 TRADES TO EMPLOYEES, EXECUTIVES AND CONSULTANTS

AND

PROPOSED RESCISSION OF RULE 72-501 PROSPECTUS EXEMPTION FOR FIRST TRADE OVER A MARKET OUTSIDE ONTARIO

Substance and Purpose of Proposed Amendments and Proposed Rescission

Most of the proposed amendments and the proposed rescission are consequential amendments resulting from the implementation of Multilateral Instrument 45-102 Resale of Securities ("MI 45-102") published in final form in this Bulletin. Rule 45-502 Dividend or Interest Reinvestment and Stock Dividend Plans ("Rule 45-502") was published in the Ontario Securities Commission Bulletin (1998) 21 OSCB 2685. Rule 45-502 provides exemptions from the registration requirement and the prospectus requirement of the Act for trades by an issuer or an administrator of the issuer under a dividend or interest reinvestment plan of the issuer or the cash payment option of a dividend or interest reinvestment plan or a stock dividend plan. The purpose of the proposed amendments are to (i) update stock exchange references and resale conditions to correspond to MI 45-102; and (ii) delete the restrictions on first trades in Rule 45-502 and substitute a section that cross refers to section 2.6 of MI 45-102.

Rule 45-503 Trades to Employees, Executives and Consultants ("Rule 45-503") was published in the Ontario Securities Commission Bulletin at (1999) 22 OSCB 117. Rule 45-503 provides exemptions from the registration requirement and the prospectus requirement for trades by an issuer or an administrator of an issuer to employees, executives or consultants and for trades by employees, executives, consultants or an administrator of the issuer on behalf of employees, executives or consultants. Most of the proposed amendments to Rule 45-503 are consequential amendments resulting from the implementation of MI 45-102. Other amendments reflect discretionary relief granted by the Commission since implementation of that rule or clarify language in Rule 45-503. The purpose of the proposed amendments are to (i) update definitions and resale conditions

to correspond to MI 45-102; (ii) expand the exemptions from the registration requirement to include a broader group of trades outside Canada; (iii) amend the exemptions from the registration requirement and the prospectus requirement for trades by a non-listed issuer to executives and administrators so that shareholder approval is not required for immaterial amendments to incentives or incentive plans; (iv) delete the restrictions on first trades in Rule 45-503 and substitute a section that cross refers to sections 2.5 and 2.6 of MI 45-102; and (v) add issuer bid exemptions.

Rule 72-501 Prospectus Exemption for First Trade over a Market Outside Ontario ("Rule 72-501") was published in the Ontario Securities Commission Bulletin at (1998) 21 OSCB 3873. Rule 72-501 provides an exemption from the prospectus requirement for first trades in securities distributed under a prospectus exemption if there is a *de minimis* market in Ontario for the securities traded and the securities are traded through an exchange or specified market outside Ontario. The Commission proposes to rescind Rule 72-501 as it is no longer necessary because section 2.14 of MI 45-102 grants the relief provided by Rule 72-501.

Summary of Proposed Amendments

Rule 45-502

Section 1.1 of the proposed amendments to Rule 45-502

- (i) adds a definition of MI 45-102 and deletes the interpretation of "special relationship" as the term would no longer be used in Rule 45-502;
- (ii) amends the exchange and market references in clause 3.1(a)(ii) to correspond to the terms used in the "qualified market" definition in MI 45-102;
- (iii) deletes clauses 3.1(b)(ii) and (iii) and substitute a *de minimis* market test that corresponds to section 2.14 of MI 45-102;
- (iv) deletes the restrictions on first trades in section 4.1 and substitutes a section that cross refers to section 2.6 of MI 45-102; and
- (v) amends section 5.1 to impose an obligation on an issuer to make disclosure to the Commission of the trade under section 2.1 or 3.1 of Rule 45-502.

Rule 45-503

Section 1.1 of the proposed amendments to Rule 45-503

- (i) adds definitions of "convertible security", "exchangeable security", "MI 45-102" and "multiple convertible security", amends the definitions of "foreign-listed

- issuer", "listed issuer" and "underlying security" and deletes the definition of "hold period";
- (ii) deletes the interpretation of "special relationship" as that term would no longer be used in Rule 45-503;
 - (iii) amends the interpretation of the *de minimis* market in subsection 1.2(7) and substitutes an interpretation that corresponds to the *de minimis* market condition in section 2.14 of MI 45-102;
 - (iv) expands the exemption from the registration requirement in section 2.4 to include trades by an employee, former employee, consultant or former consultant or an employee administrator on behalf of an employee, former employee, consultant or former consultant over an exchange or market, or to a person or company, outside Canada;
 - (v) amends the exemptions from the registration requirement and prospectus requirement in section 3.2 for trades by a non-listed issuer to executives to not require shareholder approval for immaterial amendments to incentives or incentive plans;
 - (vi) expands the exemption from the registration requirement in section 3.5 to include trades by an executive, former executive and an executive administrator on behalf of an executive or former executive over an exchange or market, or to a person or company, outside Canada;
 - (vii) deletes the restrictions on first trades in Part 9 and substitutes a section that cross refers to sections 2.5 and 2.6 of MI 45-102;
 - (viii) adds an issuer bid exemption in section 10.1 for the acquisition of securities by an issuer from an employee, former employee, executive, former executive, consultant or former consultant or an administrator on behalf of an employee, former employee, executive, former executive, consultant or former consultant to fulfil withholding tax obligations or as payment of the exercise price of a stock option; and
 - (ix) deletes sections 10.1 and 10.2 and substitutes sections 11.1 and 11.2 that impose an obligation on an issuer to make disclosure to the Commission of a trade under section 2.2, 3.1 or 3.2 and on a person or company making a control person distribution under section 5.1 to make disclosure to the Commission of the trade. Unlike clause 72(5)(b) of the Act, sections 2.5 and 2.6 of MI 45-102 do not impose a resale condition that the disclosure has been made.

Rule 72-501

It is proposed that Rule 72-501 be rescinded as it is no longer necessary because the relief granted by that rule has been included in section 2.14 of MI 45-102.

Authority for the Proposed Rules

The following sections of the Act provide the Commission with authority to make proposed Rules 45-502 and 45-503 and to

rescind Rule 72-501. Paragraph 143(1)8 of the Act authorizes the Commission to make rules that, among other things, provide for exemptions from the registration requirement of the Act. Paragraph 143(1)20 of the Act authorizes the Commission to make rules that, among other things, provide for exemptions from the prospectus requirement of the Act. Paragraph 143(1)28 authorizes the Commission to make rules that, among other things, regulate issuer bids. Paragraph 143(1)48 authorizes the Commission to make rules that specify the conditions under which any particular type of trade that would not otherwise be a distribution shall be a distribution.

Alternatives Considered

The Commission considered whether to impose the restrictions on resale of securities acquired under Rule 45-502 or Rule 45-503 in MI 45-102 rather than in Rules 45-502 and 45-503. The Commission determined that that would not be workable given that the implementation date of the amendments to Rules 45-502 and 45-503 will be later than November 30, 2001, the proposed effective date of MI 45-102.

As noted above, the Commission expects that there will be a period of time between the date MI 45-102 becomes effective and the date the amendments to Rules 45-502 and 45-503 become effective. During this period the restrictions in Rules 45-502 and 45-503 on first trades of securities distributed under those rules will not be the same as the resale restrictions in MI 45-102. In order for the shorter restricted periods and seasoning periods reflected in MI 45-102 to be applicable to securities distributed under Rules 45-502 and 45-503, persons or companies must apply to the Commission for discretionary relief.

Staff of the Commission will recommend that relief be granted under Rules 45-502 and 45-503 in accordance with MI 45-102 prior to the implementation of the amendments to Rules 45-502 and 45-503. Once Rules 45-502 and 45-503 have been amended, the resale restrictions in MI 45-102 will be applicable.

