The Ontario Securities Commission

OSC Bulletin

August 9, 2002

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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)

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Notices / News Releases

1.1 Notices

1.1.1 Current Proceedings Before The Ontario Securities Commission

AUGUST 9, 2002

CURRENT PROCEEDINGS

BEFORE

ONTARIO SECURITIES COMMISSION

- -

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

The Harry S. Bray Hearing Room
Ontario Securities Commission
Cadillac Fairview Tower
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THE COMMISSIONERS

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H. Lorne Morphy, Q.C.	C	HLM
Robert L. Shirriff, Q.C.	C	RLS

SCHEDULED OSC HEARINGS

August 20/02 2:00 - 4:30 p.m. August 12 – 15, 19, 21, 22, 26-29/02 9:30 a.m. - 4:30 p.m. September 3 & 17/02 2:00 -4:30 p.m. September 6, 10, 12, 13, 24, 26 & 27/02 9:30 a.m. - 4:30 p.m.	YBM Magnex International Inc., Harry W. Antes, Jacob G. Bogatin, Kenneth E. Davies, Igor Fisherman, Daniel E. Gatti, Frank S. Greenwald, R. Owen Mitchell, David R. Peterson, Michael D. Schmidt, Lawrence D. Wilder, Griffiths McBurney & Partners, National Bank Financial Corp., (formerly known as First Marathon Securities Limited) s. 127 K. Daniels/M. Code/J. Naster/I. Smith in attendance for staff. Panel: HIW / DB / RWD
August 20/02 2:00 p.m. August 21 to 30/02 9:30 a.m.	**Mark Bonham and Bonham & Co. Inc.** s. 127 M. Kennedy in attendance for staff Panel: PMM / KDA / HPH
September 16 - 20/02 10:00 a.m.	**James Pincock** s. 127 J. Superina in attendance for Staff Panel: HLM

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

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

Global Privacy Management Trust and Robert Cranston

Irvine James Dyck

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

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

Offshore Marketing Alliance and Warren English

Philip Services Corporation

Rampart Securities Inc.

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

1.1.2 Notice of Request for Comments - Proposed Amendments to National Policy 11-201, Delivery of Documents by Electronic Means

NOTICE OF REQUEST FOR COMMENTS

PROPOSED AMENDMENTS TO NATIONAL POLICY 11-201
DELIVERY OF DOCUMENTS BY ELECTRONIC MEANS

The Commission is publishing in today's Bulletin proposed amendments to National Policy 11-201 *Delivery of Documents by Electronic Means.*

The Notice and the proposed amendments are published in Chapter 6 of the Bulletin.

1.1.3 Notice of Rule - Multilateral Instrument 81-104, and Companion Policy 81-104CP - Commodity Pools

NOTICE OF RULE

MULTILATERAL INSTRUMENT 81-104 AND COMPANION POLICY 81-104CP COMMODITY POOLS

The Commission has made Multilateral Instrument 81-104 Commodity Pools and adopted Companion Policy 81-104CP Commodity Pools. On August 7, 2002, the Commission sent the Instrument to the Minister of Finance for her consideration. Subject to the Minister's approval, the Instrument will come into force in Ontario on November 1, 2002. The Commission is publishing in today's Bulletin a Notice of Rule about the Instrument and the Companion Policy, along with the Instrument and the Companion Policy. The Notice also includes a summary of the comments received on the December 14, 2001 published version of the Instrument and the Commission's response to those comments.

Please go to Chapter 5 of this Bulletin to read the Notice, the Instrument and the Companion Policy.

1.1.4 Request For Comments - Amendments to the Rules and Policies of The Toronto Stock Exchange

THE TORONTO STOCK EXCHANGE

AMENDMENTS TO THE RULES AND POLICIES OF THE TORONTO STOCK EXCHANGE

REQUEST FOR COMMENTS

A request for comments on amendments to the Rules and Policies of the Toronto Stock Exchange is published in Chapter 13 of the Bulletin.

1.1.5 Notice of Minister of Finance Approval for Ontario Securities Commission Rule 62-501 - Prohibited Stock Market Purchases of the Offeree's Securities by the Offeror During a Take-Over Bid

NOTICE OF MINISTER OF FINANCE APPROVAL

FOR ONTARIO SECURITIES COMMISSION RULE 62-501

PROHIBITED STOCK MARKET PURCHASES OF THE OFFEREE'S SECURITIES BY THE OFFEROR DURING A TAKE-OVER BID

On July 18, 2002, the Minister of Finance approved Ontario Securities Commission Rule 62-501 *Prohibited Stock Market Purchases of the Offeree's Securities by the Offeror During a Take-over Bid* (the "Rule"). The Rule came into force on August 2, 2002.

The Rule is published in Chapter 5 of this Bulletin. Materials related to the Rule were previously published in the Bulletin on October 20, 1995, December 14, 2001 and May 31, 2002.

1.1.6 Amendment to Ontario Securities Commission Policy 62-601 - Take-Over Bids — Miscellaneous Guidelines

AMENDMENT TO ONTARIO SECURITIES COMMISSION POLICY 62-601

TAKE-OVER BIDS — MISCELLANEOUS GUIDELINES

The Commission has, under section 143 of the *Securities Act* (Ontario), made an amendment to Ontario Securities Commission Policy 62-601 *Take-over Bids — Miscellaneous Guidelines* (the "Amendment"). The Amendment became effective on August 2, 2002.

The Amendment is published in Chapter 5 of this Bulletin. Materials related to the Amendment were previously published in the Bulletin on October 20, 1995, December 14, 2001 and May 31, 2002.

1.2 Notices of Hearing

1.2.1 Terry G. Dodsley - s. 127

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

- AND -

IN THE MATTER OF
TERRY G. DODSLEY

AMENDED NOTICE OF HEARING
(Sections 127 and 127.1)

WHEREAS a Notice of Hearing and related Statement of Allegations was issued on December 12, 2000 in respect of Terry G. Dodsley;

AND WHEREAS on the 7th day of December, 2000, the Ontario Securities Commission (the "Commission") ordered, pursuant to clause 2 of section 127(1) of the *Securities Act*, R.S.O. 1990, c.S.5, as amended (the "*Act*"), that all trading in securities by Terry G. Dodsley cease (the "Temporary Order");

AND WHEREAS by Order of the Commission dated December 20, 2000 the proceeding was adjourned *sine die*;

TAKE NOTICE that the Commission will hold a hearing pursuant to sections 127 and 127.1 of the *Act* at the offices of the Commission located at 20 Queen Street West, Toronto, Ontario in the large Hearing Room, 17th Floor on Thursday September 12, 2002 to Friday September 13, 2002 at 10:00 a.m;

TO CONSIDER whether, pursuant to sections 127(1) and 127.1 of the *Act*, it is in the public interest for the Commission:

(a) to make an order that the respondent cease trading in securities, permanently or for such time as the Commission may direct;

(b) to make an order that the respondent be reprimanded;

(c) to make an order that the respondent pay the costs of Staff's investigation in relation to the matters subject to this proceeding;

(d) to make an order that the respondent pay the costs of this proceeding incurred by or on behalf of the Commission; and/or

(e) to make such other order as the Commission may deem appropriate.

BY REASON OF the allegations set out in the related Statement of Allegations of Staff dated December 12, 2000 and such additional allegations as counsel may advise and the Commission may permit;

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

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

August 1, 2002.

"John Stevenson"

1.2.2 Meridian Resources Inc. and Steven Baran - s. 127

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

- AND -

IN THE MATTER OF
MERIDIAN RESOURCES INC.
AND STEVEN BARAN

NOTICE OF HEARING
(Section 127)

TAKE NOTICE that the Ontario Securities Commission (the "Commission") will hold a hearing pursuant to section 127 of the *Securities Act*, R.S.O. 1990, c. S.5, as amended (the "Act") at the offices of the Commission, located at 20 Queen Street West, Toronto, Ontario, in the Small Hearing Room, 17th Floor, on August 15, 2002 at 10:00a.m. or as soon thereafter as the hearing can be held:

TO CONSIDER whether, pursuant to sections 127(1) and 127.1 of the Act, it is in the public interest for the Commission:

(a) to make an order that trading in securities by the respondents cease permanently or for such period as the Commission may direct;

(b) to make an order that the respondents be reprimanded;

(c) to make any order that Baran resign any positions that he holds as a director or officer of an issuer;

(d) to make an order that Baran be prohibited from becoming or acting as a director or officer of any issuer; and,

(e) such other order or orders as Staff may request and the Commission consider appropriate.

BY REASON OF the allegations set out in the Statement of Allegations of Staff of the Commission and such additional allegations as counsel may advise and the Commission may permit;

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

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

July 31, 2002.
"John Stevenson"

1.2.3 Meridian Resources Inc. and Steven Baran - Statement of Allegations

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

- AND -

IN THE MATTER OF
MERIDIAN RESOURCES INC.
AND STEVEN BARAN

STATEMENT OF ALLEGATIONS
OF STAFF OF THE ONTARIO SECURITIES COMMISSION

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

I. THE RESPONDENTS

1. Steven Baran ("Baran") is the President and a director of Meridian Resources Inc. ("Meridian").

2. Meridian is a diversified company involved in mining projects in Sudbury, timber resources in Guyana and an internet company.

3. Meridian was a reporting issuer in Ontario whose shares traded on the Canadian Dealers Network until July of 2000.

4. In May of 2001, the Ontario Securities Commission (the "Commission") issued a Temporary Cease Trade Order, pursuant to section 127(1) and 127(5) of the *Securities Act* R.S.O., c. S.5, as amended (the "Act") against Meridian for failure to file audited financial statements. The Temporary Cease Trade Order is still in effect.

5. Baran has never been registered in any capacity under the Act.

II. OVERVIEW OF STAFF'S ALLEGATIONS

6. In engaging in the conduct described below, the respondents have acted contrary to Ontario securities law and the public interest.

7. Baran made representations that are prohibited, by stating in a letter that he would refund the purchase price of Meridian shares, contrary to section 38(1) of the Act.

8. Baran engaged in conduct which constituted "trading" in securities without being registered in accordance with section 25(1) of the Act by selling shares of Meridian.

9. Baran failed to file reports of insider trading, as required pursuant to section 107(2) of the Act, within the required time period, as his ownership of Meridian shares changed.

III. TRADING WITHOUT REGISTRATION AND FAILURE TO FILE INSIDER TRADING REPORTS

10. In approximately 1999, Baran responded to an advertisement regarding financing and met with the President (the "President") of an investment corporation (the "Investment Corporation") located in Laval, Quebec. The President offered loans to clients who had funds locked-in a self-directed Registered Retirement Savings Plan ("RRSP"). It was agreed that the President would arrange to convert the funds in the client's self-directed RRSP into shares of Meridian and then arrange to loan back to the clients a portion of the funds in their self-directed RRSP. Baran would sell Meridian shares from his own holdings to the clients at $0.50 per share. Baran would retain $0.20 per share and remit the balance of the funds to the President.

11. During 1999, the President referred Ms. G. to Baran. Ms. G. wanted to borrow money from her locked-in self-directed RRSP. On September 9, 1999, Ms. G. used $12,000 from her RRSP to purchase 24,000 shares of Meridian at a cost of $0.50 per share. The funds were held by a bank (the "Bank") as trustee and administrator. The funds were transferred from Ms. G.'s RRSP account at the Bank and given to Baran. Baran retained $4,800, which represented $0.20 per share, and he paid to the President $7,200.

12. At the time that Baran sold shares of Meridian to Ms. G., the market value of the shares was $0.05 per share.

13. Baran cancelled shares in his own name and had them re-issued in the name of Ms. G.

14. The President also referred Ms. R. to Baran. On September 20, 1999, Ms. R. used $17,000 in her RRSP to purchase 34,000 shares of Meridian at a cost of $0.50 per share. These funds were also held by the Bank. The funds were transferred from Ms. R.'s RRSP account at the Bank and given to Baran. Baran retained $6,800, which represented $0.20 per share, and he paid to the President $10,200.

15. At the time that Baran sold shares of Meridian to Ms. R., the market value of the shares was $0.05 per share.

16. Once again, Baran cancelled shares in his own name and had them re-issued in the name of Ms. R.

IV. PROHIBITED TRADING REPRESENTATIONS

17. In November of 1999, Ms. S. of Nova Scotia, contacted the President. Ms. S. wanted to borrow money from her locked-in self-directed RRSP. The President referred Ms. S. to Baran.

18. In a letter dated November 25, 1999, Baran advised Ms. S. that,

> we hereby give you our irrevocable commitment to buy back your purchased shares @ 20¢ per share provided that your agreed upon terms of financing with [the Investment Corporation] have been fully complied with and the loan is fully repaid. [emphasis added]

19. Ms. S. did not purchase shares of Meridian.

20. Staff reserves the right to make such further and other allegations as the Commission may permit.

July 31, 2002.

1.3 News Releases

1.3.1 Mark Valentine

FOR IMMEDIATE RELEASE
July 31, 2002

OSC ISSUES REASONS FOR ORDER AGAINST MARK VALENTINE

TORONTO – The Ontario Securities Commission has released reasons for its order dated July 8, 2002, issued against Mark Edward Valentine. Valentine was the Chairman and largest shareholder of Thomson Kernaghan & Co. Ltd. ("TK"). TK is now in bankruptcy.

On June 17, 2002 the Commission issued a temporary order suspending Valentine's registration as a stockbroker, and requiring him to cease trading in securities for a period of 15 days. On July 2 and July 8, 2002, the Commission convened a hearing to consider whether the temporary order should be extended. At the conclusion of the hearing, the Commission issued an order extending the temporary order until at least January 31, 2003, to allow Staff to continue their investigation of Valentine's actions.

In its reasons for decision, the Commission reviewed the evidence presented concerning Valentine's role as the Registered Representative for four private funds, namely the Canadian Advantage Limited Partnership, Advantage (Bermuda) Fund Ltd., VC Advantage Fund Limited Partnership and the VC Advantage (Bermuda) Fund Ltd. It also considered evidence concerning Valentine's role in the financing of JAWZ Inc.

The Commission found that it was "satisfied that Staff has provided sufficient evidence of conduct that may be harmful to the public interest and, accordingly justifies an extension of the temporary order. There is little doubt that additional time is required to complete the investigation and, unless the temporary order is extended, there is a reasonable likelihood that Valentine's alleged objectionable conduct may continue. Such conduct would present a serious risk to the integrity of Ontario's capital markets as well as to the protection of the public interest".

Copies of the reasons for decision are available on the Commission's website at **www.osc.gov.on.ca** or from the Commission's offices at 20 Queen Street West, Toronto.

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1.3.2 Ronald Etherington and Create-a-Fund Incorporated

FOR IMMEDIATE RELEASE
August 1, 2002

OSC ISSUES REASONS FOR DECISION IN THE MATTER OF RONALD ETHERINGTON AND CREATE-A-FUND INCORPORATED

TORONTO – The Ontario Securities Commission yesterday released its Reasons for Decision in the matter of Ronald Etherington and Create-a-Fund Incorporated. Pursuant to section 127 of the Ontario *Securities Act,* the Commission ordered that both Etherington and Create-a-Fund be reprimanded, prohibited from trading in securities, and that any exemptions available to them under the Act be removed. The Commission also ordered that Etherington resign any positions that he holds as an officer or director of an issuer, prohibited him from becoming an officer or director of any issuer, and ordered him to pay costs of $7,500.

The Order will continue in effect against Etherington until the earlier of two years from the date of the Order or the date that Etherington becomes a registrant under the Act. During the term of the Order, Etherington is permitted to continue trading in securities for his own account, provided those securities are beneficially owned by him. The terms of the Order are permanent against Create-a-Fund.

Etherington began operating Create-a-Fund in October 2000 over the internet. Create-a-Fund offered to provide customers with personal financial planning and investment management services but neither Etherington nor Create-a-Fund were registered under section 25(1) of the Act to advise in securities. In February 2002, the Commission had issued an interim Order prohibiting Etherington and Create-a-Fund from trading in any securities and removing any exemptions available to them under the Act.

Copies of the Reasons for Decision are available on the Commission's website at **www.osc.gov.on.ca** or from the Commission, 19th Floor, 20 Queen Street West, Toronto, Ontario M5H 3S8.

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1.3.3 Terry G. Dodsley

FOR IMMEDIATE RELEASE
August 2, 2002

OSC PROCEEDINGS IN THE MATTER OF TERRY G. DODSLEY

TORONTO - The Ontario Securities Commission has ordered that the hearing of this matter be held on Thursday, September 12, 2002 and Friday, September 13, 2002 at 10:00 a.m. in the large Hearing Room. A copy of the Amended Notice of Hearing is attached.

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1.3.4 Meridian Resources Inc. and Steven Baran

FOR IMMEDIATE RELEASE
August 2, 2002

OSC COMMENCES PROCEEDINGS IN RESPECT OF MERIDIAN RESOURCES INC. AND STEVEN BARAN

TORONTO – The Ontario Securities Commission today issued a Notice of Hearing and Statement of Allegations in respect of Meridian Resources Inc. and Steven Baran, the President and Director of Meridian.

Meridian was a reporting issuer in Ontario whose shares traded on the Canadian Dealers Network until July of 2000. Baran has never been registered.

Allegations Relate to Trading without Registration and Failure to File Insider Trading Reports

The allegations relate to the conduct of Meridian and Baran during 1999. During the material time, Staff allege that Baran and Meridian acted contrary to the public interest by making representations that are prohibited, by stating in a letter that Baran would refund the purchase price of Meridian shares, engaging in conduct which constituted "trading" in securities without being registered and failing to file reports of insider trading, within the required time period, as Baran's ownership of Meridian shares changed.

In May of 2001, the Commission issued a Temporary Cease Trade Order against Meridian for failure to file audited financial statements. The Temporary Cease Trade Order is still in effect.

The first appearance in this matter will be held at 10:00 a.m. on August 15, 2002, in the Main Hearing Room of the Commission, located on the 17th Floor, 20 Queen Street West, Toronto, Ontario.

The purpose of this first appearance is to set a date for the hearing.

A copy of the Notice of Hearing and Statement of Allegations is attached to this Release and is also available at the Commission's website at **www.osc.gov.on.ca** or from the Commission, 19th Floor, 20 Queen Street West, Toronto, Ontario.

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1.3.5 Mark Bonham and Bonham & Co. Inc.

FOR IMMEDIATE RELEASE
August 7, 2002

ONTARIO SECURITIES COMMISSION TO CONSIDER A SETTLEMENT IN THE MATTER OF MARK BONHAM AND BONHAM & CO. INC.

TORONTO – The Ontario Securities Commission will convene a hearing on August 20, 2002 at 2 p.m. to consider a settlement agreement reached by staff of the commission and the respondents Bonham and Bonham & Co. Inc.

Bonham and Bonham & Co. were registered with the commission as Investment Counsel/Portfolio Managers. Bonham acted as the portfolio manager of several mutual funds managed by Bonham & Co. and SVC O'Donnell Fund Management Inc. During the period July 31, 1997 to June 30, 1998, Bonham manually priced certain shares held by three mutual funds, namely, the Strategic Value Fund, The Canadian Equity Value Fund and the Dividend Fund.

SVC O'Donnell entered into a settlement agreement with Staff of the Commission in November of 2000 regarding its role in supervising the respondents' actions.

Staff allege that Bonham did not apply a specific, consistent or appropriate methodology in manually pricing the shares held by the funds. The result of the manual pricing was that the funds were materially overvalued during much of the material period.

The terms of the settlement between staff and the respondents are confidential until approved by the commission. Copies of the notice of hearing and amended statement of allegations are available on the commission's website at **www.osc.gov.on.ca** or from the commission's offices at 20 Queen Street West, Toronto.

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Chapter 2

Decisions, Orders and Rulings

2.1.1 Gold Fields Limited - MRRS Decision

Headnote

Mutual Reliance Review System - National Instrument 43-101. South African issuer selling securities via a private placement is granted relief from the requirements in Parts 2, 3, and 4 of NI 43-101. The issuer will have a *de minimis* presence in Canada after the offering.

Rules Cited

National Instrument 43-101 - Standard of Disclosure for Mineral Projects, s. 9.1.

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

AND

IN THE MATTER OF

THE MUTUAL RELIANCE REVIEW SYSTEM
FOR EXEMPTIVE RELIEF APPLICATIONS

AND

IN THE MATTER OF
GOLD FIELDS LIMITED

MRRS DECISION DOCUMENT

WHEREAS the Canadian securities regulatory authority or regulator (a "Decision Maker") in each of the provinces of British Columbia, Alberta, Manitoba, Ontario, and Quebec (the "Jurisdictions") has received an application from Gold Fields Limited ("Gold Fields") for a decision pursuant to subsection 9.1(1) of National Instrument 43-101 ("NI 43-101") that Gold Fields be exempt from the requirements of Parts 2, 3 and 4 of NI 43-101 in connection with: (i) the disclosure relating to the Canadian Offering (as defined below) and (ii) the offering memorandum (the "Offering Memorandum") prepared by Gold Fields for the Canadian Offering;

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

AND WHEREAS Gold Fields has represented to the Decision Makers that:

1. Gold Fields is a company incorporated pursuant to the laws of the Republic of South Africa ("South Africa") with its head office in Parktown, South Africa. On the basis of annual production, Gold Fields is currently one of the largest gold producers in the world, the second largest gold producer in South Africa and a significant gold producer in Ghana and Australia. Gold Fields has a market capitalization of approximately US$6 billion.

2. Gold Fields is not a reporting issuer or its equivalent in any of the Jurisdictions or any other province or territory of Canada nor are any of its securities listed or posted for trading on any stock exchange in Canada. Gold Fields has no present intention of becoming a reporting issuer or its equivalent in Canada or becoming listed on an exchange in Canada.

3. The authorized share capital of Gold Fields consists of 1,000,000,000 ordinary shares ("Shares") of which approximately 470,000,000 Shares were issued and outstanding as of June 30, 2002.

4. The Shares are listed and traded on the JSE Securities Exchange South Africa ("JSE") on which they trade under the symbol "GFI". The Shares are also listed on the London Stock Exchange, the Premier Marche of Euronext Paris and the SWX Swiss Exchange. The American Depositary Shares ("ADSs") of Gold Fields are listed on the New York Stock Exchange. Each ADS represents one Share. In addition, the International Depositary Shares of Gold Fields, each representing one Share, are listed on Euronext Brussels.

5. Gold Fields is subject to the reporting requirements of securities legislation in South Africa, the United States, Australia and the United Kingdom. Gold Fields is required to comply fully with the South African Code for Reporting of Mineral Resources and Mineral Reserves (the "SAMREC Code") and the Australasian Code for Reporting Identified Mineral Resources and Ore Reserves (the "JORC Code").

6. Gold Fields intends to offer newly issued Shares and ADSs by way of a prospectus offering in the United States and by way of a prospectus-exempt offering in other jurisdictions, including a private placement in Canada (collectively, the "Offering"). The aggregate value of the Offering is expected to be approximately US$700 million. The offering to

purchasers resident in the Jurisdictions (the "Canadian Offering") is expected to be up to US$100 million.

7. In connection with the public offering of the Shares in the United States, a prospectus (the "prospectus") has been filed with and will be reviewed by the United States Securities and Exchange Commission (the "SEC"). In addition, Gold Fields filed a Form 20-F with the SEC in connection with the listing of its ADSs on the NYSE in May 2002.

8. The disclosure in the Prospectus and the Form 20-F comply with SEC Industry Guide 7, "Description of property by issuers engaged or to be engaged in significant mining operations". As disclosed in the Prospectus, Steffen, Robertson and Kirsten (South Africa) (Pty) Ltd., an independent Competent Person (as defined under the SAMREC Code), verified the reserve information in the Prospectus except for the Damang mine acquired in January 2002, which was verified by Gold Fields' in-house Competent Person (as defined under the SAMREC Code).

9. In connection with the Canadian Offering, if the relief is granted as requested, Gold Fields will distribute the Offering Memorandum containing the Prospectus and any additional disclosure required under Canadian securities laws applicable in the Jurisdictions and will file the Offering Memorandum in each of the Jurisdictions within 10 days of the closing of the Offering.

10. If the relief is granted as requested, the Offering Memorandum and subscription agreements for investors resident in Canada will contain the following cautionary statement (the "Cautionary Statement"):

"No technical report, as defined under National Instrument 43-101 B *Standards for Disclosure of Mineral Projects*, will be provided in connection with this offering or filed with any of the Canadian securities regulatory authorities.

The information contained in the attached Prospectus with respect to the reserves of Gold Fields' South African and Ghana operations was prepared in compliance with the South African Code for Reporting Mineral Resources and Mineral Reserves (the "SAMREC Code") and only those reserves that also comply with Industry Guide 7 of the United States Securities and Exchange Commission ("Guide 7") were included. In the opinion of Steffen, Robertson and Kirsten (South Africa) (Pty) Ltd., (i) the definitions and standards of the SAMREC Code and Guide 7 are substantively similar to the definitions and standards of the Canadian Institute of Mining, Metallurgy and Petroleum (the "CIM Standards") which are recognized by the Canadian securities regulatory authorities and contained in National Instrument 43-101 B *Standards for Disclosure of Mineral Projects*; and (ii) a reconciliation of the reserves between the SAMREC Code, Guide 7 and the CIM Standards does not provide a materially different result.

The information contained in the attached Prospectus with respect to the reserves of Gold Fields' Australian operations was prepared in compliance with the Australasian Code for Reporting Identified Mineral Resources and Ore Reserves (the "JORC Code") and only those reserves that also comply with Guide 7 were included. In the opinion of Steffen, Robertson and Kirsten (South Africa) (Pty) Ltd., (i) the definitions and standards of the JORC Code and Guide 7 are substantively similar to the definitions and standards of the Canadian Institute of Mining, Metallurgy and Petroleum (the "CIM Standards") which are recognized by the Canadian regulatory authorities and contained in National Instrument 43-101 B *Standards for Disclosure of Mineral Projects*; and (ii) a reconciliation of the reserves between the JORC Code, Guide 7 and the CIM Standards does not provide a materially different result."

11. As of June 30, 2002, less than 1% of the Shares (including the ADSs) were held by shareholders of record who had addresses in Canada and such shareholders represented less than 1% of the total number of holders of the Shares (including the ADSs). Upon completion of the Offering, less than 2% of the Shares (including the ADSs) will be held by shareholders of record who have addresses in Canada and such shareholders will represent less than 2% of the total number of holders of the Shares (including the ADSs).

AND WHEREAS this MRRS Decision Document confirms the decision of each Decision Maker (collectively, the "Decision"):

AND WHEREAS each of the Decision Makers is satisfied that the test contained in the NI 43-101 that provides the Decision Maker with the jurisdiction to make the Decision has been met;

IT IS THE DECISION of the Decision Makers, pursuant to subsection 9.1(1) of NI 43-101, that Parts 2, 3 and 4 of NI 43-101 will not apply to Gold Fields in connection with (i) the disclosure made in connection with the Canadian Offering; and (ii) the Offering Memorandum prepared by Gold Fields for the Canadian Offering, provided that the Offering Memorandum includes:

1. the Cautionary Statement; and

2. a reference to this Decision.

July 12, 2002.
"Margo Paul"

2.1.2 GolfNorth Properties Inc. - MRRS Decision

Headnote

Mutual Reliance Review System for Exemptive Relief Applications - Issuer has only one security holder - issuer deemed to have ceased being a reporting issuer.

Applicable Ontario Statutory Provisions

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

IN THE MATTER OF
THE SECURITIES LEGISLATION
OF ALBERTA AND ONTARIO,

AND

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

AND

IN THE MATTER OF
GOLFNORTH PROPERTIES INC.

MRRS DECISION DOCUMENT

WHEREAS the local securities regulatory authority or regulator (the "Decision Maker") in each of Alberta and Ontario (collectively, the "Jurisdictions") has received an application from GolfNorth Properties Inc. (the "Filer") for:

(i) a decision under the securities legislation of the Jurisdictions (the "Legislation") that the Filer be deemed to have ceased to be a reporting issuer under the Legislation; and

(ii) in Ontario only, an order pursuant to the *Business Corporations Act* (Ontario) (the "OBCA") that the Filer be deemed to have ceased to be offering its securities to the public;

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

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

1. The Filer is a corporation amalgamated under the OBCA.

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

3. The Filer was created by the amalgamation ("Amalgamation") on May 8, 2002 of GolfNorth Properties Inc. ("Predecessor GolfNorth"), a reporting issuer in each of the provinces of Alberta, British Columbia and Ontario, incorporated under the laws of Ontario and listed on the TSX Venture Exchange (the "Exchange"), and 1458306 Ontario Inc. ("1458306"), a private company incorporated under the laws of Ontario.

4. The Filer is a reporting issuer in each of the provinces of Alberta, British Columbia and Ontario.

5. The Filer is not in default of any of its obligations under the Legislation, other than its obligation to file its interim financial statements for the three month period ended March 31, 2002; the Amalgamation was completed before the obligation of the Filer to file such financial statements arose.

6. The authorized capital of the Filer consists of an unlimited number of common shares and an unlimited number of Class A redeemable preferred shares ("Redeemable Shares") of which, as of the date hereof, 200 common shares and no Redeemable Shares are issued and outstanding. No other securities of the Filer, including debt securities, are outstanding.

7. The Amalgamation was completed in order to effect a going private transaction. At the time of the Amalgamation, the common shares of Predecessor GolfNorth were listed and posted for trading on the Exchange under the stock symbol "YNP". Predecessor GolfNorth's common shares were delisted from the Exchange effective as of the close of business on July 25, 2002. No securities of the Filer are listed or traded an any market or exchange.

8. Pursuant to the Amalgamation, James Balsillie and Al Kavanagh, the sole shareholders of 1458306 and directors of Predecessor GolfNorth, became the sole beneficial and direct holders of the common shares of the Filer.

9. Pursuant to the Amalgamation, shareholders of Predecessor GolfNorth (other than the shareholders of 1458306 and any dissenting shareholders) received one Redeemable Share in exchange for each common share of Predecessor GolfNorth held by them. Pursuant to and in accordance with their terms, the Redeemable Shares were deemed redeemed on the date which was two days following the effective date of the Amalgamation for $0.30 each.

10. As a result of the Amalgamation, James Balsillie and Al Kavanagh own all of the Filer's outstanding securities.

11. The Filer has no present intention of seeking public financing by way of an offering of its securities.

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 the Filer is deemed to have ceased to be a reporting issuer or the equivalent under the Legislation.

July 30, 2002.

"John Hughes"

AND IT IS HEREBY ORDERED by the Ontario Securities Commission pursuant to subsection 1(6) of the OBCA that the Filer is deemed to have ceased to be offering its securities to the public for the purposes of the OBCA.

July 30, 2002.

"Howard I. Wetston, Q. C." "Robert W. Korthals"

2.1.3 Sceptre Investment Counsel Limited - MRRS Decision

Headnote

Mutual reliance review system for exemptive relief applications – portfolio manager exempted, subject to terms and conditions, from the dealer registration requirements in the Legislation in respect of (a) trades by the Registrant of units of mutual funds managed and promoted by the Registrant to clients for whom the Registrant has fully managed accounts governed by the terms of an investment management agreement (including Fund of Funds Trades), and (b) wholesaling and marketing activities carried on by the Registrant in respect of the mutual funds, to the extent that such activities constitute acts in furtherance of a trade.

Statues Cited

Securities Act, R.S.O. 1990, c.S.5, as amended s. 25, 74(1).

Rules Cited

National Instrument 81-102 Mutual Funds.
Ontario Securities Commission Rule 31-506 - SRO Membership - Mutual Fund Dealers.
Ontario Securities Commission Rule 45-501 Exempt Distributions.

IN THE MATTER OF
THE SECURITIES LEGISLATION OF
BRITISH COLUMBIA, SASKATCHEWAN, ONTARIO
AND NEW BRUNSWICK

AND

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

AND

IN THE MATTER OF
SCEPTRE INVESTMENT COUNSEL LIMITED

MRRS DECISION DOCUMENT

WHEREAS the Canadian securities regulatory authority or regulator (the "Decision Maker") in each of the Provinces of British Columbia, Saskatchewan, Ontario and New Brunswick (the "Jurisdictions") has received an application (the "Application") from Sceptre Investment Counsel Limited (the "Registrant") for a decision, pursuant to the securities legislation of the Jurisdictions (the "Legislation"), that the requirement (the "Dealer Registration Requirement") in the Legislation that prohibits a person or company from trading in a security unless registered as a dealer in the appropriate category shall not apply to the Registrant or to the officers and employees acting on its behalf in respect of certain activities of the Registrant relating to mutual funds of which the Registrant

or an affiliate of the Registrant is or becomes the Manager (the "Mutual Funds");

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

AND WHEREAS the Registrant having represented to the Decision Makers that:

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

2. The Registrant is registered as an adviser in the categories of investment counsel and portfolio manager (or equivalent registration) and as a dealer in the category of mutual fund dealer (or equivalent legislation) in each of the Jurisdictions. The Registrant has applied in Ontario for registration as a dealer in the category of limited market dealer.

3. The Registrant offers investment management services to high net worth individuals, pension funds, institutions and corporations ("Client(s)"). Most Clients enter into investment counsel agreements which grant the Registrant full discretionary authority over the Client's account (each, a "Managed Account"). Some Clients have accounts with the Registrant where the Registrant is not granted full discretionary authority and which, therefore, are not Managed Accounts.

4. The Registrant is also the sponsor, manager and portfolio manager of a total of 19 Mutual Funds distributed under exemptions from the prospectus requirements of the Legislation and eight Mutual Funds which are prospectus qualified pursuant to National Instrument 81-102 – *Mutual Funds* ("NI 81-102") and may in the future be the manager of additional Mutual Funds. The Registrant manages the investment portfolios of the Mutual Funds with full discretionary authority under the constating documents of the Mutual Funds.

5. Incidental to its principal business of portfolio management, the Registrant wishes to distribute units of the Mutual Funds to its Managed Accounts and to cause certain of the Mutual Funds to invest in the units of another Mutual Fund (the "Fund of Fund Trades"). Except as provided for in paragraph 9 of this Decision Document and in the Fund of Fund Trades, the Registrant will not distribute units of the Mutual Funds to persons for whom it does not have a Managed Account.

6. Sceptre Mutual Fund Dealer Inc. ("SMFDI") is a wholly owned subsidiary of the Registrant and is registered under or has applied for registration under the applicable Legislation as a dealer in the category of mutual fund dealer (or the equivalent registration) and has been granted membership in the Mutual Fund Dealers Association.

7. Upon SMFDI's registration as a mutual fund dealer (or the equivalent registration) in each of the Jurisdictions, the Registrant will assign to SMFDI all of its accounts for which it trades shares or units of the Mutual Funds (the "Assignment") except the following:

   (a) The Managed Accounts; and

   (b) The Fund of Fund Trades.

8. After the Assignment, the trading activities of the Registrant in shares or units of the Mutual Funds will be limited to trades for Managed Accounts and Fund of Fund Trades except as provided for in paragraph 9 of this Decision Document.

9. The Registrant also wishes to conduct marketing and wholesaling activities in respect of the Mutual Funds. "Marketing or Wholesaling Activities" means for the Registrant, a trade by the Registrant that consists of any act, advertisement or solicitation, directly or indirectly, in furtherance of another trade in securities of a Mutual Fund, where the other trade consists of:

   (i) a purchase or sale of securities of a Mutual Fund; or

   (ii) a purchase or sale of securities of a Mutual Fund of which the Registrant acts as the "principal distributor" of the Mutual Fund for the purposes of NI 81-102;

   and where the purchase or sale is, in each case, made by or through another dealer that is registered under the Legislation where the trade is made in a category that permits it to act as a dealer for such trade.

10. After the Assignment, the Registrant intends to voluntarily surrender its registration as a mutual fund dealer in the Jurisdictions.

11. Without the relief requested, the Registrant would require continued registration as a mutual fund dealer in order to (a) distribute shares or units of prospectus-qualified Mutual Funds to investors for whom the Registrant has Managed Accounts where no registration exemption is available under the applicable Legislation, (b) conduct the Fund of Fund Trades where no registration exemption is available under the applicable Legislation, and (c) conduct Marketing and Wholesaling Activities in respect of the Mutual Funds.

12. Without the relief requested, the Registrant, as a mutual fund dealer, would be required pursuant to the applicable Legislation to apply for and

maintain membership in the Mutual Fund Dealers Association of Canada (the "MFDA").

13. The effect of the MFDA's membership rules is to preclude a mutual fund dealer such as the Registrant from conducting its principal business of acting as an investment counsel and accepting discretionary portfolio management mandates.

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

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

IT IS THE DECISION of the Decision Makers under the Legislation that the Dealer Registration Requirement in the Legislation shall not apply to Fund of Fund trades and trades in shares or units of Mutual Funds to Managed Accounts made by the Registrant through its officers and employees acting on its behalf (each a "Registrant Representative"),

Provided that:

(A) the Registrant is, at the time of the trade, registered under the Legislation as an adviser in the category of "portfolio manager" (or the equivalent);

(B) if the trade is made in a Jurisdiction other than Ontario, it is made by or at the direction of a Registrant Representative who is, at the time of the trade, registered under the Legislation to act on behalf of the Registrant as an adviser in the category of "portfolio manager" (or the equivalent);

(C) if the trade is made in the Jurisdiction of Ontario, the Registrant is, at the time of the trade, registered under the Legislation of the Jurisdiction as a dealer in the category of "limited market dealer", and the trade is made on behalf of the Registrant by a Registrant Representative who is, at the time of the trade, either (i) registered under the Legislation to act on behalf of the Registrant as an adviser in the category of "portfolio manager" (or the equivalent), or (ii) acting under the direction of such a person and is himself or herself registered under the Legislation to trade on behalf of the Registrant pursuant to its limited market dealer registration; and

(D) for each Jurisdiction, this Decision shall terminate one year after the coming into force, subsequent to the date of this Decision, of a rule or other regulation under the Legislation of the Jurisdiction that relates, in whole or part, to any trading by persons or companies that are registered under the Legislation as portfolio managers (or the equivalent), in securities of a mutual fund, to an account of a client, in respect of which the person or company has full discretionary authority to trade in securities for the account, without obtaining the specific consent of the client to the trade, but does not include any rule or regulation that is specifically identified by the Decision Maker for the Jurisdiction as not applicable for these purposes.

AND, IT IS THE DECISION of the Decision Makers under the Legislation of each Jurisdiction that the Dealer Registration Requirement in the Legislation shall not apply to trades that consists of Marketing or Wholesaling Activities in respect of shares or units of Mutual Funds made by the Registrant through Registrant Representatives,

Provided that, in the case of each such trade that is made in the Jurisdiction of Ontario, the Registrant is, at the time of the trade, registered under the Legislation of the Jurisdiction as a dealer in the category of "limited market dealer" and the Registrant Representative that makes the trade on behalf of the Registrant is, at the time of the trade, registered under the Legislation of the Jurisdiction to trade on behalf of the Registrant pursuant to its limited market dealer registration.

July 26, 2002.