Unpublished Materials

In proposing these amendments and rescission, the Commission has not relied on any significant unpublished study, report or other material.

Anticipated Costs and Benefits

The principal benefit of proposed amendments to Rules 45-502 and 45-503 will be to shorten the restricted period and seasoning period applicable to securities acquired under dividend or interest reinvestment or stock dividend plans and by employees, executives and consultants and to make the periods consistent with those imposed by MI 45-102 on securities acquired under other prospectus exemptions.

There are no additional costs associated with proposed Rules 45-502 and 45-503.

Regulations to be Amended

The proposed amendments and rescission do not require any regulations to be amended.

Comments

Interested parties are invited to make written submissions with respect to the proposed Rules and proposed rescission. Submissions received by December 13, 2001 will be considered.

Submissions should be made in duplicate to:

John Stevenson, Secretary
Ontario Securities Commission
20 Queen Street West
Suite 800, Box 55
Toronto, Ontario M5H 3S8

A diskette containing the submissions (in DOS or Windows format, preferably WordPerfect) should also be submitted. Comment letters submitted in response to requests for comment are placed on the public file and form part of the public record, unless confidentiality is requested. Although comment letters requesting confidentiality will not be placed on the public file, freedom of information legislation may require the Commission to make some letters available. Persons submitting comment letters should therefore be aware that the press and members of the public may be able to obtain access to any comment letters.

Questions may be referred to:

Jean-Paul Bureaud or Margo Paul
Ontario Securities Commission
(416) 593-8131 or (416) 593-8136
jbureaud@osc.gov.on.ca
mpaul@osc.gov.on.ca

Proposed Amendments and Proposed Rescission

The text of the proposed amendments and proposed rescission follows.

September 14, 2001.

AMENDMENTS TO
ONTARIO SECURITIES COMMISSION RULE 45-502
DIVIDEND OR INTEREST REINVESTMENT
AND STOCK DIVIDEND PLANS

PART 1 AMENDMENTS

1.1 Amendments - Rule 45-502 Dividend or Interest Reinvestment and Stock Dividend Plans is amended by

(a) adding the following definition "MI 45-102" means Multilateral Instrument 45-102 Resale of Securities;"

(b) deleting section 1.2;

(c) deleting clause 3.1(a)(ii) and substituting for that clause

"(ii) an issuer other than a reporting issuer and the class of securities is listed and posted for trading, traded, or quoted, on

(A) Bourse de Montréal Inc.,

(B) the Canadian Venture Exchange Inc.,

(C) the New York Stock Exchange,

(D) the American Stock Exchange,

(E) Nasdaq National Market,

(F) Nasdaq SmallCap Market,

(G) the London Stock Exchange Limited, or

(H) a successor to any of the entities listed in subclauses (A) through (G); and"

(d) deleting clauses 3.1(b)(ii) and (iii) and substituting for those clauses

"(ii) at the time of the trade, residents of Canada

(A) did not own directly or indirectly more than 10 percent of the outstanding securities of the class or series; and

(B) did not represent in number more than 10 percent of the total number of owners directly or indirectly of the class or series.";

(e) deleting section 4.1 and substituting for that section

4.1 Restrictions on First Trade of Securities Distributed under Section 2.1 or 3.1 - If a security was distributed under an exemption from the requirement in section 53 of the Act in section 2.1 or 3.1, the first trade of

that security is subject to section 2.6 of MI 45-102."; and

- (f) deleting section 5.1 and substituting for that section

"5.1 **Disclosure** - An issuer shall make disclosure to the Commission of the trade under section 2.1 or 3.1 in accordance with this Part."

PART 2 EFFECTIVE DATE

- 2.1 **Effective Date** - These Amendments come into force on ●, 2002.

AMENDMENTS TO ONTARIO SECURITIES COMMISSION RULE 45-503 TRADES TO EMPLOYEES, EXECUTIVES AND CONSULTANTS

PART 1 AMENDMENTS

- 1.1 **Amendments** - Rule 45-503 Trades to Employees, Executives and Consultants is amended by
- (a) adding the definition ""convertible security" means a security of an issuer that is convertible into, or carries the right of the holder to purchase or otherwise acquire, or of the issuer to cause the purchase or acquisition of, a security of the same issuer;"
 - (b) adding the definition ""exchangeable security" means a security of an issuer that is exchangeable for, or carries the right of the holder to purchase or otherwise acquire, or of the issuer to cause the purchase or acquisition of, a security of another issuer;"
 - (c) deleting the definition "foreign-listed issuer" and substituting for that definition ""foreign-listed issuer" means an issuer any of the securities of which are listed and posted for trading, or traded, on the American Stock Exchange, the New York Stock Exchange or the London Stock Exchange Limited or quoted on Nasdaq National Market or Nasdaq SmallCap Market or a successor to any of those entities;"
 - (d) deleting the definition of "hold period";
 - (e) deleting the definition of "listed issuer" and substituting for that definition ""listed issuer" means an issuer any of the securities of which are listed and posted for trading, or traded, on The Toronto Stock Exchange Inc., the Canadian Venture Exchange Inc. or Bourse de Montréal Inc. or a successor to any of those entities;"
 - (f) adding a definition ""MI 45-102" means Multilateral Instrument 45-102 Resale of Securities;"
 - (g) adding the definition ""multiple convertible security" means a security of an issuer that is convertible into, or exchangeable for, or carries the right of the holder to purchase or otherwise acquire, or of the issuer to cause the purchase or acquisition of, a convertible security, an exchangeable security or another multiple convertible security;"
 - (h) deleting the definition "underlying security" and substituting for that definition ""underlying security" means a security issued or transferred, or to be issued or transferred, in accordance with the terms of a convertible security, an exchangeable security or a multiple convertible security.";

- (i) deleting subsection 1.2(5) and renumbering subsection 1.2(6) as subsection 1.2(5);
- (j) deleting subsection 1.2(7) and substituting for that subsection

"(6) In this Rule, an issuer is considered to have a *de minimis* Canadian market with respect to a class or series of securities of the issuer if, at the relevant time, residents of Canada

- (a) did not own directly or indirectly more than 10 percent of the outstanding securities of the class or series; and
 - (b) did not represent in number more than 10 percent of the total number of owners directly or indirectly of securities of the class or series.";
- (k) deleting section 2.4 and substituting for that section

"2.4 De Minimis Registration Exemption for Trades by Employees, Former Employees, Consultants, Former Consultants and Administrators - Section 25 of the Act does not apply to a trade by an employee, former employee, consultant or former consultant of an issuer, or an employee administrator of an issuer on behalf of an employee, former employee, consultant or former consultant, of a security of the issuer's own issue, if

- (a) in the case of a trade by a former employee, former consultant or administrator on behalf of a former employee or former consultant, the security, or in the case of a trade of an underlying security, the convertible security, exchangeable security or multiple exchangeable security, was distributed to the former employee, former consultant or administrator of the issuer under an exemption from the requirement of section 53 of the Act in section 2.2, 5.1 or 8.1;
- (b) the issuer was not a reporting issuer at the time of the acquisition of the security, or in the case of an underlying security at the time of the acquisition of the convertible security, exchangeable security or multiple exchangeable security;
- (c) at the time of the acquisition of the security, or in the case of an underlying security at the time of the acquisition of the convertible security, exchangeable security or multiple exchangeable security, the issuer has a *de minimis* Canadian market for the security; and

(d) the trade is made

- (i) through an exchange, or a market, outside of Canada, or
- (ii) to a person or company outside of Canada.";

- (l) deleting paragraph 3.2(a) and substituting for that paragraph

"(a) in the case of the issue of a security as an incentive,

- (i) prior shareholder approval has been obtained for the incentive or the incentive plan under which the incentive is being issued, including any amendments thereto, if the incentive or the incentive plan, in each case together with all of the issuer's other previously established or proposed incentives or incentive plans, could result, at any time, in