"Paul M. Moore" "Robert L. Shirriff"

2.1.4 HEARx Ltd. et al. - MRRS Decision

Headnote

Mutual Reliance Review System for Exemptive Relief Applications – relief from prospectus and registration requirements in connection with an arrangement – first trade relief – relief from certain continuous disclosure and insider reporting requirements – all subject to conditions.

Applicable Ontario Statutory Provisions

Securities Act, R.S.O. 1990, c.S.5, as am., ss. 25, 53, 74(1), 75, 77, 78, 79, 80(b)(iii), 81(2), 107, 108, 109, 121(2)(a)(ii).

Applicable Instruments

Multilateral Instrument 45-102 Resale of Securities
Rule 45-501 Exempt Distributions.

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

AND

IN THE MATTER OF
THE MUTUAL RELIANCE REVIEW SYSTEM FOR EXEMPTIVE RELIEFAPPLICATIONS

AND

IN THE MATTER OF
HEARX LTD., HEARX CANADA INC., HEARX ACQUISITION ULC
AND HELIX HEARING CARE OF AMERICA CORP.

MRRS DECISION DOCUMENT

WHEREAS the local securities regulatory authority or regulator (the "Decision Maker") in each of Alberta, Saskatchewan, Manitoba, Ontario, Québec, New Brunswick, Nova Scotia, Prince Edward Island and Newfoundland and Labrador (collectively, the "Jurisdictions") has received an application from HEARx Ltd. ("HEARx"), HEARx Canada Inc. ("Exchangeco") and HEARx Acquisition ULC ("Callco") (collectively, the "Filer") for a decision pursuant to the securities legislation of the Jurisdictions (the "Legislation") that:

(a) the trades of securities involved in connection with the combination of HEARx and Helix Hearing Care of America Corp. ("Helix") (the "Transaction") to be effected by way of an Arrangement (as defined below) shall be exempt from the requirements contained in the Legislation to be registered to trade in a security (the "Registration Requirements"), to file a preliminary prospectus and a prospectus and receive receipts therefore (the "Prospectus Requirements");

(b) Exchangeco be exempt in Alberta, Ontario and Québec from the requirements of the Legislation applicable in such jurisdictions to issue press releases and file reports regarding material changes, to file with the Decision Makers and to deliver to shareholders interim financial statements, audited annual financial statements and an annual report, where applicable, information circulars (or to make an annual filing in lieu thereof) and annual information forms (including management's discussion and analysis of the financial condition and results of operation of Exchangeco) (the “Continuous Disclosure Requirements”); and

(c) each insider (as such term is defined in the Legislation) of Exchangeco be exempt in Alberta, Ontario and Québec from the insider reporting requirements of the Legislation applicable in these jurisdictions (the “Insider Reporting Requirements”), subject to certain conditions, as described below.

AND WHEREAS pursuant to 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. HEARx and Helix have entered into a merger agreement dated July 7, 2001, as amended and restated on November 6, 2001, among HEARx and Helix (the "Merger Agreement") providing for the Transaction to be effected by way of an arrangement (the "Arrangement") under section 192 of the Canada Business Corporations Act ("CBCA") involving holders of common shares of Helix (the "Helix Common Shares"), holders of options to acquire Helix Common Shares (the "Helix Options"), Helix, Exchangeco, Callco and HEARx.

2. HEARx is a corporation incorporated under the laws of Delaware which is currently subject to the informational requirements of the United States *Securities Exchange Act of 1934*, as amended, and is not a "reporting issuer" under the securities legislation of any Province or Territory of Canada. HEARx's principal corporate offices are located in West Palm Beach, Florida.

3. HEARx's authorized capital consists of 20,000,000 Common Shares, $0.10 par value per share ("HEARx Common Shares"), and 2,000,000 shares of preferred stock, $1.00 par value per share ("HEARx Preferred Shares"). As of May 3, 2002, there were outstanding 15,540,743 HEARx Common Shares, 4,796 HEARx Preferred Shares, purchase warrants and options entitling the holders thereof to purchase an aggregate of approximately 3,572,271 HEARx Common Shares. As part of the Transaction, HEARx will create and issue one special voting share (the "Special Voting Share") to a trustee (the "Trustee") which will be appointed as trustee under the Voting and Exchange Trust Agreement (described below).

4. HEARx has a rights agreement in place (the "HEARx Rights Agreement") which provides that each HEARx Common Share shall trade with an associated right (the "HEARx Right"). The HEARx Rights Agreement and the HEARx Rights are described below.

5. The HEARx Common Shares are listed for trading on the American Stock Exchange ("AMEX") under the symbol "EAR". HEARx will apply to AMEX to list the HEARx Common Shares issued pursuant to the Arrangement and those issuable from time to time in exchange for exchangeable shares of Exchangeco (the "Exchangeable Shares") or upon the exercise of outstanding Helix Options exchanged for options to purchase HEARx Common Shares (the "Replacement Options"). In addition, HEARx will apply to the Toronto Stock Exchange ("TSX") to list the HEARx Common Shares and the Exchangeable Shares.

6. Exchangeco is an indirect wholly owned subsidiary of HEARx. Exchangeco was incorporated under the CBCA on November 7, 2001 for the sole purpose of participating in the Arrangement. Exchangeco currently has nominal assets and activities. After the Arrangement is completed, Exchangeco will be a holding company that holds all of the outstanding Helix Common Shares other than those held by HEARx or Callco. Exchangeco's registered office is located in Toronto, Ontario.

7. The authorized capital of Exchangeco will be amended prior to the Effective Date such that it will consist of an unlimited number of common shares and the Exchangeable Shares. The Exchangeable Shares will rank senior to the common shares of Exchangeco with respect to the payment of dividends and the distribution of property or assets of Exchangeco among its shareholders for the purpose of winding-up its affairs.

8. Prior to the Arrangement becoming effective, Exchangeco will adopt an Exchangeable Share rights plan (the "Exchangeable Share Rights Plan") substantially equivalent to the HEARx Rights Agreement, which is described below. Pursuant to the Exchangeable Share Rights Plan, each Exchangeable Share issued in the Arrangement or otherwise will have an associated Exchangeable Share right (the "Exchangeable Share Right"), entitling the holder of such Exchangeable Share Right to acquire additional Exchangeable Shares in certain limited circumstances.

9. Exchangeco is currently a closed company within the meaning of that term under the *Securities Act* (Québec) (the "Act"). Prior to the completion of the Transaction, the articles of Exchangeco will be amended to remove the closed company restrictions of Exchangeco. Upon completion of the Transaction and the listing of the Exchangeable Shares on the TSX, Exchangeco will become a reporting issuer under the Act. Exchangeco will also become a reporting issuer under the securities legislation of Alberta and Ontario as a result of the Transaction.

10. Callco is a wholly-owned subsidiary of HEARx. Callco is an unlimited liability company formed under the *Companies Act* (Nova Scotia) on October 3, 2001, for the sole purpose of participating in the Arrangement. Callco holds all of the outstanding common shares of Exchangeco. Callco will deliver HEARx Common Shares in exchange for Helix Common Shares to those holders of Helix Common Shares electing to receive HEARx Common Shares under the Arrangement and will hold the call rights related to the Exchangeable Shares. Callco's registered office is located in Halifax, Nova Scotia.

11. The authorized capital of Callco consists of 1,000,000 common or ordinary shares without nominal or par value. As of June 6, 2002, there were 100 common shares issued and outstanding in the name of HEARx.

12. Helix was incorporated under the *Business Corporations Act* (Alberta) on August 26, 1996. On July 9, 1999, Helix's Articles of Incorporation were amended to allow the continuance of Helix under the CBCA. The Articles of Helix were again amended on November 30, 2000, to allow for the amalgamation of Helix and its subsidiary, Regional Hearing Consultants, Inc. Helix, through its primary operating subsidiaries, manages and provides supply services to a large network of hearing health care clinics in the Province of Québec and owns and operates hearing health care clinics in the Province of Ontario and in nine states in the United States. Helix's principal corporate office is located at 7100, Jean-Talon East, Suite 610, Montreal, Québec H1M 3S3.

13. The authorized capital of Helix consists of an unlimited number of Common Shares without par value and an unlimited number of first preferred shares and an unlimited number of second preferred shares (collectively, the "Helix Preferred Shares"). As of May 3, 2002, there were an aggregate 46,161,190 Helix Common Shares issued and outstanding. The Helix Common Shares are currently listed for trading on the TSX under the symbol "HCA".

14. As of May 3, 2002 up to a maximum of 11,317,017 common shares may be issued pursuant to the convertible securities exercisable to acquire Helix Common Shares.

15. The Transaction will be effected by way of the Arrangement which will require, among other things: (a) the approval of the holders of not less than 66 2/3% of the Helix Common Shares outstanding, present in person or by proxy at the Helix Meeting which has been called for June 26, 2002 for the purpose of approving the Arrangement; and (b) the approval of the Superior Court of Québec, the application in respect of which has been heard on June 27, 2002.

16. In connection with the Helix Meeting, Helix delivered to the holders of Helix Common Shares a proxy circular (the "Circular") including the prospectus of HEARx under applicable U.S. Securities laws in connection with the issuance of HEARx Common Shares (the "Joint Proxy Statement/HEARx Prospectus"). The Joint Proxy Statement/HEARx Prospectus contains U.S. prospectus-level disclosure of the business and affairs of HEARx, a description of HEARx prepared pursuant to applicable Canadian corporate and securities law and a detailed description of the Transaction and the Arrangement. The Circular was prepared in conformity with the provisions of the Act, the CBCA and the interim order of the Superior Court of Justice (Québec) dated May 17, 2002.

17. HEARx will hold a special meeting of its stockholders (the "HEARx Meeting") to: (i) approve the issuance of the HEARx Common Shares to be used as consideration in the Transaction, including the HEARx Common Shares to be issued upon exchange of Exchangeable Shares and upon the exercise of Replacement Options; (ii) amend HEARx's certificate of incorporation to change the name of HEARx to Hear USA, Inc.; and (iii) approve the Hear USA 2002 Flexible Stock Plan which will provide a sufficient number of Replacement Options. The Joint Proxy Statement/HEARx Prospectus will also serve as the HEARx management information circular in respect of these matters.

18. On the Arrangement becoming effective, the steps described below will occur:

(a) Each outstanding Helix Common Share, other than (A) Helix Common Shares held by shareholders exercising their dissent rights who are ultimately entitled to be paid the fair value of the Helix Common Shares held by them, or (B) Helix Common Shares held by HEARx, will be automatically transferred by the holder thereof to Exchangeco in exchange, at the election of the holder, for:

(i) that number of HEARx Common Shares equal to the product of the total number of Helix Common Shares held by such shareholder multiplied by 0.3537 (the "Exchange Ratio");

(ii) that number of Exchangeable Shares (and certain ancillary rights) equal to the product of the total number of such Helix Common Shares held by such shareholder multiplied by the Exchange Ratio; or

(iii) a combination of HEARx Common Shares and Exchangeable Shares (and certain ancillary rights), which aggregate number of HEARx Common Shares and Exchangeable Shares is equal to the product of the total number of such Helix Common Shares held by such shareholder multiplied by the Exchange Ratio;

the whole as set forth in a letter of transmittal and election form sent by Helix (the "Letter of Transmittal and Election Form"), provided that notwithstanding the foregoing, only shareholders of Helix who are either, (1) Canadian residents who hold such Helix Common Shares on their own behalf, or (2) persons who hold such Helix Common Shares on behalf of one or more Canadian residents, shall be entitled to elect to receive Exchangeable Shares in respect of any such Helix Common Shares as set out in paragraphs (ii) and (iii) above, and any elections to receive Exchangeable Shares made by any other shareholders of Helix shall be invalid, and the Helix Common Shares of any such invalidly-electing Helix Shareholder shall be

deemed to have been transferred to Exchangeco solely in consideration for HEARx Common Shares pursuant to (i) above; and any shareholder of Helix resident in Canada who fail to make an effective election shall only be entitled to receive Exchangeable Shares as set out in paragraph (ii) above and any shareholder of Helix not resident in Canada who fail to make an effective election shall only be entitled to receive HEARx Common Shares as set out in paragraph (i) above;

(b) coincident with the transfer of the Helix Common Shares to Exchangeco, HEARx and Callco shall execute a support agreement (the "Exchangeable Share Support Agreement") and HEARx, Callco, Exchangeco and the Trustee will enter into a voting and exchange trust agreement (the "Voting and Exchange Trust Agreement") and all rights of holders of Exchangeable Shares under the Voting and Exchange Trust Agreement shall be received by them as part of the property receivable by them in exchange for Helix Common Shares so transferred; and

(c) each Helix Option outstanding on the Effective Date will be exchanged for a Replacement Option to purchase the number of HEARx Common Shares equal to the product of the Exchange Ratio multiplied by the number of Helix Common Shares that may be purchased as if such Helix Option was exercisable and exercised immediately prior to the Arrangement becoming effective and the option exercise price shall be adjusted by dividing the exercise price under the Helix Options by the Exchange Ratio.

19. As a result of the foregoing, upon the completion of the Arrangement, all of the issued and outstanding Helix Common Shares will be held directly by HEARx or indirectly by HEARx through Exchangeco.

20. The Exchangeable Shares, together with the Voting and Exchange Trust Agreement described below, will provide holders thereof with a security of a Canadian issuer having economic and voting rights which are substantially economically equivalent to those of a HEARx Common Share. Exchangeable Shares will generally be received by Canadian resident holders of Helix Common Shares who validly make a joint tax election with Exchangeco on a tax-deferred rollover basis for the purposes of the *Income Tax Act* (Canada) ("ITA") and, provided that the Exchangeable Shares are listed on a prescribed stock exchange in Canada (which currently includes the TSX), will be "qualified investments" for certain investors and will not constitute "foreign property", in each case, under the ITA. The Exchangeable Shares will be exchangeable by a holder thereof for HEARx Common Shares on a one-for-one basis at any time at the option of such holder and will be required to be exchanged on or after the fifth anniversary of the Arrangement/Effective Date, subject to earlier mandatory exchange upon the occurrence of certain events, as more fully described below. Subject to applicable law and the paragraphs below, dividends will be payable on the Exchangeable Shares contemporaneously and in the equivalent amount per share as dividends on the HEARx Common Shares. The Exchangeable Shares are subject to adjustment or modification in the event of a stock split or other change to the capital structure of HEARx so as to maintain at all times the initial one-to-one relationship between the Exchangeable Shares and HEARx Common Shares.

21. The Exchangeable Shares will rank prior to the common shares of Exchangeco and any other shares ranking junior to the Exchangeable Shares with respect to the payment of dividends and the distribution of property or assets in the event of the liquidation, dissolution or winding-up of Exchangeco, whether voluntary or involuntary, or any other distribution of property or assets of Exchangeco among its shareholders for the purpose of winding-up its affairs. The rights, privileges, restrictions and conditions attaching to the Exchangeable Shares (the "Exchangeable Share Provisions") will provide that each Exchangeable Share will entitle the holder to dividends from Exchangeco payable at the same time as, and equivalent to, each dividend paid by HEARx on a HEARx Common Share. The record date for the determination of the holders of Exchangeable Shares entitled to receive Exchangeable Shares in connection with any subdivision of Exchangeable Shares and the effective date of such subdivision shall be the same dates as the record date and the payment date, respectively, for the corresponding stock dividend declared on HEARx Common Shares.

22. The Exchangeable Shares will be non-voting, except as required by the applicable law or through the Special Voting Share to be issued to the Trustee pursuant to the Voting and Exchange Trust Agreement, and will be retractable at the option of the holder at any time. Subject to the overriding retraction call right of Callco referred to below, upon retraction the holder will be entitled to receive from Exchangeco for each Exchangeable Share retracted an amount equal to the current market price of a HEARx Common Share on the last business day prior to the retraction date, to be satisfied by the delivery of one HEARx Common Share, together with, on the designated payment

date therefor, an amount equal to all declared and unpaid dividends on each such retracted Exchangeable Share held by the holder on any dividend record date prior to the date of retraction (such aggregate amount, the "Retraction Price"). Upon being notified by Exchangeco of a proposed retraction of Exchangeable Shares, Callco will have an overriding retraction call right (the "Retraction Call Right") to purchase from the holder all of the Exchangeable Shares that are the subject of the retraction notice for a price per share equal to the Retraction Price.

23. Subject to the applicable law and the overriding redemption call right of Callco referred to below, Exchangeco may redeem all but not less than all of the then outstanding Exchangeable Shares (other than Exchangeable Shares held by HEARx and its affiliates) on, or any time after, the fifth anniversary of the Effective Date of the Transaction (the "Redemption Date"). As described in the Joint Proxy Statement/HEARx Prospectus, in certain circumstances the Board of Directors of Exchangeco may accelerate the Redemption Date. Upon such redemption, a holder will be entitled to receive from Exchangeco for each Exchangeable Share redeemed an amount equal to the current market price of a HEARx Common Share on the last business day prior to the Redemption Date, to be satisfied by the delivery of one HEARx Common Share, together with, on the designated payment date thereof, an amount equal to all declared and unpaid dividends on each such redeemed Exchangeable Share held by the holder on any dividend record date prior to the Redemption Date (such aggregate amount, the "Redemption Price"). Upon being notified by Exchangeco of a proposed redemption of Exchangeable Shares, Callco will have an overriding redemption call right (the "Redemption Call Right") to purchase on the Redemption Date all but not less than all of the then outstanding Exchangeable Shares (other than Exchangeable Shares held by HEARx and its affiliates) for a price per share equal to the Redemption Price. Upon the exercise of the Redemption Call Right by Callco, holders will be obligated to sell their Exchangeable Shares to Callco. If Callco exercises its Redemption Call Right, Exchangeco's right and obligation to redeem the Exchangeable Shares on the Redemption Date will terminate.

24. Subject to the overriding liquidation call right of Callco referred to below, in the event of liquidation, dissolution or winding-up of Exchangeco, holders of Exchangeable Shares (other than Exchangeable Shares held by HEARx and its affiliates) will be entitled to put their shares to HEARx in exchange for HEARx Common Shares pursuant to the Voting and Exchange Trust Agreement. Upon a proposed liquidation, dissolution or winding-up of Exchangeco, Callco will have an overriding liquidation call right (the "Liquidation Call Right") to purchase from all but not less than all of the holders of Exchangeable Shares (other than Exchangeable Shares held by HEARx and its affiliates) on the effective date of such liquidation, dissolution or winding-up (the "Liquidation Date") all but not less than all of the Exchangeable Shares held by each such holder for a price per share equal to the current market price of a HEARx Common Share on the last business day prior to the Liquidation Date, to be satisfied by the delivery of one HEARx Common Share, together with an additional amount equivalent to the full amount of all declared and unpaid dividends on each Exchangeable Share held by such holder on any dividend record date prior to the date of purchase by Callco.

25. Upon the occurrence of certain changes in Canadian tax law, HEARx has the right to purchase or cause Callco to purchase the Exchangeable Shares (other than Exchangeable Shares hold by HEARx and its affiliates) prior to the fifth anniversary of the Effective Date.

26. Upon the liquidation, dissolution or winding-up of HEARx, all Exchangeable Shares held by holders (other than Exchangeable Shares held by HEARx and its affiliates) will be automatically exchanged for HEARx Common Shares pursuant to the Voting and Exchange Trust Agreement, in order that holders of Exchangeable Shares will be able to participate in the dissolution of HEARx on a *pro rata* basis with the holders of HEARx Common Shares.

27. Upon the exchange of an Exchangeable Share for a HEARx Common Share, the holder of the Exchangeable Share will no longer be a beneficiary of the trust created by the Voting and Exchange Trust Agreement that holds the Special Voting Share, as described below.

28. On December 14, 1999, pursuant to a Rights Agreement between HEARx and The Bank of New York, as rights agent ("Rights Agent"), HEARx's Board of Directors declared a dividend of one preferred share purchase right ("HEARx Right") for each outstanding HEARx Common Share. Each HEARx Right entitles the registered holder to purchase from HEARx one one-hundredth of a share of HEARx Series H Junior Participating Preferred Stock, par value $1.00 per share, at an exercise price of U.S.$28 (the "Purchase Price"), subject to adjustment. The HEARx Rights will not be exercisable until the Distribution Date (defined below). The HEARx Rights will attach to and trade only together with HEARx Common Shares. The HEARx Rights will be separate from HEARx Common Shares. Certificates for the HEARx Rights will be issued and the HEARx Rights will become exercisable upon the earlier of (a) the close of business on the

tenth business day after a person or group of affiliated or associated persons (other than HEARx, any subsidiary of HEARx, any employee benefit plan of HEARx or the trustee appointed under the Voting and Exchange Trust Agreement) (an "Acquiring Person") has acquired, or obtained the right to acquire, beneficial ownership of 15% or more of the HEARx Common Shares then outstanding without the prior consent of HEARx, or (b) the close of business on the tenth business day (or such later date as may be determined by the HEARx's Board of Directors) after a person or group announces a tender or exchange offer without the prior consent of HEARx, the consummation of which would result in ownership by a person or group of 15% or more of the then outstanding HEARx Common Shares (other than HEARx, any subsidiary of HEARx or an employee benefit plan of HEARx and certain affiliated entities). The earlier of such dates is referred to as the "Distribution Date". The HEARx Rights will expire on the earliest of (i) December 31, 2009, unless the date is extended by HEARx (the "Final Expiration Date"), or (ii) redemption or exchange of the HEARx Rights as described below. At any time after an Acquiring Person obtains 15% or more of the then outstanding HEARx Common Shares and prior to the acquisition by such Acquiring Person of 50% or more of the outstanding HEARx Common Shares, the Board of Directors of HEARx may exchange the HEARx Rights (other than HEARx Rights owned by the Acquiring Person), in whole or in part, at an exchange ratio of one HEARx Common Share per HEARx Right. Unless the HEARx Rights are earlier redeemed, in the event that an Acquiring Person obtains 15% or more of the then outstanding HEARx Common Shares, then each holder of a HEARx Right which has not theretofor been exercised (other than HEARx Rights beneficially owned by the Acquiring Person, which will thereafter be void) will thereafter have the right to receive, upon exercise, the number of HEARx Common Shares that equal the result obtained by multiplying the then current purchase price by the number of one one-hundredth of a share of preferred stock for which a right is then exercisable and dividing that product by 50% of the then current per-share market price of HEARx Common Shares. Similarly, unless the HEARx Rights are earlier redeemed, in the event that, after an Acquiring Person obtains 15% or more of the then outstanding HEARx Common Shares, (i) HEARx is acquired in a merger or other business combination transaction, or (ii) 50% or more of HEARx's consolidated assets or earning power are sold (other than in transactions in the ordinary course of business), proper provision must be made so that each holder of a HEARx Right which has not theretofore been exercised (other than HEARx Rights beneficially owned by the Acquiring Person, which will thereafter be void) will thereafter have the right to receive, upon exercise, shares of common stock of the acquiring company having a value equal to one one-hundredth times the Purchase Price and dividing that product by 50% of the then current market price per share of the common stock of the acquiring company on the date of such merger or other business combination transaction. At any time prior to the time an Acquiring Person becomes such, HEARx may redeem the HEARx Rights in whole, but not in part, at a price of $0.01 per Right. The redemption of the HEARx Rights may be made effective at such time, on such basis and with such conditions as HEARx's Board of Directors may establish.

29. Prior to the Effective Date of the Transaction, Exchangeco will adopt the Exchangeable Share Rights Plan which will be substantially equivalent to the HEARx Rights Agreement. Pursuant thereto, each Exchangeable Share issued in the Arrangement will have an associated Exchangeable Share Right entitling the holder of such Exchangeable Share Right to acquire additional Exchangeable Shareson terms and conditions substantially the same as the terms and conditions upon which a holder of HEARx Common Shares is entitled to acquire HEARx Series H Junior Participating Preferred Shares under the HEARx Rights Agreement (with the definitions of beneficial ownership, the calculation of percentage ownership and the number of shares outstanding and related provisions applying, as appropriate, to HEARx Common Shares and Exchangeable Shares as though they were the same security). The Exchangeable Share Rights are intended to have characteristics essentially equivalent in economic effect to the HEARx Rights.

30. The Special Voting Share will be authorized for issuance and, pursuant to the Arrangement, issued to the Trustee appointed under the Voting and Exchange Trust Agreement. Except as otherwise required by applicable law, the Special Voting Share will be entitled to the number of votes, exercisable at any meeting of the holders of HEARx Common Shares, equal to the number of votes that would attach to the HEARx Common Shares into which the Exchangeable Shares outstanding from time to time (and not owned by HEARx and its affiliates) could be exchanged. Holders of Exchangeable Shares will exercise the voting rights attached to the Special Voting Share through the mechanism of the Voting and Exchange Trust Agreement. The holders of HEARx Common Shares and the holders of the Special Voting Share will vote together as a single class on all matters except to the extent voting as a separate class is required by applicable law or the HEARx Certificate of Incorporation. The holder of the Special Voting Share will not be entitled to receive dividends from HEARx and, in the event of any liquidation, dissolution or winding-

up of HEARx, will not be entitled to share in the assets available for distribution to stockholders. At such time as the Special Voting Share has no votes attached to it because there are no Exchangeable Shares outstanding not owned by HEARx and its affiliates, the Special Voting Share will be cancelled.

31. The Special Voting Share will be issued to and held by the Trustee for the benefit of the holders of the Exchangeable Shares outstanding from time to time (other than HEARx and its affiliates) pursuant to a Voting and Exchange Trust Agreement to be entered into by HEARx, Exchangeco, Callco and the Trustee contemporaneously with the closing of the Transaction. Each voting right attached to the Special Voting Share must be voted by the Trustee pursuant to the instructions of the holder of the related Exchangeable Share. In the absence of any such instructions from a holder as to voting, the Trustee will not be entitled to exercise the related voting rights. Upon the exchange of a holder's Exchangeable Shares for HEARx Common Shares, all rights of such holder of Exchangeable Shares to instruct the Trustee to exercise votes attached to the Special Voting Share in respect of the exchanged Exchangeable Share will cease.

32. Under the Voting and Exchange Trust Agreement, HEARx will grant to the Trustee for the benefit of the holders of the Exchangeable Shares a right (the "Exchange Right") exercisable upon the insolvency of Exchangeco, to require HEARx to purchase from a holder of Exchangeable Shares (other than HEARx or its affiliates) all or any part of the Exchangeable Shares held by that holder. The purchase price for each Exchangeable Share purchased by HEARx under the Exchange Right will be an amount equal to the current market price of a HEARx Common Share on the last business day prior to the day of closing the purchase and sale of such Exchangeable Share under the Exchange Right multiplied by the current HEARx Common Stock Equivalent, in each case determined on the last business day prior to the day of closing of the purchase and sale of such Exchangeable Share under the Exchange Right, which shall be satisfied in full in respect of the Exchangeable Shares in regard to which a Holder has exercised the Exchange Right by causing to be delivered to such Holder such whole number of shares of HEARx Common Stock as is equal to the product obtained by multiplying the number of such Exchangeable Shares by the Current HEARx Common Stock Equivalent, rounded down to the nearest whole number, to be satisfied by the delivery to the Trustee, on behalf of the holder, of one HEARx Common Share, together with an additional amount equivalent to the full amount of all declared and unpaid dividends on such Exchangeable Share held by the holder of record on any dividend record date prior to the closing of the purchase and sale.

33. Contemporaneously with the closing of the Transaction, HEARx, Exchangeco and Callco will enter into an Exchangeable Share Support Agreement which will provide that so long as any Exchangeable Shares (other than Exchangeable Shares held by HEARx or its affiliates) remain outstanding: (a) HEARx will not declare or pay any dividends on the HEARx Common Shares unless Exchangeco is able to declare and pay, and simultaneously declares and pays, as the case may be, an equivalent dividend on the Exchangeable Shares; (b) that HEARx will itself and ensure that Exchangeco and Callco will be able to honour the redemption and retraction rights and dissolution entitlements that are attributes of the Exchangeable Shares under the Exchangeable Share Provisions and the related redemption, retraction liquidation, and change-of-law call rights described above; and (c) that HEARx will ensure that Callco does not exercise its vote as a shareholder to initiate the voluntary liquidation, dissolution or winding-up of Exchangeco nor take any action or omit to take any action that is designed to result in the liquidation, dissolution or winding-up of Exchangeco.

34. The Exchangeable Share Support Agreement and the Exchangeable Share Provisions will provide, that, without the prior approval of Exchangeco and the holders of Exchangeable Shares, HEARx will not issue or distribute additional HEARx Common Shares, securities exchangeable for or convertible into or carrying rights to acquire HEARx Common Shares, rights, options or warrants to subscribe therefor, evidences of indebtedness or other assets, to all or substantially all holders of HEARx Common Shares, nor shall HEARx change the HEARx Common Shares, unless the same or an economically equivalent distribution on or change to the Exchangeable Shares (or in the rights of the holders thereof) is made simultaneously.

Prospectus and Registration Relief

35. The steps under the Transaction and the attributes of the Exchangeable Shares contained in the Exchangeable Share Provisions, the Voting and Exchange Trust Agreement, the Exchangeable Share Support Agreement and the Exchangeable Share Rights Plan involve or may involve a number of trades of securities, including trades related to the issuance of the Exchangeable Shares and HEARx Common Shares pursuant to the Transaction or upon the issuance of HEARx Common Shares in exchange for Exchangeable Shares. The trades and possible trades in securities to which the Transaction gives rise are the following:

(a) the issuance by HEARx of HEARx Common Shares to Exchangeco in exchange for Class A Special Shares and the subsequent transfer by Exchangeco of HEARx Common Shares to holders of Helix Common Shares entitled to receive HEARx Common Shares upon the Arrangement or the issuance by HEARx or Callco of HEARx Common Shares to holders of Helix Common Shares entitled to receive HEARx Common Shares upon the Arrangement;

(b) the transfer to Exchangeco of Helix Common Shares by Helix Shareholders or those held by Helix Shareholders exercising their right of dissent and ultimately entitled to receive fair value, and those held by HEARx or any of its affiliates;

(c) the issuance of Exchangeable Shares by Exchangeco to Helix Shareholders validly electing to receive Exchangeable Shares upon the Arrangement;

(d) the transfer of Helix Common Shares to Helix by dissenting Helix shareholders pursuant to the Arrangement;

(e) the grant of the change-in-law call right by holders of Exchangeable Shares to HEARx;

(f) the exchange of Helix Options for Replacement Options and the issuance and delivery of HEARx Common Shares to a holder of a Replacement Option upon the exercise hereof;

(g) the grant by HEARx to the Trustee for the benefit of holders of Exchangeable Shares, pursuant to the Voting and Exchange Trust Agreement, of the Exchange Right, the Automatic exchange right and the voting rights pursuant to the Special Voting Share;

(h) the issuance by HEARx, pursuant to the Voting and Exchange Trust Agreement, of the Special Voting Share to the Trustee for the benefit of the holders of the Exchangeable Shares;

(i) the issuance and intra-group transfers of HEARx Common Shares and related issuances of Class A Special Shares and/or shares of HEARx affiliates in consideration thereof, all by and between HEARx and its affiliates, from time to time to enable Exchangeco to deliver HEARx Common Shares to a holder of Exchangeable Shares upon a retraction of the Exchangeable Shares held by such holder, and the subsequent delivery thereof by or at the direction of Exchangeco upon such retraction;

(j) the transfer of Exchangeable Shares by the holder to Exchangeco upon the holder's retraction of Exchangeable Shares;

(k) the grant of the Liquidation Call Right to Callco to purchase all of the outstanding Exchangeable Shares from the holders of such shares upon a proposed liquidation, dissolution of winding-up of Exchangeco;

(l) the grant of the Retraction Call Right to Callco to purchase from a holder of Exchangeable Shares all of the Exchangeable Shares of such holder that are the subject of the retraction notice;

(m) the grant of the Redemption Call Right to Callco to purchase all of the outstanding Exchangeable Shares from the holders of such shares upon notice from Exchangeco of a proposed redemption of Exchangeable Shares;

(n) the issuance and intra-group transfers of HEARx Common Shares and related issuances of Class A Special Shares and/or shares of HEARx affiliates in consideration therefore, all by and between HEARx and its affiliates, from time to time to enable Callco to deliver HEARx Common Shares to a holder of Exchangeable Shares in connection with Callco's exercise of its overriding retraction call right, and the subsequent delivery thereof by Callco upon the exercise of such overriding retraction call right;

(o) the transfer of Exchangeable Shares by the holder to Callco upon Callco exercising its overriding retraction call right;

(p) the issuance and intra-group transfers of HEARx Common Shares and related issuances of Class A Special Shares and/or shares of HEARx affiliates in consideration therefore, all by and between HEARx and its affiliates, to enable Exchangeco to deliver HEARx Common Shares to holders of Exchangeable Shares upon the redemption of the Exchangeable Shares, and the subsequent delivery thereof by

or at the direction Exchangeco upon such redemption;

(q) the transfer of Exchangeable Shares by holders to Exchangeco upon the redemption of Exchangeable Shares;

(r) the issuance and intra-group transfers of HEARx Common Shares and related issuances of Class A Special Shares and/or shares of HEARx affiliates in consideration therefor, all by and between HEARx and its affiliates, to enable Callco to deliver HEARx Common Shares to holders of Exchangeable Shares in connection with Callco's exercise of its overriding redemption call right, and the subsequent delivery thereof by Callco upon the exercise of such overriding redemption call right;

(s) the transfer of Exchangeable Shares by holders to Callco upon Callco exercising its overriding redemption call right;

(t) the issuance and intra-group transfers of HEARx Common Shares and related issuances of Class A Special Shares and/or shares of HEARx affiliates in consideration therefor, all by and between HEARx and its affiliates, to enable Exchangeco to deliver HEARx Common Shares to holders of Exchangeable Shares on the liquidation, dissolution or winding-up of Exchangeco and the subsequent delivery thereof by Exchangeco upon such liquidation, dissolution or winding-up;

(u) the transfer of Exchangeable Shares by holders to Exchangeco on the liquidation, dissolution or winding-up of Exchangeco;

(v) the issuance and intra-group transfers of HEARx Common Shares and related issuances of Class A Special Shares and/or shares of HEARx affiliates in consideration therefor, all by and between HEARx and its affiliates, to enable Callco to deliver HEARx Common Shares to holders of Exchangeable Shares in connection with Callco's exercise of its overriding liquidation call right and the subsequent delivery thereof by Callco upon the exercise of such overriding liquidation call right;

(w) the transfer of Exchangeable Shares by holders to Callco upon Callco exercising its overriding liquidation call right;

(x) upon the exercise of the change-in-law call right by HEARx: (i) if HEARx effects the share change, the issuance and delivery of HEARx Common Shares by HEARx to holders of Exchangeable Shares; (ii) if Callco effects the share exchange at HEARx's direction, the issuance and intra-group transfers of HEARx Common Shares and related issuances of shares of HEARx affiliates in consideration therefor, all by and between HEARx and its affiliates, to enable Callco to deliver HEARx Common Shares to holders of Exchangeable Shares in connection with the exercise of the parent call right, and the subsequent delivery thereof by Callco upon the exercise of such parent call right; and (iii) the transfer of Exchangeable Shares by holders to HEARx (if (i)) or Callco (if (ii)) on the exercise of a call right by HEARx;

(y) the issuance and delivery of HEARx Common Shares by HEARx to holders of Exchangeable Shares upon the exercise of the Exchange Right by such holder;

(z) the issuance and delivery of HEARx Common Shares by HEARx to holders of Exchangeable Shares pursuant to the Automatic exchange right;

(aa) the transfer of Exchangeable Shares by a holder to HEARx upon the exercise of the Exchange Right or the Automatic exchange right by such holder or pursuant to the Automatic exchange right;

(bb) the issuance of Exchangeable Share Rights pursuant to the Exchangeable Share Rights Plan, the issuance of Exchangeable Shares upon exercise of Exchangeable Share Rights pursuant to the Exchangeable Share Rights Plan and the first trades of such Exchangeable Shares;

(cc) the first trades of Exchangeable Shares received in connection with the Arrangement; and

(dd) the first trades of HEARx Common Shares received in connection with the Arrangement, upon the retraction or redemption of Exchangeable Shares or otherwise received in connection with the trades above in this paragraph 35.

(collectively, the "Trades")

36. The fundamental investment decision to be made by a holder of Helix Common Shares is made at the time of the Arrangement when such holder votes in respect of the Arrangement. As a result of

this decision, a holder (other than a dissenting holder) will ultimately receive Exchangeable Shares or HEARx Common Shares in exchange for the Helix Common Shares held by such holder. The Exchangeable Shares (together with ancillary rights) will provide certain Canadian tax benefits to certain Canadian holders but will otherwise be substantially the economic and voting equivalent of the HEARx Common Shares, and as such all subsequent exchanges of Exchangeable Shares are in furtherance of the holder's initial investment decision. As mentioned above, that investment decision will be made on the basis of the Circular which includes the Joint Proxy Statement/HEARx Prospectus and contains prospectus-level disclosure of the business and affairs of each of HEARx and Helix and of the particulars of the Transaction and the Arrangement.

37. If not for income tax considerations, Canadian resident holders of Helix Common Shares could have received HEARx Common Shares without the option of receiving Exchangeable Shares. The option in favour of certain Canadian resident holders of Helix Common Shares to ultimately receive Exchangeable Shares under the Arrangement will enable those holders of Helix Common Shares to defer certain Canadian income tax (provided a valid tax election is made) and, provided that the Exchangeable Shares are listed on a prescribed stock exchange in Canada (which currently includes the TSX), will permit other holders to hold property that is not "foreign property" under the ITA.

38. As a result of the economic and voting equivalency between Exchangeable Shares (together with certain ancillary rights) and HEARx Common Shares, holders of Exchangeable Shares will have a participating interest determined by reference to HEARx, rather than Exchangeco. Accordingly, it is the information relating to HEARx not Exchangeco, that will be relevant to holders of HEARx Common Shares and Exchangeable Shares.

39. Coincident with the distribution of the Exchangeable Shares of HEARx Common Shares, as the case may be, HEARx shall provide or cause Exchangeco to provide to each recipient or proposed recipient of Exchangeable Shares or HEARx Common Shares, as the case may be, resident in Canada a statement that, as a consequence of the requested order, Exchangeco and its insiders will be exempt from certain disclosure requirements applicable to reporting issuers and its insiders in Canada, and specifying those requirements Exchangeco and its insiders have been exempted from and identifying the disclosure that will be made in substitution therefor.

40. HEARx will send concurrently to all holders of HEARx Common Shares resident in Canada all disclosure material furnished to holders of HEARx Common Shares resident in the United States including, without limitation, copies of its annual financial statements and all proxy solicitation materials.

41. For tax reasons, it is anticipated that subject to applicable law, Callco is likely to exercise the Redemption, Retraction and Liquidation Call Rights available on each occasion when such rights become exercisable.

42. It may be desirable for Exchangeco to purchase from Callco, from time to time or once all Exchangeable Shares have been acquired from holders thereof (other than HEARx and its affiliates), the Exchangeable Shares held by Callco as a result of the exercise of these rights.