(A) the number of shares reserved for issuance under stock options granted to related persons exceeding 10 percent of the outstanding issue,

(B) the issuance to related persons, within a 12 month period, of a number of shares exceeding 10 percent of the outstanding issue,

(C) the number of shares reserved for issuance under stock options granted to any one related person and the related person's associates exceeding five percent of the outstanding issue, or

(D) the issuance to any one related person and the related person's associates, within a 12 month period, of a number of shares exceeding five percent of the outstanding issue, or

- (ii) prior shareholder approval has been obtained for the incentive or the incentive plan under which the incentive is being issued, irrespective of whether any amendments are made subsequent to shareholder approval, if

(A) the incentive or the incentive plan, in each case together with all of the issuer's other previously established or proposed incentives or incentive plans, could result, at any time, in

1. the number of shares reserved for issuance under stock options granted to related persons exceeding 10 percent of the outstanding issue,
2. the issuance to related persons, within a 12 month period, of a number of shares exceeding 10 percent of the outstanding issue,
3. the number of shares reserved for issuance under stock options granted to any one related person and the related person's associates exceeding five percent of the outstanding issue, or
4. the issuance to any one related person and the related person's associates, within a 12 month period, of a number of shares exceeding five percent of the outstanding issue, and

(B) the amendments made subsequent to the shareholder approval could not result in the number of shares reserved for issuance, or issued with a 12 month period, exceeding to a greater extent the applicable percentage referred to in clause (A).

(m) deleting clause 3.3 (b)(ii) and substituting for that clause

"(ii) at the time of the trade, the issuer has a *de minimis* Canadian market for the security; and";

(n) deleting section 3.5 and substituting

"3.5 *De Minimis* Registration Exemption for Trades by Executives, Former Executives and Administrators - Section 25 of the Act does not apply to a trade by an executive or former executive of an issuer, or an executive administrator of an issuer on behalf of an executive or former executive, of a security of the issuer's own issue, if

(a) in the case of a trade by a former executive or an administrator on behalf of a former executive, the security, or in the case of a trade of an underlying security, the convertible security, exchangeable security or multiple exchangeable security, was distributed to the former executive or administrator

of the issuer under an exemption from the requirement of section 53 of the Act in section 3.1, 3.2, 3.3, 5.1 or 8.1;

(b) the issuer was not a reporting issuer at the time of the acquisition of the security, or in the case of an underlying security at the time of the acquisition of the convertible security, exchangeable security or multiple exchangeable security;

(c) at the time of the acquisition of the security, or in the case of an underlying security at the time of the acquisition of the convertible security, exchangeable security or multiple convertible security, the issuer had a *de minimis* Canadian market for the security; and

(d) the trade is made through

(i) an exchange, or a market, outside of Canada, or

(ii) to a person or company outside of Canada.";

(o) deleting section 9.1 and substituting for that section

"9.1 Restrictions on First Trades in Securities Distributed under Exemptions in Rule

(1) If a security was distributed to a person or company, other than an associated consultant or an investor consultant of the issuer of the security, under the exemption from the requirement of section 53 of the Act in section 2.2, 3.1, 3.2, 3.3, 5.1 or 8.1, the first trade of that security is subject to section 2.6 of MI 45-102.

(2) If a security was distributed to an associated consultant or investor consultant of the issuer of the security under the exemption from the requirement of section 53 of the Act in section 2.2, 5.1 or 8.1, the first trade of that security is subject to section 2.5 of MI 45-102.

(3) If a convertible security, exchangeable security or multiple convertible security was distributed to an associated consultant or investor consultant of the issuer of the underlying security under the exemption from the requirement of section 53 of the Act in section 2.2, 5.1 or 8.1, the first trade of the underlying security is subject to section 2.5 of MI 45-102.";

(p) adding Part 10 Issuer Bid Exemptions;

"10.1 Issuer Bid Exemptions - Sections 95, 96, 97, 98 and 100 of the Act, section 203.1 of the Regulation and Rule 61-501 Insider Bids, Issuer Bids, Going Private Transactions and Related Party Transactions do not apply to the acquisition by an issuer of securities of the issuer from an employee, former employee, executive, former executive, consultant or former consultant of the issuer, or an administrator of the issuer on behalf of an employee, former employee, executive, former executive, consultant or former consultant to fulfil withholding tax obligations in respect of the employee, former employee, executive, former executive, consultant or former consultant of the issuer, or as payment of the exercise price of a stock option by the employee, former employee, executive, former executive, consultant or former consultant of an issuer, or an administrator of the issuer on behalf of the employee, former employee, executive, former executive, consultant or former consultant if

- (a) in the case of an acquisition from a former employee, former executive, former consultant or an administrator of the issuer on behalf of a former employee, former executive or former consultant, the security, or in the case of an underlying security, the convertible security, exchangeable security or multiple exchangeable security, was distributed to the former employee, former executive, former consultant or an administrator of the issuer under an exemption from the requirement of section 53 of the Act in section 2.2, 3.1, 3.2, 3.3, 5.1 or 8.1;
- (b) the acquisition is made in accordance with the terms of a service provider plan that specifies how the value of the securities acquired by the issuer shall be determined;
- (c) in the case of securities acquired as payment of the exercise price of a stock option, the date of exercise of the option is chosen by the option holder; and
- (d) the aggregate number, or, in the case of debt securities that are convertible securities, exchangeable securities or multiple exchangeable securities, the aggregate principal amount, of securities acquired by the issuer within a 12 month period under this section does not exceed five percent of the

outstanding securities of the class or series at the beginning of the period.";

(q) renumbering Part 10 as Part 11;

(r) deleting sections 10.1 and 10.2 and substituting for those sections

"11.1 Disclosure

- (1) An issuer shall make disclosure to the Commission of the trade under section 2.2, 3.1 or 3.2 in accordance with this Part.
- (2) The person or company making the distribution shall make disclosure of the control person distribution under section 5.1 in accordance with this Part.

11.2 Details of Disclosure - The disclosure referred to in section 11.1 shall be made by disclosing the date of the trade, the number of securities purchased and the purchase price paid or to be paid, in

- (a) an information circular or take-over bid circular filed under securities legislation; or
- (b) a letter filed by a person or company and certifying that the person or company has knowledge of the facts contained in the letter."

(s) changing the references to sections 10.1, 10.3 and 10.4 in sections 10.3, 10.4 and 10.5 to sections 11.1, 11.3 and 11.4, respectively;

(t) renumbering sections 10.3, 10.4 and 10.5 as sections 11.3, 11.4 and 11.5, respectively; and

(u) renumbering Part 11 as Part 12, section 11.1 as section 12.1, Part 12 as Part 13 and section 12.1 as section 13.1.

PART 2 EFFECTIVE DATE

2.1 **Effective Date** - These Amendments come into force on ●, 2002.

**RESCISSION OF
ONTARIO SECURITIES COMMISSION RULE 72-501
PROSPECTUS EXEMPTION FOR FIRST TRADE OVER A
MARKET
OUTSIDE ONTARIO**

PART 1 RESCISSION

- 1.1 **Rescission** - Rule 72-501 Prospectus Exemption for First Trade Over a Market Outside Ontario is rescinded.

PART 2 EFFECTIVE DATE

- 2.1 **Effective Date** - This rescission comes into force on ●, 2002.