43. The purchase price to be paid by Exchangeco to Callco for the Exchangeable Shares would be the fair market value of the Exchangeable Shares on the date of purchase and the purchase price would be satisfied by the issue of common shares or preferred shares of Exchangeco.

44. It is intended that Exchangeco will immediately cancel any Exchangeable Shares it purchases from Callco.

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

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

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

1. the Registration Requirements and the Prospectus Requirements shall not apply to the Trades provided that:

   (a) the first trade in Exchangeable Shares acquired in connection with the Arrangement shall be deemed to be a distribution or primary distribution to the public under the Legislation of the Jurisdiction in which the trade takes place (the "Applicable Legislation"), unless:

      (i) except in Québec,

         (A) the conditions in subsections (3) or (4) of section 2.6 of Multilateral Instrument

45-102 ("MI 45-102") are satisfied; and provided further that, in determining the period of time that Exchangeco has been a reporting issuer for the purposes of section 2.6 of MI 45-102, the period of time that Helix has been a reporting issuer may be included; or

(B) where such first trade is a control distribution as such term is defined in MI 45-102, such trade is made in compliance with section 2.8 of MI 45-102; and provided further that, in determining the period of time that Exchangeco has been a reporting issuer for the purposes of section 2.8 of MI 45-102, the period of time that Helix has been a reporting issuer may be included; and the period of time that a holder of Exchangeable Shares (or an affiliated or controlled entity of such holder) held Helix common shares shall be included in the calculation of the hold period);

(ii) in Québec, to the extent that there is no exemption available from the Registration Requirements and the Prospectus Requirements in respect of any of the Trades, the Trades are not subject to the Registration Requirements and the Prospectus Requirements, provided that the issuer or one of the parties to the Arrangement (including, for greater certainty, Helix) is and has been a reporting issuer in Québec in good standing for the twelve months immediately preceding the Trades (and for the purpose of determining the period of time that the issuer or one of the parties to the Arrangements has been a reporting issuer in Québec, the period of time that Helix was a reporting issuer may be included); and no unusual effort is made to prepare the market or to create a demand for the Exchangeable Shares; and

(b) the first trade in HEARx Common Shares acquired in connection with the Arrangement shall be deemed to be a distribution or primary distribution to the public under the Legislation unless, at the time of the trade:

(i) except in Québec,

(A) if HEARx is a reporting issuer in any Jurisdiction listed in Appendix B to MI 45-102 other than Québec, the conditions in subsections (3) or (4) of section 2.6 of MI 45-102 are satisfied; and for the purpose of determining the period of time that HEARx has been a reporting issuer under section 2.6, the period of time that Helix has been a reporting issuer may be included; or

(B) if HEARx is not a reporting issuer in any Jurisdiction other than Québec, such first trade is made through an exchange, or a market, outside of Canada; and

(ii) in Québec, to the extent that there is no exemption available from the Registration Requirements and Prospectus Requirements in respect of any of the Trades, the Trades are not subject to the Registration Requirements and the Prospectus Requirements, provided that HEARx or one of the parties to the Arrangement (including, for greater certainty, Helix) is and has been a reporting issuer in Québec in good standing for the twelve months immediately preceding

the Trades (and for the purpose of determining the period of time that the issuer or one of the parties to the Arrangements has been a reporting issuer in Québec, the period of time that Helix was a reporting issuer may be included); and no unusual effort is made to prepare the market or to create a demand for the HEARx Common Shares.

2. The Continuous Disclosure Requirements and the Insider Reporting Requirements contained in the Legislation applicable in Alberta, Ontario and Québec shall not apply to Exchangeco or any insider of Exchangeco, so long as:

(a) HEARx sends to all holders of Exchangeable Shares resident in Canada contemporaneously all disclosure material furnished to holders of HEARx Common Shares resident in the United States, including, without limitation, copies of its annual and interim financial statements and all proxy solicitation materials;

(b) HEARx files with each Decision Maker copies of all documents required to be filed by it with the United States Securities and Exchange Commission under the United States *Securities Exchange Act of 1934*, as amended, including, without limitation, copies of any Form 10-K, Form 10-Q, Form 8-K and proxy solicitation material prepared in connection with HEARx's shareholders meetings and all such filings are made under Exchangeco's SEDAR profile and the filing fees which would otherwise be payable by Exchangeco in connection with such filings are paid;

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

(d) Exchangeco complies with the requirements of the Legislation to issue press releases and file reports regarding material changes in the affairs of Exchangeco that would be material to holders of Exchangeable Shares but would not be material to holders of HEARx Common Shares;

(e) coincident with the distribution of the Exchangeable Shares or HEARx Common Shares, as the case may be, HEARx shall provide or cause Exchangeco to provide to each recipient or proposed recipient of Exchangeable Shares or HEARx Common Shares, as the case may be, resident in Canada a statement that, as a consequence of the requested order, Exchangeco and its insiders are exempt from certain disclosure requirements applicable to reporting issuers and its insiders in Canada, and specifying those requirements Exchangeco and its insiders have been exempted from and identifying the disclosure that will be made in substitution therefor;

(f) HEARx includes in all future mailings of proxy solicitation materials to holders of Exchangeable Shares a clear and concise statement explaining the reason for the mailed material being solely in relation to HEARx and not in relation to Exchangeco, such statement to include a reference to the economic equivalency between the Exchangeable Shares and HEARx Common Shares and the right to direct voting at HEARx meetings pursuant to the Voting and Exchange Trust Agreement;

(g) HEARx remains the direct or indirect beneficial owner of all the issued and outstanding voting securities of Exchangeco, until no Exchangeable Share is outstanding (except those held by HEARx or affiliates of HEARx);

(h) Exchangeco does not issue any securities to the public other than the Exchangeable Shares in connection with this Arrangement;

and with respect to relief from complying with Insider Reporting Requirements, further provided that:

(i) such insider of Exchangeco does not receive or have access to, in the ordinary course, information as to material facts or material changes concerning HEARx before the material facts or material changes are generally disclosed;

(j) such insider of Exchangeco is not a director or senior officer of (i) HEARx or (ii) a "major subsidiary" of HEARx, as such term is defined in National Instrument 55-101: Exemptions from Certain Insider Reporting Requirements, as if HEARx was a reporting issuer; and

(k) such insider of Exchangeco is not an insider of HEARx in a capacity other than as a director or senior officer of a subsidiary of HEARx that is not a major subsidiary of HEARx, as if HEARx were a reporting issuer.

July 10, 2002.

"Stéphane Garon"

2.1.5 Scotia Cassels Investment Counsel Limited et al. - MRRS Decision

Headnote

Mutual Reliance Review System for Exemptive Relief - Portfolio managers of certain mutual funds granted relief from provision in securities legislation that prohibits them from knowingly causing any investment portfolio managed by them to purchase or sell securities of any issuer from or to the account of a responsible person or its associates, subject to a number of conditions.

Applicable Ontario Statute

Securities Act (Ontario), R.S.O. 1990 c. S.5, as am., ss. 118(2)(b) and 121(2)(a)(ii).

Instruments Cited

National Instrument 33-105 - Underwriting Conflicts; National Instrument 44-101 - Short Form Prospectus Distributions; National Instrument 81-102 - Mutual Funds.

IN THE MATTER OF
THE SECURITIES LEGISLATION OF
BRITISH COLUMBIA, ALBERTA,
SASKATCHEWAN, ONTARIO,
QUEBEC, AND NEWFOUNDLAND & LABRADOR

AND

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

AND

IN THE MATTER OF
SCOTIA CASSELS INVESTMENT COUNSEL LIMITED
RBC GLOBAL INVESTMENT MANAGEMENT INC.
NATCAN INVESTMENT MANAGEMENT INC.
TAL GLOBAL ASSET MANAGEMENT INC.
CM INVESTMENT MANAGEMENT INC.
GUARDIAN GROUP OF FUNDS LTD.
BMO HARRIS INVESTMENT MANAGEMENT INC.
BMO NESBITT BURNS INC.
JONES HEWARD INVESTMENT COUNSEL INC.
SCOTIA CAPITAL INC.
(COLLECTIVELY, THE "PORTFOLIO MANAGERS")

MRRS DECISION DOCUMENT

WHEREAS the local securities regulatory authority or regulator (the "Decision Maker") in each of British Columbia, Alberta, Saskatchewan, Ontario, Quebec, Nova Scotia, and Newfoundland (the "Jurisdictions") has received an application from the Portfolio Managers for a decision under the securities legislation of the Jurisdictions (the "Legislation") that the provision (the "Investment Prohibition") contained in the Legislation, which prohibits a portfolio manager from knowingly causing any investment

portfolio managed by it to purchase or sell securities of any issuer from or to the account of a responsible person, any associate of a responsible person or the portfolio manager (collectively, the "Related Persons"), does not apply to the Portfolio Managers, in connection with the purchase or sale (a "Trade") by mutual funds whose investment portfolios are managed by the Portfolio Managers (collectively, the "Managed Funds") of

i. debt securities issued or fully and unconditionally guaranteed by the federal or provincial governments ("Government Debt Securities"), or

ii. debt securities of an issuer other than the federal and provincial governments ("Non-Government Debt Securities");

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

AND WHEREAS the Portfolio Managers have represented to the Decision Makers that::

1. Each Portfolio Manager currently acts as portfolio manager for one or more Managed Funds whose investment objectives permit them to invest in debt securities.

2. Except for Natcan Investment Management Inc. ("NIMI") and TAL Global Asset Management Inc. ("TAL"), the head office of each Portfolio Manager is in Toronto, Ontario. The head office of NIMI and TAL is in Montreal, Quebec.

3. In recent years, the amount of Government Debt Securities available for investment in Canada has declined significantly due to government deficit reduction programs. As a result, investors in debt securities have had to rely increasingly on Non-Government Debt Securities. However, because of the limited supply of Non-Government Debt Securities in the primary market, holders of outstanding Non-Government Debt Securities have tended not to sell their holdings prior to the maturity date of their Non-Government Debt holdings. This has, in turn, led to the limited availability of Non-Government Debt Securities in the secondary market. Moreover, because of their limited availability, the Non-Government Debt Securities that are available in the secondary market are usually sold at prices that are higher than if they were purchased in the primary market, assuming no change in the markets and in the status of the issuer.

4. The debt securities market is primarily a dealers' market where a dealer provides buy or sell price quotes (as the case may be) and, if the price quotes are accepted, the resulting Trade is effected with the dealer acting as principal.

5. Most, if not all, of the Portfolio Managers or their associates or affiliates are the principal dealers in the Canadian debt securities market -- both primary and secondary.

6. The Investment Prohibition, combined with the circumstances described in paragraphs 3 and 4 above, has made it even more difficult for the Portfolio Managers to acquire debt securities for their Managed Funds in the secondary market.

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

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

THE DECISION of the Decision Makers under the Legislation is that the Investment Prohibition does not apply so as to enable each Portfolio Manager to cause its Managed Funds to purchase Government Debt Securities or Non-Government Securities from, or sell such debt securities to, the account of a Related Person other than a mutual fund, in the secondary market,

PROVIDED THAT

A. at the time of causing a Managed Fund to Trade in Government Debt Securities or Non-Government Debt Securities pursuant to this Decision, the following conditions are satisfied:

(1) the Trade

a. represents the business judgment of the Portfolio Manager uninfluenced by considerations other than the best interests of the Managed Fund, or

b. is, in fact, in the best interests of the Managed Fund;

(2) the Trade is consistent with, or is necessary to meet, the investment objective of the Managed Fund as disclosed in its simplified prospectus;

(3) the terms of the Trade are better than the terms quoted by one or more dealers who are neither affiliates nor associates of the Related Person (the "Independent Dealers") with whom the Trade is made;

(4) if the Trade is a purchase of Non-Government Debt Securities,

a. the purchase is not made from the Related Person during the

60-day period after the distribution of such Non-Government Debt Securities, if the Related Person acted

i. as underwriter in the distribution of the Non-Government Debt Securities, or

ii. as a selling group member selling more than 5% of the underwritten securities;

b. the issuer of the Non-Government Debt Securities is not a "related issuer" or "connected issuer", as defined in National Instrument 33-105 Underwriting Conflicts, of the Related Person;

c. the Related Person is not

i. the issuer of the Non-Government Debt Securities, or

ii. a promoter of the issuer of the Non-Government Debt Securities; and

d. the Non-Government Debt Securities have been given, and continue to have, an "approved rating" by an "approved rating organization" as such terms are defined in section 1.1 of NI 44-101 - Short Form Prospectus Distributions;

B. prior to effecting any Trade pursuant to this Decision,

(1) the simplified prospectus of the Managed Fund discloses that it may purchase or sell Government Debt Securities or Non-Government Debt Securities from or to the account of a Related Person pursuant to this Decision, and

(2) the annual information form of the Managed Fund describes the policies or procedures referred to in paragraph (C) below;

C. prior to effecting any Trade pursuant to this Decision, the Managed Fund has in place written policies or procedures to ensure that,

(1) there is compliance with the conditions of this Decision,

(2) in connection with any Trade in Government Debt Securities or Non-Government Debt Securities with a Related Person,

a. each Managed Fund maintains an itemized daily record of all such Trades showing, for each Trade,

i. the name and principal amount of the debt securities,

ii. if the Trade is in Government Debt Securities, the relevant benchmark Canada bond (the "Benchmark Bond"), the bid-ask price of the Benchmark Bond, and the price that was paid or received by the Managed Fund on the Trade,

iii. if the Trade is in Non-Government Debt Securities, the relevant Benchmark Bond (or, in the case of US$-Pay Non-Government Debt Securties, the relevant US Treasury Bond), the bid-ask price of the Benchmark Bond or US Treasury Bond, and the spread over the Benchmark Bond US Treasury Bond that was paid or received by the Managed Fund on the Trade,

iv. the time and date of the Trade, and

v. the name of the dealer on the Trade;

b. the Portfolio Manager of each Managed Fund maintains written records of the quotations received from Independent Dealers, and each Managed Fund maintains a daily consolidated record of the quotations (including the price, quantity, times and date)

received from one or more Independent Dealers, in respect of each Trade made with a Related Person;

c. the "manager", as defined in National Instrument 81-102 - Mutual Funds, conducts a timely review of each Managed Fund's Trades with Related Persons to confirm that each Trade

i. represented the business judgment of the Portfolio Manager uninfluenced by considerations other than the best interests of the Managed Fund, or

ii. was, in fact, in the best interests of the Managed Fund; and

D. the following particulars of each Trade pursuant to this Decision are set out in a report certified by the Portfolio Manager and filed on SEDAR, in respect of each Managed Fund and no later than 30 days after the end of the month in which one or more such Trades were made:

(1) the issuer of the debt securities,

(2) the principal amount of debt securities purchased or sold by the Managed Fund,

(3) the price at which the purchase or sale was made,

(4) the Related Person with whom the Trade was made, and

a. in the case of a Trade in Government Debt Securities, the price paid or received by the Managed Fund, or

b. in the case of a Trade in Non-Government Debt Securities, the spread over the relevant Benchmark Bond or US Treasury Bond that was paid or received by the Managed Fund, and

(5) a certification by the Portfolio Manager that the Trade

a. represented the business judgment of the Portfolio Manager uninfluenced by considerations other than the best interest of the Managed Fund, or

b. was, in fact, in the best interests of the Managed Fund; and

E. this Decision, as it relates to the jurisdiction of a Decision Maker, will terminate after the coming into force of any legislation or rule of that Decision Maker dealing with the matters regulated by section 4.2 of NI 81-102.

July 10, 2002.

"Harold P. Hands" "Robert L. Shirriff"

2.1.6 The Descartes Systems Group Inc. - MRRS Decision

Headnote

Mutual Reliance Review System for Exemptive Relief Applications - issuer bids - relief granted from the valuation requirement in connection with an offer by the issuer for its out-of-the-money convertible debentures - issuer representing in order that convertibility feature is of no material value and debentures trade only on the issuer's underlying creditworthiness - offer otherwise to be made in compliance with issuer bid requirements - offer document to include summary of financial opinion on convertibility feature.

Applicable Ontario Rules Cited

Rule 61-501 - Insider Bids, Issuer Bids, Going Private Transactions and Related Party Transactions, ss. 3.3, 3.4(1) and 9.1.

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

AND

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

AND

IN THE MATTER OF
THE DESCARTES SYSTEMS GROUP INC.

MRRS DECISION DOCUMENT

WHEREAS the Canadian securities regulatory authority or regulator (the "Decision Maker") in each of British Columbia, Alberta, Saskatchewan, Manitoba, Ontario, Quebec, Nova Scotia and Newfoundland (the "Jurisdictions") has received an application (the "Application") from The Descartes Systems Group Inc. (the "Corporation") for a decision pursuant to the securities legislation of the Jurisdictions (the "Legislation") that, in connection with the proposed purchase by the Corporation of a portion of its outstanding 5.5% Convertible Unsecured Subordinated Debentures due June 30, 2005 (the "Debentures") pursuant to a formal issuer bid (the "Proposed Bid"):

(1) the Corporation be exempt from the requirements in the Legislation to obtain a valuation of the Debentures (the "Valuation Requirement"); and

(2) the Application and this MRRS Decision Document (the "Decision") be held in confidence by the Decision Makers, subject to certain conditions.

AND WHEREAS pursuant to 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 Corporation has represented to the Decision Makers as follows:

1. The Corporation was amalgamated under the *Business Corporations Act* (Ontario) on January 26, 1999.

2. The Corporation is authorized to issue an unlimited number of Common Shares (the "Common Shares"). As of July 3, 2002, the Corporation had outstanding 52,241,265 Common Shares. As of July 3, 2002, the Corporation had outstanding Debentures in the aggregate principal amount of U.S.$72,000,000.

3. The Corporation is a reporting issuer or the equivalent in each of the Jurisdictions and its Common Shares are listed and posted for trading on the Toronto Stock Exchange (the "TSX") under the trading symbol "DSG" and on the Nasdaq National Market ("Nasdaq") under the trading symbol "DSGX". The Debentures are listed and posted for trading on the TSX under the trading symbol "DSG.DB.U".

4. The Debentures were issued pursuant to an indenture dated June 30, 2000 (the "Indenture") between the Corporation and Montreal Trust Company of Canada (now Computershare Trust Company of Canada) and distributed pursuant to a short form prospectus dated June 26, 2000.

5. The Indenture provides that, unless an "Event of Default" (as defined in the Indenture) has occurred and is continuing under the Indenture, the Corporation may purchase for cancellation any or all of the Debentures by invitation for tenders. No Event of Default has occurred under the Indenture. There are no other restrictions upon the Corporation's ability to purchase the Debentures.

6. The Debentures are convertible at the Debentureholder's option into Common Shares at any time prior to the earlier of June 30, 2005 and the last business day immediately preceding the date specified for redemption by the Corporation. The conversion price for the Debentures is U.S.$35.00 per Common Share, being a rate of approximately 28.57 Common Shares per U.S.$1,000 principal amount of Debentures.

7. On December 21, 2001, the Corporation filed and the TSX accepted a Notice of Intention to Make a

Normal Course Issuer Bid (the "Notice") in respect of the Debentures.

8. Pursuant to the Notice, the Corporation may acquire through the facilities of the TSX up to a maximum of U.S.$7,500,000 of its outstanding Debentures, representing approximately 10% of the public float of Debentures as at December 22, 2001. An aggregate principal amount of U.S.$3,000,000 have been acquired pursuant to the Notice up to and including March 13, 2002, the last date on which Debentures were acquired pursuant to the Notice.

9. To the knowledge of management of the Corporation, no person or company holds more than 10% of the aggregate principal amount of outstanding Debentures.

10. Over the 12 complete months prior to July 3, 2002, the Debentures traded on the TSX on 111 out of 250 trading days, with an average daily trading volume of U.S.$68,396 on the days traded, and the price range over that period was U.S.$580 to U.S.$800 per U.S.$1,000 principal amount of Debentures.

11. As at July 3, 2002, the closing price of the Debentures on the TSX was U.S.$680 per $1,000 aggregate principal amount outstanding.

12. The Debentures are convertible into Common Shares at a conversion price which is significantly in excess of the current market price of the Common Shares. The Debenture conversion price of U.S.$35.00 per Common Share for each U.S.$1,000 in aggregate principal amount of Debentures outstanding is equivalent to Cdn.$53.61 per Common Share based on the foreign exchange rates as of July 3, 2002. On July 3, 2002, the closing price of the Common Shares on the TSX was Cdn.$4.73, which was approximately 8.8% of the conversion price of the Debentures at such time, based on the foreign exchange rates then in effect. Over the 12 months preceding that date, the Common Shares traded on the TSX in a range between Cdn.$4.10 and Cdn.$27.40 per Common Share.

13. In a letter (the "Opinion Letter") dated July 15, 2002, Griffiths McBurney & Partners ("GMP") advised the Corporation that, in GMP's opinion:

    (i) the convertibility feature of the Debentures is of no material value; and

    (ii) the Debentures trade on the TSX like non-convertible, subordinated, unsecured debt based on the Corporation's underlying creditworthiness.

14. The Proposed Bid will proceed by way of an issuer bid circular which will include a summary and a copy of the Opinion Letter.

15. The Corporation intends to acquire up to an aggregate principal amount of U.S.$51,428,571 of Debentures, representing approximately 71.4% of the outstanding Debentures. The Corporation anticipates using cash on hand and cash equivalents to fund the Debenture acquisitions.

16. The Proposed Bid will be an "issuer bid" within the meaning of the Legislation in the Jurisdictions because the Debentures are convertible debt securities.

17. The Corporation has not yet announced its intention to proceed with the Proposed Bid, which remains subject to approval by the Board of Directors of the Corporation. Given the potential size of the Proposed Bid, release of the Decision prior to such an announcement could affect the market price of the Debentures.

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 the Decision has been met;

THE DECISION, of the Decision Makers in the Jurisdictions pursuant to the Legislation is that, in connection with the Proposed Bid, the Corporation is exempt from the Valuation Requirement, provided that the Corporation complies with the other applicable provisions of the Legislation relating to formal bids made by issuers.

THE FURTHER DECISION of the Decision Makers pursuant to the Legislation is that the Application and the Decision shall be held in confidence by the Decision Makers until the earlier of the date that the Circular is filed in connection with the Proposed Bid and August 14, 2002.

July 30, 2002.

"John Hughes"

2.1.7 High Income Preferred Shares Corporation - MRRS Decision

Headnote

Mutual Reliance Review System for Exemptive Relief Applications - Relief granted to an issuer from requirement to deliver annual financial statements and requirement to file an annual report where applicable. The annual financial statements covered a short operating period.

Applicable Ontario Statutory Provisions

Securities Act, R.S.O. 1990, c.S.5, as am. s.80(b)(iii).

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

AND

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

IN THE MATTER OF
HIGH INCOME PREFERRED SHARES CORPORATION

MRRS DECISION DOCUMENT

WHEREAS the local securities regulatory authority or regulator (the "Decision Maker") in each of Ontario, British Columbia, Alberta, Saskatchewan, Manitoba, Québec, Nova Scotia and Newfoundland and Labrador (the "Jurisdictions") has received an application from High Income Preferred Shares Corporation (the "Company") for a decision under the securities legislation (the "Legislation") of the Jurisdictions that the Company be exempted from delivering to security holders annual financial statements for the period ended June 30, 2002 and be exempted from preparing, filing and delivering to its security holders an annual report, where applicable, for the period ended June 30, 2002, as would otherwise be required pursuant to applicable Legislation;

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

AND WHEREAS the Company has represented to the Decision Maker that:

1. The Company was incorporated under the laws of Canada on April 26, 2002. The fiscal year-end of the Company is the last day of June in each calendar year.

2. The Company is authorized to issue an unlimited number of Class A Shares, Equity Shares, Series 1 Shares and Series 2 Shares of which, as at June 20, 2002, 1,000 Class A Shares, 1,260,000 Equity Shares, 1,260,000 Series 1 Shares and 1,260,000 Series 2 Shares are outstanding. The Series 1 Shares, Series 2 Shares and Equity Shares of the Company are together referred to as the "Offered Shares".

3. The Company became a reporting issuer or the equivalent in each of the Jurisdictions by virtue of it filing with the securities regulatory authority in each of the provinces of Canada a long form prospectus dated May 31, 2002 (the "Prospectus") qualifying the issuance of up to 2,775,324 Series 1 Shares, up to 2,775,324 Series 2 Shares and up to 2,775,324 Equity Shares (collectively, the "Offering") (plus up to 5% of the number of each of the Series 1 Shares, the Series 2 Shares and the Equity Shares issued at the closing of the Offering).

4. On June 20, 2002, the Company issued 1,260,000 Series 1 Shares, 1,260,000 Series 2 Shares and 1,260,000 Equity Shares at an issuance price of $25.00 per Series 1 Share, $14.70 per Series 2 Share and $3.54 per Equity Share at the closing of the Offering. The Series 1 Shares and Series 2 Shares were listed on The Toronto Stock Exchange on June 19, 2002.

5. The principal undertaking of the Company is the holding of (i) a diversified portfolio (the "Managed Portfolio") consisting principally of equity securities issued by American companies that have a market capitalization of greater than U.S.$2 billion or companies which form part of the Standard & Poor's 500 Composite Stock Price Index, equity shares of Canadian public companies which form part of the S&P/TSX 60 Index, units or similar equity securities of ongoing business income funds, pipeline/energy income funds, power generation income funds and real estate investment trusts and debt securities that are rated to be at least investment grade and (ii) a portfolio of equity securities agreed upon by the Company and an affiliate of Canadian Imperial Bank of Commerce that the Company will acquire with approximately 32% of the gross proceeds of the Offering.

6. The Offered Shares are redeemable at the option of the holder on a monthly basis at a price computed by reference to the value of a proportionate interest in the net assets of the Company. As a result, the Company is a "mutual fund" under the securities legislation of certain provinces of Canada (excluding the Province of Québec).

7. The Prospectus included an audited balance sheet of the Company as at May 31, 2002 and an

unaudited pro forma balance sheet as at May 31, 2002 prepared on the basis of the completion and sale of up to 2,775,324 Series 1 Shares, up to 2,775,324 Series 2 Shares and up to 2,775,324 Equity Shares, the maximum number of Offered Shares of the Company being qualified for distribution by the Prospectus. On June 20, 2002, the Company actually issued 1,260,000 Series 1 Shares, 1,260,000 Series 2 Shares and 1,260,000 Equity Shares pursuant to the Offering. A press release was issued by the Company on June 20, 2002 announcing to the public the actual number of Offered Shares that were issued by the Company pursuant to the Offering.

8. Although the Company came into existence on April 26, 2002, up to the time of the closing of the Offering, the Company had no significant assets or operations. The Company had only six business days of operations after the closing of the Offering prior to the end of the period for which the annual financial statements and annual report, where applicable, would be required.

9. The benefit to be derived by the security holders of the Company from receiving the annual financial statements and annual report, where applicable, would be minimal given (i) the extremely short period from the date of the Prospectus to the end of the applicable period; (ii) that the Company had not yet fully invested its funds by the end of the applicable period; (iii) the disclosure already provided in the Prospectus; and (iv) there were no material changes in the affairs of the Company from June 20, 2002 to the date of this application.

10. The expense to the Company of printing and delivering to its security holders the annual financial statements and of preparing, filing and delivering to its security holders an annual report, where applicable, would not be justified in view of the minimal benefit to be derived by the security holders from receiving such annual financial statements and annual report, where applicable, and would be detrimental to security holders in light of the unnecessary costs that would as a consequence be incurred by the Company.

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

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

IT IS HEREBY DECIDED by the Decision Makers pursuant to the Legislation that the Company is exempted from delivering to its security holders annual audited financial statements for the period ended June 30, 2002 and is exempted from preparing, filing and delivering to its security holders an annual report, where applicable, for the period ended June 30, 2002 provided that,

(i) the Company sends a copy of such annual financial statements to any security holder of the Company who so requests.

August 2, 2002.

"Howard I. Wetston." "Robert L. Shirriff"

2.1.8 Openwave Systems, Inc. - MRRS Decision

Headnote

Mutual Reliance Review System for Exemptive Relief Applications B Relief from registration and prospectus requirements and from issuer bid requirements for trades made in accordance with incentive compensation plans and an employee share purchase plan, subject to certain conditions.

Ontario Statutes

Securities Act, R.S.O. 1990, c.S.5, as am., ss.25, 53,74(1), 95, 96, 97, 98, 100 and 104(2) (c).

Ontario Regulations

Regulation made under the Securities Act, R.R.O. 1990, Reg. 1015, as am., s.203.1.

Multilateral Instruments

Multilateral Instrument 45-102 Resale of Securities.

Ontario Rules

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

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

AND

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

AND

IN THE MATTER OF
OPENWAVE SYSTEMS, INC.

MRRS DECISION DOCUMENT

WHEREAS the local securities regulatory authority or regulator (the "Decision Maker") in each of Ontario, British Columbia and Alberta (the "Jurisdictions") has received an application from Openwave Systems, Inc. ("Openwave" or the "Company") for a decision pursuant to the securities legislation of the Jurisdictions (the "Legislation") that (i) the requirement contained in the Legislation to be registered to trade in a security (the "Registration Requirements"), and the requirement to file a prospectus and obtain a receipt (the "Prospectus Requirements") will not apply to certain trades in securities of Openwave made in connection with the 1999 Employee Stock Purchase Plan (the "ESPP"); the Openwave 1995 Stock Plan (the "1995 SOP"); the Openwave 1996 Stock Plan (the "1996 SOP"); and the Openwave 2001 Stock Compensation Plan (the "2001 SOP") (the 1995 SOP, the 1996 SOP and the 2001 SOP are collectively the "SOPs" and together with the ESPP, the "Plans"); (ii) the Registration Requirements will not apply to first trades of shares acquired under the Plans executed on an exchange or market outside of Canada; and (iii) the requirements contained in the Legislation relating to the delivery of an offer and issuer bid circular and any notices of change or variation thereto, minimum deposit periods and withdrawal rights, taking up and paying for securities tendered to an issuer bid, disclosure, restrictions upon purchases of securities, bid financing, identical consideration and collateral benefits together with the requirement to file a reporting form within 10 days of an exempt issuer bid and pay a related fee (the "Issuer Bid Requirements") will not apply to certain acquisitions by the Company of shares pursuant to the Plans in each of the Jurisdictions;

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 Openwave has represented to the Decision Makers as follows:

1. Openwave is presently a corporation in good standing incorporated under the laws of the State of Delaware.

2. Openwave and affiliates of Openwave ("Openwave Affiliates") (Openwave and Openwave Affiliates are collectively, the "Openwave Companies") provide software and services related to mobile Internet and network use.

3. The Company is registered with the Securities Exchange Commission (the "SEC") in the U.S. under the U.S. Securities Exchange Act of 1934 (the "Exchange Act") and is not exempt from the reporting requirements of the Exchange Act pursuant to Rule 12g 3-2.

4. Openwave is not a reporting issuer in any of the Jurisdictions and has no present intention of becoming a reporting issuer in any of the Jurisdictions.

5. The authorized share capital of Openwave consists of: 1,000,000,000 shares of common stock ("Shares"); and 5,000,000 shares of preferred stock ("Preferred Shares"). As of January 31, 2002, there were 174,483,287 Shares, and 0 Preferred Shares issued and outstanding.

6. The Shares are quoted on Nasdaq.

7. Openwave intends to use the services of one or more agents/brokers in connection with the Plans (each an "Agent"). E*Trade Securities Inc. ("E*Trade") and E*Trade Canada Securities

Corporation ("E*Trade Canada") have initially been appointed by Openwave to act as Agents for the Plans. E*Trade is a corporation registered under applicable U.S. securities or banking legislation to conduct retail trades in securities and E*Trade Canada is registered as a broker/dealer in each of the Jurisdictions. Openwave may at any time appoint additional or replacement Agents under the Plans. Any Agent appointed in replacement of, or in addition to, E*Trade and E*Trade Canada, if not a registrant in the Jurisdictions, would be registered under applicable U.S. legislation.

8. The role of the Agent may include: (a) disseminating information and materials to Participants (as defined below) in connection with the Plans; (b) assisting with the administration of and general record keeping for the Plans; (c) holding Shares on behalf of Participants, Former Participants (as defined below) and Permitted Transferees (as defined below) in limited purpose brokerage accounts; (d) facilitating Option (as defined below) exercises (including cashless exercises and stock swap exercises) under the Plans; (e) facilitating the payment of withholding taxes, if any, by cash or the tendering or withholding of Shares; (f) facilitating the reacquisition of Awards (as defined below) under the terms of the Plans; and (g) facilitating the resale of Shares issued in connection with the Plans.

9. The purposes of the SOPs are to attract and retain the best available personnel, to provide additional incentive to Participants and to promote the success of Openwave's business. The purpose of the ESPP is to provide Participants with an opportunity to purchase Shares of the Company.

10. Subject to adjustment as described in the Plans, the maximum number of Shares that may be issued pursuant to the Plans are: 6,552,339 Shares under the ESPP; 30,855,627 Shares under the 1995 SOP; 25,593,850 Shares under the 1996 SOP and 10,604,385 Shares under the 2001 SOP.

11. The SOPs permit grants of: (a) options on Shares ("Options"); (b) stock awards including restricted stock bonus awards ("Restricted Stock Bonus Awards"); (c) the right to acquire restricted stock ("Restricted Stock Purchase Awards"), and (d) the right to purchase Shares ("Stock Purchase Rights") (Shares, Options, Restricted Stock Bonus Awards, Restricted Stock Purchase Awards and Stock Purchase Rights are, collectively, "Awards") to employees, non-employee directors and consultants of the Openwave Companies ("SOP Participants").

12. Under the ESPP, employees of the Openwave Companies ("ESPP Participants") are offered an opportunity to purchase Shares by means of applying accumulated payroll deductions to the purchase of Shares at a discount price determined in accordance with the terms of the ESPP.

13. Employees of the Openwave Companies eligible to participate in the Plans will not be induced to purchase Shares or to exercise Awards by expectation of employment or continued employment.

14. Consultants to the Openwave Companies eligible to participate in the Plans will not be induced to purchase Shares or to exercise Awards by expectation of the individual consultant, the consultant's company or the consultant's partnership being engaged or continuing to be engaged as a consultant.

15. Officers of the Openwave Companies who participate in the Plans will not be induced to purchase Shares or to exercise Awards by expectation of appointment or employment or continued appointment or employment as an officer.

16. It is anticipated that consultants who will be granted Awards under the SOPs will: (a) provide technical, business, management or other services to the Openwave Companies (other than services relating to the sale of securities or promotional/investor relations services); (b) provide consulting services to the Openwave Companies under a written contract; (c) have a relationship with the Openwave Companies that will permit them to be knowledgeable about the business affairs of the Openwave Companies; and (d) will spend a significant amount of time and attention on the affairs and business of one or more of the Openwave Companies.

17. As of April 17, 2002**,** there were 19 persons resident in Canada eligible to receive Awards under or participate in the Plans: 11 persons resident in Ontario; 4 persons resident in British Columbia; 1 person resident in Alberta, and 3 persons resident in Quebec.

18. All necessary securities filings have been made in the U.S. in order to offer the Plans to Participants resident in the U.S.

19. A prospectus prepared according to U.S. securities laws describing the terms and conditions of each of the Plans will be delivered to each SOP Participant who receives an Award under the SOPs and to each ESPP Participant who is eligible to participate in the ESPP. The annual reports, proxy materials and other materials Openwave provides to its U.S. shareholders will be provided or made available

upon request to SOP Participants and ESPP Participants (together "Participants") resident in the Jurisdictions at substantially the same time and in substantially the same manner as such documents are provided to Participants whose participation under the Plans is comparable to that of the Canadian residents.

20. The Plans are administered by a committee appointed by the board of directors of Openwave (the "Committee").

21. Generally, in order to exercise an Option under the SOPs, an optionee must submit a written notice of exercise to Openwave or to the Agent identifying the Option, the number of Shares being purchased and the method of payment.

22. The SOPs provide that on exercise of Options, the payment of the exercise price in order to acquire the underlying Shares may be made: (a) in cash; (b) by the surrender of Shares owned by the Option holder to the Company for cancellation ("Stock-Swap Exercises"**)** or to the Agent for resale; (c) the retention of a number of Shares by the Company from the total number of Shares into which the Option is exercised; (d) by a combination of the foregoing; or (e) such other consideration and method of payment permitted by the Committee at an exercise price determined in accordance with the terms of the SOPs.

23. Options will vest and will be exercisable as specified in the Option agreement as determined by the Committee. The Option exercise price for each Share purchased under any Option will be specified in the Option agreement and (a) in the case of the 2001 SOP, will not be less than the fair market value (as such term is defined in the 2001 SOP), (b) in the case of the 1995 SOP and the 1996 SOP, the exercise price shall be determined by the Committee in its discretion.

24. The term of each Option will be fixed by the Committee, provided however that the term shall be no more than ten (10) years from the date of the grant. The date of exercise will be chosen by the Option holder.

25. Under the SOPs, on the termination of the SOP Participant's service with Openwave, Shares awarded under Restricted Stock Bonus Awards or Restricted Stock Purchase Awards may be subject to a Share reacquisition or Share repurchase option in favor of Openwave in accordance with the terms of the Plans ("Share Reacquisitions").

26. Openwave shall have the right to deduct applicable taxes from any payment under the Plans by withholding, at the time of delivery or vesting of cash or Shares under the Plans, an appropriate amount of cash or Shares ("Share Withholding Exercises") or a combination thereof for a payment of taxes required by law or to take such other action as may be necessary in the opinion of Openwave or the Committee to satisfy all obligations for the withholding of such taxes.

27. Awards and rights under the Plans are not transferable by a Participant other than by will or beneficiary designation or by the laws of intestacy unless otherwise provided for by the Committee.

28. Following the termination of a Participant's relationship with the Openwave Companies for reasons of disability, retirement, termination, change of control or any other reason ("Former Participants"), and on the death of a Participant where Awards have been transferred by will or pursuant to a beneficiary designation or the laws of intestacy or otherwise ("Permitted Transferees"), the Former Participants and Permitted Transferees will continue to have rights in respect of the Plans ("Post-Termination Rights").

29. Post-Termination Rights may include, among other things: (a) the right to exercise Awards for a period determined in accordance with the SOPs; (b) the right to receive Shares under the ESPP; (c) the right to receive payment of accumulated payroll deductions in his or her account, without interest under the ESPP; and (d) the right to sell Shares acquired under the Plans through the Agent.

30. Post-Termination Rights will only be effective where such rights accrued while the Participant had a relationship with the Openwave Companies.

31. As there is no market for the Shares in Canada and none is expected to develop, it is expected that the resale by Participants, Former Participants and Permitted Transferees of the Shares acquired under the Plans will be effected through Nasdaq.