Chapter 7

Insider Reporting

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

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

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

Chapter 8

Notice of Exempt Financings

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

<u>Trans. Date</u>	<u>Security</u>	<u>Price (\$)</u>	<u>Amount</u>
06Aug01	AIFUL Corporation - Common Stock	260,957	2,050
08Aug01	Atrix laboratories, Inc. - Common Shares	1,945,570	55,000
23Aug01	Glencairn Explorations Ltd. - Flow-Through Common Shares	215,000	860,000
10Apr01	Lifepoints Achievement Fund, Lifepoints Progress Fund, Lifepoints Opportunity Fund, Russell Overseas Equity Fund - Units	226	2
05Apr01	Lifepoints Achievement Fund, Lifepoints Progress Fund, Lifepoints Opportunity Fund, Russell Overseas Equity Fund - Units	326	3
22Mar01	Lifepoints Achievement Fund, Lifepoints Progress Fund, Lifepoints Opportunity Fund, Russell Canadian Equity Fund, Russell Overseas Equity Fund - Units	1,626	10
28Mar01	Lifepoints Achievement Fund, Lifepoints Progress Fund, Lifepoints Opportunity Fund, Russell Canadian Equity Fund, Russell Overseas Equity Fund - Units	1,888	17
28Feb01	Lifepoints Achievement Fund, Lifepoints Progress Fund, Russell Canadian Equity Fund Russell Overseas Equity Fund - Units	5,574	49
15Mar01	Lifepoints Achievement Fund, Lifepoints Progress Fund, Russell Canadian Equity Fund - Units	1,386	13
30Apr01	Lifepoints Achievement Fund, Lifepoints Opportunity Fund, Lifepoints Progress Fund - Units	14,270	133
09Mar01	Lifepoints Achievement Fund - Unit	45	.44
16Apr01	Lifepoints Achievement Fund, Lifepoints Progress Fund, Russell Canadian Equity Fund, Russell Global Equity Fund - Units	1,800	16
27Feb01	Lifepoints Achievement Fund, Russell Canadian Equity Fund, Russell Canadian Fixed Income Fund, Russell Global Equity Fund - Units	41,494	288
16Apr01	Lifepoints Achievement Fund, Lifepoints Progress Fund, Lifepoints Opportunity Fund, Russell Canadian Fixed Income Fund, Russell Canadian Equity Fund, Russell Global Equity Fund - Units	270,916	2,482
27Feb01	Lifepoints Achievement Fund, Russell Canadian Equity Fund, Russell Canadian Fixed Income Fund, Russell Global Equity Fund - Units	41,494	288
07Mar01	Lifepoints Achievement Fund, Lifepoints Progress Fund, Lifepoints Opportunity Fund, Russell Canadian Equity Fund, Russell Canadian Fixed Income Fund, Russell Global Equity Fund - Units	44,315	376
13Mar01	Lifepoints Achievement Fund, Lifepoints Progress Fund, Lifepoints Opportunity Fund, Russell Overseas Equity Fund - Units	2,153	19
18Apr01	Lifepoints Achievement Fund, Lifepoints Progress Fund, Lifepoints Opportunity Fund, Russell Overseas Equity Fund - Units	278	2
25Apr01	Lifepoints Achievement Fund, Lifepoints Progress Fund, Lifepoints Opportunity Fund, Russell Overseas Equity Fund - Units	741	6

Notice of Exempt Financings

<u>Trans. Date</u>	<u>Security</u>	<u>Price (\$)</u>	<u>Amount</u>
19Mar01	Lifepoints Achievement Fund, Lifepoints Opportunity Fund, Lifepoints Progress Fund - Units	13,023	123
01Mar01	Lifepoints Balanced Long Term Growth Fund, Lifepoints Balanced Growth Fund, Lifepoints Balanced Income Fund, Russell Canadian Equity Fund, Russell Canadian Fixed Income Fund, Russell Global Equity Fund, Russell U.S. Equity Fund, Russell Overseas Equity Fund - Units	234,442	2,042
30Mar01	Lifepoints Balanced Long Term Growth Fund, Lifepoints Balanced Growth Fund, Lifepoints Balanced Income Fund, Russell Canadian Equity Fund, Russell Canadian Fixed Income Fund, Russell Global Equity Fund, Russell U.S. Equity Fund, Russell Overseas Equity Fund - Units	110,641	1,015
29Mar01	Lifepoints Balanced Long Term Growth Fund, Lifepoints Balanced Growth Fund, Lifepoints Balanced Income Fund, Russell Canadian Equity Fund, Russell Canadian Fixed Income Fund, Russell Global Equity Fund, Russell U.S. Equity Fund, Russell Overseas Equity Fund - Units	179,496	1,527
25Apr01	Lifepoints Balanced Long Term Growth Fund, Lifepoints Balanced Growth Fund, Lifepoints Balanced Income Fund, Russell Canadian Equity Fund, Russell Canadian Fixed Income Fund, Russell Global Equity Fund, Russell U.S. Equity Fund, Russell Overseas Equity Fund - Units	164,581	1,547
12Apr01	Lifepoints Balanced Long Term Growth Fund, Lifepoints Balanced Growth Fund, Lifepoints Balanced Income Fund, Russell Canadian Equity Fund, Russell Canadian Fixed Income Fund, Russell Global Equity Fund, Russell U.S. Equity Fund, Russell Overseas Equity Fund - Units	155,504	1,446
04Apr01	Lifepoints Balanced Long Term Growth Fund, Lifepoints Balanced Growth Fund, Lifepoints Balanced Income Fund, Russell Canadian Equity Fund, Russell Canadian Fixed Income Fund, Russell Global Equity Fund, Russell U.S. Equity Fund, Russell Overseas Equity Fund - Units	34,232	329
23Apr01	Lifepoints Balanced Long Term Growth, Lifepoints Balanced Growth, Lifepoints Balanced Income - Units	18,005	170
30Apr01	Lifepoints Balanced Long Term Growth Fund, Lifepoints Balanced Growth Fund, Lifepoints Balanced Income Fund, Russell Canadian Equity Fund, Russell Canadian Fixed Income Fund, Russell Global Equity Fund, Russell U.S. Equity Fund, Russell Overseas Equity Fund - Units	67,419	565
02Mar01	Lifepoints Balanced Long Term Growth Fund, Lifepoints Balanced Growth Fund, Lifepoints Balanced Income Fund, Russell Canadian Equity Fund, Russell Canadian Fixed Income Fund, Russell Global Equity Fund, Russell U.S. Equity Fund, Russell Overseas Equity Fund - Units	110,086	987
27Feb01	Lifepoints Balanced Long Term Growth Fund, Lifepoints Balanced Growth Fund, Lifepoints Balanced Income Fund, Russell Canadian Equity Fund, Russell Canadian Fixed Income Fund, Russell Global Equity Fund, Russell U.S. Equity Fund, Russell Overseas Equity Fund - Units	545,227	5,226
03Apr01	Lifepoints Balanced Long Term Growth Fund, Lifepoints Balanced Growth Fund, Lifepoints Balanced Income Fund, Russell Canadian Equity Fund, Russell Canadian Fixed Income Fund, Russell Global Equity Fund, Russell Overseas Equity Fund - Units	141,022	1,330
26Apr01	Lifepoints Balanced Long Term Growth Fund, Lifepoints Balanced Growth Fund, Lifepoints Balanced Income Fund, Russell Canadian Fixed Income Fund, Russell Global Equity Fund, Russell Overseas Equity Fund - Units	64,777	612
12Mar01	Lifepoints Balanced Long Term Growth Fund, Lifepoints Balanced Growth Fund, Lifepoints Balanced Income Fund, Russell Global Equity Fund, Russell Overseas Equity Fund - Units	42,796	403
06Mar01	Lifepoints Balanced Long Term Growth Fund, Lifepoints Balanced Growth Fund, Lifepoints Balanced Income Fund, Russell Global Equity Fund, Russell Overseas Equity Fund - Units	70,044	602
14Mar01	Lifepoints Balanced Long Term Growth Fund, Lifepoints Balanced Growth Fund, Lifepoints Balanced Income Fund, Russell Canadian Equity Fund, Russell Global Equity Fund, Russell U.S. Equity Fund, Russell Overseas Equity Fund - Units	179,855	1,768
29Mar01	Lifepoints Balanced Long Term Growth, Lifepoints Balanced Growth, Lifepoints Balanced Income - Units	17,533	171
27Apr01	Lifepoints Balanced Long Term Growth Fund, Lifepoints Balanced Growth Fund, Lifepoints Balanced Income Fund, Russell Canadian Equity Fund, Russell Canadian Fixed Income Fund, Russell U.S. Equity Fund, Russell Overseas Equity Fund - Units	387,385	3,693