32. As of April 25, 2002**,** Canadian shareholders did not own, directly or indirectly, more than 10% of the issued and outstanding Shares and did not represent in number more than 10% of the shareholders of Openwave. If at any time during the currency of the Plans Canadian shareholders of Openwave hold, in aggregate, greater than 10% of the total number of issued and outstanding Shares or if such shareholders constitute more than 10% of all shareholders of Openwave, Openwave will apply to the relevant Jurisdiction for an order with respect to further trades to and by Participants in that Jurisdiction in respect of the Shares acquired under the Plans.

33. Pursuant to the SOPs, the acquisition of Awards by the Company in the following circumstances may constitute an "issuer bid": Stock Swap

Exercises, Share Withholding Exercises, Share Reacquisitions.

34. The issuer bid exemptions in the Legislation may not be available for such acquisitions by the Company since such acquisitions may occur at a price that is not calculated in accordance with the "market price," as that term is defined in the Legislation and may be made from Permitted Transferees.

35. The Legislation of all of the Jurisdictions does not contain exemptions from the Prospectus Requirements and Registration Requirements for all the intended trades in Awards under the Plans.

36. When the Agents sell Shares on behalf of Participants, Former Participants and Permitted Transferees, the Agents, Participants, Former Participants and Permitted Transferees may not be able to rely upon the exemptions from the Registration Requirements contained in the Legislation.

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

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

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

(a) the Registration Requirements and Prospectus Requirements will not apply to any trade or distribution of Awards or Shares made after the date of this Decision in connection with the Plans provided that the first trade in Shares acquired through the Plans pursuant to this Decision is deemed a distribution under the Legislation unless the conditions in subsection 2.14(1) of Multilateral Instrument 45-102 *Resale of Securities* are satisfied;

(b) the first trade after the date of this Decision of Awards or Shares acquired under the Plans will not be subject to the Registration Requirements provided the conditions in subsection 2.14(1) of Multilateral Instrument 45-102 *Resale of Securities* are satisfied; and

(c) the Issuer Bid Requirements will not apply to the acquisition after the date of this Decision by Openwave of Awards or Shares from Participants, Former Participants or Permitted Transferees provided such acquisitions are made in accordance with the terms of the Plans.

August 6, 2002.

"Howard I. Weston" "Robert L. Shirriff"

2.2 Orders

2.2.1 James Frederick Pincock - s. 127

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

AND

IN THE MATTER OF
JAMES FREDERICK PINCOCK

ORDER
(Section 127)

WHEREAS on August 16, 2001 the Ontario Securities Commission (the "Commission") issued a Notice of Hearing (the "Notice of Hearing") pursuant to section 127 of the Securities Act, R.S.O. 1990 C.S.5, as amended (the "Act") in respect of James Frederick Pincock ("Pincock");

AND WHEREAS the Commission made an Order on May 1, 2002 that the matter be adjourned to hearing dates on June 25, 26 and 27, 2002 for a hearing on the merits;

AND WHEREAS by Notice of Motion filed by Pincock returnable June 25, 2002, Pincock requested an adjournment of the hearing from June 25 to 27, 2002 to dates commencing in the week of August 12, 2002 or as soon thereafter as the hearing could be scheduled;

AND WHEREAS Staff of the Commission opposed the respondent's requested adjournment of the hearing;

AND WHEREAS as a term of the requested adjournment, Pincock has given an undertaking to the Commission effective June 25, 2002, that Pincock will not trade in securities or act as an officer or director of any issuer in Ontario, pending the final determination of this matter commenced by the Notice of Hearing (including exhaustion of any right of appeal available to Pincock in respect of this proceeding), or other Order of the Commission releasing Pincock from the undertaking;

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

IT IS ORDERED THAT a signed copy of the said undertaking witnessed by Joseph Groia, counsel for the respondent Pincock, in the form marked as Exhibit "A-1" in this proceeding, be provided forthwith to John Stevenson, Secretary to the Commission, such undertaking to be marked as Exhibit "A" in this proceeding, such undertaking to remain in effect until the final determination of this matter, including any right of appeal, or until further Order of the Commission;

IT IS ORDERED THAT the hearing is adjourned, peremptory to the respondent, to September 16, 17, 18, 19, 20, or such further dates as may be required for the completion of the hearing as may be agreed to by the parties and fixed by the Secretary to the Commission, or as scheduled by Order of the Commission;

IT IS FURTHER ORDERED THAT Staff and the respondent or his counsel attend a pre-hearing conference on Monday, August 26, 2002 at 10:00 a.m. or such other date or time as may be agreed to by the parties and fixed by the Secretary to the Commission, or as scheduled by Order of the Commission.

July 24, 2002.

"H. Lorne Morphy" "Kerry D. Adams" "Harold P. Hands"

EXHIBIT "A-1"

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

- AND -

**IN THE MATTER OF
JAMES FREDERICK PINCOCK**

**UNDERTAKING OF JAMES FREDERICK PINCOCK
TO THE ONTARIO SECURITIES COMMISSION**

I, James Frederick Pincock, am a Respondent to a Notice of Hearing dated August 16, 2001 (the "Notice of Hearing") issued by the Ontario Securities Commission (the "Commission"). I undertake to the Commission that I will not trade in any securities or act as an officer or director of any issuer in Ontario, pending the final determination of the matter commenced by the Notice of Hearing as against me (which includes exhaustion of any right of appeal available to me in respect of the proceeding commenced by Notice of Hearing), or other order of the Commission releasing me from this undertaking.

I further acknowledge and agree that this undertaking was given to the Commission on June 25, 2002 at the hearing before the Commission, as a term of the adjournment of the hearing which I requested, and that this signed undertaking will be marked and entered as an exhibit to the proceeding commenced by the Notice of Hearing.

_____ _____

Witness: Joseph Groia
Groia & Company
The Sterling Tower
372 Bay Street, Suite 1000
Toronto, Ontario
M5H 2W9

James Frederick Pincock

Date: July , 2002

Date: July , 2002

Acknowledged as Received by,

_____

John Stevenson
Secretary to the
Ontario Securities Commission

2.2.2 Rutter Technologies Inc. (previously Courvan Mining Company Ltd.) - s. 144

Headnote

Section 144 – partial revocation of cease trade order to permit filing of preliminary prospectus in connection with proposed public offering of issuer's securities - prior to filing final prospectus issuer intends to make further application to the Commission for full revocation of cease trade order – issuer intends to deliver final prospectus to Commission to allow Commission to determine that prospectus-level disclosure relating to issuer and reverse take-over transaction has been provided.

Statutes Cited

Securities Act, R.S.O., c.S.5, as amended, sections. 127 and 144.

**IN THE MATTER OF
RUTTER TECHNOLOGIES INC.
(PREVIOUSLY COURVAN MINING COMPANY LTD.)**

ORDER

**PURSUANT TO SECTION 144
OF THE SECURITIES ACT, R.S.O. 1990, C.S.5,
AS AMENDED (THE "ACT")**

WHEREAS Rutter Technologies Inc. (previously Courvan Mining Company Ltd.) (the "Corporation") is subject to a temporary order of the Manager, Corporate Finance (the "Manager") of the Ontario Securities Commission (the "Commission") dated November 22, 2000 as extended by an order of the Manager dated December 4, 2000 made under section 127 of the Act (collectively referred to as the "Cease Trade Order") directing that all trading in the securities of the Corporation cease;

AND WHEREAS the Corporation has applied to the Commission pursuant to section 144 of the Act (the "Application") for a partial revocation of the Cease Trade Order;

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

1. The Corporation was incorporated as Courvan Mining Company Ltd. (No Personal Liability) under the *Mining Companies Act* (Quebec) on February 1, 1937. The Corporation continued its existence under Part 1A of the *Companies Act* (Quebec) on July 25, 2002. On July 25, 2002, the Corporation changed its name from Courvan Mining Company Ltd. (No Personal Liability) to Rutter Technologies Inc.

2. The Corporation's registered and head office is located at 1155, University Street, Suite 606, Montreal, Québec, H3B 3A7.
3. The Corporation is a reporting issuer under the securities legislation of the province of Ontario.

4. The authorized capital of the Corporation consists of an unlimited number of common shares of which 4,000,300 are issued and outstanding as of the date hereof.

5. The Corporation previously carried on business as a mining exploration company and has been inactive since December 1999.

6. The Cease Trade Order was issued due to the failure of the Corporation to file with the Commission, and concurrently to deliver to its shareholders, its audited annual financial statements for the year ended December 31, 1999 and its interim financial statements for the three-month period ended March 31, 2000 and for the six-month period ended June 30, 2000 as required by the Act (collectively, the "Financial Statements").

7. The Corporation has now filed the Financial Statements and all materials required to be filed under the Act and has delivered the Financial Statements to its shareholders.

8. The Corporation is now up-to-date with all of its filing requirements and other than the failure to file the Financial Statements, the Corporation is not in default of any of the requirements of the Act or the rules or regulations made thereunder.

9. The Corporation agreed to enter into a reverse take-over transaction (the "RTO") pursuant to a merger agreement dated December 19, 2001, and amended on April 24, 2002 between the Corporation, Rutter Technologies Inc. ("Rutter"), and the shareholders of Rutter.

10. Rutter is a private corporation incorporated under the *Corporations Act* (Newfoundland) on August 25, 1998.

11. Rutter's registered and head office is located at TD Place, 6th Floor, P.O. Box 5414, St. John's, Newfoundland.

12. The authorized capital of Rutter consists of an unlimited number of Class A common shares, an unlimited number of Series 1 preference shares and an unlimited number of Series 2 preference shares. Rutter currently has 1,000 Class A common shares, 2,500 Series 1 preference shares and 2,500 Series 2 preference shares issued and outstanding.

13. Pursuant to the RTO: (a) all of the common shares of the Corporation currently issued and outstanding will be consolidated into 1,333,433 common shares, at a rate of one (1) common share for every three (3) common shares issued and outstanding; and (b) the Corporation will acquire all of the issued and outstanding Class A common shares, Series 1 preference shares and Series 2 preference shares of Rutter in consideration for issuing to the Rutter shareholders 11,000,000 post-consolidation common shares of the Corporation. The completion of the RTO is subject to several conditions, including obtaining all required regulatory approvals and the closing of a public offering of the Corporation's securities by way of prospectus.

14. The RTO was approved by the shareholders of the Corporation at a general, annual and extraordinary meeting of the Corporation held on July 16, 2002. The RTO was approved by a resolution of the shareholders of Rutter dated July 25, 2002.

15. The Corporation has applied to list its common shares on the TSX-Venture Exchange ("TSX-V") and the TSX-V has required the completion by the Corporation of a public offering of its securities pursuant to a prospectus in order to meet its requirements regarding public distribution.

16. Prior to the approval of the TSX-V to list the Corporation's common shares, the Corporation has no securities listed on any stock exchange or traded over the counter in Canada or elsewhere.

17. Other than its common shares, the Corporation has no securities, including debt securities, outstanding.

18. The Corporation has applied for a partial revocation of the Cease Trade Order to permit the Corporation to file a preliminary prospectus with the securities regulatory authority in each of in the provinces of Newfoundland, Québec and British Columbia (the "Offering Jurisdictions") in connection with a public offering of the Corporation's common shares (the "Offering") in those jurisdictions.

19. The Corporation does not currently intend to file a preliminary prospectus in Ontario as it does not intend to make the Offering available to residents of Ontario.

20. Prior to filing the final prospectus in connection with the Offering, the Corporation intends to make a further application to the Commission for a full revocation of the Cease Trade Order. The Corporation understands that prior to granting a full revocation of the Cease Trade Order the Commission will require prospectus-level disclosure relating to the Corporation (including the RTO) and expects that the final prospectus will contain such necessary disclosure. Although the Corporation does not intend to file a final prospectus in Ontario in connection with the Offering, the Corporation intends to deliver a copy of the final prospectus to the Commission to allow

the Commission to determine that such prospectus-level disclosure has been provided.

21. Other than to permit the filing of a preliminary prospectus of the Corporation in connection with the Offering, the Corporation does not intend to seek public financing, including the filing of a final prospectus in connection with the Offering, until after the Commission grants a full revocation of the Cease Trade Order.

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

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

IT IS ORDERED, pursuant to section 144 of the Act, that the Cease Trade Order be and is hereby partially revoked solely to permit the filing and delivery of a preliminary prospectus, including any amendment(s) to the preliminary prospectus of the Corporation in connection with the Offering.

July 25, 2002.

"John Hughes"

2.2.3 Dynacare Inc. - s. 83

Headnote

Issuer deemed to have ceased to be reporting issuer under the Act.

Applicable Ontario Statutory Provisions

Securities Act, R.S.O. 1990, c.S.5, as am., ss. 1(1), 6(3) and 83.

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

AND

IN THE MATTER OF
DYNACARE INC.

ORDER
(Section 83 of the Act)

WHEREAS the Ontario Securities Commission (the "Commission") has received an application from Dynacare Inc. (the "Filer") for an order under section 83 of the Act deeming the Filer to have ceased to be a reporting issuer under the Act;

AND WHEREAS it is being represented to the Commission that:

1. The Filer is a reporting issuer in Ontario and is not in default of any of the requirements of the Act or the rules or regulations made thereunder.

2. The Filer's registered offices are in Toronto, Ontario, and its principal business office is located in Dallas, Texas.

3. The authorized capital of the Filer consists of an unlimited number of common shares (the "Common Shares") of which 19,368,568 Common Shares were issued and outstanding.

4. Other than the Common Shares, the Filer has no other securities, including debt securities, outstanding.

5. Pursuant to a Plan of Arrangement under the OBCA, Laboratory Corporation of America through its wholly-owned subsidiary 3065619 Nova Scotia Company, acquired all the issued and outstanding Common Shares of the Filer, thereby becoming the Filer's sole shareholder as of July 25, 2002.

6. The securities of the Filer were delisted from the Toronto Stock Exchange at the close of trading on July 30, 2002 and are not currently listed or quoted on any exchange or market in Canada.

7. The Filer does not intend to seek public financing by way of an offering of securities to the public.

AND WHEREAS 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.

July 31, 2002.

"John Hughes"

2.2.4 Footmaxx Holdings Inc. - s. 144

Headnote

Cease-trade order revoked where the issuer has remedied its default in spect of disclosure requirements under the Act.

Statutes Cited

Securities Act, R.S.O. 1990, c. S.5, as am., ss. 127(1)2, 127(5), 127(8), 144.

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

AND

IN THE MATTER OF
FOOTMAXX HOLDINGS INC.
(The "Corporation")

ORDER
(Section 144)

WHEREAS the securities of the Corporation are subject to a Temporary Order of the Director dated May 22, 2002 under paragraph 127(1)2 and subsection 127(5) of the Act extended by the Order of the Director dated June 3, 2002 (collectively referred to as the "Cease Trade Order") directing that trading in the securities of the Corporation cease;

AND WHEREAS the Corporation has applied to the Ontario Securities Commission (the "Commission") for revocation of the Cease Trade Order pursuant to section 144 of the Act;

AND UPON the Corporation having represented to the Commission that:

1. The Corporation was incorporated under the laws of Ontario on September 23, 1935 and is a reporting issuer under the Act.

2. The Cease Trade Order was issued as a result of the Corporation's failure to file its annual financial statements for the fiscal year ended December 31, 2001 (the "Financial Statements").

3. The Common Shares of the Corporation were halted from trading on the TSX Venture Exchange on May 22, 2002 for failure to meet its continuous disclosure requirements.

4. On July 25, 2002, the Corporation filed its December 31, 2001 Financial Statements and on July 30, 2002 filed March 31, 2002 three-month interim statements. The Corporation has now brought its Continuous Disclosure filings up to date.

5. Except for the Cease Trade Order, the Corporation is not otherwise in default of any of the requirements of the Act or Regulation;

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

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

IT IS ORDERED under section 144 of the Act that the Cease Trade Order be revoked.

August 2, 2002.

"John Hughes"

2.2.5 Imperial Canadian Bond Pool et al. - ss. 59(2) of Sched. I of Reg. 1015 to the Act

Headnote

Exemption from the fees otherwise due under section 34 of Schedule I of the Regulation made under the *Securities Act* on the filing of re-audited annual financial statements by funds.

Regulations Cited

Regulation made under the Securities Act, R.R.O. 1990, as am., Schedule I, s. 34 and ss. 59(2).

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

AND

IN THE MATTER OF
IMPERIAL CANADIAN BOND POOL
IMPERIAL CANADIAN EQUITY POOL
IMPERIAL EMERGING ECONOMIES POOL
IMPERIAL INTERNATIONAL BOND POOL
IMPERIAL INTERNATIONAL EQUITY POOL
IMPERIAL MONEY MARKET POOL
IMPERIAL REGISTERED INTERNATIONAL EQUITY INDEX POOL
IMPERIAL REGISTERED U.S. EQUITY INDEX POOL
IMPERIAL SHORT-TERM BOND POOL
IMPERIAL U.S. EQUITY POOL
(COLLECTIVELY, THE "POOLS")

AND

IN THE MATTER OF
CIBC CANADIAN BOND INDEX FUND
CIBC CANADIAN EMERGING COMPANIES FUND
CIBC CANADIAN REAL ESTATE FUND
CIBC CANADIAN SMALL COMPANIES FUND
CIBC EUROPEAN INDEX FUND
CIBC EUROPEAN INDEX RRSP FUND
CIBC FINANCIAL COMPANIES FUND
CIBC GLOBAL BOND INDEX FUND
CIBC INTERNATIONAL INDEX FUND
CIBC INTERNATIONAL INDEX RRSP FUND
CIBC INTERNATIONAL SMALL COMPANIES FUND
CIBC JAPANESE INDEX RRSP FUND
CIBC LATIN AMERICAN FUND
CIBC MONTHLY INCOME FUND
CIBC NASDAQ INDEX RRSP FUND
CIBC NORTH AMERICAN DEMOGRAPHICS FUND
CANADIAN IMPERIAL EQUITY FUND
(COLLECTIVELY, THE "CIBC FUNDS", TOGETHER WITH THE POOLS, THE "FUNDS")

ORDER
(SUBSECTION 59(2) OF SCHEDULE I OF THE REGULATION TO THE ACT (THE "REGULATION"))

WHEREAS the Funds applied to the Ontario Securities Commission (the "Decision Maker") for an order pursuant to subsection 59(2) of Schedule I of the Regulation exempting the Funds from paying duplicate filing fees in connection with the filing of re-audited annual financial statements for the year ended December 31, 2001, otherwise required by section 34 of Schedule I of the Regulation;

WHEREAS the Decision Maker has considered the application and the recommendation of the staff of the Decision Maker;

WHEREAS the Funds have represented to the Decision Maker that:

1. Canadian Imperial Bank of Commerce ("CIBC") is the manager of the Funds. CIBC is a bank listed in Schedule I to the *Bank Act* (Canada). CIBC Trust Corporation, a wholly-owned subsidiary of CIBC, is the trustee of the Funds.

2. Each of the Funds is an open-ended mutual fund trust established under the laws of the Province of Ontario.

3. Each of the Funds is a reporting issuer in each of the provinces and territories of Canada and is not in default of any requirements of the legislation or the rules or regulations made thereunder.

4. The financial year end for each of the Funds is December 31.

5. Arthur Andersen LLP audited the annual financial statements of the Funds for the year ended December 31, 2001 (the "Initial Statements") and issued its auditors' report thereon. The Initial Statements were filed, under section 78(1) of the Act, via SEDAR on May 17, 2002.

6. Each Fund requested Deloitte & Touche LLP to re-audit its annual financial statements for the year ended December 31, 2001 and to provide its auditors' report thereon (the "Deloitte Statements").

7. The Funds propose to file the Deloitte Statements as "Audited Annual Financial Statements-English/French" under SEDAR project no.448189 for the Pools and SEDAR project no. 448725 for the CIBC Mutual Funds which are existing SEDAR projects used by the Funds to file their continuous disclosure documents, including the Initial Statements.

8. The fees set out in Section 34 of Schedule I of the Regulation is intended to be an annual fee. As the fees have already been paid in respect of the Initial Statements, it is submitted that it would not be appropriate to require the Funds, and ultimately the unitholders of the Funds, to pay these fees again.

WHEREAS the Decision Maker is satisfied that to do so would not be prejudicial to the public interest;

IT IS HEREBY ORDERED by the Decision Maker pursuant to subsection 59(2) of Schedule I of the Regulation that the Funds are exempt from the payment of filing fees pursuant to section 34 of Schedule I of the Regulation with respect to the filing of the Deloitte Statements.

August 1, 2002.

"Paul A. Dempsey"

2.3 Rulings

2.3.1 Santa's Village Limited - ss. 74(1)

Headnote

Exemption from section 25 of the Act for activities relating to the preparation, maintenance and dissemination by the issuer and its agents of a list of persons and companies that have informed the issuer of their desire to purchase or sell common shares of the issuer.

Statutes Cited

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

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

AND

IN THE MATTER OF
SANTA'S VILLAGE LIMITED

RULING
(Subsection 74(1))

UPON the application (the "Application") of Santa's Village Limited (the "Issuer") to the Ontario Securities Commission (the "Commission") for a ruling pursuant to subsection 74(1) of the Act that the Issuer and its directors, officers, employees and other agents shall not be subject to section 25 of the Act in respect of any activities relating to the maintenance and dissemination by the Issuer of a list of persons and companies that have informed the Issuer of their desire to purchase or sell common shares ("Common Shares") of the Issuer;

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

AND UPON the Issuer having represented to the Commission that:

1. The Issuer is a corporation incorporated under the laws of Ontario and a reporting issuer under the Act that is not in default of any requirement of the Act or the regulations made thereunder.

2. The Issuer carries on the business of operating a theme park called "Santa's Village" in the Town of Bracebridge, Ontario.

3. The Issuer was incorporated in 1954, at the initiative of members of the business community and municipal council of Bracebridge, to establish and operate Santa's Village and thereby draw visitors to Bracebridge.

4. The issued and outstanding share capital of the Issuer consists exclusively of Common Shares, of which 252,980 are currently issued and outstanding.

5. According to the books and records of the Issuer:

   (i) there are approximately 300 holders of Common Shares;

   (ii) persons or companies having addresses in Bracebridge and the surrounding area hold, in the aggregate, approximately 75 per cent of the Common Shares;

   (iii) over 75 per cent of the holders of Common Shares each hold 500 Common Shares or less and approximately 45 per cent of the holders of Common Shares each hold 100 Common Shares or less; and

   (iv) no person or company holds more than 20 per cent of the Common Shares.

5(a). There is currently no public market for the Common Shares and none is expected to develop.

6. From time to time the Issuer has received from holders of Common Shares requests for assistance in identifying potential purchasers of Common Shares.

7. The Issuer has also received from holders of Common Shares and from persons or companies who are not holders of Common Shares requests for assistance in identifying potential sellers of Common Shares.

8. In order to assist holders of Common Shares who may, from time to time, wish to sell some or all of their Common Shares, the Issuer proposes to prepare and maintain a list (the "List") that contains the following information:

   (i) the names of holders of Common Shares who have informed the Issuer that they may be interested in selling their Common Shares, including the number of Common Shares where the holder has so informed the Issuer;

   (ii) the names of persons and companies who have informed the Issuer that they may be interested in purchasing Common Shares, including the number of Common Shares where the person or company has so informed the Issuer;

   (iii) the address and/or other information that may be used to contact the persons and companies referred to in paragraphs (i) and (ii) above; and

(iv) the text set out in Appendix "A".

9. The List will not include any information concerning the price or prices at which any person or company is interested in purchasing or selling Common Shares, any recommendation or other advice concerning the purchase or sale of Common Shares, or any information concerning previous purchases or sales of Common Shares.

10. The Issuer proposes to make known the fact that it maintains the List and proposes to furnish copies of the List, without charge, to persons and companies who request the List.

11. Because the definitions of "trade" and "trading" in subsection 1(1) of the Act include any act, advertisement, solicitation or conduct directly or indirectly in furtherance of any sale or disposition of a security for valuable consideration, the following activities which may be undertaken by the Issuer in relation to the List through its directors, officers, employees or other agents (the "Issuer's Activities") may constitute trades or trading:

    (i) receiving from persons or companies the information in paragraph 8, above, for inclusion in the List;

    (ii) preparing and maintaining the List, making known the fact that it maintains the List and the availability of the List, and furnishing copies of the List and making it available to persons or companies who request it; and

    (iii) other activities directly or indirectly in furtherance of the foregoing.

12. The Issuer believes that the Issuer's Activities will serve to provide holders of Common Shares with a measure of liquidity that does not now exist.

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

IT IS RULED, pursuant to subsection 74(1) of the Act, that the Issuer's Activities shall not be subject to section 25 of the Act.

July 30, 2002

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

Appendix "A"

Compliance with Securities Laws

Under Ontario's Securities Act, a person who sells shares must be registered to do so, unless an exemption from the registration requirement is available to the seller. Exemptions available to a seller may include, (i) a sale of shares handled solely through a registered investment dealer, and (ii) an isolated sale of shares that is not made in the course of continued and successive transactions of a like nature and is not made by someone whose usual business is trading in shares or other securities.

Santa's Village Limited maintains this list solely to assist its shareholders to identify possible buyers of their shares. Santa's Village assumes no responsibility for ensuring compliance with the requirements of applicable securities laws, and this statement is not intended and should not be treated as legal advice to any person. Sellers should obtain their own legal advice with respect to securities law requirements.

2.3.2 CMD Advisors Inc. - ss. 74(1)

Headnote

Ontario corporation complying with United States registration requirements, managing the investment portfolio of a United States limited partnership. The Ontario corporation and the directors, officers, and employees thereof are exempted from the dealer registration requirements and the adviser registration requirements in the Securities Act (Ontario).

Statutes Cited

Securities Act, R.S.O. 1990, c.S.5, as amended ss. 25(1), 74(1).

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

AND

IN THE MATTER OF
CMD ADVISORS INC.

RULING
(Subsection 74(1))

UPON the application (the "Application") of CMD Advisors Inc. ("CMD") to the Ontario Securities Commission (the "Commission") pursuant to subsection 74(1) of the Act for a ruling that (a) paragraph 25(1)(a) of the Act (the "Dealer Registration Requirement") does not apply to CMD Equity Partners LP, a U.S. limited partnership, ("U.S. LP") and CMD and the directors, officers and employees thereof (collectively, the "Applicants") in connection with the distribution of units of U.S. LP to U.S. residents; and (b) paragraph 25(1)(c) of the Act (the "Adviser Registration Requirement") does not apply to the Applicants other than U.S. LP in connection with the providing of advice to U.S. LP and other persons or companies resident in the U.S. (collectively, "U.S. clients");

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

AND UPON CMD having represented to the Commission that:

1. Charles Dwight, a resident of Ontario, is establishing U.S. LP that will have its head office in Buffalo, New York.

2. The investment portfolio of U.S. LP will be managed by CMD, a corporation incorporated under the *Business Corporations Act* (Ontario). Charles Dwight is an officer of CMD and owns all of the shares of the corporation.

3. Neither U.S. LP nor CMD has any current intention of becoming a reporting issuer under the Act.

4. The general partner of U.S. LP is a U.S. limited partnership whose general partner is a U.S. corporation, all of the shares of which are owned by Charles Dwight.

5. Units in the U.S. LP will be distributed solely to U.S. resident accredited investors, although all marketing and sales activities and communication with unitholders will be conducted from Ontario. Units in the U.S. LP may only be resold to U.S. LP.

6. Charles Dwight, and any other advisers that may be employed by CMD in the future, will manage the investment portfolio of the U.S. LP and other U.S. investment funds that may be established by Charles Dwight in the future, on behalf of CMD, from the office of CMD in Toronto. All portfolio securities of U.S. LP will be purchased and sold through U.S. broker-dealers and held by ABN AMRO Securities LLC in Boston or another U.S. registered broker-dealer.

7. None of the Applicants will advise clients resident in Canada.

8. The Applicants are complying and will comply with all registration and other requirements of United States federal and state securities laws.

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

THE RULING of the Commission pursuant to subsection 74(1) of the Act is that

(a) the Dealer Registration Requirement does not apply to the Applicants in connection with the distribution of units of U.S. LP to U.S. residents; and

(b) the Adviser Registration Requirement does not apply to the Applicants other than U.S. LP in connection with the providing of advice to U.S. clients

so long as the Applicants comply with all applicable requirements of United States federal and state securities law.

June 17, 2002.

"Paul M. Moore" "Howard I. Wetston"

2.3.3 610829 British Columbia Ltd. - ss. 59(1) of Sched. I to Reg. 1015 of the Act

Headnote

Subsection 59(1) of Schedule 1 to the Regulation under the Act - reduction in fee otherwise due as a result of a takeover bid in connection with an internal corporate reorganization involving no change in beneficial ownership.

Statutes Cited

Securities Act, R.S.O. 1990, c. S.5, as am., clause 93(1)(c).

Regulation Cited

Regulation made under the Securities Act, R.R.O. 1990, Reg. 1015, as am., Schedule I, ss. 32(1) and 59(1).

IN THE MATTER OF
610829 BRITISH COLUMBIA LTD.

AND

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

AND

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

RULING
(SUBSECTION 59(1) OF SCHEDULE I)

UPON the application (the Application") of 610829 British Columbia Ltd. (the "Applicant") to the Ontario Securities Commission (the "Commission") for a ruling pursuant to subsection 59(1) of Schedule I (the "Schedule") to the Regulation exempting the Applicant from payment in part of the fee payable pursuant to subsection 32(1) of the Schedule;

AND UPON reading the Application and the recommendation of Staff of the Commission;

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

Facts

1. 610829 British Columbia Ltd. ("610") is a corporation governed by the laws of British Columbia and is not a reporting issuer in any jurisdiction. 610 is a direct wholly-owned subsidiary of Rogers Communications Inc. The registered and principal business office of 610 is located in British Columbia.

2. Rogers Cable Inc. ("Rogers Cable") is a corporation governed by the laws of Ontario and became a reporting issuer in each province of Canada on January 30, 2002 as a result of its distribution of $450,000,000 principal amount of 7.60% Senior (Secured) Second Priority Notes due 2007 under the terms of a prospectus dated January 29, 2002. Rogers Cable is a wholly-owned subsidiary of Rogers Communications Inc.

3. Rogers Communications Inc. is a corporation governed by the laws of British Columbia and is a reporting issuer in each province of Canada. The Class B Non-Voting Shares of Rogers Communications Inc. are listed for trading on the Toronto and New York Stock Exchanges. The Class A Voting Shares of Rogers Communications Inc. are listed for trading on the Toronto Stock Exchange.

4. 594977 B.C. Ltd. ("594") is a corporation governed by the laws of British Columbia and is not a reporting issuer in any jurisdiction. 594 is a direct wholly-owned subsidiary of Rogers Communications Inc. The registered and principal business office of 594 is located in British Columbia.

5. 610 holds 19,328,795 Class B Deposit Receipts of AT&T Canada Inc. (the "Transferred Deposit Receipts"). In addition, 594 holds 5,671,205 Class B Deposit Receipts of AT&T Canada Inc.

6. The Transferred Deposit Receipts were issued to 610 in connection with the June 1, 1999 business combination of MetroNet Communications Corp. and AT&T Canada Corp. The Class B Deposit Receipts of AT&T Canada Inc. represent an equivalent number of Class B Non-Voting Shares of AT&T Canada Inc. The Transferred Deposit Receipts held by 610 represent 19.2% of the Class B Deposit Receipts of AT&T Canada Inc. outstanding and the Class B Deposit Receipts held by 594 represent 5.7% of the Class B Deposit Receipts of AT&T Canada Inc. outstanding. The Class B Deposit Receipts do not carry any voting rights other than the right to vote as a separate class on the election of 2 directors of AT&T Canada Inc.

7. Rogers Cable, 610 and 594 propose to enter into a series of transactions (the "Transactions") whereby 610 would transfer the Transferred Deposit Receipts to Rogers Cable and Rogers Cable would in turn immediately transfer the Transferred Deposit Receipts back to 610 for the purposes of realizing a taxable capital gain for Rogers Cable.

8. The steps to the Transactions will be completed in sequence on the closing date thereof.

9. The Transferred Deposit Receipts may be considered to be "equity securities" within the meaning of subsection 89(1) of the *Securities Act* (Ontario).

10. 610 and 594 are affiliates and pursuant to subsection 91(1) of the *Securities Act* (Ontario) are deemed to be "acting jointly or in concert".

11. To the extent that 610 and 594 are considered to be "acting jointly or in concert" for the purposes of Part XX of the *Securities Act* (Ontario), (i) the Class B Deposit Receipts of AT&T Canada Inc. held by 594 would be included in the determination of the "offeror's securities" (as defined in subsection 89(1) of the *Securities Act* (Ontario)) for the purposes of the acquisition of the Transferred Deposit Receipts by 610 (the "Acquisition"), and (ii) the Acquisition would be a "take-over bid" (as defined in subsection 89(1) of the *Securities Act* (Ontario)).

12. The Acquisition will be exempt from the requirements of sections 95 to 100 of the *Securities Act* (Ontario) pursuant to clause 93(1)(c) of the *Securities Act* (Ontario).

13. The Acquisition will be subject to the requirements of section 203.1 of the Regulation under the *Securities Act* (Ontario) to file a Form 42 in respect thereof and pay the fees prescribed by subsection 32(1) of Schedule I.

14. In the absence of the order requested herein, the fee otherwise payable under clause 32(1)(b) of Schedule I would be $73,365.32 (based on certain assumptions).

15. The Acquisition is part of a transaction among wholly-owned subsidiaries of Rogers Communications Inc. and does not result in a change of beneficial ownership of the Transferred Deposit Receipts.

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

IT IS RULED, pursuant to subsection 59(1) of the Schedule, that the Applicant be exempt from the requirement to pay the fee otherwise payable pursuant to clause 32(1)(b) of the Schedule, provided that the minimum fee of $800.00 is paid.

August 2, 2002.

"Howard I. Wetston" "Robert L. Shirriff"

Chapter 3

Reasons: Decisions, Orders and Rulings

3.1 Reasons for Decisions

3.1.1 Ronald Etherington and Create-A-Fund Incorporated

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

AND

IN THE MATTER OF
RONALD ETHERINGTON
AND CREATE-A-FUND INCORPORATED

REASONS FOR DECISION

1. The Statement of Allegations in this proceeding alleges that the Respondents, while never registered with the Ontario Securities Commission ("OSC") in any capacity, were advising and trading in securities contrary to s. 25(1) of the *Securities Act* (the "*Act*") and the public interest. By reason of that, Staff seeks an Order pursuant to s. 127(1) and s. 127.1 of the *Act*.

2. Most of the facts are not in issue. Starting in October of 2000, the Respondent Etherington owned and operated Create-a-Fund Incorporated ("Create-a-Fund"). It operated a web site, www.createafund.com. For a flat fee of 1%, Create-a-Fund offered to supply to its customers an initial financial plan, up-dates to the financial plan, savings strategies, asset allocation strategies, a custom portfolio of investment products, transaction management and the monitoring of the portfolio.

3. While Create-a-Fund could not itself trade in securities, the web site stated that once the specific investments had been selected by the customer, Create-a-Fund would manage the transaction process through a discount brokerage service. Staff maintained that this activity came within the definition of "trade" as set out in s. 7(1) of the *Act* in that this was a service in furtherance of a trade.

4. Mr. Etherington admitted that the services offered by Create-a-Fund came within the definition of "adviser" as found in s. 1(1) of the *Act*, which defines an adviser as: "... a person or company engaging in or holding himself, herself or itself out as engaging in the business of advising others as to the investing in or the buying or selling of securities."

5. Staff started to investigate Create-a-Fund in the latter part of 2000 as a result of a telephone call it received regarding the status of Create-a-Fund. Initially Staff wrote to Mr. Etherington on November 13, 2000. That letter advised Mr. Etherington that the content of the web site, www.createafund.com may require its registration as an adviser under the *Act* and recommended that, until the registration status was clarified, the operation of the web site be terminated. Mr. Etherington promptly responded to this by contacting a registration officer at the Commission stating that he assumed that he probably needed to be registered as an investment counsellor and was keen to be enrolled in all the required courses in order to be registered. As a result of that call, a registration package was sent to Etherington. On November 15, 2000, Mr. Etherington wrote the Enforcement Branch stating that he had received the registration package from the Commission and, while expressing concern as to the availability of certain of the described courses, concluded by stating that the application would be filed within 30 days.

6. Mr. Etherington did not, however, file any application for registration. On January 18, 2001, Colin McCann of the Enforcement Branch wrote to Mr. Etherington pointing out that two months had lapsed since his advising of his intention to comply with the registration requirements of the *Act* and warning that the failure to do so and the continued operation of Create-a-Fund Inc. could result in the initiation of proceedings alleging a violation of s. 25(1) of the *Act*. In response to this, on January 18, 2001 Mr. Etherington faxed a response which stated:

> "Please be advised that we are in the process of filing the appropriate documentation in order to meet OSC requirements.

> In the interim, please note that we have temporarily suspended any operations that might be subject to OSC regulations; we are no longer offering advisement services, more importantly, we do not have any customers at this time."

7. In order to test this assertion by Mr. Etherington, Colin McCann, on the same date that the fax was received from Mr. Etherington, used an alias named Brenda Samson to respond to the web site as a potential customer. In that response, Brenda Samson stated that she had $200,000. as an approximate value of her investment assets and set out certain of her investment objectives.

8. An electronic response from Create-a-Fund was received by Brenda Samson on the same day, which stated:

> "Thank you very much for your interest in Createafund.com.
>
> One of our team members will be getting back to you very shortly with regards to the information you have provided us with.
>
> Please don't hesitate to contact us if you have any questions or concerns."