Notice of Exempt Financings

<u>Trans.</u>	<u>Date</u>	<u>Security</u>	<u>Price (\$)</u>	<u>Amount</u>
	13Mar01	Lifepoints Balanced Long Term Growth, Lifepoints Balanced Growth, Lifepoints Balanced Income - Units	19,303	184
	10Apr01	Lifepoints Balanced Long Term Growth Fund, Lifepoints Balanced Growth Fund, Lifepoints Balanced Income Fund, Russell Canadian Equity Fund, Russell Global Equity Fund, Russell Overseas Equity Fund - Units	160,528	1,524
	24Apr01	Lifepoints Balanced Long Term Growth Fund, Lifepoints Balanced Growth Fund, Lifepoints Balanced Income Fund, Russell Canadian Equity Fund, Russell Global Equity Fund, Russell U.S. Equity Fund - Units	6,707	58
	21Mar01	Lifepoints Balanced Long Term Growth Fund, Lifepoints Balanced Growth Fund, Lifepoints Balanced Income Fund, Russell Canadian Equity Fund, Russell Canadian Fixed Income Fund, Russell Overseas Equity Fund - Units	33,911	291
	16Mar01	Lifepoints Balanced Long Term Growth Fund, Lifepoints Balanced Growth Fund, Russell Canadian Fixed Income Fund, Russell Global Equity Fund, Russell Overseas Equity Fund - Units	50,937	487
	27Feb01	Lifepoints Balanced Growth Fund, Lifepoints Balanced Income Fund - Units	99,249	948
	13Mar01	Lifepoints Balanced Long Term Growth Fund, Lifepoints Balanced Growth Fund - Units	6,813	63
	20Mar01	Lifepoints Balanced Growth Fund, Lifepoints Balanced Income Fund - Units	31,292	248
	20Mar01	Lifepoints Balanced Long Term Growth Fund, Lifepoints Balanced Income Fund, Russell Canadian Equity Fund, Russell Global Equity Fund, Russell Overseas Equity Fund - Units	31,292	248
	16Apr01	Lifepoints Balanced Long Term Growth Fund, Lifepoints Balanced Income Fund, Russell Canadian Fixed Income Fund, Russell U.S. Equity Fund, Russell Overseas Equity Fund - Units	138,784	1,248
	17Apr01	Lifepoints Balanced Long Term Growth Fund, Lifepoints Balanced Income Fund, Russell Canadian Equity Fund, Russell Canadian Fixed Income Fund, Russell U.S. Equity Fund, Russell Overseas Equity Fund - Units	115,385	1,050
	22Mar01	Lifepoints Balanced Growth Fund, Lifepoints Balanced Income Fund, Russell Overseas Equity Fund - Units	26,573	259
	09Apr01	Lifepoints Balanced Long Term Growth, Lifepoints Balanced Income - Unit	165	1
	20Apr01	Lifepoints Balanced Long Term Growth Fund, Lifepoints Balanced Income Fund - Units	114,114	1,081
	11Apr01	Lifepoints Balanced Long Term Growth Fund, Lifepoints Balanced Income Fund, Russell Canadian Equity Fund, Russell Global Equity Fund, Russell U.S. Equity Fund, Russell Overseas Equity Fund - Units	107,774	1,111
	19Apr01	Lifepoints Balanced Long Term Growth Fund, Lifepoints Balanced Growth Fund, Lifepoints Balanced Income Fund, Russell Canadian Equity Fund, Russell Global Equity Fund, Russell Overseas Equity Fund - Units	340,097	3,089
	23Mar01	Lifepoints Balanced Growth Fund, Lifepoints Balanced Income Fund, Russell Canadian Equity Fund, Russell Canadian Fixed Income Fund, Russell Global Equity Fund, Russell U.S. Equity Fund, Russell Overseas Equity Fund - Units	67,494	645
	02Apr01	Lifepoints Balanced Long Term Growth Fund, Lifepoints Balanced Income Fund, Russell Canadian Equity Fund, Russell Canadian Fixed Income Fund, Russell Global Equity Fund, Russell U.S. Equity Fund, Russell Overseas Equity Fund - Units	36,028	330
	19Mar01	Lifepoints Balanced Long Term Growth Fund, Lifepoints Balanced Growth Fund, Lifepoints Balanced Income Fund, Russell Canadian Equity Fund, Russell Global Equity Fund, Russell U.S. Equity Fund, Russell Overseas Equity Fund - Units	98,621	911
	23Apr01	Lifepoints Balanced Long Term Growth Fund, Lifepoints Balanced Growth Fund, Lifepoints Balanced Income Fund, Russell Canadian Equity Fund, Russell Global Equity Fund, Russell Overseas Equity Fund - Units	365,428	3,508
	17Apr01	Lifepoints Balanced Long Term Growth, Lifepoints Balanced Growth, Lifepoints Balanced Income - Units	17,917	171
	27Feb01	Lifepoints Balanced Long Term Growth, Lifepoints Balanced Growth, Lifepoints Balanced Income - Units	17,609	166
	18Apr01	Lifepoints Balanced Long Term Growth Fund, Lifepoints Balanced Growth Fund, Lifepoints Balanced Income Fund, Russell Canadian Equity Fund, Russell Overseas Equity Fund - Units	70,252	650
	26Mar01	Lifepoints Balanced Long Term Growth Fund, Lifepoints Balanced Growth Fund, Lifepoints Balanced Income Fund, Russell Canadian Equity Fund, Russell Global Equity Fund, Russell Overseas Equity Fund - Units	54,407	533