9. On January 19, 2001, Ronald Etherington sent a further message to Brenda Samson thanking her for her interest in their services and inquiring as to what format she was able to read e-mail files. Attached to this was an Asset Allocation Strategies chart. On February 9, 2001, Brenda Samson e-mailed Ronald Etherington at Create-a-Fund and asked whether they would be recommending a "specific self-directed RRSP representing the appropriate mix of stocks, bonds, etc. or just a sector mix or index fund arrangement?". Mr. Etherington responded on February 10 by e-mail in which he stated:

> "... our job is to recommend specific investment products that fit your needs, whether in or out of an RRSP, this usually means stocks, bonds and money market products, but NOT mutual funds, we are an alternative to mutual funds and offer two key benefits; a personal portfolio and lower fees, our fee is a 1% MER, most mutual funds are at about 3%
>
> the 1% fee includes basic financial planning, selection of the specific securities and the transaction costs to place the order through a discount broker (we strongly suggest enorthern although we can work with most)
>
> the next step, which we will undertake without obligation to you is an asset allocation strategy, this will serve as a blueprint for the specific securities selection process, we will send this to you in the next 24 hours and we should review this before we go further
>
> once we agree on the AA model, we will need to look at your current investments to see what we should keep and what needs to be replaced, often the initial portfolio includes some current investments and some new ones, along with a divestation strategy that gradually migrates to 100% new investments, again, to achieve the key benefits of a personal portfolio and lower fees (in some cases we simply replicate an existing mutual fund and the customer saves about 2% in MER fees)"

10. On the 13th of February, 2001, Etherington e-mailed Brenda Samson, stating:

> "thanks for submitting the initial objectives and resources form, from this we can get a pretty good snapshot of where you are and where you want to be in turn, this allows us to start our process of preparing a personal portfolio of specific investments which should meet these goals
>
> we are attaching to this email several documents, we would ask that you review these and provide us with your comments, if all is in order there are only a few more steps to complete the process
>
> attached you will find an 'asset allocation chart' this shows the anticipated returns for a number of different allocation strategies
>
> you will also find an asset allocation table which we think is most appropriate for you, this table shows, in significant detail, the various investment categories we suggest, it also shows the anticipated return on a year by year basis (as well as the time to accumulate $1million and the balance at age 65)

> also attached is a detailed proposal based on this model, this goes into more detail and lists specific companies, number of shares and cost (as of yesterday's close) THIS IS NOT A FINAL PROPOSAL, the main objective is to provide you with some insight as to what securities the asset allocation model drives us towards
>
> as noted above, we ask that you review these documents and provide us with your comments, this can be by email or by telephone or even in person if required
>
> after this discussion there are two fairly easy steps to complete the process, first we will need to get a pretty good idea of your current investments, and then match this to the final proposal, in most cases we find that our customers retain some of their current investments and our job is more to 'balance' or 'focus' their strategy
>
> then, once this is completed we need to discuss the execution of the orders, as you may have noted in our web site, our fee includes all transaction costs through our preferred discount partner, enorthern securities
>
> I trust this provides you with a better understanding of our service and we look forward to your comments"

11. Mr. McCann testified that he did not have Brenda Samson pursue the inquiries with Create-a-Fund beyond this point.

12. On October 31, 2001, Staff again wrote Mr. Etherington about the lack of registration and indicated that the activities of Create-a-Fund may constitute, "acts in furtherance of a trade" which require registration as well as the fact that the web site on October 24, 2001 continued to indicate that advisory activities were being conducted. By fax dated October 31, 2001 Create-a-Fund responded advising that Createafund Inc. had ceased operations, is not accepting customers nor responding to any inquiries or other requests. To test this Staff used a second alias, Robert Charles, who responded to the web site on February 18, 2002. While there was an automatic response acknowledging the inquiry, no further contact was made with Robert Charles by Create-a-Fund.

13. On February 19, 2002, Mr. Etherington sent a fax to Colin McCann, which stated:

> "Earlier today I sent a reply to the specific requirements in your fax from this same date, at this time I would like to provide you with some additional, more generic information.
>
> Createafund Inc. is/was little more than a concept; an internet based financial services firm that would help investors who use discount brokerage accounts by providing some sort of financial advice.
>
> When I launched the company, in the fall of 2000, I had recently completed the Certified Financial Planner Course offered by the Canadian Institute of Financial Planners. I felt, at that time, that this course provided me with sufficient credentials to offer these services; the course materials include financial planning and portfolio construction and theory.
>
> You may know that the CSI is a totally different entity than the Canadian Institute of Financial Planners, however at the time I launched Createafund I had no firm idea of what the CSI, OSC and IDA were all about.
>
> Your initial letter of November 13, 2000 provided that clarity, it did not take me long to determine that the 'financial advice' part of the service I offered was in fact in violation of 'the act'. I immediately undertook a number of initiatives;
>
> - I tried to find partners who could assist me in filing an IDA application
> - I enrolled in the appropriate CSI courses
> - I attempted to negotiate 'sub contracting' the 'advice' to another party
> - I did not sign any customer agreements
>
> I replied to your letter by stating that it was our intention to comply with the requirements of the 'act' which was my true intent at that time.

> By mid January we had still not solved this puzzle, at that time it looked like filing an application ourselves was unlikely, and that the best strategy was to form an alliance with a member firm who would be responsible for the advice component.
>
> We did continue to operate the company, it was our intent that, when we did get customers, we would 'share' the work with other companies who were duly authorized to provide the appropriate services. For example, we would find customers, take them to the point of the asset allocation, and then find another party to take the file forward.
>
> This effort failed, and shortly thereafter we stopped operating completely. In March of 2001 I joined CIBC as a Financial Advisor.
>
> We did not reply to a letter dated July 30, 2001 simply because we did not receive the letter, we had closed the company, and moved.
>
> We did receive, by fax, a copy of the October 31 letter from Felicia Tedesco. Our reply was brief; we had ceased operations, the site was 'alive' as part of our effort to sell the brand and we were not offering any 'advice'.
>
> On October 29th, I had joined RBC Investments as a Financial Advisor Trainee, I had completed the CSC and CP&H course by that time, my goal was to complete the 90 day training and become a fully licensed investment advisor.
>
> I learned on or about January 30th that my application was to be declined, apparently due to concerns about operating previously without a license. When my application was declined, my employer terminated me for cause.
>
> This entire matter, to me, seems to be an incredible irony; the reason why I took the appropriate courses, and joined a member firm, was in respect of the appropriate regulatory requirements.
>
> When I learned what I was doing was wrong I stopped, when I learned what I needed to do, I did it. I have spent the past three years studying and learning about the financial services industry, I have earned very little in terms of remuneration (all with either CIBC or RBC) I need to work, I am qualified, and of course I need a license.
>
> Please let me know if you would like any additional information, I really need your office to support my application for registration. I need to work."

14. On February 26, 2002 the OSC ordered, pursuant to clause 2 and 3 of subsection 127(1) of the Act that the Respondents, Create-a-Fund and Etherington, cease all tradings in securities and that any exemptions contained in Ontario securities law do not apply to them.

Respondents' Position

15. The Respondents appeared without counsel. Mr. Etherington gave evidence and made submissions on behalf of both Create-a-Fund and himself. Essentially their position was that Create-a-Fund was started in October 2000 with the intent to offer a service to the public for which he did not realize that registration with the OSC was necessary.

16. Mr. Etherington testified that once contacted by the OSC in November 2000 and made aware of the registration requirements under s. 25 of the *Act*, he investigated those requirements. When he realized that he could not comply with them, he "walked away" from the business on March 1, 2001.

Analysis

17. A problem with the Respondents' position is that it is not consistent with the facts. Contrary to their position, even after the Respondents became aware of the requirements for registration, they continued to operate Create-a-Fund and solicit customers through the web site. As noted earlier, after the initial contact by the OSC in November 2000, the Respondents stated that they would be seeking registration. They never did. Rather, they continued to operate the web site notwithstanding that the OSC had advised that the web site should be shut down until they had dealt with registration requirements.

18. In January 2001, when Staff inquired about the application for registration not having been received, the Respondents replied stating that they had "temporarily suspended operations that might be subject to OSC regulations." However, on the very same day as that communication, when Brenda Samson responded to the web site, the Respondents pursued this inquiry and were ready and willing to offer to her the services being promoted on the web site.

19. In *Re Jesse J. Hogan*, [2002] BCSECCOM 537, the British Columbia Securities Commission, in dealing with the definition of "adviser" as found in the *Securities Act*, RSBC 1996, C. 418, which is a similar definition to that found in the *Act*, made reference to *Re Robert Anthony Donas*, [1995] 14 BCSC, Weekly Summary 39, where it was stated at page 44 that:

> "As indicated by the decision of "advice", the nature of the information given or offered by a person is the key factor in determining whether that person is advising with respect to investment in or the purchase or sale of securities. A person who does nothing more than provide factual information about an issuer and its business activities is not advising in securities. A person who recommends an investment in an issuer or the purchase or sale of an issuer's securities, or who distributes or offers an opinion on the investment merits of an issuer or an issuer's securities, is advising in securities. If a person advising in securities is distributing or offering the advice in a manner that reflects a business purpose, the person is required to be registered under the Act."

20. As noted previously, Mr. Etherington admitted that the services being promoted by Create-a-Fund on the web site came within the definition of "advising" as found in s. 1(1) of the *Act*.

21. Even if we accept Mr. Etherington's evidence that when Create-a-Fund was started in October 2000 he was not aware of the requirement for registration, there was no justification for the continued operation of the web site after having been made aware of the requirement. Also very troubling is the fact that when Staff made inquiry in January 2001 of Mr. Etherington about the continued web site operation without registration, he responded that there had been a temporary suspension of "any operations that might be subject to OSC regulations" when, in fact, through the website, Create-a-Fund, was still offering services that require registration and prepared to deal with customers in regard to those services. It was only after a covert operation by Staff, necessitated by Mr. Etherington's lack of forthrightness, that it was ascertained that Create-a-Fund was continuing to offer these services.

22. Mr. Etherington, in his submissions, spoke of his desire to be registered with the Commission so he could pursue a career for which he feels he is highly qualified. In so doing, he showed no appreciation for the Respondents' inappropriate conduct in knowingly operating Create-a-Fund without registration both before and after advising the Staff that the operation had been suspended.

23. We find that the Respondents have acted contrary to Ontario securities law and the public interest, and that pursuant to s. 127(1) of the *Act* it is in the public interest that they be sanctioned.

24. In considering what sanctions would be appropriate, in addition to the foregoing, we have taken into consideration the following:

- Mr. Etherington was a certified financial planner and until staff at the Commission first approached him in November of 2000, he was not aware that his financial planning activities might be in breach of the registration provisions of the *Act*.
- Create-a-Fund never acquired any clients or customers.
- Mr. Etherington did, during the relevant period, attempt to acquire the training necessary to permit him to become a registrant under the Act.
- There is no evidence to show that any person suffered any financial loss as a result of the activities of Mr. Etherington or Create-a-Fund.

25. Pursuant to s. 127(1) and s. 127.1 of the *Act,* we find it is in the public interest to order:

Create-a-Fund

(i) Create-a-Fund shall be reprimanded;

(ii) Create-a-Fund shall cease trading in securities permanently or for such time as the Commission may direct;

(iii) Create-a-Fund shall permanently, or for such time as the Commission may direct, not have the benefit of any exemptions contained in Ontario securities law.

Ronald L. Etherington

(i) Mr. Etherington shall be reprimanded.

(ii) Mr. Etherington shall cease trading in securities until the earlier of the expiration of two (2) years from the date of this Order and the date he becomes a registrant under the *Act* save and except for trading for his own account in securities beneficially owned by him.

(iii) The exemptions under the Act shall not be available to Mr. Etherington until the earlier of the expiration of two (2) years from the date of this Order and the date he becomes a registrant pursuant to the provisions of the Act save and except for the exemptions available to him under section 35(1)10 of the *Act* in respect of trades permitted under (ii) above.

(iv) Mr. Etherington shall resign any office that he holds as a director or officer of any issuer.

(v) Mr. Etherington is prohibited from becoming or acting as a director or officer of any issuer until the earlier of two (2) years from the date of this Order or the date he becomes a registrant under the *Act*.

(vi) Mr. Etherington shall pay the amount of $7,500.00 on account of the costs of the investigation.

July 25, 2002.

“H. Lorne Morphy” Robert L. Shirriff” Mary Theresa McLeod”

3.1.2 Mark Edward Valentine

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

AND

IN THE MATTER OF
MARK EDWARD VALENTINE

REASONS FOR ORDER ISSUED JULY 8, 2002

HEARING: **July 2, 2002 and July 8, 2002**

PANEL: Howard I. Wetston, Q.C. Chair of the Panel

Robert W. Davis, FCA- Commissioner

Derek Brown Commissioner

COUNSEL:

Melissa Kennedy	**- For the Staff of the Ontario Securities Commission**
Alexandra S. Clark	**- For the Staff of the Ontario Securities Commission**
Kate Wootton	**- For the Staff of the Ontario Securities Commission**
Joseph Groia	**- For Mark Edward Valentine**
Janice Wright	**- For Mark Edward Valentine**
Matthew Scott	**- For Mark Edward Valentine**

These are the reasons for an order issued by the Commission on July 8, 2002, in which a temporary order against Valentine was extended pursuant to s. 127 of the *Securities Act*.

Background

Mark Edward Valentine ("Valentine") is the Chairman and largest shareholder of Thomson Kernaghan & Co. Ltd. ("TK"). He is a Registered Representative with the Investment Dealers' Association and is a Director and the designated trading officer for TK.

Valentine is also the President, CEO, Director and shareholder of two private companies, VMH Management Ltd. ("VMHM") and VC Advantage Limited ("VCA"). VMHM is the General Partner that manages the Canadian Advantage Limited Partnership ("CALP") and the Advantage (Bermuda) Fund Ltd. ("CALP Offshore Fund"). VCA is the General Partner that manages the VC Advantage Fund Limited Partnership ("VC Fund") and the VC Advantage (Bermuda) Fund Ltd. ("VC Offshore Fund"). (These funds will be referred to collectively as the "funds").

Valentine was authorized to recommend, advise and enter into all investments on behalf of the funds. He was also the Registered Representative at TK for the funds, however, neither Valentine nor the management companies are registered with the Commission as Investment Counsel/Portfolio Manager.

Staff, by Notice of Hearing dated June 24, 2002, alleges that Valentine engaged in conduct that was contrary to the public interest. It is alleged that Valentine created a culture of conflict and non-compliance at TK and breached Ontario securities laws in respect of a series of transactions. Staff alleges, by way of a Statement of Allegations dated June 24, 2002, that Valentine benefited from these transactions at the expense of his clients.

The Temporary Order

On June 17, 2002, the Commission concluded that the public interest warranted the issuance of a temporary order against Valentine suspending his registration and further ordered that his trading in any securities cease. The suspension took effect immediately and was to expire on the fifteenth day after its issuance unless further extended by the Commission. The temporary order restrained Valentine from making trades in the funds' accounts, his own accounts or in any TK client accounts.

Staff and the IDA have been conducting an intensive investigation into the affairs of Valentine, including his actions as General Partner of limited partnerships including the Canadian Advantage Limited Partnership and the VC Advantage Limited Partnership. In addition, Staff were informed that on June 13, 2002, as a result of an internal investigation, TK suspended Valentine's employment and took steps to and exclude him from TK's premises. The Commission was of the opinion that a temporary order was required since the time necessary to conclude a hearing in this matter would be prejudicial to the public interest.

Staff's Submissions

Staff relies on s. 127(7) to seek an extension of the temporary order that was issued on June 17, 2002. In the alternative, Staff seeks to extend the order on the basis that Valentine has failed to provide satisfactory information to the Commission pursuant to s. 127(8).

Staff submits that a temporary order should be extended when it is necessary to protect the investing public and the capital markets in general. Furthermore, Staff submits that there is no requirement to find a specific violation of the *Securities Act* in order to grant the extension; *Re C.T.C. Dealer Holdings Ltd. et al. And Ontario Securities Commission et al.* (1987), 59 O.R. (2d) 79. Staff contends the Commission need only determine whether sufficient information has been provided to demonstrate that the public interest is at risk and that the public requires protection; *Pezim v. British Columbia (Superintendent of Brokers)* (1994), 114 D.L.R. (4th) 385 (S.C.C.).

Staff contends that the Commission must take steps to ensure that confidence in the capital markets is not undermined when those whose integrity is questioned participate in them. This is essential to help further the goals of fostering fair and efficient capital markets and protecting investors from unfair, improper and fraudulent practices.

Staff submit that they have presented sufficient evidence to call into serious question Valentine's integrity. By creating a culture of conflict and non-compliance and acting in his own interests at the expense of his clients, Valentine failed to deal fairly, honestly and in good faith with his clients. Staff, therefore, argues that the temporary order against Valentine should be extended to prevent any likely future harm to investors and the capital markets. The purpose of such an order is not punitive but to restrain any future conduct that is likely to be prejudicial to the public interest.

In this regard, Staff called two witnesses with respect to certain matters contained in the allegations dated June 24, 2002, against Valentine. The first witness was Michael Hubley, the Assistant Manager of Investigations in the OSC's Enforcement Branch. He is also the case manager for this particular investigation.

Mr. Hubley testified with respect to Staff's investigations into Valentine's trading activities. He indicated that the OSC is also monitoring an investigation being conducted by the IDA. He provided details of TK's own internal investigation of Valentine's activities, particularly the Chell and IKAR transactions, as contained in TK's investigation report.

The second witness was Paul Kennedy. Mr. Kennedy is a commercial real estate lawyer in Toronto who testified that he was harmed as a result of being a client of TK. On the recommendation of TK, he invested in securities of a company called JAWZ Inc. ("JAWZ") in which he alleges that he later discovered a potential conflict of interest relating to a financing in which Valentine participated. Through this financing, Valentine is alleged to have created a situation where one client of TK, namely CALP, was motivated to engage in a particular trading strategy regarding securities of JAWZ. At the same time, however, TK was recommending to other clients that they buy securities of JAWZ, without disclosure of this financing.

Valentine's Submissions

Mr. Groia submits that Staff's investigation into Valentine's conduct is likely to be a long and arduous process. The main issue for the Commission is what should happen to Valentine while that process unfolds.

Counsel contends that people are encouraged to invest in Ontario and trade in this marketplace and they do so in reliance on the fairness and the integrity of our markets. They also do so in reliance on an understanding that access to our marketplace will not be removed or restricted for reasons that are arbitrary or capricious. Mr Groia submits that the Commission is being asked to take Valentine out of the marketplace before Staff's investigation has been completed. In this regard, Mr. Groia contends that the Commission's public interest jurisdiction under s. 127 should not be used to punish Valentine on the basis of alleged wrongdoings.

Valentine does not consent to an extension of his temporary registration suspension, but he does not oppose it. Valentine does, however, oppose any extension of the cease trade order.

Counsel submits that there must be clear and compelling evidence that Valentine poses some kind of menace that would require the removal of his personal trading privileges. Therefore, although this is not an injunction application, Mr. Groia contends that there must be some evidentiary standard that satisfies the Commission that the relief requested by Staff is in the public interest.

In this regard, Mr. Groia argues that the impugned conduct, which Staff submits as being contrary to the public interest, is related to activities that Valentine is alleged to have carried out in his capacity as a registrant. As such, there is no basis to suggest that the public interest requires protection from Valentine's own personal trading activities. Alternatively, counsel submits that Valentine be permitted to trade on his own account subject to certain conditions and reporting requirements.

Analysis

The Commission may make an order in the public interest under section 127(1) provided a hearing is held pursuant to section 127(4). Section 127(5) recognizes a temporary order may be made, *ex parte*, in circumstances where the length of time required to hold a hearing would be prejudicial to the public interest. Section 127(9) requires that a notice of hearing accompany the temporary order and, according to s. 127(6), the temporary order takes effect immediately and expires on the fifteenth day after its making unless further extended by the Commission.

Section 127(7) allows the Commission to extend a temporary order issued under s. 127(5) until the hearing is concluded provided a hearing is commenced within the fifteen-day period prior to expiry. In the case of a cease trade order made pursuant to subsection 127(1)2, the Commission, under s. 127(8), may extend a temporary order for such period as it considers necessary if satisfactory information has not been provided to the Commission within the fifteen-day period.

Valentine suggested that there was little if anything on the face of the order that would provide a sufficient basis for issuing the order. While there must be a reasonable basis to issue the temporary order under s. 127(5), the reasons for its issuance are not before us. The issue herein is not whether the temporary order should have been issued. In this hearing we must determine, on the evidence before us, whether the temporary order should be extended.

The role of the Commission in matters relating both to the protection of the public interest and sanctions is discussed in *Re Mithras Management Ltd. et al* (1990), 13 OSCB

1600. While Mithras does not deal with the extension of a temporary order, its reasons are instructive:

> ***Under sections 26, 123 and 124 [now section 127] of the Act, the role of this Commission is to protect the public interest by removing from the capital markets – wholly or partially, permanently or temporarily, as the circumstances may warrant – those whose conduct in the past leads us to conclude that their conduct in the future may well be detrimental to the integrity of those capital markets.*** We are not here to punish past conduct; that is the role of the courts, particularly under section 118 of the Act. ***We are here to restrain, as best we can, future conduct that is likely to be prejudicial to the public interest in having capital markets that are both fair and efficient.*** In so doing we must, of necessity, look to past conduct as a guide to what we believe a person's future conduct might reasonably be expected to be; we are not prescient after all. And in so doing, we may well conclude that a person's past conduct has been so abusive of the capital markets as to warrant our apprehension and intervention, even if no particular breach of the Act has been made out... (at p. 1610). [Emphasis added.]

It is apparent that the Commission may be required to extend a temporary order before an investigation is completed. This authority enhances the Commission's capacity to protect the capital markets by allowing it to take preventative action; *Re C.T.C. Ltd.* (1987), 10 OSCB 857.

In *Biller* v. *British Columbia (Securities Commission)*, [1998] B.C.J. No. 451 (BCCA), the BCSC had made a temporary order against Mr. Biller. Mr. Biller alleged that a temporary order was akin to an injunction and, as such, the BCSC erred in failing to consider the tests of irreparable harm and balance of convenience. At paragraph 11 the BCCA stated:

> The submission is, in my view, misconceived. ***Temporary orders under the Act undoubtedly have much the same effect as interlocutory injunctions but are fundamentally different in that they are based upon statutory provisions which empower the orders to be made if the Commission or executive director "considers it to be in the public interest"***. To apply the tests applicable to common law injunctions to the exercise of that power would create a confusion of concepts. One may expect that the Commission will have due regard to the potential for harm to those who are subjects of the orders and reasonable regard to the convenience of any persons who might be affected by them. ***But, because the basic issue is whether it is in the public interest to make the order, the matters to be balanced are different.*** [Emphasis added.]

Section 127(7) provides the Commission with the discretion to extend a temporary order. That discretion, to promote and protect the public interest, is very broad. Having regard to the legislative scheme as contained in s. 127, as well as the length of time required to conclude a hearing in this matter, we must satisfy ourselves, at this time, that there is sufficient evidence of conduct which may be harmful to the public interest.

In exercising its regulatory authority, the Commission should consider all of the facts including, as part of its sufficiency consideration, the seriousness of the allegations and the evidence supporting them. The Commission should also consider any explanations or evidence that may contradict such evidence. This will allow it to weigh the threat to the public interest against the potential consequences of the order.

In brief, the Notice of Hearing and the Statement of Allegations assert that:

- Mr. Valentine played multiple roles at TK thereby failing to deal fairly, honestly and in good faith with his clients by putting his own interests ahead of his clients;
- Valentine conducted transactions which were not prudent business practices and which did not serve his clients adequately;
- Neither Valentine nor the funds are registered, as required, as an Investment Counsel/Portfolio Manager;
- Valentine failed to maintain adequate books and records necessary to record properly the business transactions and financial affairs which he carried out; and
- Valentine made representations that were contrary to s. 38(1) of the Act.

TK conducted an internal investigation of Valentine's activities. The investigation found that the propriety of certain transactions was "questionable"; there was "inadequate documentation" for other transactions; Valentine failed to provide documents to TK to support certain transactions; and "the rationale was not supportable" for an entire series of transactions.

TK took highly unusual steps against Valentine. He is the Chairman and largest shareholder of TK. Nevertheless, TK

suspended his employment and barred him from contact with any of its employees. TK also reversed the Chell and IKAR transactions and delivered its Investigation Report to the IDA.

The IDA and the OSC are currently and actively investigating these matters. This includes the financing of JAWZ Inc. in which it is alleged that Valentine created an environment where one client, namely CALP, was strongly motivated to engage in a trading strategy that was harmful to investors while TK was recommending to other clients to buy without adequate disclosure of this financing.

The Commission requires sufficient evidence to extend a temporary order if such extension is not on consent. Mr. Hubley explained in some detail the nature of the investigation and certain key facts underpinning the Notice of Hearing and Statement of Allegations. Similarly, Mr. Kennedy provided some evidence in support of the allegations against Valentine.

If proven, the allegations against Valentine demonstrate that we are not dealing with a single isolated event. Moreover, two of the transactions, namely the Chell and IKAR transactions, are very recent, taking place at the end of March 2002. It is also apparent that the issues are very complex and the investigation is far from complete. In fact, according to Mr. Hubley's testimony, Staff are currently reviewing over 1,900 boxes of material and 240 gigabytes of computer data as part of the investigations into Valentine's conduct.

Mr. Groia argues that the disputed transactions are related to Valentine's activities as a registrant and, therefore, should have no impact on his personal trading activities. While it may be possible to differentiate Valentine's activities as a registrant from his personal trading activities, in this case, we are not persuaded by this submission. In *Barbara A. Danuke et al*, September, 1981 O.S.C.B. 31, an insider trading case, the Commission commented on the conduct of registrants at p. 41:

> "Ethical conduct, for that is what we are considering, cannot be defined in advance and with that kind of precision. Indeed if any regulatory body, such as the Commission or the T.S.E., were to attempt to do so the unethical would pattern their conduct as closely to the borders of the defined ethical conduct as the language in which that definition is phrased permits. **It is for registrants to be sensitive to their responsibilities to their clients and to their employers and to the integrity of the marketplace which they serve in the conduct of their personal trading. It is trite to observe that the grant of special status as a registered sales person or trading officer carries with it a commensurate obligation.**" [Emphasis added.]

No final determination can be made with respect to the allegations against Valentine until the hearing is completed. That is in the future. However, at this time, in order to protect the public interest, we must not hesitate to use the regulatory tools that are at our disposal. This includes, when appropriate, the extension of temporary orders under s. 127.

At this stage, despite Valentine's non-opposition to the registration suspension, we are satisfied that Staff has provided sufficient evidence of conduct that may be harmful to the public interest and, accordingly, justifies an extension of the temporary order. There is little doubt that additional time is required to complete the investigation and, unless the temporary order is extended, there is a reasonable likelihood that Valentine's alleged objectionable conduct may continue. Such conduct would present a serious risk to the integrity of Ontario's capital markets as well as to the protection of the public interest.

While we have permitted Valentine to trade, subject to certain restrictions set out in the order, it is not because we accept counsel's argument that Valentine's activities as a registrant can be disconnected from his personal trading. We permitted Valentine to trade because it is our opinion that there would be little or no risk of harm to the public to allow him to do so on a restricted basis.

Conclusion

For the above reasons, the Commission extended the temporary order dated June 17, 2002 by order dated July 8, 2002. The terms of the order are:

- the registration of Valentine is suspended and the exemptions contained in Ontario securities law do not apply to Valentine for a period ending January 31, 2003;
- during this period, Valentine is cease traded from trading certain securities except for trades made for his own account or for the account of his registered retirement savings plan of those securities referred to in clause 1 of subsection 35(2) and those that are listed on the Toronto Stock Exchange or the New York Stock Exchange (or their successor exchanges);
- Valentine is restricted from owning directly, or indirectly through another person or company or through any person or company acting on his behalf, more than one (1) percent of the outstanding securities of the class or series of the class in question; and
- if a hearing pursuant to the Notice of Hearing dated June 24, 2002, in connection with the matters set out in the Statement of Allegations, is not commenced before January 31, 2003,

staff may apply to the Commission for an order to extend this order for such further period as the Commission considers appropriate.

July 30, 2002.

"Robert W. Davis" "Derek Brown" "Howard I. Wetston"

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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 Lapse/Expire
Black Pearl Minerals Consolidated Inc.	23 Jul 02	02 Aug 02	02 Aug 02	
Grand Oakes Resources Corp.	23 Jul 02	02 Aug 02	02 Aug 02	
Greentree Gas & Oil Ltd.	22 Jul 02	02 Aug 02		05 Aug 02
Knowledge House Inc.	23 Jul 02	02 Aug 02	02 Aug 02	
Merchant Capital Group Incorporated	23 Jul 02	02 Aug 02	02 Aug 02	
Petrolex Energy Corporation	05 Jul 02	06 Aug 02	06 Aug 02	

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
Asset Management Software Systems Corp.	23 Jul 02	02 Aug 02	02 Aug 02		
Systech Retail Systems Inc.	27 June 02	10 July 02	10 Jul 02		

4.3.1 Issuer CTO's Revoked

Company Name	Date of Revocation
Footmaxx Holdings Inc.	02 Aug 02

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Chapter 5

Rules and Policies

5.1 Rules and Policies

5.1.1 Notice of Rule, Multilateral Instrument 81-104 and Companion Policy 81-104CP - Commodity Pools

NOTICE OF RULE AND POLICY

The Commission (we) have, under section 143 of the *Securities Act* (the Act), made Multilateral Instrument 81-104 Commodity Pools (the Instrument) a rule under the Act. We have also adopted Companion Policy 81-104CP (the Companion Policy) as a policy under the Act.

We delivered the Instrument and the material required by the Act to the Minister of Finance on August 7, 2002. The Minister may approve or reject the Instrument or she may return it to us for further consideration. The Act gives the Minister until October 7, 2002 to do one of these things. If she approves the Instrument or takes no further action by that date, the Instrument will come into force in Ontario under section 11.1 of the Instrument on November 1, 2002. The Companion Policy will come into force on the date that the Instrument comes into force.

The Instrument and Companion Policy are initiatives of the Canadian Securities Administrators (the CSA). The Instrument has been, or is expected to be, adopted as a rule or regulation in each of British Columbia, Alberta, Saskatchewan, Manitoba, Ontario, Newfoundland and Nova Scotia and as a policy in all other jurisdictions represented by the CSA, other than Québec. All of jurisdictions represented by the CSA, other than Québec, have adopted or expect to adopt the Companion Policy as their policy.

The Commission des valeurs mobilières du Québec (the "CVMQ") participated closely in the development of the Instrument and the Companion Policy, but has not yet decided to adopt the instruments. The CVMQ must follow the new rule-making procedures now in force in Québec, which mean that the instruments must be published for a further comment period in Quebéc and approval obtained from the Quebéc Ministry of Finance. The other members of the CSA have decided to implement the Instrument and the Companion Policy as a Multilateral Instrument and Companion Policy. If the CVMQ decides to implement the Instrument and the Companion Policy and the instruments come into force in Québec, the CSA will rename the instruments as national instruments. Interested parties may contact staff at the CVMQ if they have any questions on the status of the Instrument and the Companion Policy in Québec.

The British Columbia Securities Commission did not adopt some sections of the Instrument. These sections deal with the rules for establishing new commodity pools, the proficiency requirements that apply to dealers in British Columbia selling securities of commodity pools in that province, and certain of the commodity pool prospectus and continuous disclosure requirements.

Revocation of OSC Policy Statement

We have revoked OSC Policy Statement 11.4 Commodity Pool Programs (OSC Policy 11.4) effective the date that the Instrument comes into force. Pending the Instrument and Companion Policy coming into force, OSC Policy 11.4 will continue to operate as a guideline for commodity pools in Ontario.

Background

The CSA published for comment three versions of the Instrument and Companion Policy—once in June 1997, a second time in June 2000 and most recently in December 2001[1]. These versions were published as national instruments. We summarized the comments received on the first two publications in the notices we published with the June 2000 and December 2001 versions of the Instrument. We summarize the comments we received during the most recent comment period in the appendix to this notice. The comment letters we received in 2000, 2001 and 2002 are posted on the OSC's website at **www.osc.gov.on.ca.**

Substance and Purpose of the Instrument

We will regulate publicly offered "commodity pools" through the Instrument and Companion Policy. The Instrument defines "commodity pools" as specialized publicly offered mutual funds that invest in, or use, commodities and/or derivatives beyond the scope permitted by National Instrument 81-102 Mutual Funds (NI 81-102). Since commodity pools are publicly offered mutual funds, they are subject to the mutual fund rules established by NI 81-102 and other applicable securities legislation unless those rules are specifically excluded or varied by the Instrument. The Instrument operates to allow commodity pools to follow investment objectives and strategies that may involve investing in commodities (either directly or through the use of derivatives), using derivatives and employing leverage in ways not permitted for conventional mutual funds. The specialized rules of the Instrument are intended to reflect the different investment objectives and risk profile of

[1] In Ontario, at (1997) 20 OSCB (Supp2) 109, at (2000) 23 OSCB 3855 and (2001) 24 OSCB 7419.

commodity pools when compared with mutual funds regulated by NI 81-102. These specialized rules cover, among other matters

- Seed capital requirements for a new commodity pool to link the pool's sponsor more directly with the performance of the commodity pool
- Additional proficiency requirements for salespersons selling commodity pools and their supervisors to reflect the differences in the use of derivatives, commodity investing and the use of leverage
- Payment of incentive fees by commodity pools to reflect industry practice
- Redemption of units of commodity pools to allow pools to manage redemption requests
- Net asset value calculations and access to net asset value information
- More frequent and specialized financial statement requirements
- Enhanced prospectus disclosure, including additional risk disclosure and about the use of leverage.

You can read the Notices we published in June 1997, June 2000 and December 2001[2] for descriptions of the rules contained in the Instrument, as well as the policies of the CSA set out in the Companion Policy. The Notice published in June 1997 describes the approach we took in reformulating OSC Policy 11.4 and which portions of OSC Policy 11.4 we did not carry forward into the Instrument and the Companion Policy.

Hedge Fund Review

We are aware of the growing domestic and international interest in retail participation in so-called "hedge funds".[3] We recognize that the Instrument will allow mutual funds the flexibility to adopt some hedge fund strategies, including short selling through using derivative instruments and using leverage. However, the Instrument will not be an open ended "hedge fund" rule or "alternative investment fund" rule. The Instrument replaces and updates our existing policy on commodity pools so that industry participants can continue to offer these existing specialized forms of mutual funds to the public in the manner contemplated by the Instrument. We explain our position on this issue in Part 1 of the Companion Policy.

We will continue to examine the Canadian hedge fund industry, including how we regulate it, and may propose supplements or changes to the Instrument following this review.

Changes to the Instrument and the Companion Policy from the December 2001 Versions

We made three minor corrections or clarifications to the Instrument and the Companion Policy—to sections 3.3, 7.3(b) and 9.2(b)—in response to comments we received. We describe these changes in the attached summary of comments. We have not otherwise changed the Instrument and the Companion Policy from the versions we published in December 2001, except to make minor drafting clarifications. The most significant clarification of this nature was to section 1.3(2). This section has been rewritten to state the interpretative provision more directly and to allow readers to understand that it relates to the application of section 2.3 of NI 81-102 to commodity pools.

Authority for the Instrument (Ontario)

Where the Instrument is to be adopted or made as a rule or regulation, the applicable securities legislation provides the securities regulatory authority with sufficient rule-making or regulation-making authority.

In Ontario, the following paragraphs of subsection 143(1) of the *Securities Act* (Ontario) provide the Commission with the authority to make the Instrument.

- 23—rules exempting reporting issuers from any requirement of Part XVIII (Continuous Disclosure), among other things, under circumstances that the Commission considers justify the exemption
- 34—rules regulating commodity pools, including certain matters specified in the paragraph
- 35—rules regulating or varying the Act in respect of derivatives, including prescribing requirements that apply to mutual funds and commodity pools.

Regulation Amended

The Commission has amended section 87 of the Regulation to the Act in conjunction with making the Instrument a rule by adding the following subsection 87(7):

"(7) Subsections (1) to (6) do not apply to a commodity pool subject to Multilateral Instrument 81-104 *Commodity Pools*."

Instrument and Companion Policy

The texts of the Instrument and the Companion Policy follow.

August 9, 2002

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[2] See above note 1.

[3] See for example, *Consultation Conclusions on the Offering of Hedge Funds* Securities and Futures Commission Hong Kong, May 2002. See also Speech by SEC Chairman: *Remarks before the Investment Company Institute, 2002 General Membership Meeting* by Harvey L. Pitt, May 24, 2002.

SUMMARY OF COMMENTS

CHANGES TO PROPOSED NATIONAL INSTRUMENT 81-104 COMMODITY POOLS PUBLISHED FOR COMMENT ON DECEMBER 14, 2001

We asked for comments on the changes to National Instrument 81-104 Commodity Pools (now Multilateral Instrument 81-104) and its Companion Policy that we proposed in December 2001. The comment period ended on March 18, 2002. We received two letters providing comments from three commentators. Mondiale Asset Management Ltd. and First Horizon Capital Corp. wrote one letter and the other letter was from Fogler, Rubinoff in its capacity as counsel to Friedberg Mercantile Group. We thank the commentators for their comments.

You can get copies of these comment letters, along with the comment letters sent to us about earlier versions of the proposed Instrument, from the website of the Ontario Securities Commission at **www.osc.gov.on.ca**.

We summarize all of the comments provided and explain our responses to those comments in this Appendix. We have made three minor corrections or clarifications to the Instrument suggested by the commentators, but did not otherwise change the Instrument or the Companion Policy, except to make minor drafting clarifications.

1. Clarity of investment restrictions

One commentator asked that we clarify whether section 2.1 operates to restrict the underlying exposure of a commodity pool to a certain type of security or instrument to 10 percent or less.

Our response:

We responded in June 2000 to a similar comment made after we first published the Instrument for comment. The 10 percent concentration restriction in subsection 2.1(1) of National Instrument 81-102 would restrict a commodity pool from investing in any one issuer more than 10 percent of its net assets. The general rules applicable to mutual funds also apply to commodity pools. However, this concentration restriction would not preclude a commodity pool from exposing more than 10 percent of its net assets to a commodity. We believe that section 2.2 of the Companion Policy provides the clarity the commentator requests.

2. Expand the seed capital group for a new commodity pool

One commentator suggested that the group of companies and persons able to provide the required seed capital for a new commodity pool be expanded to include affiliates and associates of the group listed in subsection 3.2(1).

Our response:

We have not made this change. We intend that persons and companies with the actual responsibilities for administering or managing the commodity pool be those required to provide the initial capital for the pool. When we first published the Instrument for comment, we explained that we want to align the interest of promoters of the commodity pool with that of investors. We do this by requiring that the promoter of a pool, or a closely related party, will itself be an investor in the pool at all times.

The commentator also pointed out an incorrect section reference in section 3.3 that we have corrected.

3. The B.C. Securities Commission's approach towards salespersons and dealers selling commodity pools is supported

Two commentators encouraged the other provincial securities commissions to adopt the approach of the British Columbia Securities Commission to allow all persons and firms registered to sell mutual funds to sell commodity pools without any additional requirements. The commentators repeated the comments they made after the June 2000 publication of the Instrument. The CSA should not impose additional proficiency requirements for sellers of commodity pools when they do not impose such requirements on sellers of other mutual funds that make extensive use of derivatives.

Our response:

The British Columbia Securities Commission has implemented its December 2001 decision. However, the other provincial regulators, including the Commission, continue to believe that commodity pools are different from conventional mutual funds, including those that are primarily derivatives based mutual funds. Commodity pools can use derivatives, invest in commodities and use leverage to carry out a much broader range of strategies than can conventional mutual funds. We explained our views on the need for additional proficiency of salespersons and dealers in the Notices we published in June 2000 and in December 2001.

4. References to "the" local jurisdiction

One commentator pointed out a reference to "the" local jurisdiction instead of "a" local jurisdiction in subsection 4.1(2).

Our response:

The current references in the Instrument to "the" local jurisdiction are correct. All National and Multilateral Instruments are written to refer to the

local jurisdiction (being the province or territory) where the reader is present.

5. Add the phrase "or make available" to subparagraph 7.3(b)

One commentator suggested that we add the phrase "or make available" to subparagraph 7.3(b).

Our response:

We have replaced the word "provide" in subparagraph 7.3(b) with the phrase "make available".