Notice of Exempt Financings

<u>Trans. Date</u>	<u>Security</u>	<u>Price (\$)</u>	<u>Amount</u>
07Mar01	Lifepoints Balanced Long Term Growth Fund, Lifepoints Balanced Growth Fund, Lifepoints Balanced Income Fund, Russell Canadian Equity Fund, Russell Global Equity Fund, Russell Overseas Equity Fund - Units	212,916	1,949
20Apr01	Lifepoints Balanced Long Term Growth Fund - Units	18,581	165
09Apr01	Lifepoints Balanced Income Fund, Russell Canadian Equity Fund, Russell Global Equity Fund - Units	1,046	9
28Feb01	Lifepoints Balanced Long Term Growth Fund, Lifepoints Balanced Growth Fund, Lifepoints Balanced Income Fund, Russell Canadian Equity Fund, Russell Global Equity Fund, Russell Overseas Equity Fund - Units	78,258	699
09Mar01	Lifepoints Balanced Long Term Growth Fund, Russell Canadian Equity Fund, Russell Canadian Fixed Income Fund, Russell Global Equity Fund - Units	5,346	46
26Mar01	Lifepoints Balanced Long Term Growth Fund, Lifepoints Balanced Income Fund, Russell Canadian Equity Fund, Russell Canadian Fixed Income Fund, Russell Global Equity Fund - Units	42,441	381
08Mar01	Lifepoints Balanced Long Term Growth Fund, Lifepoints Balanced Income Fund, Russell Overseas Equity Fund - Units	34,123	317
12Apr01	Lifepoints Opportunity Fund, Russell Overseas Equity Fund - Units	639	5
02Mar01	Lifepoints Opportunity Fund, Russell Canadian Equity Fund, Russell Global Equity Fund - Units	800	6
23Mar01	Lifepoints Opportunity Fund, Russell Overseas Equity Fund - Units	293	2
27Feb01	Lifepoints Opportunity Fund, Russell Overseas Equity Fund - Units	329	2
17Apr01	Lifepoints Opportunity Fund - Units	219	2
02Apr01	Lifepoints Opportunity Fund, Russell Canadian Equity Fund, Russell Global Equity Fund - Units	800	6
04Apr01	Lifepoints Opportunity Fund - Units	581	5
15Mar01	Lifepoints Progress Fund - Units	338	3
27Mar01	Lifepoints Progress Fund, Lifepoints Achievement Fund, Lifepoints Opportunity Fund - Units	2,077	19
03Apr01	Lifepoints Progress Fund, Lifepoints Achievement Fund, Lifepoints Opportunity Fund - Units	42,013,220	416,745
29Mar01	Lifepoints Progress Fund, Lifepoints Achievement Fund - Units	8,190	81
17Jul01 & 24Jul01	Lighthouse Fund - Units	1,545,000, 600,000	2,060, 806 Resp.
31Jul01	March Networks Corporation - Common Shares	1,662,500	1,000,000
23Jul01	Matsui Securities Co. Ltd. - Common Shares	3,045,370	175,000
09Aug01	Mykrolis Corporation - Common Stock	229,500	10,000
28Aug01	Outlook Resources Inc. - Convertible Debentures	80,000	5
16Mar01	Russell Canadian Equity Fund - Unit	57	32
27Feb01	Russell Canadian Fixed Income Fund, Lifepoints Achievement Fund, Lifepoints Progress Fund, Lifepoints Opportunity Fund, Russell Canadian Equity Fund, Russell Global Equity Fund - Units	2,243	20
15Mar01	Russell Canadian Equity Fund, Russell Canadian Fixed Income Fund, Russell U.S. Equity Fund, Russell Overseas Equity Fund - Units	114,831	1,030
23Mar01	Russell Canadian Fixed Income Fund - Units	4,039	34
27Apr01	Russell Canadian Fixed Income Fund, Lifepoints Achievement Fund, Lifepoints Progress Fund, Lifepoints Opportunity Fund, Russell Canadian Equity Fund, Russell Global Equity Fund - Units	29,781	269
20Mar01	Russell Canadian Equity Fund - Units	3,464	20
01Mar01	Russell Canadian Equity Fund - Unit	57	33
29Mar01	Russell Canadian Fixed Income Fund, Lifepoints Achievement Fund, Lifepoints Progress Fund, Lifepoints Opportunity Fund, Russell Canadian Equity Fund, Russell Global Equity Fund - Units	2,243	21
14Mar01	Russell Canadian Equity Fund, Russell Canadian Fixed Income Fund, Lifepoints Achievement Fund, Lifepoints Progress Fund, Lifepoints Opportunity Fund, Russell Overseas Equity Fund, Russell U.S. Equity Fund, Russell Global Equity Fund - Units	41,253	395
13Mar01	Russell Canadian Equity Fund, Lifepoints Achievement Fund, Lifepoints Progress Fund, Lifepoints Opportunity Fund, Russell Overseas Equity Fund, Russell U.S. Equity Fund, Russell Global Equity Fund - Units	4,417	42

***Notice of Exempt Financings**

<u>Trans. Date</u>	<u>Security</u>	<u>Price (\$)</u>	<u>Amount</u>
23Apr01	Russell Canadian Equity Fund, Russell Canadian Fixed Income Fund, Lifepoints Achievement Fund, Lifepoints Progress Fund, Lifepoints Opportunity Fund, Russell Overseas Equity Fund, Russell U.S. Equity Fund, Russell Global Equity Fund - Units	42,396	399
27Apr01	Russell Canadian Equity Fund, Russell Canadian Fixed Income Fund, Lifepoints Achievement Fund, Lifepoints Progress Fund, Lifepoints Opportunity Fund, Russell Overseas Equity Fund, Russell U.S. Equity Fund, Russell Global Equity Fund - Units	40,920	383
15Mar01	Russell Canadian Fixed Income Fund - Units	71,064	601
21Mar01	Russell Global Equity Fund - Units	3,040	36
02Apr01	Russell Global Equity Fund, Russell Overseas Equity Fund - Units	4,570	41
02Apr01	Russell Overseas Equity Fund, Lifepoints Opportunity Fund - Units	1,121	10
26Mar01	Russell Overseas Equity Fund - Units	34,100	332
05Mar01	Russell Overseas Equity Fund, Russell US Equity Fund, Lifepoints Achievement Fund - Units	16,880	148
23Mar01	Russell Overseas Equity Fund, Lifepoints Progress Fund - Units	1,217	11
28Mar01	Russell US Equity Fund, Lifepoints Progress Fund, Lifepoints Opportunity Fund - Units	4,122	36

Notice of Intention to Distribute Securities Pursuant to Subsection 7 of Section 72 - (Form 23)

<u>Seller</u>	<u>Security</u>	<u>Amount</u>
Rivkin, Mark	Cryptologic Inc. -	1,000,000
Gastle, Susan M. S.	Microbix Biosystems Inc. - Common Shares	275,000
Gastle, William J.	Microbix Biosystems Inc. - Common Shares	495,000
Dobbin, Craig L.	CHC Helicopter Corporation - Subordinate Voting Shares	400,000

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Chapter 9
Legislation

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IN THIS ISSUE

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Chapter 11

IPOs, New Issues and Secondary Financings

Issuer Name:

Croft Enhanced Income Fund
Principal Regulator - Ontario

Type and Date:

Preliminary Simplified Prospectus dated September 5th, 2001
Mutual Reliance Review System Receipt dated September 6th, 2001

Offering Price and Description:

Mutual Fund Securities Net Asset Value

Underwriter(s) or Distributor(s):

-

Promoter(s):

-

Project #386928

Issuer Name:

Geac Computer Corporation Limited
Principal Regulator - Ontario

Type and Date:

Preliminary Short Form Prospectus dated September 10th, 2001
Mutual Reliance Review System Receipt dated September 10th, 2001

Offering Price and Description:

\$27,000,000 - 6,000,000 Common Shares @ \$4.50 per Common Shares

Underwriter(s) or Distributor(s):

CIBC World Markets Inc.
BMO Nesbitt Burns Inc.
RBC Dominion Securities Inc.
Yorkton Securities Inc.

Promoter(s):

-

Project #387876

Issuer Name:

National Bank Strategic Yield Class
Principal Regulator - Quebec

Type and Date:

Preliminary Simplified Prospectus dated September 10th, 2001
Mutual Reliance Review System Receipt dated September 10th, 2001

Offering Price and Description:

Investor Series Shares
Advisor Series Shares
Institutional Series Shares
O Series Shares

Underwriter(s) or Distributor(s):

National Bank Securities Inc.

Promoter(s):

-

Project #387856

Issuer Name:

NCE Petrofund
Principal Regulator - Alberta

Type and Date:

Preliminary Short Form PREP Prospectus dated September 10th, 2001
Mutual Reliance Review System Receipt dated September 10th, 2001

Offering Price and Description:

US\$ * - 7,600,000 Trust Units

Underwriter(s) or Distributor(s):

National Bank Financial Inc.
CIBC World Markets Inc.

Promoter(s):

-

Project #387827

Issuer Name:

Norwest Financial Canada Company
Principal Regulator - Ontario

Type and Date:

Preliminary Short Form Shelf Prospectus dated September 6th, 2001
Mutual Reliance Review System Receipt dated September 6th, 2001

Offering Price and Description:

\$1,500,000,000 Medium Term Notes (unsecured) @ the Rates on Application

Underwriter(s) or Distributor(s):

CIBC WORLD MARKETS INC.
RBC DOMINION SECURITIES INC.
BMO NESBITT BURNS INC.
TD SECURITIES INC.