6. Clarify two phrases used in sections 8.4 and 8.5

One commentator asked that we clarify the meaning of the phrase "total volume" used in section 8.4 and of the phrase "the significance of the maximum and minimum levels of leverage to the commodity pool" used in subsection 8.5(1).

Our response:

The phrase "total volume" means the appropriate aggregate measure of sales or purchases of a security, a commodity or a derivative contract. Where a commodity pool uses a derivative instrument to obtain exposure to a commodity, then the commodity pool would list the contract entered into, by the type of contract and underlying interest.

We expect a commodity pool to provide information that is specific to that commodity pool about the effect of the maximum and minimum levels of leverage experienced by the pool during the reporting period set out in subsection 8.5(1). This disclosure may include a discussion about the risks of the use of leverage during the period. We do not expect a commodity pool to include "boilerplate" disclosure about the use of leverage without tailoring that disclosure to the experience of the commodity pool during a period.

In order to clarify our expectations for prospectus disclosure of the commodity pool's past use of leverage, we have added paragraph 9.2(b)(iii). A commodity pool prospectus should cross-refer a reader to the information about the actual levels of leverage employed by the commodity pool over the time periods covered by the relevant financial statements.

7. Strong support for leverage disclosure

Two commentators strongly supported the increased disclosure of the leverage employed by a commodity pool. The commentators noted that the primary risk in alternative investing is the use of excessive leverage relative to the strategy being employed.

8. Refine commodity pool prospectus disclosure

All three commentators suggested refinements to the prospectus disclosure required of commodity pools.

Two commentators suggested that the disclosure to be provided on the front page of a commodity pool prospectus by section 9.1 contained "dire warnings" that should be replaced by more useful educational information. The commentators noted that the required language does not reflect the fact that commodity pools employ a wide spectrum of strategies with varying risk levels. They pointed out that conventional mutual funds whose investment objectives carry a substantial degree of risk are not required to include such face page risk disclosure. The commentators also asked us to re-evaluate the required disclosure about fees and charges.

Our response:

We have not changed the face page disclosure requirements in response to this comment. The Instrument gives commodity pools considerable freedom to use alternative investment strategies and does not restrict the fees and charges that can be borne by a commodity pool. Disclosure is critical to our regulation of commodity pools. Alternative investment strategies can produce wide fluctuations in returns to investors and substantially higher risk of loss. We believe that front page disclosure is warranted to alert investors of the differences between investing in commodity pools and conventional mutual funds. A commodity pool may include other information on the front page of its prospectus, including information that the commodity pool believes is more educational and tailored to the particular commodity pool's strategy. We also question the commentators' assertion that compliance departments of dealers tend to rate all commodity pools as high risk because of the required face page disclosure.

Another commentator suggested that we require the disclosure mandated by subparagraph 9.1(d) only in circumstances when the commodity pool is executing trades outside of Canada and the United States. The commentator pointed out that U.S. exchanges have a strong level of regulation and therefore the disclosure should only relate to markets outside of the U.S. The commentator also asked why this disclosure is required for commodity pools, but not for conventional foreign equity mutual funds trading through foreign markets.

Our response:

We have not changed the face page disclosure requirements in response to this comment. The disclosure accurately points out that Canadian regulators (including Canadian exchanges) have no jurisdiction over foreign exchanges and markets, including U.S. markets and exchanges. If a commodity pool were to execute trades primarily in the United States, it could state this fact. The balance of the required disclosure would point out that Canadian regulators have no jurisdiction over the United States markets or exchanges. We would expect a commodity pool in this position to use substantially the same words as provided in subparagraph 9.1(d) to explain this information for investors. Our prospectus requirements for commodity pools differ from those of conventional mutual funds due to the different investment strategies and risks that are applicable to commodity pools.

One commentator suggested that the language in subparagraph 9.2(o) is unduly complicated and asked if it would be sufficient to require disclosure of the securities of the commodity pool held by the subject persons or companies.

Our response:

Subparagraph 9.2(o) requires disclosure about commodity pool compliance with the seed capital requirements for commodity pools. Disclosing only the securities of the commodity pool invested in by those persons will not adequately address compliance with this section, since we intend for investors to better understand the relationship between the pool sponsor and the performance of the pool.

9. Amend the exempting provision

One commentator noted the technical difficulties that service providers to mutual funds encounter in seeking exemptions from National Instrument 81-102. The commentator pointed out that National Instrument 81-102 only imposes restrictions and requirements on mutual funds themselves. Accordingly, service providers to mutual funds cannot seek exemptions on a blanket basis for those mutual funds. The commentator suggested that we fix this perceived problem in the Instrument.

Our response:

The commentator correctly points out that its concern applies to National Instrument 81-102, in addition to the Instrument. We are aware of the technical issue and are considering whether to amend applicable National Instruments to provide a solution.

5.1.2 Multilateral Instrument 81-104 - Commodity Pools and Companion Policy 81-104CP

MULTILATERAL INSTRUMENT 81-104
COMMODITY POOLS

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MULTILATERAL INSTRUMENT 81-104
COMMODITY POOLS

PART 1 DEFINITIONS, APPLICATION AND INTERPRETATION

1.1 Definitions

(1) In this Instrument

"Canadian Securities Course" means a course prepared and conducted by the Canadian Securities Institute and so named by that Institute as of the date on which this Instrument comes into force, every predecessor to that course, and every successor to that course that does not narrow the scope of the significant subject matter of the course;

"Chartered Financial Analyst Program" means the three level program prepared and conducted by the Association for Investment Management and Research, and so named by that Association as of the date on which this Instrument comes into force, every predecessor to that program, and every successor to that program that does not narrow the scope of the significant subject matter of the program;

"commodity pool" means a mutual fund, other than a precious metals fund, that has adopted fundamental investment objectives that permit it to use or invest in

(a) specified derivatives in a manner that is not permitted by National Instrument 81-102 Mutual Funds, or

(b) physical commodities in a manner that is not permitted by National Instrument 81-102;

"Derivatives Fundamentals Course" means a course prepared and conducted by the Canadian Securities Institute and so named by that Institute as of the date that this Instrument comes into force, every predecessor to that course, and every successor to that course that does not narrow the scope of the significant subject matter of the course;

"mutual fund restricted individual" means an individual registered as a salesperson, partner, director or officer of a dealer, if the activities of that individual are restricted to trading in securities of mutual funds; and

"precious metals fund" means a mutual fund that has adopted fundamental investment objectives, and received all required regulatory approvals, that permit it to invest in precious metals or in entities that invest in precious metals and that otherwise complies with National Instrument 81-102.

(2) Terms defined in National Instrument 81-102 and used in this Instrument have the respective meanings ascribed to them in National Instrument 81-102.

1.2 Application - This Instrument applies only to

(a) a commodity pool that

(i) offers, or has offered, securities under a prospectus for so long as the commodity pool remains a reporting issuer, or

(ii) is filing a preliminary prospectus or its first prospectus; and

(b) a person or company in respect of activities pertaining to a commodity pool referred to in paragraph (a) or pertaining to the filing of a prospectus to which subsection 3.2(1) applies.

1.3 Interpretation

(1) Each section, part, class or series of a class of securities of a commodity pool that is referable to a separate portfolio of assets is considered to be a separate commodity pool for purposes of this Instrument.

(2) For the purposes of a commodity pool complying with section 2.3 of National Instrument 81-102, the definition of the term “public quotation" used in the definition of the term “illiquid asset” in section 1.1 of National

Instrument 81-102, includes any quotation of a price for foreign currency forwards and foreign currency options in the interbank market.

PART 2 INVESTMENT RESTRICTIONS AND PRACTICES

2.1 Investment Restrictions and Practices

(1) Section 2.1 of National Instrument 81-102 does not apply to restrict the exposure of a commodity pool to a counterparty of the commodity pool in specified derivatives transactions.

(2) The following provisions of National Instrument 81-102 do not apply to a commodity pool:

1. Paragraphs 2.3(d), (e), (f), (g) and (h).

2. Paragraph 2.7(1)(a).

3. Subsections 2.7(3), (4) and (5).

4. Sections 2.8 and 2.11.

PART 3 NEW COMMODITY POOLS

3.1 Non-Application - Sections 3.1 and 3.2 of National Instrument 81-102 do not apply to a commodity pool.

3.2 New Commodity Pools

(1) No person or company shall file a prospectus for a newly established commodity pool unless

(a) an investment of at least $50,000 in securities of the commodity pool has been made, and those securities are beneficially owned, before the time of filing by

(i) the manager, a portfolio adviser, a promoter or a sponsor of the commodity pool,

(ii) the directors, officers or shareholders of any of the manager, a portfolio adviser, a promoter or a sponsor of the commodity pool, or

(iii) any combination of the persons or companies referred to in subparagraphs (i) and (ii); and

(b) the prospectus of the commodity pool states that the commodity pool will not issue securities other than those referred to in paragraph (a) unless subscriptions aggregating not less than $500,000 have been received by the commodity pool from investors other than the persons and companies referred to in subparagraphs (i) and (ii) of paragraph (a) and accepted by the commodity pool.

(2) A commodity pool may redeem, repurchase or return any amount invested in, securities issued upon the investment in the commodity pool referred to in paragraph (1)(a) only if

(a) securities issued under paragraph (1)(a) that had an aggregate issue price of $50,000 remain outstanding and at least $50,000 invested under paragraph (1)(a) remains invested in the commodity pool; or

(b) the redemption, repurchase or return is effected as part of the dissolution or termination of the commodity pool.

3.3 Prohibition Against Distribution - If a prospectus of a commodity pool contains the disclosure described in paragraph 3.2(1)(b), the commodity pool shall not distribute any securities unless the subscriptions described in that disclosure, together with payment for the securities subscribed for, have been received.

3.4 British Columbia Commodity Pools – In British Columbia, sections 3.1, 3.2 and 3.3 do not apply to a commodity pool.

PART 4 PROFICIENCY AND SUPERVISORY REQUIREMENTS

4.1 Proficiency and Supervisory Requirements

(1) No mutual fund restricted individual shall trade in a security of a commodity pool unless that individual

(a) has received at least a passing grade for the Canadian Securities Course;

(b) has received at least a passing grade for the Derivatives Fundamentals Course;

(c) has successfully completed the Chartered Financial Analyst Program; or

(d) meets the proficiency standards applicable to trading in securities of commodity pools required by a self-regulatory organization of which the individual, or his or her organization, is a member if the securities regulatory authority or regulator has completed any required review, approval or non-disapproval of the regulatory instrument of the self-regulatory organization that establishes those proficiency standards.

(2) No principal distributor or participating dealer shall trade in a security of a commodity pool in the local jurisdiction unless the individual designated by the principal distributor or participating dealer to be responsible for the supervision of trades of securities of commodity pools in the local jurisdiction has received at least a passing grade for the Derivatives Fundamentals Course or has successfully completed the Chartered Financial Analyst Program.

(3) Despite subsection (2), but subject to compliance with securities legislation, a principal distributor may agree to act as principal distributor of a commodity pool and may trade in securities of a commodity pool if all trades are effected through a participating dealer that satisfies the requirements of subsection (2).

4.2 Trades of Commodity Pools in British Columbia – Section 4.1 does not apply in British Columbia

PART 5 INCENTIVE FEES

5.1 Non-Application - Part 7 of National Instrument 81-102 does not apply to a commodity pool.

5.2 Incentive Fees - A commodity pool shall not pay, or enter into arrangements that would require it to pay, and no securities of a commodity pool shall be sold on the basis that an investor would be required to pay, a fee that is determined by the performance of the commodity pool, unless

(a) the payment of the fee is based on the cumulative total return of the commodity pool for the period that began immediately after the last period for which the performance fee was paid; and

(b) the method of calculation of the fee is described in the prospectus of the commodity pool.

5.3 Multiple Portfolio Advisors - Section 5.2 applies to fees payable to a portfolio adviser of a commodity pool that has more than one portfolio adviser, if the fees are calculated on the basis of the performance of the portfolio assets under management by that portfolio adviser, as if those portfolio assets were a separate commodity pool.

PART 6 REDEMPTION OF SECURITIES OF A COMMODITY POOL

6.1 Frequency of Redemptions - If disclosed in its prospectus, a commodity pool may include, as part of the requirements established under subsection 10.1(2) of National Instrument 81-102, a provision that securityholders of the commodity pool shall not have the right to redeem their securities for a period up to six months after the date on which the receipt is issued for the initial prospectus of the commodity pool.

6.2 Required Notice of Redemption - Despite section 10.3 of National Instrument 81-102, a commodity pool may implement a policy providing that a person or company making a redemption order for securities shall receive the net asset value for those securities determined, as provided in the policy, on the first or second business day after the date of receipt by the commodity pool of the redemption order.

6.3 Payment of Redemption Proceeds - The references in subsection 10.4(1) of National Instrument 81-102 to "three business days" shall be read as references to "15 days" in relation to commodity pools.

PART 7 CALCULATION OF NET ASSET VALUE

7.1 Non-Application - Subsections 13.1(1) and (2) of National Instrument 81-102 do not apply to a commodity pool.

7.2 Calculation of Net Asset Value - The net asset value of a commodity pool shall be calculated at least once each business day.

7.3 Toll-Free Telephone Number, Collect Telephone Calls and Website - A commodity pool shall

(a) have a toll-free telephone number, accept collect telephone calls, or operate a website, in order to allow persons or companies that wish to be provided with the most recent net asset value per unit of the commodity pool to obtain that information; and

(b) make available its most recent net asset value per unit to persons or companies using a medium referred to in paragraph (a).

PART 8 CONTINUOUS DISCLOSURE – FINANCIAL STATEMENTS

8.1 Variation of Securities Legislation - The provisions of securities legislation that pertain to the filing, content and sending to securityholders of financial statements for mutual funds are varied for commodity pools to the extent described in this Part.

8.2 Interim Financial Statements

(1) Instead of filing and delivering interim financial statements on a semi-annual basis, a commodity pool shall, within 60 days of the date to which they are made up, file and deliver to each securityholder whose last address as shown on the books of the commodity pool is in the local jurisdiction, interim financial statements

(a) if the commodity pool has not completed its first financial year, for the periods commencing with the beginning of that financial year and ending nine, six and three months before the date on which that year ends; and

(b) if the commodity pool has completed its first financial year, for the periods beginning at the end of its last completed financial year and ending three, six and nine months after the end of the last completed financial year, together with, if applicable, comparative statements to the end of each of the corresponding periods in the last completed financial year.

(2) Despite paragraph (1)(a), a commodity pool is not required to prepare, file or deliver interim financial statements for a period that is less than three months in length.

8.3 Income Statements - In addition to any other matters required by securities legislation, the income statement forming part of the interim financial statements of a commodity pool shall include

(a) the total amount of realized net gain or net loss on positions liquidated during the period;

(b) the change in unrealized net gain or net loss on open positions during the period;

(c) the total amount of net gain or net loss from all other transactions in which the commodity pool engaged during the period, including interest;

(d) the total amount of all incentive fees paid during the period; and

(e) the total amount of all brokerage commissions paid during the period.

8.4 Statements of Portfolio Transactions

(1) A statement of portfolio transactions of a commodity pool shall provide disclosure, in the form of the table in subsection (2), of the aggregate total volume and total value or nominal value of all purchase and sale transactions of the commodity pool for

(a) each security, by class or series, purchased or sold by the commodity pool during the period;

(b) each physical commodity, purchased or sold by the commodity pool during the period; and

(c) each derivative, by type of contract and underlying interest, for which a derivatives transaction was entered into by the commodity pool during the period.

(2) The table contemplated by subsection (1) shall be in the following form:

	Total Volume	Total Value or Nominal Value
Purchases		
Sales		

8.5 Leverage Disclosure

(1) A commodity pool shall include in its interim financial statements and its audited financial statements disclosure of the minimum and maximum level of leverage experienced by the commodity pool in the period covered by the financial statements, together with a brief explanation of how the commodity pool uses the term "leverage" and the significance of the maximum and minimum levels of leverage to the commodity pool.

(2) The information required by subsection (1) may be included in the body of the financial statements or in notes to the financial statements.

8.6 British Columbia Commodity Pools - In British Columbia, sections 8.1, 8.2, 8.3 and 8.5 do not apply to a commodity pool.

PART 9 PROSPECTUS DISCLOSURE

9.1 Front Page Disclosure - In addition to any other requirements of securities legislation, the front page of a preliminary prospectus and prospectus of a commodity pool shall

(a) state, in substantially the following words:

" You should carefully consider whether your financial condition permits you to participate in the [commodity pool]. The securities of the [commodity pool] are [highly] speculative and involve a high degree of risk. You may lose a substantial portion or even all of the money you place in the [commodity pool].

The risk of loss in trading [nature of instruments to be traded by the commodity pool] can be substantial. In considering whether to participate in the [commodity pool], you should be aware that trading [nature of instruments] can quickly lead to large losses as well as gains. Such trading losses can sharply reduce the net asset value of the [commodity pool] and consequently the value of your interest in the [commodity pool]. Also, market conditions may make it difficult or impossible for the [commodity pool] to liquidate a position.

The [commodity pool] is subject to certain conflicts of interest.
The [commodity pool] will be subject to the charges payable by it as described in this prospectus that must be offset by revenues and trading gains before an investor is entitled to a return on his or her investment. It may be necessary for the [commodity pool] to make substantial trading profits to avoid depletion or exhaustion of its assets before an investor is entitled to a return on his or her investment.";

(b) state, for the initial prospectus of a commodity pool, in substantially the following words:

" The [commodity pool] is newly organized. The success of the [commodity pool] will depend upon a number of conditions that are beyond the control of the [commodity pool]. There is a substantial risk that the goals of the [commodity pool] will not be met.";

(c) state, if the promoter, manager, or a portfolio adviser of the commodity pool has not had a similar involvement with any other commodity pool, in substantially the following words:

" The [promoter], [manager] [and/or] [portfolio adviser] of the [commodity pool] has not previously operated any other publicly offered commodity pools [or traded other accounts].";

(d) state, if the commodity pool will execute trades outside of Canada, in substantially the following words:

" Participation in transactions in [nature of instrument to be traded by the commodity pool] involves the execution and clearing of trades on or subject to the rules of a foreign market.

None of the Canadian securities regulatory authorities or Canadian exchanges regulates activities of any foreign markets, including the execution, delivery and clearing of transactions, or has the power to compel enforcement of the rule of a foreign market or any applicable foreign laws. Generally, any foreign transaction will be governed by applicable foreign law. This is true even if the foreign market is formally linked to a Canadian market so that a position taken on the market may be liquidated by a transaction on another market. Moreover, such laws or regulations will vary depending on the foreign country in which the transaction occurs.

For these reasons, entities such as the commodity pool that trade [nature of instrument to be traded by the commodity pool] may not be afforded certain of the protective measures provided by Canadian legislation and the rules of Canadian exchanges. In particular, funds received from customers for transactions may not be provided the same protection as funds received in respect of transactions on Canadian exchanges.";

(e) state, immediately after the statements required by paragraphs (a), (b), (c), and (d), in substantially the following words:

"These brief statements do not disclose all the risks and other significant aspects of investing in the [commodity pool]. You should therefore carefully study this prospectus, including a description of the principal risk factors at page [page number], before you decide to invest in the [commodity pool.]";

(f) if applicable, state that the tax consequences to the commodity pool or its securityholders are not certain; and

(g) state that the commodity pool is a mutual fund but that certain provisions of securities legislation designed to protect investors who purchase securities of mutual funds do not apply.

9.2 Prospectus Disclosure - In addition to any other requirements of securities legislation, the preliminary prospectus and prospectus of a commodity pool shall

(a) disclose the fundamental investment objectives and strategy of the commodity pool, and how specified derivatives are or will be used in connection with those objectives and that strategy;

(b) disclose any limitations on the use of specified derivatives by the commodity pool contained in the constating documents, or forming part of the fundamental investment objectives or investment strategy, of the commodity pool, including

(i) whether the commodity pool has adopted any restrictions on the amount of leverage that the commodity pool may experience at any time, or if there are no such restrictions, a statement to that effect,

(ii) a brief explanation of how the commodity pool uses the term "leverage" and the significance to the commodity pool of the restrictions either adopted or not adopted, and

(iii) a cross-reference to the disclosure required by section 8.5 to be included in the financial statements of the commodity pool;

(c) disclose the risks associated with the use or intended use by the commodity pool of specified derivatives and the policies and practices of the commodity pool to manage those risks;

(d) disclose any existing or potential conflicts of interest between the commodity pool and any promoter, manager, adviser, dealer, broker, any of their respective associates or affiliates, or any of the officers, directors or partners of any of the foregoing, and the steps that will be taken to alleviate any existing or potential conflicts of interest;

(e) disclose whether an affiliate of the manager or of a portfolio adviser of the commodity pool receives or will receive brokerage commissions arising from trades of the commodity pool;

(f) disclose if the commodity pool will be wound up without the approval of securityholders if the net asset value per security falls below a certain predetermined level, and, if so, the net asset value per security at which this will occur;

(g) provide the disclosure concerning the past performance of the commodity pool that is required to be provided by a mutual fund under Item 11 of Part B of Form 81-101F1 Contents of Simplified Prospectus, except that

(i) the past performance of the commodity pool in the bar chart prepared in accordance with Item 11.2 of Part B of Form 81-101F1, shall show quarterly, non-annualized, returns of the commodity pool over the period provided for in Item 11.2, rather than annual returns, and

(ii) the commodity pool may at its option, in the disclosure required by Items 11.3 and 11.4 of Part B of Form 81-101F1, compare its performance to an index if it describes any differences between the commodity pool and the index that affect the comparability of the performance data of the commodity pool and the index;

(h) include a statement that how the commodity pool performed in the past does not necessarily indicate how it will perform in the future;

(i) describe the financial reporting that is required of the commodity pool;

(j) in addition to the front page disclosure required by paragraph 9.1(g), disclose that certain provisions of securities legislation designed to protect investors who purchase securities of mutual funds do not apply to the commodity pool, and disclose the implications of this;

(k) describe the redemption procedures and requirements of the commodity pool, making specific reference to the adoption of any policies established under this Instrument or National Instrument 81-102;

(l) disclose, in the "Risk Factor" section, any information that may bear on a securityholder's assessment of risk associated with an investment in the commodity pool, including

(i) any risks associated with those commodity pools structured as trusts that purchasers of the securities offered may become liable to make an additional contribution beyond the price of the securities, and

(ii) any risks associated with the loss of limited liability of a limited partner of a commodity pool that is structured as a limited partnership;

(m) provide the disclosure concerning the portfolio management of the commodity pool that is required to be provided by a mutual fund under Item 10.3 of Form 81-101F2 Contents of Annual Information Form;

(n) disclose the details of how persons or companies may obtain the most recent net asset value per unit of the commodity pool, as required by section 7.3; and

(o) disclose the details of compliance of the commodity pool with the requirements of sections 3.2 and 3.3.

9.3 Financial Statements

(1) A preliminary prospectus and prospectus of a commodity pool shall contain the financial statements of the commodity pool for the time periods that are required by the securities legislation applicable to issuers other than mutual funds.

(2) The financial statements required by subsection (1) shall be prepared in accordance with the requirements of Part 8.

9.4 British Columbia Commodity Pools – In British Columbia, section 9.3 does not apply to a commodity pool.

PART 10 EXEMPTION

10.1 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 11 EFFECTIVE DATE AND TRANSITIONAL

11.1 Effective Date - This Instrument comes into force on November 1, 2002.

11.2 Prospectus Disclosure - The prospectus of a commodity pool for which a receipt is obtained before the date that this Instrument comes into force is not required to comply with the disclosure requirements of this Instrument.

COMPANION POLICY 81-104CP
TO MULTILATERAL INSTRUMENT 81-104
COMMODITY POOLS

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COMPANION POLICY 81-104CP
TO MULTILATERAL INSTRUMENT 81-104
COMMODITY POOLS

PART 1 PURPOSE AND BACKGROUND

1.1 **Purpose** - This Policy clarifies how Multilateral Instrument 81-104 (the "Instrument") integrates with National Instrument 81-102 Mutual Funds, and brings certain matters relating to the Instrument to the attention of persons or companies involved with the establishment or administration of commodity pools.

1.2 What the Instrument Covers

(1) The Instrument regulates publicly offered mutual funds that use certain alternative investment strategies involving specified derivatives and commodities. The Instrument defines the term "commodity pool" as a mutual fund that is permitted to use or invest in specified derivatives and physical commodities beyond what is permitted by National Instrument 81-102. Industry players refer to these mutual funds as “commodity pools” and the members of the Canadian Securities Administrators that have implemented the Instrument (the “CSA”) have retained this term to describe these mutual funds.

(2) The CSA note that the Instrument specifically allows commodity pools liberalized use of derivatives, leverage strategies and commodities so that they can pursue traditional commodity pool investment strategies. By implementing the Instrument, the CSA are not providing relief for all alternative investment strategies that may be adopted by investment funds. In particular, the CSA point out that a number of strategies, including non derivative-related short selling, cannot be followed by commodity pools and other mutual funds due to prohibitions contained in National Instrument 81-102. A person or company that wishes to sell to the public investment funds that use alternative investment strategies not contemplated by the Instrument should consider using available exemptions from prospectus requirements or structuring the fund as a closed end investment fund. The CSA will consider on a case by case basis applications for exemptions from applicable restrictions contained in National Instrument 81-102 if a mutual fund structure is proposed. Any application for exemption should describe how the proposed alternative investment strategy meets the policy goals behind the rules in National Instrument 81-102 and why a mutual fund structure is in the public interest.

1.3 **Background to the Instrument -** The CSA developed the Instrument in order to create an updated uniform national regulatory regime for commodity pools. Commodity pools have been sold in most jurisdictions in Canada under prospectuses filed with the CSA for over twenty years. The Ontario Securities Commission published a policy statement, OSC Policy Statement 11.4 Commodity Pool Programs, to set parameters for the operation and administration of these investment vehicles. The other members of the CSA regulated commodity pools through exemptive orders giving relief, on conditions, from requirements of applicable securities legislation in their jurisdiction, including National Instrument 81-102 and its predecessor instrument. The exemptive relief orders were largely consistent with the guidelines contained in the Ontario policy statement. The Ontario Securities Commission and the other members of the CSA that have implemented the Instrument recognize that the Ontario policy statement has become outmoded and no longer reflects the regulatory approach now favoured by the CSA.

1.4 Regulatory Principles for Commodity Pools

(1) The CSA considered the following regulatory principles in developing and implementing the Instrument:

(a) Commodity pools should be regulated in the same manner as conventional mutual funds, except in respect of their use of specified derivatives and leverage strategies. Therefore, commodity pools are defined in the Instrument as a type of mutual fund, so that the rules of National Instrument 81-102, and other applicable securities legislation apply except as provided otherwise in the Instrument.

(b) Commodity pools should be granted greater freedom in their use of specified derivatives and leverage strategies than conventional mutual funds, in exchange for requirements which, among other things, are aimed at increasing the information available to investors about the investment strategies, risks and on-going performance of commodity pools. Therefore, the Instrument generally exempts commodity pools from the specified derivative rules of National Instrument 81-102.

PART 2 GENERAL STRUCTURE OF THE INSTRUMENT

2.1 Relationship to Securities Legislation Applicable to Mutual Funds

(1) Since by definition, commodity pools are mutual funds, they are subject to mutual fund rules unless those rules are specifically excluded. The Instrument contains only those provisions that are specific to commodity pools. Provisions applicable to all mutual funds, including commodity pools, are contained in National Instrument 81-102.

(2) Persons involved with the establishment or administration of a commodity pool should review the following rules:

1. National Instrument 81-102. That National Instrument contains general rules concerning the operation of mutual funds, all of which are applicable to commodity pools unless specifically excluded by the Instrument.

2. Applicable mutual fund related securities legislation. For example, commodity pools are subject to the financial statement reporting requirements for mutual funds, except as varied or supplemented in the Instrument.

3. Prospectus requirements of the securities legislation of a jurisdiction applicable to long form issuers generally, and mutual funds in particular. National Instrument 81-101 Mutual Fund Prospectus Disclosure does not allow commodity pools to use the prospectus disclosure system created by that National Instrument.

4. Securities legislation of a jurisdiction that applies to dealers in securities of a mutual fund. Since commodity pools are mutual funds, dealers registered in a jurisdiction to sell mutual funds can trade in these securities. The Instrument imposes additional proficiency requirements for salespersons who are registered to sell only mutual funds and for the supervisors of trades in commodity pools, in all jurisdictions other than British Columbia. Dealers registered to sell securities (including mutual funds) in British Columbia should look to local British Columbia securities regulations for guidance.

2.2 Derivatives Use

(1) The regime implemented by the Instrument is designed to allow commodity pools considerable freedom in entering into derivatives transactions. Commodity pools are not subject to the majority of sections 2.7 and 2.8 of National Instrument 81-102, which contain most of the rules governing specified derivatives used by mutual funds. Commodity pools, however, remain subject to the main investment restrictions and rules governing investment practices contained in National Instrument 81-102 that do not relate directly to derivatives or commodity transactions.

(2) Commodity pools remain generally subject to section 2.1 of National Instrument 81-102 except as provided in subsection 2.1(1) of the Instrument. Section 2.1 of National Instrument 81-102 contains the prohibition against a mutual fund investing more than 10 percent of its net assets in the securities of an issuer. The effect of subsection 2.1(1) of the Instrument is that a commodity pool need not be restricted by this prohibition in relation to its specified derivatives transactions with any one counterparty. That is, a commodity pool may "invest" more than 10 percent of its net assets with any one counterparty in one or more specified derivatives transactions. This exception to the 10 percent rule is designed to allow commodity pools greater flexibility in their specified derivatives transactions. However, a commodity pool remains subject to the 10 percent rule in relation to any securities of any issuers, including counterparties, other than the "securities" acquired from counterparties in specified derivatives transactions. A commodity pool may enter into an unlimited number of specified derivatives transactions with any counterparty without regard to the 10 percent rule, but remains subject to the 10 percent rule in relation to any, for example, common shares of that counterparty acquired by it. In addition, the "look through" rule contained in subsection 2.1(3) of National Instrument 81-102 will still apply to those specified derivatives transactions, requiring a commodity pool to take into account the underlying interests of specified derivatives transactions in order to ensure compliance with section 2.1 of National Instrument 81-102.

(3) Commodity pools, as with other mutual funds, remain subject to paragraphs 2.6(b) and (c) of National Instrument 81-102, which prohibit mutual funds from purchasing securities on margin or selling securities short, unless these strategies are permitted by sections 2.7 or 2.8 of that National Instrument. Commodity pools contemplating purchasing securities on margin or selling securities short in connection with their specified derivatives strategies should review sections 2.7 and 2.8 of National Instrument 81-102 to determine

permissible practices. Any other strategy which involves purchasing securities on margin or selling securities short is not permitted for commodity pools, in the same manner as that other strategy is not permitted for conventional mutual funds. The Instrument exempts commodity pools from most of the provisions of sections 2.7 or 2.8 of National Instrument 81-102, but is not intended to remove the permission to purchase securities on margin or sell securities short in specified derivatives transactions provided for in paragraphs 2.6(b) and (c) of National Instrument 81-102.

PART 3 PROSPECTUS DISCLOSURE

3.1 Prospectus Disclosure

(1) Sections 9.1 and 9.2 of the Instrument contain a number of disclosure requirements applicable to commodity pool prospectuses. The CSA note that commodity pool prospectuses are long form prospectuses. Commodity pool prospectuses may contain any information that the commodity pool manager believes would be of assistance in ensuring that the prospectus contains full, true and plain disclosure about the commodity pool.

(2) In particular, the CSA consider that, in order to ensure that full, true and plain disclosure is provided, having regard to the specialized investment strategies of commodity pools, a person or company preparing a prospectus of a commodity pool should consider whether it would be useful to include in the prospectus standardized measures of risk, prepared and presented in a consistent manner from year to year and based on generally accepted statistical standards.

(3) Paragraph 9.2(g) of the Instrument requires a commodity pool to describe its performance in the required format. A commodity pool may, but is not required to, compare its performance to an appropriate index or benchmark. If the commodity pool decides to so compare its performance, the CSA note that, generally speaking, the index or benchmark used should satisfy the requirements of Item 11.3 of Part B of Form 81-101F1 and be prepared independently or be widely recognized and used. However, the CSA recognize the difficulty in identifying indices that are relevant comparisons to some commodity pools, and expect that commodity pools use their best efforts to use as appropriate an index as possible. The index could be either a broadly-based market index or a narrowly-based index, whichever is considered by the manager of the commodity pool to be most appropriate. Any differences between the index or benchmark used and the commodity pool should be identified.

PART 4 LIMITED LIABILITY

4.1 Limited Liability

(1) Mutual funds generally are structured in a manner that ensures that investors are not exposed to the risk of loss of an amount more than their original investment. The CSA consider this a very important and essential attribute of mutual funds. This is especially important in the context of commodity pools. One of the most important rationales for the existence of commodity pools is that they enable investors to invest indirectly in certain types of derivative products, particularly futures and forwards, without putting more than the amount of their investment at risk. A direct investment in some derivative products could expose an investor to losses beyond the original investment.

(2) The CSA expect that commodity pools will be structured in a manner that provides as much assurance as possible to their securityholders that securityholders will not be at risk for more than the amount of their original investment. The CSA recommend that commodity pool promoters and managers consider other ways, apart from the structuring of a pool, to limit the liability of securityholders. For example, commodity pools could enter into contracts only if the other party to the agreement agreed to limit recourse under the agreement to the assets of the pool.

(3) Mutual funds structured as corporations do not raise pressing liability problems because of the limited liability regime of corporate statutes.

(4) Mutual funds structured as limited partnerships may raise some concerns about the loss of limited liability if limited partners are viewed as participating in the management or control of the partnership. The statute and case law concerning when limited partners can lose their limited partner status, including the Quebec Civil Code, varies from province to province. Therefore, paragraph 9.2(l) of the Instrument requires each commodity pool to disclose risks associated with the loss of limited liability of a limited partner that has invested in a commodity pool structured as a limited partnership; proper compliance with this requirement will involve disclosure of risks associated with the jurisdictions in which the prospectus is filed.

(5) Mutual funds structured as trusts are subject to their constitution and the common and civil law of trusts. A commodity pool operator should consider this law, together with the factual circumstances surrounding the establishment of the commodity pool, including the ability of the investors in the commodity pool to influence the administration and management of the commodity pool, to ensure that investor's liability is limited to the amount they have invested in the commodity pool. Paragraph 9.2(l) of the Instrument requires disclosure of risks, if any are applicable, associated with the structuring of a commodity pool as a trust in relation to the possibility that purchasers of securities of the commodity pool may become liable to make an additional contribution beyond the price of the securities.

5.1.3 Ontario Securities Commission Rule 62-501 - Prohibited Stock Market Purchases of the Offeree's Securities by the Offeror During a Take-Over Bid

ONTARIO SECURITIES COMMISSION RULE 62-501

PROHIBITED STOCK MARKET PURCHASES OF THE OFFEREE'S SECURITIES BY THE OFFEROR DURING A TAKE-OVER BID

PART 1 DEFINITIONS

1.1 Definitions - Offeror

In this Rule, "offeror" has the meaning ascribed to that term in subsection 94(1) of the Act.

PART 2 PROHIBITED STOCK MARKET PURCHASES OF OFFEREE'S SECURITIES

2.1 Prohibited Stock Market Purchases of Offeree's Securities

Despite subsection 94(3) of the Act, an offeror may not make purchases allowed under that subsection unless

(a) the purchases are made in the normal course on a stock exchange described in subsection 94(3) of the Act;

(b) any broker acting for the offeror does not, in regard to the purchases, perform services beyond the customary broker's functions and does not receive more than the usual fees or commissions charged for comparable services performed by the broker in the normal course;

(c) neither the offeror nor any person or company acting for the offeror solicits or arranges for the solicitation of offers to sell securities of the class subject to the bid, except for the solicitation by the offeror or members of the soliciting dealer group under the take-over bid; and

(d) the seller or any person or company acting for the seller does not, to the knowledge of the offeror, solicit or arrange for the solicitation of offers to buy securities of the class subject to the bid.

PART 3 EXEMPTION

3.1 Exemption

The Director may grant an exemption to this Rule, in whole or in part, subject to such conditions or restrictions as may be imposed in the exemption.

5.1.4 Amendment to Ontario Securities Commission Policy 62-601 - Take-Over Bids — Miscellaneous Guidelines

AMENDMENT TO ONTARIO SECURITIES COMMISSION POLICY 62-601

TAKE-OVER BIDS — MISCELLANEOUS GUIDELINES

Ontario Securities Commission Policy 62-601 is amended by:

1. changing the title of the Policy to "Securities Exchange Take-over Bids — Trades in the Offeror's Securities";

2. deleting Parts A and B; and

3. deleting the heading "C. Securities Exchange Take-over Bids – Market "Support, Maintenance or Stabilization" vs. Market Balancing Transactions in Accordance with Stock Exchange Rules".

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Chapter 6

Request for Comments

6.1.1 Notice - Proposed Amendments to National Policy 11-201, Delivery of Documents by Electronic Means

NOTICE

PROPOSED AMENDMENTS TO NATIONAL POLICY 11-201

DELIVERY OF DOCUMENTS BY ELECTRONIC MEANS

The Commission, together with other members of the Canadian Securities Administrators ("CSA"), is publishing for comment amendments (the "proposed amendments") to National Policy 11-201 *Delivery of Documents by Electronic Means* ("NP 11-201").[1]

Background

There is a growing consensus that delivering proxy documents electronically and using proxy documents in electronic formats can make the proxy solicitation and voting process more efficient, cost-effective, and user-friendly.

The September 1998 IOSCO report on securities activities on the Internet recommended:

> Subject to investor protection and confidentiality concerns, regulators should explore the possibilities under their company laws to enable issuers, transfer agents, depositories and broker-dealers to make full use of the Internet for the dissemination of voting information and in the proxy voting process as one means to facilitate full participation by shareholders in annual and other meetings of shareholders.

There also have been a number of developments in corporate and electronic commerce law that support the use of electronic delivery methods and documents in electronic format in the proxy solicitation and voting process. Attached as Appendix A to this Notice is a summary of some of these developments. Market participants are reminded that they are responsible for ensuring that their particular method of electronic delivery or use of a particular electronic format satisfies any requirements of corporate, electronic commerce or other legislation.

Purpose of the Proposed Amendments

NP 11-201 sets out general principles on how documents required to be delivered under Canadian securities law can be delivered electronically. However, securities law also contains various provisions relating to the proxy solicitation process that have raised questions as to whether the electronic delivery of proxy documents is permitted, and whether proxy documents can be in electronic format.

The CSA has identified two types of requirements in securities law that affect the electronic delivery of proxy documents and the use of electronic formats:

- requirements that a form of proxy or proxy be in written or printed form, and that a registered owner vote securities in accordance with written voting instructions (the "in writing requirements"); and
- requirements that a proxy be executed (the "proxy execution requirements").

The purpose of the proposed amendments to NP 11-201 is to provide guidance on these issues.

Substance of the Amendments

Most of the substantive amendments are found in a new Part 4 entitled "Proxy Documents". Several consequential amendments are found in Part 1.

Proxy Delivery Requirements (section 4.1)

In most jurisdictions, securities laws no longer prescribe particular methods (such as pre-paid mail) of delivering proxy documents to registered shareholders.[2] With regard to beneficial shareholders, National Instrument 54-101 *Communication with Beneficial Owners of Securities of a Reporting Issuer* ("NI 54-101"), unlike its predecessor National Policy Statement 41 *Shareholder Communication*, does not contain a prepaid mail requirement. The Companion Policy to NI 54-101 states that a beneficial owner of securities may be sent security holder materials in electronic form as provided for by NP 11-201.

In Writing Requirements (section 4.2)

Securities legislation contain definitions of "form of proxy" and "proxy" that incorporate the concept of a *written or*

[1] In Quebec, NP 11-201 is entitled "Notice 11-201 relating to the delivery of documents by electronic means".

[2] In Ontario, see sections 85 and 86 of the Securities Act (Ontario).

printed form.[3] In addition, securities legislation also provides that a registrant or custodian may only vote shares that are registered in its name but not beneficially owned by it in accordance with any *written voting instructions* received from the beneficial owner.

The CSA is of the view that these provisions do not impede the use of forms of proxy, proxies and voting instructions in electronic format. Electronic commerce legislation in force in a number of jurisdictions now clarifies that a requirement to provide a document in writing can be satisfied by providing a document in electronic form if specified conditions are met.[4] However, market participants should take reasonable steps to ensure the integrity of the information contained in those electronic documents, and to enable a permanent, tangible record of the information to be retained for subsequent reference. Guidance is provided in the proposed section 4.2.

The Proxy Execution Requirements (section 4.3)

Securities legislation incorporate execution requirements in the definition of proxy. The CSA is of the view that these requirements do not impede the use of proxies in electronic format. Electronic commerce legislation in force in number of jurisdictions now clarify that electronic signatures are legally valid in those jurisdictions. Commonly accepted legal definitions of "executed" and "signature" all suggest that there is more than one method of signing (and hence executing) a document.

However, market participants should take reasonable steps to ensure that the signature of the security holder used to execute the form of proxy permits authentication of the executing security holder's identity. Guidance is provided in the proposed section 4.3.

The Proposed Amendments

The text of the proposed amendments follows.

Request for Comments

You are invited to comment on the proposed amendments. Please submit your comments in writing on or before October 8, 2002 .

Please send to the address below two copies of your comments, addressed as follows:

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

c/o John Stevenson, Secretary
Ontario Securities Commission
20 Queen Street West
Suite 800, Box 55
Toronto, Ontario M5H 3S8
Jstevenson@osc.gov.on.ca

Please also send your comments to the Commission des valeurs mobilières du Québec as follows:

Denise Brosseau, Secretary
Commission des valeurs mobilières du Québec
Stock Exchange Tower
800 Victoria Square
P.O. Box 246, 22nd Floor
Montréal, Québec H4Z 1G3

If you are not sending your comments by email, please send a diskette containing the submissions (in DOS or Windows format, preferably Word).

Questions may be referred to any of:

Veronica Armstrong
Senior Policy Advisor
British Columbia Securities Commission
(604) 899-6738 or (800) 373-6393 (in B.C.)
E-mail: varmstrong@bcsc.bc.ca

Marsha Manolescu
Senior Legal Counsel
Alberta Securities Commission
(780) 422-1914
E-mail: marsha.manolescu@seccom.ab.ca

Barbara Shourounis
Director
Saskatchewan Securities Commission
(306) 787-5842
E-mail: bshourounis@ssc.gov.sk.ca

Sylvie Lalonde
Policy Advisor
Commission des valeurs mobilières du Québec
(514) 940-2150
E-mail: sylvie.lalonde@cvmq.com

Randee Pavalow
Director, Capital Markets
Ontario Securities Commission
(416) 593-8257
E-mail: rpavalow@osc.gov.on.ca

[3] Subsection 1(1) of the Securities Act (Ontario). See also for example the securities legislation of Alberta, British Columbia, Manitoba, and Saskatchewan.

[4] See Appendix A for examples of such legislation. In Alberta and Manitoba, similar electronic legislation is awaiting proclamation.

Winnie Sanjoto
Legal Counsel, Corporate Finance
Ontario Securities Commission
(416) 593-8119
E-mail: wsanjoto@osc.gov.on.ca

Chris Besko
Legal Counsel, Deputy Director
The Manitoba Securities Commission
(204) 945-2561
E-mail: cbesko@gov.man.ca

APPENDIX A

SOME RECENT DEVELOPMENTS IN CORPORATE AND ELECTRONIC COMMERCE LAW

Note: This Appendix is provided for convenience only, and is not intended to be exhaustive. It should not be regarded or relied upon as legal opinion or advice.

	Corporate Legislation	Electronic Commerce Legislation
Alberta	*Business Corporations Act* Use of electronic signatures and telephonic or electronic means will be permitted under the ABCA once the Electronic Transactions Act is proclaimed. Until then, see: • section 147 for definitions of "form of proxy" and "proxy" • section 131(3) which permits shareholder meetings by telephonic means • section 148(2) which requires a proxy be executed by the shareholder • section 148(4) which permits a shareholder to revoke a proxy in writing or "in any other manner permitted by law". Clause (b) will accommodate the use of electronic signatures and telephonic or electronic means of transmission to sign and revoke proxies when the Electronic Transactions Act is proclaimed • section 255 which requires that notices and documents to shareholders and directors be sent personally or by pre-paid mail. Electronic delivery cannot be accommodated until this provision is amended to specifically permit delivery by electronic means.	*Electronic Transactions Act* (awaiting proclamation) • section 1 – definition of "electronic signature" and "record" • section 10 – information or a record to which this Act applies cannot be denied legal effect or enforceability solely by reason that it is in electronic form • section 11– a legal requirement that information or a record be in writing is satisfied if the information or record is in electronic form and is accessible • section 12 – a legal requirement that a person provide information or a document in writing to another person is satisfied by the provision of the information or document in an electronic form subject to certain conditions • section 16 – a legal requirement for a signature is satisfied by an electronic signature, subject to additional requirements prescribed by legislation
British Columbia	The *Company Act (*BC*)* requires proxy materials to be sent by prepaid mail. The proposed Business Corporations Bill (which would replace the *Company Act*) has been tabled in the Legislature. The Bill indirectly accommodates electronic proxies and the proposed regulations under the Bill would allow electronic delivery.	*Electronic Transactions Act* • section 5 – a legal requirement that information or a document be in writing is satisfied by information or a document that is in electronic form, subject to certain conditions • section 6 – a legal requirement that a person provide information or a document in writing to another person is satisfied by the provision of the information or document in an electronic form subject to certain conditions • section 11 – a legal requirement for a signature is satisfied by an electronic signature, subject to additional requirements prescribed by legislation
Ontario	*Business Corporations Act* • section 1 – definitions of "electronic signature" and "telephonic or electronic means" • section 109 – definitions of "form of	*Electronic Commerce Act* • section 5 – a legal requirement that information or a document be in writing is satisfied by information or a document that is in electronic form, subject to certain

	Corporate Legislation	Electronic Commerce Legislation
	proxy" and "proxy" • section 94 – shareholder meetings by telephonic or electronic means • section 110 – use of electronic signatures and telephonic or electronic means of transmission to sign and revoke proxies	conditions • section 6 – a legal requirement that a person provide information or a document in writing to another person is satisfied by the provision of the information or document in an electronic form subject to certain conditions • section 11 – a legal requirement for a signature is satisfied by an electronic signature, subject to additional requirements prescribed by legislation
Saskatchewan	No amendments regarding electronic documents to *The Business Corporations Act*	*The Electronic Information and Documents Act, 2000* • section 8 – a legal requirement that information or a document be in writing is satisfied by information or a document that is in electronic form, subject to certain conditions • section 9 – a legal requirement that a person provide information or a document in writing to another person is satisfied by the provision of the information or document in an electronic form subject to certain conditions • section 14 – a legal requirement for a signature is satisfied by an electronic signature, subject to additional requirements prescribed by legislation

6.1.2 Amendments to National Policy 11-201 Delivery of Documents by Electronic Means

AMENDMENTS TO NATIONAL POLICY 11-201

DELIVERY OF DOCUMENTS BY ELECTRONIC MEANS

PART 1 AMENDMENTS

1.1 Amendments – National Policy 11-201 is amended by:

(a) adding the definition ""electronic signature" means electronic information that a person creates or adopts in order to execute or sign a document and that is in, attached to or associated with the document";

(b) adding the definition ""proxy document" means a document relating to a meeting of a reporting issuer, and includes an information circular, a form of proxy, a request for voting instructions, and voting instructions";

(c) adding the definition ""securities directions" means the instruments listed in Appendix A of National Instrument 14-101 Definitions";

(d) deleting subsection 1.2(2) and substituting for that subsection:

"Securities legislation contains many delivery requirements. In some cases, the method of delivery is mandated by legislation; for instance, delivery may be required to be made by "prepaid mail". In many cases, however, the method of delivery is not mandated. In light of rapid technological developments, issues have arisen as to whether, or in what circumstances, delivery of documents by electronic means would satisfy the delivery requirements of securities legislation if the method of delivery is not mandated. The purpose of this Policy is to state the views of the securities regulatory authorities on these issues in light of the general policy goals referred to in subsection (1). These views are set out in Parts 2 and 3 of this Policy."

(e) Adding subsection 1.2(3):

"Furthermore, securities legislation and securities directions contain provisions relating to the proxy solicitation process that have raised questions as to whether the electronic delivery of proxy documents is permitted, and whether proxy documents can be in electronic format. The securities regulatory authorities have identified two types of requirements in securities law that affect the use of proxy documents in electronic format:

1. Requirements in certain securities directions or securities legislation that

   (a) a form of proxy or proxy be in written or printed form (the "written proxy requirements"); and

   (b) a registered holder of voting securities vote or give a proxy in respect of such voting securities in accordance with any written voting instructions provided by the beneficial owner of such voting securities (the "written voting instructions requirements") (collectively with the written proxy requirements, the "in writing requirements").

2. Requirements in securities legislation that a proxy be executed (the "proxy execution requirements").

Part 4 of this Policy states the views of the securities regulatory authorities on these issues."

(f) deleting section 1.3 and substituting for that section

"1.3 Application of this Policy

(1) Subject to subsections (3) and (4), Parts 2 and 3 of this Policy apply to any documents required to be delivered under the delivery requirements. This includes prospectuses, financial statements, trade confirmations, account statements and proxy-related materials. Examples of documents that are not required by securities legislation to be delivered, and which are therefore not subject to Parts 2 and 3, are documents delivered by securityholders or investors to issuers or registrants, for instance, in connection with the return of completed proxies or voting instructions.

(2) For greater certainty, Parts 2 and 3 of this Policy apply in the circumstances described in subsection (1), and therefore apply to documents delivered by

(a) issuers, registrants or persons or companies acting on behalf of issuers or registrants, such as transfer agents or other service providers; and

(b) persons or companies required to send documents under National Instrument 54-101 *Communication with Beneficial Owners of Securities of a Reporting Issuer*, including depositories, participants in depositories, intermediaries and service providers to those persons or companies.

(3) Part 4 of this Policy applies to the use of proxy documents in electronic format.

(4) This Policy does not apply to deliveries where the method of delivery is mandated by securities legislation and that method does not include electronic means. Market participants are also reminded that certain corporate law statutes may also impose requirements concerning the method of delivery in some circumstances, without permitting electronic means of delivery. For example, some statutes require the use of prepaid mail for the delivery of proxy-related materials. In addition, some corporate statutes may also restrict the use of proxy documents in electronic format.

(5) This Policy does not apply to documents filed with or delivered by or to a securities regulatory authority or regulator."

(g) Deleting in subsection 2.5(6) the reference to the "CSA" and substituting therefor "securities regulatory authorities";

(h) Deleting section 1.4 and substituting for that section

"**1.4 No Waiver** - This Policy addresses only the method of delivery of documents and issues relating to the delivery of documents, as well as the use of proxy documents in electronic format. This Policy does not address, and should not be construed as a waiver of, any requirements of securities legislation relating to content, accuracy, currency, amending of information or timing of delivery of documents or information. Deliverers are reminded that a document that is intended to be delivered by electronic delivery should not be less complete, timely, comprehensive or, if applicable, confidential than a paper version of the same document."

(i) Renumbering Part 4 as Part 5, renumbering section 4.1 as section 5.1 and substituting a new Part 4 Proxy Documents:

"PART 4 PROXY DOCUMENTS

4.1 Proxy Delivery Requirements

(1) Market participants who are required by securities legislation to deliver proxy documents and wish to use an electronic delivery method are reminded to refer to Part 2 of this Policy, which sets out the principles for delivering documents electronically.

(2) Market participants are reminded that merely making proxy documents available for access on a website will not constitute delivery of these documents in accordance with the four components of effective delivery that are set out in Part 2 of this Policy.

4.2 The In Writing Requirements

(1) Forms of proxy, proxies and voting instructions in electronic format will satisfy the in writing requirements if the electronic format used

(a) ensures the integrity of the information contained in the forms of proxy and proxies; and

(b) enables the recipient to maintain a permanent record of this information for subsequent reference.

(2) In order to ensure the integrity of information, the electronic format of the form of proxy, proxy or voting instructions should not permit the information in the document to be easily corrupted or changed. For example, the written proxy requirements generally would not be satisfied by sending an email with a form of proxy in WordPerfect format attached, as this format could be easily tampered with.

(3) In order to assist a recipient to retain a permanent record of the information so as to be usable for subsequent reference, appropriate electronic formats and methods of electronic delivery should be used.

4.3 Proxy Execution Requirements

(1) The proxy execution requirements are normally satisfied by a security holder's signature. The use of a signature indicates adoption of the information on the completed proxy, and permits authentication of the security holder's identity. The securities regulatory authorities are of the view that the use of a manual signature is one method, but not the only method, of executing a proxy.

(2) The proxy execution requirements may be satisfied if the form of proxy has been executed by an electronic signature of the security holder. Any technology or process adopted for executing a proxy should create a reliable means of identifying the person using the signature and establishing that the person incorporated, attached or associated it to the proxy. The security holder's electronic signature should result from the security holder's use of a technology or process that permits the following to be verified or proven:

1. a security holder used the technology or process to incorporate, attach or associate the security holder's signature to the proxy;

2. the identity of the specific security holder using the technology or process; and

3. the electronic signature resulting from a security holder's use of the technology or process is unique to the security holder."

PART 2 EFFECTIVE DATE

2.1 Effective Date – These amendments come 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 SecuritiesScource (see www.carswell.com).

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

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

Chapter 8

Notice of Exempt Financings

Exempt Financings

The Ontario Securities Commission reminds issuers and other parties relying on exemptions that they are responsible for the completeness, accuracy, and timely filing of Forms 45-501F1 and 45-501F2, and any other relevant form, pursuant to section 27 of the *Securities Act* and OSC Rule 45-501 ("Exempt Distributions").

REPORTS OF TRADES SUBMITTED ON FORM 45-501F1

Transaction Date	Purchaser	Security	Total Purchase Price ($)	Number of Securities
26-Jul-2002	Barbara Deir	Acuity Pooled High Income Fund - Trust Units	150,000.00	10,509.00
23-Jul-2002	James Holdings Ltd.	Acuity Pooled High Income Fund - Trust Units	179,381.00	13,943.00
22-Jul-2002	Peter Ott	Acuity Pooled High Income Fund - Trust Units	100,000.00	7,063.00
22-Jul-2002	Gail McMaster	Acuity Pooled High Income Fund - Trust Units	107,806.00	13,265.00
10-Jul-2002	Mourin Investment Corporation	Allied Northern Resources Ltd. - Common Shares	36,000.00	600,000.00
19-Jul-2002	3 Purchasers	Aquila Networks Canada (British Columbia) Ltd. - Debentures	41,970,600.00	3.00
12-Jul-2002 to 19-Jul-2002	6 Purchasers	Arrow Ascendant Arbitrage Fund - Trust Units	237,660.00	23,461.00
12-Jul-2002	Clifford Lax	Arrow Goodwood Fund - Trust Units	25,000.00	2,637.00
26-Jul-2002	RoyNat Capital Inc ;PNK Holdings Ltd.	Betacom Corporation Inc. - Debentures	2,000,000.00	1.00
28-Jun-201	Lawrence Technology Ventures Fund Inc. Lawrence Enterprises Fund Inc.	Blockade Systems Corp. - Debentures	500,000.00	2.00
17-Jul-2002	11 Purchasers	Bow Valley Energy Ltd. - Common Shares	2,972,500.00	2,050,000.00
19-Jun-2002	Elliot Strashin	Canadian Golden Dragon Resources Ltd. - Common Shares	34,000.00	170,000.00

11-Jul-2002	Rita King	Canadian Golden Dragon Resources Ltd. - Common Shares	14,000.00	100,000.00
30-Jul-2002	5 Purchasers	Canadian Golden Dragon Resources Ltd. - Units	75,000.00	750,000.00
12-Jul-2002	Covington Capital Corporation	Castek Software Factory Inc. - Preferred Shares	1,299,999.00	570,175.00
04-Jan-2002	The Toronto-Dominion Bank	CertaPay Inc. - Common Shares	500,000.00	10,000,000.00
01-Apr-2002	The Bank of Nova Scotia	CertaPay Inc. - Common Shares	500,000.00	9,750,000.00
13-May-2002	The Bank of Montreal	CertaPay Inc. - Common Shares	600,000.00	10,000,000.00
01-Jul-2002	Karl Schleissner & Sons Ltd.	Cygnus XI Limited Partnership - Limited Partnership Units	155,679.16	13.00
25-Jul-2002	Sun Life Assurance Company of Canada;Clarica Life Insurance Company	C.I. Fund Management Inc. - Common Shares	32,581,803.00	3,560,853.00
24-Jul-2002	CMP 2002 Resource Limited Partnership;Canada Dominion Resources LP IX	DRC Resoures Corporation - Flow-Through Shares	2,100,000.00	700,000.00
24-Jul-2002	Dundee Securities Corporation	DRC Resoures Corporation - Warrants	210,000.00	70,000.00
14-Jul-2002	North Atlantic Nickel Corp.	Dumont Nickel Inc. - Common Shares	10,000.00	50,000.00
19-Jun-2002	Ken Fenwick;Don Leishman	East West Resource Corporation - Common Shares	14,000.00	100,000.00
16-Jul-2002	N/A	Glamis Gold Ltd. - Shares	0.00	25,843,808.00
18-Jul-2002	9 Purchasers	Hamilton Utilities Corporation - Debentures	57,468,375.00	57,500,000.00
02-Jul-2002	Robert G. Brooks;William	HYWY Corp. - Common Shares Fairley	147,000.00	980,000.00
16-Jul-2002 to 18-Jul-2002	3 Purchasers	iSee Media Inc. - Common Shares	350,000.00	350,000.00
01-Jun-2002	Ontario Teachers's Pension Plan Board	III Fund Ltd. c/o Admiral Administration Ltd. - Shares	15,272,500.00	15,272,500.00
04-Jul-2002	3 Purchasers	International Freegold Mineral Development Inc. - Units	119,500.00	1,593,334.00
18-Jul-2002	Pentadan Mangement Inc.	Intrepid Minerals Corporation - Units	200,000.00	4,166,660.00
18-Jul-2002	Frank Lucas	Intrepid Minerals Corporation - Units	100,000.00	192,307.00
23-Jul-2002	The Bank of Nova Scotia	Joseph Littlejohn & Levy Fund IV - Capital Commitment	5,357,245.00	5,357,245.00

28-Jun-2002	7 Purchasers	Kaval Wireless Technologies Inc. - Preferred Shares	12,750,000.00	5,930,232.00
19-Jul-2002	Manitoba Clinic Holding Company Ltd.	KBSH Private - Money Market - Units	354,938.00	35,493.00
24-Jul-2002	Carol Flanigan	KBSH Private - Money Market - Units	92,000.00	92,000.00
03-Jul-2002	4 Purchasers	Laramide Resources Ltd. - Common Shares	110,000.00	1,100,000.00
05-Jun-2002	The Estate of Christian von Hessert	Laramide Resources Ltd. - Preferred Shares	1,200,000.00	2,231,622.00
09-Jul-2002	Clive E. Williams	Legal Services Plan Inc. - Common Shares	1,000.00	1,000.00
09-Jul-2002	Joseph Albert Koziel	Legal Services Plan Inc. - Common Shares	10,000.00	10,000.00
11-Jul-2002	Laura Burger	Legal Services Plan Inc. - Common Shares	1,000.00	1,000.00
10-Jul-2002	Kathleen Wyman	Legal Services Plan Inc. - Common Shares	1,000.00	1,000.00
15-Jul-2002	Richard Stanbury	Legal Services Plan Inc. - Common Shares	5,000.00	5,000.00
15-Jul-2002	Beverly Stanbury	Legal Services Plan Inc. - Common Shares	5,000.00	5,000.00
15-Jul-2002	Rosanne Stanbury	Legal Services Plan Inc. - Common Shares	5,000.00	5,000.00
15-Jul-2002	Ruth MacDonald	Legal Services Plan Inc. - Common Shares	1,000.00	1,000.00
15-Jul-2002	Rochelle Zimberg	Legal Services Plan Inc. - Common Shares	1,000.00	1,000.00
16-Jul-2002	H & A International	Legal Services Plan Inc. - Common Shares	2,000.00	2,000.00
22-Jul-2002	The Canada Life Assurance Company	Metcalfe Realty Company Limited - Bonds	12,500,000.00	1.00
19-Jul-2002	LePaladan Corporation;Royal Precious metals Fund	Orezone Resources Inc. - Shares	1,050,000.00	5,259,999.00
12-Jun-2002	Canadian Broadcasting Corporation Pension Fund	ORIX JREIT Inc. - Units	2,584,126.00	407.00
18-Jul-2002	AGF Trust Company	Pacific & Western Credit Corp. - Debentures	1,600,000.00	1.00
16-May-2002	Manufacturers Life Insurance Co.	Pacificare Health Systems, Inc. - Notes	2,329,280.00	4.00
14-Jan-2002	Blake Cassels & Graydon LLP	Passion Media Inc. - Units	100,000.00	250,000.00

17-Jul-2002	Dynamic Venture Opportunities Ltd.	Pethealth Inc. - Units	400,000.00	3,333,334.00
30-May-2002	Cisco Systems Capital Corporation	Phonetime Inc. - Warrants	1,683,000.00	40,000,000.00
08-Apr-2002	Marusyk Miller & Swain	Prescient NeuroPharma Inc. - Common Shares	50,000.00	79,365.00
27-Jun-2002	GATX?MM Venture Finance partnership	Qbiogene Inc. - Warrants	0.00	1.00
16-Jul-2002	21 Purchasers	Randgold Resources Limited - Shares	879,900.84	47,100.00
16-Jul-2002	3 Purchasers	Randgold Resources Limited - Shares	27,933.60	14,000.00
16-Jul-2002	Mackenzie Financial Corportion;Royal Bank Investment Management Inc.	Randgold Resources Limited - Shares	6,185,211.00	310,000.00
15-Jul-2002	16 Purchasers	Riddarhyttan Resources AB - Common Shares	3,127,000.00	530,000.00
22-Jul-2002	David Jones	Rio Fortuna Exploration Corp. - Units	20,000.00	200,000.00
19-Jul-2002	1339649 Ontario Inc. and Bynet Holdings Corp.	Saratoga Capital Corp. - Common Shares	115,000.00	2,300,000.00
28-Jun-2002	The Vengrowth II Investment Fund Inc	Seaway Networks Inc. - Preferred Shares	3,644,880.00	2,400,000.00
28-Jun-2002	Vengrowth V Limited Partnership;Vengrowth V Sidecar Limited partnership	Seaway Networks (Delaware) Incorporated - Preferred Shares	911,220.00	600,000.00
24-Jun-2002	Skypoint Telecom Fund II;Venture Coaches Fund L.P.	TrueContext Corporation - Preferred Shares	2,018,559.00	2,625,000.00
15-Jan-1998	5 Purchasers	Ventax Robotics Corporation - Special Warrants	3,500,000.00	2,800,000.00
30-Apr-2002	Foyston Gordon & Payne Inc.	Voest - Alpine AG - Shares	2,201,940.00	50,000.00
17-Jul-2002	6 Purchasers	Western Copper Holdings Limited - Units	4,221,000.00	1,340,000.00
28-Jun-2002	C. Bruce Burton	Workonce Wireless Corporation - Special Warrants	18,750.00	25,000.00
24-Jul-2002	The VenGrowth Advanced Life Sciences Fund Inc. The VenGrowth II Investment Fund Inc.	Z-Tech (Canada) Inc. - Debentures	1,500,000.00	2.00

RESALE OF SECURITIES - (FORM 45-501F2)

Transaction Date	Seller	Security	Total Selling Price ($)	Number of Securities
26-Jun-2002	Strategic Capital Partners Inc.	High River Gold Mines Ltd. - Common Shares	597,000.00	300.00

NOTICE OF INTENTION TO DISTRIBUTE SECURITIES AND ACCOMPANYING DECLARATION UNDER SECTION 2.8 OF MULTILATERAL INSTRUMENT 45-102 RESALE OF SECURITIES - FORM 45-102F3

Seller	Security	Number of Securities
Charles Kutner	Alive International Inc. - Common Shares	2,437,125.00
M.S. Carr + Associates Ltd.	Bitterroot Resources Ltd. - Common Shares	1,500,000.00
A & E Capital Funding Inc.	Bradstone Equity Partners, Inc. - Shares	1,200,000.00
A & E Capital Funding Inc.	Bradstone Equity Partners, Inc. - Shares	1,100,000.00
Banro Corporation	BRC Development Corporation - Common Shares	1,438,520.00
Banro Corporation	BRC Development Corporation - Common Shares	1,438,520.00
Larry Melnick	Champion Natural Health.com Inc. - Shares	119,765.00
Larry Melnick	Champion Natural Health.com Inc. - Shares	29,900.00
Larry Melnick	Champion Natural Health.com Inc. - Shares	119,765.00
Larry Melnick	Champion Natural Health.com Inc. - Shares	119,765.00
John Alexander van Arem	Digital Rooster.com Inc. - Common Shares	500,000.00
Renegade Capital Corporation	Dominion Citrus Limited - Common Shares	500,000.00
Estill Holdings Limited	EMJ Data Systems Ltd. - Common Shares	1,155,500.00
Kingfield Holdings Limited	Extendicare Inc. - Shares	63,900.00
Kingfield Investments Limited	Extendicare Inc. - Shares	42,900.00
Taronga Holdings Limited	Extendicare Inc. - Shares	42,900.00
John P. Sheridan	Guyana Goldfields Inc. - Common Shares	500,000.00
John P. Sheridan	Langis Silver & Cobalt Mining Company Limited - Common Shares	200,000.00
ONCAN Canadian Holdings Ltd.	Onex Corporation - Shares	27,497,818.00
Nava Silver	Phonetime Inc. - Common Shares	300,000.00
Linda Franklin	Phonetime Inc. - Common Shares	145,000.00
Rodney Franklin	Phonetime Inc. - Common Shares	360,000.00
1347265 Ontario Limited	Phonetime Inc. - Common Shares	1,000,000.00
Targa Group Inc.	Plaintree Systems Inc. - Common Shares	6,661,665.00
Sea Change Corporation	Qnetix - Common Shares	2,000,000.00

Andrew J. Mailon	Spectra Inc. - Common Shares	550,000.00
Michael R. Faye	Spectra Inc. - Common Shares	250,000.00

Chapter 11

IPOs, New Issues and Secondary Financings

Issuer Name:
Endeavour Flow-Through Limited Partnership I
Principal Regulator - British Columbia
Type and Date:
Preliminary Prospectus dated August 1st, 2002
Mutual Reliance Review System Receipt dated August 2nd, 2002
Offering Price and Description:
$3,000,000 to $20,000,000 - 300,000 to 2,000,000 Units.
Minimum Subscription : $1000 (100 Units)
Subscription Price : $10.00 per Unit
Underwriter(s) or Distributor(s):
Yorkton Securities Inc.
Canaccord Capital Corporation
Raymond James Ltd.
Bolder Investment Partners, Ltd.
Haywood Securities Inc.
Union Securities Ltd.
Pacific International Securities Inc.
Wolverton Securities Ltd.
Promoter(s):
Endeavour Financial Ltd.
Project #469649

Issuer Name:
Imaging Dynamics Company Ltd.
Principal Regulator - Alberta
Type and Date:
Preliminary Prospectus dated August 1st, 2002
Mutual Reliance Review System Receipt dated August 2nd, 2002
Offering Price and Description:
$1,000,000 to 3,000,000 - 1,000 to 3,000 Units @ $1,000.00 per Unit and 600,000 Common Shares Purchase Warrants Issuable upon the Exercise of 600,000 Purchase Warrant Certificates.
Underwriter(s) or Distributor(s):
Research Capital Corporation
Promoter(s):
Douglas Street
Project #469475

Issuer Name:
KCP Income Fund
Principal Regulator - Ontario
Type and Date:
Amended and Restated Preliminary Prospectus dated August 1st, 2002
Mutual Reliance Review System Receipt dated August 2nd, 2002
Offering Price and Description:
$ * - * Units @ $10.00 per Unit
Underwriter(s) or Distributor(s):
CIBC World Markets Inc.
National Bank Financial Inc.
BMO Nesbitt Burns Inc.
TD Securities Inc.
Promoter(s):
KIK Corporation Holdings Inc.
Project #465206

Issuer Name:
Metalcorp Limited
Principal Regulator - Ontario
Type and Date:
Preliminary Prospectus dated July 26th, 2002
Mutual Reliance Review System Receipt dated August 1st, 2002
Offering Price and Description:
$700,000 to $1,568,467 - Rights to Subscribe for up to 13,070,560 Common Shares and Flow-Through Common Shares. Exercise Price: $0.12 per Flow-Through Share and $.010 per Common Share
(upon the exercise of one Right)
Underwriter(s) or Distributor(s):
-
Promoter(s):
-
Project #469178

Issuer Name:
Midway Gold Corp.
Principal Regulator - British Columbia
Type and Date:
Preliminary Prospectus dated July 26th, 2002
Mutual Reliance Review System Receipt dated July 30th, 2002
Offering Price and Description:
1,134,500 Units to be issued upon the exercise of 1,134,500 Special Warrants
Underwriter(s) or Distributor(s):
Haywood Securities Inc.
Promoter(s):
Brian J. McAlister
Project #468442

Issuer Name:
R Prudent Selection Portfolio
R Dynamic Selection Portfolio
R Conservative Selection Portfolio
R Bold Selection Portfolio
R Balanced Selection Portfolio
Principal Regulator - Quebec
Type and Date:
Preliminary Simplified Prospectus dated August 2nd, 2002
Mutual Reliance Review System Receipt dated August 6th, 2002
Offering Price and Description:
Mutual Fund Securities Net Asset Value
Underwriter(s) or Distributor(s):
-
Promoter(s):
BLC-Edmond De Rothschild
Asset Management Inc.
Project #469747

Issuer Name:
MAXXUM Canadian Balanced Fund
MAXXUM Dividend Fund
MAXXUM Canadian Equity Growth Fund
(Series A, F, I and O Units)
Janus RSP American Equity Fund
Janus RSP Global Equity Fund
(Series A Units)
Scudder US Growth and Income Fund
Scudder Greater Europe Fund
Scudder Canadian Short Term Bond Fund
(Series A, F, I, M and O Units)
Principal Regulator - Ontario
Type and Date:
Amendment #3 dated July 24th, 2002 to Simplified Prospectus and Annual Information Form
dated August 28th, 2001
Mutual Reliance Review System Receipt dated 31st day of July, 2002
Offering Price and Description:
Series A, F, I, O and M Units
Underwriter(s) or Distributor(s):
Quadrus Investment Services Ltd.
Quadrus Investment Services Inc.
Promoter(s):
-
Project #376564

Issuer Name:
Ariane Gold Corp.
Principal Regulator - Ontario
Type and Date:
Final Prospectus dated August 2nd, 2002
Mutual Reliance Review System Receipt dated August 2nd, 2002
Offering Price and Description:
$35,675,836 - Rights to Subscribe for up to 19,505,480 Subscription Receipts at a price of $0.70 per Subscribe Receipt, 31,460,000 Common Shares (and, in certain circumstances, Additional Warrants) Upon the exercise of 31,460,000 previously issued Special Warrants. Rights Offering Subscription Price: $0.70 per Subscription Receipt (upon the exercise of one Right for one Subscription Receipt)
Special Warrant Subscription Price: $0.70 per Special Warrant.
Underwriter(s) or Distributor(s):
Dundee Securities Corporation
Canaccord Capital Corporation
Griffiths McBurney & Partners
Sprott Securities Inc.
Promoter(s):
David A. Fennell
James A. Crombie
-
Project #459824

Issuer Name:
Home Equity Income Trust
Principal Regulator - Ontario
Type and Date:
Final Prospectus dated July 30th, 2002
Mutual Reliance Review System Receipt dated 30th day of July, 2002
Offering Price and Description:
$86,714,100.00 - 8,671,410 Units
Underwriter(s) or Distributor(s):
RBC Dominion Securities Inc.
National Bank Financial Inc.
TD Securities Inc.
Raymond James Ltd.

Promoter(s):
Canadian Home Income Plan Corporation
Project #459637

Issuer Name:
Mustang Resources Inc.
Principal Regulator - Alberta
Type and Date:
Final Prospectus dated July 29th, 2002
Mutual Reliance Review System Receipt dated 30th day of July , 2002
Offering Price and Description:
$5,000,000 to $8,000,000 - 5,000 to 8,000 Units
Underwriter(s) or Distributor(s):
Griffiths McBurney & Partners
Promoter(s):
Richard A. M. Todd
Guy Turcotte
Project #461318

Issuer Name:
BCE Inc.
Principal Regulator - Quebec
Type and Date:
Final Short Form Shelf Prospectus dated August 1st, 2002
Mutual Reliance Review System Receipt dated 1st day of August, 2002
Offering Price and Description:
$5,000,000,000.00 - Common Shares Preferred Shares Debt Securities Warrants to Purchase Equity Securities Warrants to Purchase Debt Securities
Underwriter(s) or Distributor(s):
-
Promoter(s):
-
Project #467416

Issuer Name:
GMAC Commercial Mortgage Securities of Canada, Inc.
Principal Regulator - Ontario
Type and Date:
Final Short Form Prospectus dated July 30th, 2002
Mutual Reliance Review System Receipt dated 1st day of August, 2002
Offering Price and Description:
$210,187,000 - GMAC Commercial Mortgage Securities of Canada Inc. - Mortgage Pass-Through Certificates, Series 2002-FL1
Underwriter(s) or Distributor(s):
Merrill Lynch Canada Inc.
Deutsche Bank Securities Inc.
Promoter(s):
GMAC Commercial Mortgage of Canada, Limited
Project #465246

Issuer Name:
Sentry Select Diversified Income Trust
Principal Regulator - Ontario
Type and Date:
Final Short Form Prospectus dated August 1st, 2002
Mutual Reliance Review System Receipt dated 2nd day of August, 2002
Offering Price and Description:
$72,000,000 - Offering of Rights to Subscribe for Units
Subscription Price: Three Rights and $4.00 per Unit.
The Subscription Price is 87% of the net asset value per Unit on July 30, 2002
Underwriter(s) or Distributor(s):
National Bank Financial Inc.
Promoter(s):
-
Project #467203

Issuer Name:
Wireless Matrix Corporation
Principal Regulator - Alberta
Type and Date:
Final Short Form Prospectus dated July 30th, 2002
Mutual Reliance Review System Receipt dated 30th day of July, 2002
Offering Price and Description:
$10,000,000.00 - 10, 000,000 Common Shares @$1.00 per Common Share
Underwriter(s) or Distributor(s):
Griffiths McBurney & Partners
Loewen, Ondaatje, McCutcheon Limited
Research Capital Corporation
Promoter(s):
-
Project #463734

Issuer Name:
Balanced Income Portfolio
Balanced Growth Portfolio
Long-Term Growth Portfolio
All Equity Portfolio
All Equity RSP Portfolio
Russell Canadian Fixed Income Fund
Russell Canadian Equity Fund
Russell US Equity Fund
Russell Overseas Equity Fund

Principal Regulator - Ontario
Type and Date:
Final Simplified Prospectus and Annual Information Form dated July 23rd, 2002
Mutual Reliance Review System Receipt dated 2nd day of August, 2002
Offering Price and Description:
(Class B Units)
Underwriter(s) or Distributor(s):

Promoter(s):
-
Project #459675

Issuer Name:
Juniper Equity Growth Fund
Type and Date:
Final Simplified Prospectus and Annual Information Form dated July 31st, 2002
Receipt dated 2nd day of August, 2002
Offering Price and Description:
Mutual Fund Securities Net Asset Value
Underwriter(s) or Distributor(s):
-
Promoter(s):
-
Project #462672

Issuer Name:
Mackenzie Ivy RSP Global Balanced Fund
Mackenzie Universal RSP Growth Trends Fund
Principal Regulator - Ontario
Type and Date:
Final Simplified Prospectus and Annual Information Form dated July 29th, 2002
Mutual Reliance Review System Receipt dated 6th day of August, 2002
Offering Price and Description:
(Series A, F, I and O Units)
Underwriter(s) or Distributor(s):
Mackenzie Financial Corporation
Promoter(s):
Mackenzie Financial Corporation
Project #464013

Issuer Name:
New Canada Fund
World Investment Fund
U.S. Equity Fund
Canadian Income Fund
High Yield Bond Fund
Canadian Money Market Fund
Canadian Diversified Investment Fund
Canadian Equity Fund
Canadian Bond Fund
Canadian Balanced Retirement Savings Fund
Principal Regulator - Alberta
Type and Date:
Final Simplified Prospectus and Annual Information Form dated July 30th, 2002
Mutual Reliance Review System Receipt dated 1st day of August, 2002
Offering Price and Description:
-
Underwriter(s) or Distributor(s):
Mawer Investment Management
Promoter(s):
-
Project #460744

Issuer Name:
RESOLUTE GROWTH FUND
Principal Regulator - Ontario
Type and Date:
Final Simplified Prospectus and Annual Information Form dated July 30th, 2002
Mutual Reliance Review System Receipt dated 1st day of August, 2002
Offering Price and Description:
Mutual Fund Securities Net Asset Value
Underwriter(s) or Distributor(s):
Yorkton Securities Inc.
Promoter(s):
-
Project #461237

Issuer Name:
Stone & Co. Flagship Money Market Fund Canada
Stone & Co. Flagship Growth & Income Fund Canada
Stone & Co. Flagship Growth Industries Fund
Stone & Co. Flagship Global Growth Fund
Stone & Co. Health Sciences Fund
(Mutual Fund Units)
Stone & Co. Flagship Stock Fund Canada
(Mutual Fund Units and Series F Units)
Stone & Co. CAMAF Corporate Class
Principal Regulator - Ontario
Type and Date:
Final Simplified Prospectus and Annual Information Form dated July 22nd, 2002
Mutual Reliance Review System Receipt dated 31st day of July, 2002
Offering Price and Description:
-
Underwriter(s) or Distributor(s):
-
Promoter(s):
-
Project #459039

Issuer Name:
Talvest Global Resource RSP Fund
Talvest Global Resource Fund
Principal Regulator - Quebec
Type and Date:
Final Simplified Prospectus and Annual Information Form dated July 30th, 2002
Mutual Reliance Review System Receipt dated 31st day of July, 2002
Offering Price and Description:
Class A, F, and O Units
Underwriter(s) or Distributor(s):
Talvest Fund Management Inc.
Promoter(s):
-
Project #401987

Chapter 12

Registrations

12.1.1 Registration

Type	Company	Category of Registration	Effective Date
New Registration	Veracity Capital Inc. Attention: Gregory Mark Misztela Scotia Plaza, Suite 4900 40 King Street West Toronto ON M5H 4A2	Limited Market Dealer	Jul 31/02
New Registration	Adirondack Electronic Markets LLC Attention: Jeffrey Seltzer 120 West 45th Street 25th Floor New York NY 10036 USA	International Dealer	Jul 31/02
New Registration	Bloomberg Tradebook Canada Company Attention: Karl Kilb Chief Compliance Officer 199 Bay Street Suite 4460 Toronto ON M5L 1G3	Investment Dealer Equities	Jul 31/02
New Registration	Bluewater Capital Corp. Attention: David Clifford Oscar Hallett 17 Strath Avenue Toronto ON M8X 1R1	Limited Market Dealer Investment Counsel & Portfolio Manager	Jul 25/02

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Chapter 13

SRO Notices and Disciplinary Proceedings

13.1.1 TSX Request for Comments - Amendments to the Rules and Policies of the Toronto Stock Exchange

REQUEST FOR COMMENTS - AMENDMENTS TO THE RULES AND POLICIES OF THE TORONTO STOCK EXCHANGE

Effective April 1, 2002, The Toronto Stock Exchange ("TSX" or the "Exchange") adopted the Universal Market Integrity Rules for Canadian Marketplaces ("UMIR") as the integrity rules for the Exchange and UMIR commenced applying to trading on the Exchange and governing the trading of its Participating Organizations ("POs"). In anticipation of the adoption of UMIR, certain amendments to the Rules and Policies of the Exchange were approved by the Board of Directors (the "Board") last November in order to delete or vary provisions of the Exchange Rules and Policies where the subject matter is covered by UMIR. These amendments took effect on April 1, 2002 (the "April 2002 Amendments").