Promoter(s):

-

Project #387310

Issuer Name:

Nova Scotia Power Incorporated
Principal Regulator - Nova Scotia

Type and Date:

Preliminary Short Form Shelf Prospectus dated September 10th, 2001
Mutual Reliance Review System Receipt dated September 11th, 2001

Offering Price and Description:

\$500,000,000 - Debt Securities (Unsecured)

Underwriter(s) or Distributor(s):

RBC Dominion Securities Inc.
CIBC World Markets Inc.
Scotia Capital Inc.

Promoter(s):

-

Project #387978

Issuer Name:

RioCan Real Estate Investment Trust

Type and Date:

Preliminary Short Form Prospectus dated September 12th, 2001

Receipt dated September 12th, 2001

Offering Price and Description:

\$26,250,000 - 2,500,000 Trust Units Purchases Warrants to be issued upon the exercise of previously issued Special Warrants

Underwriter(s) or Distributor(s):

CIBC World Markets Inc.

Promoter(s):

-

Project #388185

Issuer Name:

Sprott Gold and Precious Minerals Fund

Principal Regulator - Ontario

Type and Date:

Preliminary Simplified Prospectus dated September 6th, 2001

Mutual Reliance Review System Receipt dated September 7th, 2001

Offering Price and Description:

Mutual Fund Securities Net Asset Value

Underwriter(s) or Distributor(s):

Sprott Securities Inc.

Promoter(s):

-

Project #387361

Issuer Name:

TD Select Canadian Growth Index Fund

TD Select Canadian Value Index Fund

Principal Regulator - Ontario

Type and Date:

Preliminary Prospectus dated September 7th, 2001

Mutual Reliance Review System Receipt dated September 10th, 2001

Offering Price and Description:

Mutual Fund Securities Net Asset Value

Underwriter(s) or Distributor(s):

Promoter(s):

-

Project #387698

Issuer Name:

TransAlta Power, L.P.

Principal Regulator - Alberta

Type and Date:

Preliminary Short Form Prospectus dated September 10th, 2001

Mutual Reliance Review System Receipt dated September 10th, 2001

Offering Price and Description:

\$37,400,000 - 4,400,000 Limited Partnership Units @ \$8.50 per Unit

Underwriter(s) or Distributor(s):

CIBC World Markets Inc.

Scotia Capital Inc.

Merrill Lynch Canada Inc.

National Bank Financial Inc.

Firstenergy Capital Corp.

Jennings Capital Inc.

Promoter(s):

-

Project #387940

Issuer Name:

Western Oil Sands Inc.

Principal Regulator - Alberta

Type and Date:

Preliminary Short Form Prospectus dated September 6th, 2001

Mutual Reliance Review System Receipt dated September 6th, 2001

Offering Price and Description:

\$ * - Offering to the Holders of Common Shares and Non-Voting Convertible Equity Shares of Western Oil Sands . Rights to Subscribe for up to * Common Shares at a price of \$14.00 per Share

Underwriter(s) or Distributor(s):

-

Promoter(s):

-

Project #387404

Issuer Name:

Mavrix American Growth Fund
Mavrix Bond Fund
Mavrix Enterprise Fund
Mavrix Sustainable Development Fund
Mavrix Canadian Value Fund
Mavrix Strategic Fixed Income Fund
Mavrix Money Market Fund
Mavrix Growth Fund
Mavrix Income Fund
Mavrix Balanced Fund
Principal Regulator - Ontario

Type and Date:

Amended and Restated Simplified Prospectus and Annual Information Form dated August 27th, 2001
Mutual Reliance Review System Receipt dated 7th day of September, 2001

Offering Price and Description:

Mutual Fund Securities Net Asset Value

Underwriter(s) or Distributor(s):

YMG Capital Management Inc.

Promoter(s):

-
Project #355108

Issuer Name:

CI American Managers Sector Fund
CI American Managers RSP Fund
CI Global Managers Sector Fund
CI Global Managers RSP Fund
CI US Money Market Fund
Principal Regulator - Ontario

Type and Date:

Amendment #1 dated August 31st, 2001 to Simplified Prospectus and Annual Information Form dated July 31st, 2001
Mutual Reliance Review System Receipt dated 11th day of September, 2001

Offering Price and Description:

Underwriter(s) or Distributor(s):

Promoter(s):

-
Project #377531

Issuer Name:

GDF Global Diversified Fund Inc. (Corrected)

Type and Date:

Preliminary Simplified Prospectus dated October 16th, 2000
Amended and Restated Preliminary Simplified Prospectus dated November 14th, 2000
Closed July 7th, 2001

Offering Price and Description:

Underwriter(s) or Distributor(s):

Promoter(s):

-
Project #304543

Issuer Name:

BMO Capital Trust
Bank of Montreal
Principal Regulator - Ontario

Type and Date:

Final Prospectus dated September 10th, 2001
Mutual Reliance Review System Receipt dated 11th day of September, 2001

Offering Price and Description:

Underwriter(s) or Distributor(s):

BMO Nesbitt Burns Inc.

Promoter(s):

-
Project #375987 & 375989

Issuer Name:

MDR Switchview Global Networks Inc.

Type and Date:

Final Prospectus dated September 7th, 2001
Receipt dated 10th day of September, 2001

Offering Price and Description:

Underwriter(s) or Distributor(s):

Yorkton Securities Inc.
Raymond James Ltd.
BayStreetDirect Inc.

Promoter(s):

-
Project #368484

Issuer Name:

True Energy Inc.
Principal Regulator - Alberta

Type and Date:

Final Prospectus dated September 4th, 2001
Mutual Reliance Review System Receipt dated 5th day of September, 2001

Offering Price and Description:

Underwriter(s) or Distributor(s):

FirstEnergy Capital Corp.
Griffiths McBurney & Partners
Peters & Co. Limited
Canaccord Capital Corporation

Promoter(s):

Paul R. Baay
W.C. Mickey Dunn
Project #375407

Issuer Name:

Xplore Technologies Corp.
Principal Regulator - Ontario

Type and Date:

Final Prospectus dated September 6th, 2001
Mutual Reliance Review System Receipt dated 11th day of
September, 2001

Offering Price and Description:

-

Underwriter(s) or Distributor(s):

Paradigm Capital Inc.
BMO Nesbitt Burns Inc.

Promoter(s):

-

Project #374095

Issuer Name:

Brascan Corporation
Principal Regulator - Ontario

Type and Date:

Final Short Form Prospectus dated September 10th, 2001
Mutual Reliance Review System Receipt dated 10th day of
September, 2001

Offering Price and Description:

-

Underwriter(s) or Distributor(s):

CIBC World Markets Inc.
RBC Dominion Securities Inc.
Scotia Capital Inc.
TD Securities Inc.
BMO Nesbitt Burns Inc.
HSBC Securities (Canada) Inc.
Merrill Lynch Canada Inc.
National Bank Financial Inc.
Trilon Securities Corporation

Promoter(s):

-

Project #384935

Issuer Name:

The Thomson Corporation
Principal Regulator - Ontario

Type and Date:

Final Short Form Shelf Prospectus dated September 5th, 2001
Mutual Reliance Review System Receipt dated 6th day of
September, 2001

Offering Price and Description:

-

Underwriter(s) or Distributor(s):

-

Promoter(s):

-

Project #381953

Issuer Name:

Torstar Corporation
Principal Regulator - Ontario

Type and Date:

Final Short Form Shelf Prospectus dated September 7th, 2001
Mutual Reliance Review System Receipt dated 10th day of
September, 2001

Offering Price and Description:

-

Underwriter(s) or Distributor(s):

BMO Nesbitt Burns Inc.
Scotia Capital Inc.
RBC Dominion Securities Inc.
National Bank Financial Inc.
TD Securities Inc.

Promoter(s):

-

Project #367207

Issuer Name:

Clarica Money Market Fund
Clarica Short Term Bond Fund
Clarica Premier Mortgage Fund
Clarica Income Fund
Clarica Premier Bond Fund
Clarica Summit Growth and Income Fund
Clarica Global Bond Fund
Clarica Canadian Growth Equity Fund
Clarica Premier Blue Chip Fund
Clarica Premier Diversified Fund
Clarica Summit Canadian Equity Fund
Clarica Summit Dividend Growth Fund
Clarica Premier American Fund
Clarica Summit Foreign Equity Fund
Clarica US Growth Equity Fund
Clarica Premier International Fund
Clarica Alpine Growth Equity Fund
Clarica Premier Growth Fund
Clarica US Small Cap Fund
Clarica European Equity Fund
Clarica Alpine Asian Fund
Clarica Premier Emerging Markets Fund
Clarica Alpine Canadian Resources Fund
Clarica Bond Fund
Clarica Diversifund 40
Clarica Equifund
Clarica Amerifund
Principal Regulator - Ontario

Type and Date:

Final Simplified Prospectus and Annual Information Form
dated August 29th, 2001
Mutual Reliance Review System Receipt dated 10th day of
September, 2001

Offering Price and Description:

-

Underwriter(s) or Distributor(s):

Clarica Investco Inc.

Promoter(s):

-

Project #376683

Issuer Name:

Royal Canadian Bond Index Fund
Royal Canadian Index Fund
Royal Premium Canadian Index Fund
Royal U.S. Index Fund
Royal Premium U.S. Index Fund
Royal U.S. RSP Index Fund
Royal International RSP Index Fund
Principal Regulator - Ontario

Type and Date:

Final Simplified Prospectus and Annual Information Form dated September 5th, 2001
Mutual Reliance Review System Receipt dated 10th day of September, 2001

Offering Price and Description:

-

Underwriter(s) or Distributor(s):

Royal Mutual Funds Inc.

Promoter(s):

-

Project #378646

Issuer Name:

Sceptre Income Trusts Fund
Sceptre U.S. Equity Fund
Sceptre Canadian Equity Fund
Sceptre Money Market Fund
Sceptre Global Equity Fund
Sceptre Equity Growth Fund
Sceptre Bond Fund
Sceptre Balanced Growth Fund
Principal Regulator - Ontario

Type and Date:

Final Simplified Prospectus and Annual Information Form dated September 7th, 2001
Mutual Reliance Review System Receipt dated 12th day of September, 2001

Offering Price and Description:

(Class A units and Class O units)

Underwriter(s) or Distributor(s):

Sceptre Investment Counsel Limited

Promoter(s):

-

Project #378870

Issuer Name:

Bushmills Energy Corporation

Type and Date:

Rights Offering dated September 10th, 2001
Accepted 11th day of September, 2001

Offering Price and Description:

-

Underwriter(s) or Distributor(s):

Promoter(s):

-

Project #372598

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Chapter 12
Registrations

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Chapter 13

SRO Notices and Disciplinary Proceedings

13.1.1 IDA Discipline - Lino D'Souza.

September 10, 2001

INVESTMENT DEALERS ASSOCIATION OF CANADA
ASSOCIATION CANADIENNE DES COURTIERS EN
VALEURS MOBILIÈRES

NOTICE TO PUBLIC RE: DISCIPLINARY HEARING

RE: IN THE MATTER OF LINO D'SOUZA

Toronto, Ontario – The Investment Dealers Association of Canada has scheduled a hearing before the Ontario District Council of the Association concerning Lino D'Souza.

The hearing is scheduled to begin September 24, 2001, at 9:30am, at the offices of the Association, located at 121 King Street West, Suite 1600, Main Boardroom in Toronto, Ontario.

The hearing will be open to the public except as may be required for the protection of confidential matters.

The hearing is in regards to allegations made by Staff of the Enforcement Division of the Association that, while registered at Nesbitt Burns Inc., Mr. D'Souza made unsuitable investment recommendations, gave false client addresses for purposes of mailing client statements, engaged in unauthorized and discretionary trading, falsely witnessed account documentation and included incorrect information on account opening documentation.

Contact:

Andrew P. Werbowski
Morrison Brown Sosnovitch LLP
Counsel
Tel. (416) 368-0600

13.1.2 IDA Discipline - Richard Thomas Marion

September 10, 2001

INVESTMENT DEALERS ASSOCIATION OF CANADA
ASSOCIATION CANADIENNE DES COURTIERS EN
VALEURS MOBILIÈRES

NOTICE TO PUBLIC RE: DISCIPLINARY HEARING

RE: IN THE MATTER OF RICHARD THOMAS MARION

Toronto, Ontario – The Investment Dealers Association of Canada (Association) announced today that a hearing date has been set for the presentation, review and consideration of a Settlement Agreement by the Ontario District Council of the Association.

The Settlement Agreement between the Association Member Regulation staff and Richard Thomas Marion is in respect of Mr. Marion's conduct while he was employed and registered at the Mississauga Branch office of CIBC Wood Gundy Inc. (now CIBC World Markets Inc.)

The hearing is scheduled to commence at **9:30 a.m.** or shortly thereafter on **Monday, September 24, 2001** at the **Offices of the Association, Standard Life Building, 121 King Street West, 16th Floor, Main Boardroom, Toronto, Ontario**. The hearing is open to the public except as may be required for the protection of confidential matters.

If the Settlement Agreement is accepted by the Ontario District Council, the Association will issue a Bulletin setting out terms of settlement, including violation(s) committed, a summary of the agreed facts, and the discipline penalty imposed; copies of the Bulletin and Settlement Agreement will be made available.

Contact:

Andrew P. Werbowski
Morrison Brown Sosnovitch LLP
Counsel
(416) 368-0600

**13.1.3 TSE to Consider an Offer of Settlement -
Dundee Securities Corporation**

NOTICE TO PUBLIC

**SUBJECT: TORONTO STOCK EXCHANGE REGULATION
SERVICES SETS HEARING DATE IN THE
MATTER OF DUNDEE SECURITIES
CORPORATION TO CONSIDER AN OFFER OF
SETTLEMENT**

Toronto Stock Exchange Regulation Services ("TSE RS") will convene a Hearing before a Panel of the Hearing Committee (the "Hearing Panel") of the Toronto Stock Exchange to consider an Offer of Settlement entered into between TSE RS and Dundee Securities Corporation ("Dundee"), a Participating Organization of the Exchange.

Under the terms of the Offer of Settlement, Dundee admits that it committed the following violations:

- (a) Between December 21, 1998 and March 16, 1999, Dundee failed to ensure that two of its employees were approved as Approved Traders in compliance with Section 8.15 of the General By-law of the Toronto Stock Exchange (the "General By-law") (now Rule 4-405(1)), prior to those employees entering orders on the Exchange. Dundee therefore failed to ensure that its employees complied with Exchange Requirements, contrary to Section 8.35 of the General By-law (now Rule 2-401(5)).
- (b) On December 31, 1998, Dundee failed to keep proper records of an order, contrary to Section 16.03 of the General By-law (now Rule 2-404).

According to Rule 6.03 of the Rules Governing the Practice and Procedure of Hearings, the Hearing Panel may accept or reject an Offer of Settlement. In the event the Offer of Settlement is accepted, the matter becomes final and there can be no appeal of the matter. In the event the Offer of Settlement is rejected, TSE RS may proceed with a hearing of the matter before a differently constituted Hearing Panel.

The Hearing will be held on September 21, 2001 at 10:00 a.m. or as soon thereafter as the Hearing can be held, at the offices of The Toronto Stock Exchange, 130 King Street West, Toronto, Ontario. The Hearing is open to the public.

The decision of the Hearing Panel and the terms of any discipline imposed will be published by TSE RS in a Notice to Participating Organizations.

Reference:

Jane P. Ratchford
Chief Counsel
Investigations and Enforcement Division
Toronto Stock Exchange Regulation Services

Telephone: 416-947-4317

Chapter 25
Other Information

THERE IS NO MATERIAL FOR THIS CHAPTER
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