The April 2002 Amendments did not impact the Exchange Rules that were determined to be specific to the Exchange. However, it was at all times contemplated that the Exchange would review its market specific Rules and Policies in order to determine whether these should be amended in response to the implementation of National Instrument 21-101 (Marketplace Operation) (the "ATS Rules"), the adoption of UMIR and the retention of Market Regulation Services Inc. ("RS") as the regulation services provider for the Exchange. The Exchange has now completed the process of reviewing the remaining Exchange Rules and Policies and has determined that certain amendments to the Rules and Policies are required as a result of the adoption of UMIR or are appropriate in the context of the new regulatory environment.

Attached as an Appendix to this Request for Comments is a copy of the revised TSX Rule Book. Proposed Rule and Policy amendments which are the subject of this Request for Comments are indicated with the notation "Proposed Amendment" or "Proposed Repeal", as the case may be.

The background and rationale for the proposed amendments are set out in greater detail below. The proposed amendments to the Rules and Policies were approved by the Board on March 26, 2002 and will be effective upon approval by the Ontario Securities Commission (the "Commission") following public notice and comment. Comments on the proposed amendments should be delivered within 45 days of the date of this notice to:

Leonard P. Petrillo
Vice President,
General Counsel and Secretary
The Toronto Stock Exchange Inc.
The Exchange Tower, 2 First Canadian Place
Toronto, Ontario M5X 1J2
Fax: (416) 947-4461
e-mail: leonard.petrillo@tsx.ca

A copy should also be provided to:

Cindy Petlock
Manager, Market Regulation
Ontario Securities Commission
20 Queen Street West
Suite 1903, Box 55
Toronto, Ontario M5H 3S8
Fax: (416) 593-8240
e-mail: cpetlock@osc.gov.on.ca

Discussion of Rule Amendments

Outlined below is a description of the Rule and Policy amendments currently proposed.

1. **PART 1 - INTERPRETATION**

- The Exchange proposes to amend the definition of "Approved Trader" to mean a person who meets the requirements for connection to the trading system as set out under applicable securities law requirements and under the requirements of a recognized self-regulatory organization. The Exchange has reviewed such requirements and believes that compliance with them is sufficient to ensure appropriate restrictions on access to the Exchange. Accordingly, the Exchange does not propose to prescribe qualifications for Approved Traders that reiterate or differ from those that would already apply.

- The Exchange proposes to amend the definitions of "ask price", "better-priced limit order" and "bid price" to clarify that these terms relate to orders on the Exchange only.

- The Exchange proposes to delete the terms "intentional cross" and "internal cross" from the Exchange Rules, as UMIR contains identical definitions of these terms. As a result of the April 2002

Amendment to Rule 101(1), definitions used in UMIR that are not otherwise defined in the Exchange Rules are incorporated by reference into the Exchange Rules.

- The Exchange proposes to amend the definition of Settlement Day to mean a Business Day (rather than a Trading Day) on which settlements may occur.

- The Exchange proposes to introduce a definition of "special terms order".

- The Exchange proposes to delete Rule 1-104, which provides that for the purposes of applicable securities legislation, a PO shall be considered to be a member of the Exchange. The ATS Rules provide that a "member" of an exchange means either a person or company holding a seat on an exchange or a registrant that has been granted direct trading access rights by the exchange and is subject to regulatory oversight by the exchange.

2. **PART 2 – ACCESS TO TRADING**

- The Exchange proposes to amend Rule 2-101, which sets out the qualifications for acceptance as a PO, by adding several requirements including the requirement that the PO be registered as a dealer in a Canadian jurisdiction, the requirement that the PO enter into an agreement with the Exchange for access to the trading system, the requirement that the PO pay the applicable entrance fee (which has always been a requirement but which would now be set out with greater clarity) and the requirement that the PO has not been denied access to a marketplace by a regulation services provider.

- The Exchange proposes to amend Rule 2-105 to repeal subsection (b), which provides that if the Exchange proposes to accept an applicant for PO status subject to terms and conditions or to refuse an applicant, the applicant shall be entitled to a hearing in accordance with Part 7 of the Rules. Part 7 of the Rules (which contained the investigation and enforcement provisions) was repealed effective April 1, 2002 as part of the April 2002 Amendments. In order to provide an appeals process for certain decisions by the Exchange (i.e. matters unrelated to discipline now assumed by RS) By-Law No. 2 has been adopted to permit appeals to be made to the Board or to a committee of the Board appointed by the Board. The Exchange intends to amend the appeals process to provide greater details at a later date.

- The Exchange proposes to repeal Rule 2-106, which provides that an applicant for PO status whose application has been refused may not apply to be accepted as a PO for six months following the date of refusal. The Exchange believes that an applicant should be permitted to re-apply whenever the deficiency in its application has been remedied.

- The Exchange proposes to repeal Rule 2-107, which deals with the requirement that an applicant for PO status pay an entrance fee. As noted above, the Exchange proposes to include the requirement to pay the entrance fee in Rule 2-101.

- The Exchange proposes to amend Rule 2-108, which deals with the register of POs kept by the Exchange, to state simply that the Exchange shall keep a register of POs, which shall be publicly available.

- The Exchange proposes to amend Rule 2-109, which sets out requirements relating to the appointed representative of a PO, to require that the representative be actively engaged in the business of the PO.

- The Exchange proposes to amend Rule 2-201 to repeal subsection 5(b), which provides that if the Exchange proposes to approve a change in control subject to terms and conditions or to refuse to approve a change in control, the applicant shall be entitled to a hearing in accordance with Part 7 of the Rules. Part 7 of the Rules was repealed effective April 1, 2002 as part of the April 2002 Amendments. As noted above, the Exchange has adopted By-Law No. 2 to permit appeals to be made to the Board or to a committee of the Board appointed by the Board.

- The Exchange proposes to repeal Rule 2-203, which deals with subsidiaries, as existing securities law requirements and the requirements of recognized self-regulatory organizations address the subject matter of this Rule.

- The Exchange proposes to amend Rule 2-301 so that POs will be subject to

continuing qualifications that mirror the basic application requirements set out in Rule 2-101.

- The Exchange proposes to repeal Rule 2-302, which deals with the approval of directors and partners, as the provision does not have any substantive effect.

- The Exchange proposes to amend Rule 2-303, which deals with fees and charges payable by a PO, to require a PO or another "Approved Person" to pay such fees and charges as RS may require. In the regulation services agreement entered into with RS, the Exchange agreed that it would require its "Access Persons" (as such term is defined in that agreement) to pay the fees charged by RS in accordance with any fee schedule adopted by RS.

- The Exchange proposes to amend subsection (2) of Rule 2-304, which sets out notification requirements, to require that the PO give the Exchange prompt written notice of any non-compliance with Exchange Requirements.

- The Exchange proposes to repeal Rule 2-305, which deals with restrictions on individuals, and Rule 2-306, which deals with termination of employment on withdrawal of approval, as these are areas more appropriately addressed by securities law requirements or by requirements of recognized self-regulatory organizations. The Exchange believes it is sufficient to require that POs comply with such requirements.

- The Exchange proposes to amend Rule 2-307, which deals with indemnification and limited liability of the Exchange, to extend similar protection to RS. In the regulation services agreement entered into with RS, the Exchange agreed that it would take reasonable measures to extend to RS, in its capacity as the Exchange's agent, the benefit of the Exchange's protection against legal actions commenced by Access Persons (as defined in the agreement).

- The Exchange proposes to repeal Rule 2-309, which deals with the appointment of auditors, as detailed requirements relating to the appointment of auditors are set out in applicable securities law, and the requirements of recognized self-regulatory organizations. The Exchange does not believe that it is necessary for the Exchange to reiterate existing requirements or prescribe additional requirements.

- The Exchange proposes to repeal Rule 2-310, which deals with the obligation of the PO to keep original records, as detailed requirements relating to the retention of records are set out in applicable securities law and the requirements of recognized self-regulatory organizations. The Exchange does not believe that it is necessary for the Exchange to reiterate existing requirements or prescribe additional requirements at this time.

- The Exchange proposes to repeal Rule 2-403, which prohibits the carrying of certain accounts without consent, as similar requirements are prescribed by recognized self-regulatory organizations. The Exchange does not believe that it is necessary for the Exchange to reiterate existing requirements or prescribe additional requirements at this time.

- The Exchange proposes to repeal Rule 2-405, which sets out requirements relating to confirmations, as such requirements are prescribed by applicable securities law and by the requirements of recognized self-regulatory organizations. The Exchange does not believe that it is necessary for the Exchange to reiterate existing requirements or prescribe additional requirements at this time.

- The Exchange proposes to repeal Rule 2-406, which requires a PO to keep a record showing its security positions, as applicable regulatory requirements address this issue. The Exchange does not believe that it is necessary for the Exchange to reiterate existing requirements or prescribe additional requirements at this time.

- The Exchange proposes to amend Rule 2-602 to provide for the suspension and/or termination of POs on grounds that reflect the initial and continuing requirements for qualification as a PO. The provision has also been amended to delete the references to Part 7 of the Rules, as Part 7 of the Rules was repealed effective April 1, 2002 as part of the April 2002 Amendments. As noted above, the Exchange has adopted By-Law No. 2 to permit appeals to be made to the Board or to a committee of the Board appointed by the Board.

- The Exchange proposes to repeal Rule 2-603, which provides for the automatic suspension of a PO that is insolvent or bankrupt, as this would be captured by the requirement that the PO continue to be a member in good standing of a recognized self-regulatory organization (set out in Rule 2-301).

- The Exchange proposes to add a new Division (Division 8) to Part 2 of the Rules to govern access to the trading system by marketplaces, Participants and Access Persons who are not POs. Proposed new Rule 2-801 provides that access to the trading system shall be permitted solely in accordance with applicable legal and regulatory requirements and in accordance with the written standards set out by the Exchange as amended from time to time. Proposed new Rule 2-802 deals with the fees and charges that must be paid by those granted access to the trading system pursuant to Rule 2-80l.

3. **PART 3 – GOVERNANCE OF TRADING SESSIONS**

- The Exchange proposes to repeal Rule 3-102 which governs trades outside of hours for trading sessions, as the determination as to whether such trades will be permitted will be made by a market integrity official, rather than by the Exchange.

- The Exchange proposes to amend Rule 3-103, which governs changes in trading sessions, trading suspensions and halts, to provide simply that where business reasons dictate, the Exchange may suspend trading, close a trading session or reduce, extend or otherwise alter the time of any trading session.

4. **PART 4 – TRADING OF LISTED SECURITIES**

- The Exchange proposes to introduce new Exchange Rule 4-101 (which would replace the version of Rule 4-101 that was repealed effective April 1, 2002) to require that all trades by a PO in Exchange-listed securities that result from orders that are not exposed on a marketplace (i.e. an exchange, an ATS or a QTRS) be executed through the facilities of the Exchange. Trades made in accordance with the exemptions set out in Rule 6.4 of UMIR would be exempt from the requirement.

Exchange Rule 4-101 (as it existed prior to April 1, 2002) required POs to trade listed securities through the facilities of the Exchange, subject to certain limited exceptions. The Board repealed Rule 4-101 effective on April 1, 2002 when UMIR commenced to apply to trading on the Exchange, because it conflicted with the ATS Rules. Accordingly, POs are now permitted to trade Exchange-listed securities through marketplaces other than the Exchange.

The ATS Rules provide that a dealer that executes orders for Exchange-listed securities outside of a marketplace is a "marketplace" for the purposes of the ATS Rules. However, the ATS Rules also provide that where that dealer is a member of an exchange, the requirements of the ATS Rules, including the transparency and trade reporting requirements, do not apply to that dealer. The rationale underlying this provision is that by virtue of a PO's membership in an exchange, order-flow internalized by the PO will be integrated into the trading and regulatory framework of the exchange.

With the implementation of UMIR, POs are permitted to execute orders for less than 50 standard trading units (as defined in UMIR) provided that the PO immediately executes such orders upon receipt at a better price and are not required to expose on a marketplace orders for greater than 50 standard trading units of a security (as well as orders for less than 50 standard trading units in certain narrow circumstances). However, UMIR also requires the PO in all cases to print trades through the facilities of a marketplace as defined in UMIR, subject to certain limited exceptions.

The Exchange proposes to introduce the new Rule 4-101 in order to ensure that trades not exposed on a regulated marketplace by a PO are integrated into the regulatory framework applicable to orders executed on regulated ATSs, exchanges and QTRSs, as contemplated by the ATS Rules. The proposed amendment will ensure that trades in Exchange-listed securities by POs outside of regulated marketplaces are printed in a properly regulated environment. This requirement will also ensure that the Exchange has the necessary information to produce standardized statistical information on trading in Canadian listed securities.

Additional benefits to market participants include increased visibility of trade volumes and the ability to effectively assess the market status of listed securities.

- The Exchange proposes to make a number of minor amendments to Rule 4-103 and Policy 4-103, which govern wide distributions, to replace references to Exchange Rules which were repealed effective April 1, 2002 with the corresponding requirements in UMIR.

- For purposes of consistency, the Exchange proposes to amend the Proprietary Electronic Trading Systems (PETS) rule (Rule 4-104) to conform to the order exposure requirement in UMIR, so that the PETS rule will only permit orders to be internalized to a PETS (i.e. non-exposure as a PETS would not be separately regulated as a marketplace) if those orders are for more than 50 standard trading units. Rule 4-104 currently provides, *inter alia,* that a PO may only operate or sponsor a PETS for orders of more than 1,200 units of a listed security other than a debt security (which is consistent with the fact that orders for more than 1,200 shares were not required to be exposed under previous Exchange Rule 4-402 which was repealed effective April 1, 2002) and $10,000 in principal amount of a listed security that is a debt security. A PETS is defined in the Exchange Rules as "an electronic trading system operated or sponsored by a Participating Organization which matches buy and sell orders in listed securities, but does not include a system which solely matches orders of one Participating Organization and the clients of that Participating Organization".

- The Exchange proposes to amend Rule 4-105 of the Exchange, which governs the operation of the eVWAP facility, to remove the exemptions from the short sale rule and the client principal-trading rule, as corresponding exemptions for eVWAP orders have been built into the relevant provisions of UMIR. However, UMIR currently contains no built-in exemption for eVWAP orders from the requirement to comply with the client priority rule (which is now set out in Rule 5.3 of UMIR), although RS is considering proposing amendments to Rule 5.3 which may include such an exemption. Accordingly, the Exchange proposes to retain the exemption from the requirement to comply with the client priority rule in Exchange Rule 4-105 until such time as an exemption is built into Rule 5.3 of UMIR.

- The Exchange proposes to amend Rule 4-106 of the Exchange which governs the operation of the POSIT call market, to remove the exemption from the short sale rule, as a corresponding exemption for call market orders has been built into the relevant provision of UMIR. However, UMIR currently contains no built-in exemption for call market orders from the requirement to comply with the client priority rule (which is now set out in Rule 5.3 of UMIR), although RS is proposing amendments to Rule 5.3, which would include such an exemption. Accordingly, the Exchange proposes to retain the exemption from the requirement to comply with the client priority rule in Exchange Rule 4-106 until such time as an exemption is built into Rule 5.3 of UMIR.

- The Exchange proposes to repeal Rule 4-305, which relates to sales from a control block through the facilities of the Exchange, as applicable securities law requirements govern such sales. The Exchange does not believe that it is necessary for the Exchange to reiterate existing requirements or prescribe additional requirements at this time.

- Rule 4-401 has been amended to include a cross reference to Rule 4-1101 which governs "special terms orders" and to require that all trades in listed securities on the Exchange shall be executed in the Book, unless otherwise provided by Exchange Requirements or by UMIR.

- The Exchange proposes to repeal Rule 4-405 and related Policy 4-405, which set out the qualifications and other requirements applicable to Approved Traders. As noted above, the Exchange proposes to require only that an Approved Trader meet the requirements for connection to the trading system as set out under applicable securities law and under the requirements of a recognized self-regulatory organization.

- The Exchange proposes to repeal subsection (4) of Rule 4-407 as this provision delineates rights that are outside of the jurisdiction of the Exchange.

- The Exchange proposes to repeal Rule 4-503, which prohibits trading against a client's account, as the Exchange believes that such activity would be prohibited in any event by various provisions of UMIR which relate to the integrity of marketplace participants, as well as by other securities law requirements and the requirements of recognized self-regulatory organizations.

- The Exchange proposes to amend Rule 4-601(2), Policy 4-607 and Rule 4-608 (which deal with registered traders and specialists) to delete references to, and rights arising from, Part 7 of the Rules, as Part 7 of the Rules was repealed effective April 1, 2002 as part of the April 2002 Amendments. As noted above, the Exchange has adopted By-Law No. 2 to permit appeals to be made to the Board or to a committee of the Board appointed by the Board. The Exchange also proposes to make a number of minor amendments to Policy 4-604 to replace references to Exchange Rules that were repealed effective April 1, 2002 with references to the corresponding provision in UMIR.

- The Exchange proposes to amend Rule 4-702, which sets out requirements for delayed openings, to provide that a Responsible Registered Trader or Market Surveillance Official (which in this case would be an Exchange official) may, for business reasons, delay the opening of a security for trading. Delays for market integrity reasons are covered in UMIR.

- The Exchange proposes to amend Rule 4-1001 to reflect the fact that the exemption from the short sale rule for program trading is now contained in UMIR. However, the Exchange proposes to continue to require that a program trade will only be exempt if the short position is entered into within 30 minutes of the establishment of the corresponding long position and the sale is a reasonable hedge of the long position.

- The Exchange proposes to amend Rule 4-1003 and related Policy 4-1003 to clarify that the subject matter of these provisions is Must-Be-Filled Orders. The Exchange also proposes to amend subsection 2(2) of the Policy to update the time period during which a Must-Be-Filled Order can be entered.

- The Exchange proposes to amend Rule 4-1101 to clarify wording and incorporate the proposed new definition of "special terms orders".

5. **PART 5 - CLEARING AND SETTLEMENT OF TRADES IN LISTED SECURITIES**

   All of Part 5 has been retained in its current form with the exception of Rule 5-105, the Uniform Settlement Rule, which the Exchange proposes to repeal at this time on the basis that IDA Rule 800.31 covers the subject matter set out in the Exchange Rule. The Exchange proposes to review all of the requirements of Part 5 in the near future in connection with the change of the settlement date to T+1.

6. **PART 6 – EXCHANGE TAKE-OVER BIDS AND EXCHANGE ISSUER BIDS**

   Part 6 will be retained in its entirety until such time as its provisions are incorporated into the Company Manual.

7. **PART 8 - ADMINISTRATION**

   The Exchange does not propose to amend the provisions of Part 8, which deal with administrative matters.

Public Interest

The Exchange believes that under the terms of the protocol between the Exchange and the Ontario Securities Commission ("OSC"), the proposed amendments to the Rules and Policies would be considered "public interest" in nature. The amendments would, therefore, only become effective following public notice, a comment period and the approval of the OSC.

Questions

Questions concerning this Request for Comments should be directed to Leonard P. Petrillo, Vice President, General Counsel and Secretary, at (416) 947-4514.

13.1.2 Amendments to the Rules and Policies of the Toronto Stock Exchange

RULES ~~(as at April 1, 2002)~~	POLICIES
PART 1 - INTERPRETATION **1-101 Definitions** (1) Unless otherwise defined or interpreted or the subject matter or context otherwise requires, every term used in an Exchange Requirement that is: (a) defined or interpreted in section 1 of the *Securities Act* has the meaning ascribed to it in that section; (b) defined in subsection 1(2) of the Regulation has the meaning ascribed to it in that subsection; (c) defined in subsection 1.1(3) of National Instrument 14-101 Definitions has the meaning ascribed to it in that subsection; (d) defined in subsection 1.1(2) of Ontario Securities Commission Rule 14-501 has the meaning ascribed to it in that subsection; and (e) defined or interpreted in UMIR has the meaning ascribed to it in that document. **Amended (April 1, 2002)**	
(2) In all Exchange Requirements, unless the subject matter or context otherwise requires:	
"Approved Person" means, in respect of a particular Participating Organization: (a) a Related Company; (b) an employee of the Participating Organization or Related Company to that extent that such employee has Exchange Approval or the approval of a recognized self-regulatory organization; (c) partners, directors and officers of the Participating Organization or Related Company; (d) a person holding a significant equity interest in the Participating Organization or Related Company; and (e) such other person as may be designated from time to time by the Exchange.	
"Approved Trader" means an ~~individual who has Exchange~~	

RULES ~~(as at April 1, 2002)~~	POLICIES
~~Approval to enter orders into the trading system.~~ Approved Person who meets the requirements for entering orders on the trading system under applicable securities law requirements, the requirements of any applicable recognized self-regulatory organization and UMIR. **Proposed Amendment**	
"ask price" or **"offer price"** means the lowest price of a committed order to sell at least one board lot of a particular listed security on the Exchange. **Proposed Amendment**	
"attributed order" means an order which is displayed in the Book with the Participating Organization's trading number.	
"better-priced limit order" means a limit order entered on the Exchange prior to the opening of trading of a listed security to buy at a price that is higher than the calculated opening price, or to sell at a price that is lower than the calculated opening price. **Proposed Amendment**	
"bid price" means the highest price of a committed order to buy at least one board lot of a particular listed security on the Exchange. **Proposed Amendment**	
"Board" means the Board of Directors of the Exchange and includes any committee of the Board of Directors to which powers have been delegated in accordance with the by-laws or the Rules.	
"board lot" means: (a) 1,000 units of a listed security trading at less than $0.10 per unit; (b) 500 units of a listed security trading at $0.10 or more per unit and less than $1.00 per unit; (c) 100 units of a listed security trading at more than $1.00 per unit; and (d) such other number of units of a listed security as may be specified by the Exchange from time to time in respect of a particular listed security or class of listed securities.	
"Book" means the electronic file of committed orders for a listed security.	
"Business Day" means any day from Monday to Friday inclusive, excluding Statutory Holidays.	
"by-laws" means any by-law of the Exchange as amended	

RULES ~~(as at April 1, 2002)~~	POLICIES
and supplemented from time to time.	
"calculated opening price" or **"COP"** is the price of opening trades in a listed security calculated in the manner prescribed by the Board.	
"Clearing Corporation" means The Canadian Depository for Securities Limited or such other person as recognized by the Ontario Commission as a clearing agency for the purposes of the *Securities Act* and which has been designated by the Exchange as an acceptable clearing agency.	
"client order" **Repealed (April 1, 2002)**	
"committed order" means an offer to buy or sell a specific number of shares of a listed security at a specific price that is entered in the Book and that is open for acceptance by any other Participating Organization.	
"Commodity Futures Act" means the *Commodity Futures Act,* R.S.O. 1990, c. C.20, as amended from time to time.	
"Company Manual" means the Toronto Stock Exchange Company Manual as adopted by the Board as amended, supplemented and in effect from time to time.	
"Constraint" means a restriction on the trading of a POSIT Order placed at any time prior to execution by the POSIT Participant entering the POSIT Order provided the minimum restriction is: the minimum number of units a security or securities to be traded; the Net Buy Imbalance; the Net Sell Imbalance; or of a type acceptable to the Exchange.	
"cross" means a trade where the same Participating Organization acts on the buy and sell sides of the transaction, but does not include a trade in which the Participating Organization is acting as jitney.	
"Decision" means any decision of the Exchange, including any committee of the Exchange, in the administration or application of these Rules or any Policy.	
"derivative" means an option or a future.	
"destabilizing trade" means a purchase made at a price above the last preceding different-priced trade or a sale made at a price below the last preceding different-priced trade.	
"eVWAP Facility" means the facility of the trading system permitting the trading of orders at the eVWAP Price.	
"eVWAP Order" means an order to purchase or sell an eVWAP Security entered into the eVWAP Facility to participate in the eVWAP Session.	
"eVWAP Price" means, in respect of each eVWAP Security, a volume weighted average price of the eVWAP Security calculated in a manner determined by the Exchange from the	

RULES ~~(as at April 1, 2002)~~	POLICIES
trades of the eVWAP Security during the Regular Session on the same Trading Day.	
"eVWAP Security" means those listed securities which have been designated from time to time by the Exchange.	
"eVWAP Session" means a Session during which trading in an eVWAP Security is limited to execution of the transaction at the eVWAP Price.	
"Exchange" means the Toronto Stock Exchange.	
"Exchange Approval" means any approval given by the Exchange under Exchange Requirements.	
"Exchange Contract" means any contract: (a) to buy or sell any listed security, if such contract is made through the facilities of the Exchange; or (b) for delivery of and payment for any listed security (or security which was a listed security when the contract was made) arising from settlement through the Clearing Corporation.	
"Exchange Requirements" means collectively: (a) these Rules; (b) the Policies; (c) any Decision; and (d) the Company Manual, as amended, supplemented and in effect from time to time.	
"future" means a commodity futures contract or a commodity futures option for the purposes of the *Commodity Futures Act.*	
"holding company" means a corporation that holds, directly or indirectly and alone or in combination with any other person, securities of a Participating Organization: (a) carrying 50 per cent or more of the votes carried by all voting securities; (b) carrying the right to receive 50 per cent or more of any distribution of earnings; and (c) accounting for 50 per cent or more of the total capital or equity.	
"Index" means an index comprised of listed securities which is recognized for the purposes of this definition by the Exchange.	
"Index Participation Unit" or **"IPU"** means a unit of beneficial interest in a trust, the underlying assets of which are securities underlying an Index.	

RULES ~~(as at April 1, 2002)~~	POLICIES
"Intentional Cross" ~~means a trade resulting from the entry by a Participating Organization of both the order to purchase and the order to sell a security, but does not include a trade in which the Participating Organization has entered one of the orders as a jitney order.~~ **Proposed Repeal**	
"Internal Cross" ~~means an intentional cross between two client accounts of a Participating Organization which are managed by a single firm acting as portfolio manager with discretionary authority to manage the investment portfolio granted by each of the clients and includes a trade where the Participating Organization is acting as a portfolio manager in authorizing the trade between the two client accounts.~~ **Proposed Repeal**	
"jitney" is a Participating Organization that is acting for another Participating Organization in a trade on the Exchange.	
"limit order" means an order to buy a security to be executed at a specified maximum price, and an order to sell a security to be executed at a specified minimum price.	
"listed company" means an issuer which has one or more classes of its securities listed for trading by the Exchange.	
"listed security" means a security posted for trading on the Exchange.	
"market order" means an order for immediate execution at the best available price.	
"Market Surveillance Official" means: (a) a Market Integrity Official where the administration of any Rule or Policy is undertaken by RS on behalf of the Exchange; and (b) an employee of the Exchange designated by the Exchange to perform such functions and exercise such power. **Amended (April 1, 2002)**	
"Minimum Guaranteed Fill" or **"MGF"** means the designated number of shares or other unit of a listed security for which a fill is guaranteed in accordance with Exchange Requirements.	
"Multiple Match Order" means a POSIT Order that has been specified by the POSIT Participant at the time of entry to the POSIT Call Market to be an order eligible to trade until the earlier of: (a) cancellation of the POSIT Order by the POSIT Participant; (b) the completion of the last POSIT Call on the Trading Day on which the POSIT order was entered.	

RULES ~~(as at April 1, 2002)~~	POLICIES
"Must-Be-Filled Order" or **"MBF Order"** means a program trade that offsets a pre-existing expiring derivatives position that is traded in accordance with Exchange Requirements governing such trades.	
"neutral trade" means a transaction which, except for the fact that the trader was unwinding a previously taken position, would have been a destabilizing trade.	
"Net Buy Imbalance" means the maximum amount by which the total value of the securities to be purchased may exceed the total value of the securities to be sold on the POSIT Order	
"Net Sell Imbalance" means the maximum amount by which the total value of the securities to be sold may exceed the total value of the securities to be purchased on the POSIT order.	
"non-Canadian account" **Repealed (April 1, 2002)**	
"non-client order" **Repealed (April 1, 2002)**	
"notice" means a communication or document to be given, sent, delivered or served by the Exchange pursuant to Exchange Requirements to any person subject to these Rules.	
"open market" means a market among orders at the bid price or the ask price where no order has established time priority, or where an order that has established time priority has been filled to the extent of its priority or has lost priority pursuant to Exchange Requirements.	
"opening time" means the time fixed by the Board for the opening of Sessions of trading in listed securities.	
"option" means a security recognized as an option for the purposes of the *Securities Act.*	
"Order Execution Account" means the account of a client of a Participating Organization in respect of which the Participating Organization is exempted, in whole or in part, from making a determination on the suitability of trades for the client in accordance with the requirements of a securities regulatory authority or a recognized self-regulatory organization.	
"Participating Organization" means any person granted access to the trading system in accordance with Part 2 provided such access has not been terminated or suspended.	
"person" includes a company.	
"Policy" means any policy statement, direction or decision adopted by the Board or any committee of the Board in connection with the administration or application of the Rules as such policy statement is amended, supplemented and in effect from time to	

RULES ~~(as at April 1, 2002)~~	POLICIES
time.	
"POSIT Call" means the times during a Trading Day that POSIT Orders may execute.	
"POSIT Call Market" means a facility of the Exchange that is an electronic trading system that executes trades at POSIT prices.	
"POSIT Match Time" means a time not more than five minutes following the POSIT Call which has been randomly selected by the Exchange in respect of that POSIT Call at which POSIT Orders will execute.	
"POSIT Order" means an order for regular settlement for the purchase or sale of a listed security entered to trade only on the POSIT Call Market.	
"POSIT Participant" means: (a) a Participating Organization; or (b) a client of a Participating Organization pursuant to Rule 2-501 that enters an order into the POSIT Call Market but does not include a client that enters an order for an Order-Execution Account.	
"POSIT Price" means, in respect of each security, the average price of the bid price and the ask price for that security on the Exchange at POSIT Match Time [rounded to the nearest price increment permitted in accordance with Rule 4-404.	
"principal account" **Repealed (April 1, 2002)**	
"program trade" means one of a series of market orders in listed securities, including Index Participation Units, underlying an Index that is being undertaken in conjunction with a trade in derivatives the underlying interest of which is the Index that is traded in accordance with Exchange Requirements governing such trades.	
"Proprietary Electronic Trading System" or **"PETS"** means an electronic trading system operated or sponsored by a Participating Organization which matches buy and sell orders in listed securities, but does not include a system which solely matches orders of one Participating Organization and the clients of that Participating Organization.	
"recognized self-regulatory organization" means a participating institution in the Canadian Investor Protection Fund that regulates the business conduct and affairs of its members.	
"registered representative" means a person who has been approved as such by the appropriate recognized self-regulatory organization and includes a registered representative (restricted).	

RULES ~~(as at April 1, 2002)~~	POLICIES
"registered representative (restricted)" means a person who has been approved as such by the appropriate recognized self-regulatory organization.	
"Registered Trader" means an Approved Trader who has Exchange Approval to act as a registered trader.	
"Regular Session" means a Session other than a Special Trading Session or an eVWAP Session.	
"Related Company" means, in respect of a Participating Organization, a person: (a) in which the Participating Organization or any partner, director, officer, employee or shareholder of the Participating Organization, individually or collectively, hold, directly or indirectly, at least a 20 per cent ownership interest; and (b) which carries on business in Canada a substantial part of which is that of a broker, dealer or adviser in securities.	
"Responsible Registered Trader" means the Registered Trader assigned by the Exchange to act as market maker in a listed security and includes the Registered Trader who has been designated as back-up.	
"RS" means Market Regulation Services Inc. **Added (April 1, 2002)**	
"Rules" means these rules as adopted by the Board as amended, supplemented and in effect from time to time.	
"Securities Act" means the *Securities Act*, R.S.O. 1990, c. S.5 as amended from time to time.	
"Session" means the time period during which the Exchange is open for trading.	
"settlement day" means any ~~Trading~~ Business Day on which settlements in listed securities may occur through the facilities of the Clearing Corporation. **Proposed Amendment**	
"short sale" **Repealed (April 1, 2002)**	
"significant equity interest" means the holding, directly or indirectly and alone or in combination with any other person, of securities: (a) carrying 20 per cent or more of the votes carried by all voting securities; (b) carrying the right to receive 20 per cent or more of any distribution of earnings; and	

RULES ~~(as at April 1, 2002)~~	POLICIES
(c) accounting for 20 per cent or more of the total capital or equity of the issuing person.	
"Specialist" means a Participating Organization which has entered into a Specialist Agreement.	
"Specialist Agreement" means an agreement between the Exchange and one or more Participating Organizations providing for market-making and other joint and several duties by the Participating Organization in connection with an IPU.	
"special terms order" means an order that must trade under special conditions as set out by the Exchange from time to time. **Proposed Amendment**	
"Special Trading Session" means a Session during which trading in a listed security is limited to the execution of transactions at a single price.	
"special warrant" means a security that is issued in reliance upon an exemption from prospectus requirements and that carries the right to purchase, convert or exchange the security, without payment of any material additional consideration, into another security and in respect of which the issuer has agreed to file a prospectus for the distribution of the security to be issued upon the exercise of the right.	
"stabilizing trade" means a purchase made at a price below the last preceding different-priced trade or a sale made at a price above the last preceding different-priced trade.	
"Statutory Holiday" means such day or days as may be designated by the Board or established by law applicable in Ontario.	
"tick" means a price at which an order may be entered in the Book.	
"Toronto" means the City of Toronto as the same may be constituted from time to time, and in the event that the City of Toronto shall at any time cease to exist, shall mean the municipality in which the registered office of the Exchange is located.	
"trade" means a contract for the purchase and sale of a security.	
"tradeable order" means a market order, a buy order with a limit price that is at or above the ask price at the time the order is entered on the Exchange, and a sell order with a limit price that is at or below the bid price at the time the order is entered on Exchange.	
"trades on a when issued basis" **Repealed (April 1, 2002)**	
"Trading Day" means a day upon which a Session is held.	

RULES ~~(as at April 1, 2002)~~	POLICIES
"trading system" includes all facilities and services provided by the Exchange to facilitate trading, including, but not limited to: electronic systems for trading listed securities; data entry services; any other computer-based trading systems and programs; communications facilities between a system operated or maintained by the Exchange and a trading or order routing system operation or maintained by a Participating Organization, another market or other person approved by the Exchange; and price quotations and other market information provided by or through the Exchange.	
"UMIR" means the Universal Market Integrity Rules as adopted by RS and approved by the applicable securities regulatory authorities and in effect from time to time. **Added (April 1, 2002)**	
"unattributed order" means an order which is displayed in the Book without the Participating Organization's trading number.	
1-102 Exercise of Exchange Powers (1) Unless the subject matter or context requires otherwise, wherever the Exchange is specified as having any powers, rights, discretion or is entitled to take any action, then the same may be exercised or taken at any time and from time to time on behalf of the Exchange by the Board, the appropriate officers of the Exchange or any committee or person designated by the Board or the President. (2) Unless the subject matter or context requires otherwise, any exercise of any power, right or discretion or the taking of any action on behalf of the Exchange by any person or committee shall be subject to the overall authority of the Board.	
1-103 Interpretation (1) The division of the Exchange Requirements into separate Parts, divisions, sections, subsections and clauses, the provision of a table of contents and index thereto, and the insertion of headings, indented notes, and footnotes are for convenience of reference only and shall not affect the construction or interpretation of the Exchange Requirements. (2) The use of the words **"hereof", "herein", "hereby", "hereunder"** and similar expressions indicate the whole of the Rules and not only the particular Rule in which the expression is used. (3) Grammatical variations of any defined term have similar meanings; words importing the singular number shall include the plural and vice versa; words importing the masculine gender shall include the feminine and neuter genders.	

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(4) Reference to any statute shall include any enactment that may be substituted therefor as amended from time to time, and any reference herein to any section or subsection of a statute shall be deemed to be a reference to the section or subsection as at the time in question amended or supplemented or to the successor if the same has been repealed. (5) All times mentioned in Exchange Requirements shall be local time in Toronto on the day concerned, unless the subject matter or context otherwise requires. (6) For the purposes of the Rules, any matter which is to be prescribed shall be made by a Policy. (7) Every term defined or interpreted for the purposes of a Part of these Rules or a particular Rule shall, unless the subject matter or context otherwise requires, have the same meaning in any Policy made pursuant to the Part or Rule in which the term is defined or interpreted.	
1-104 Status Equivalent to Membership ~~For the purposes of applicable securities legislation, including the *Securities Act*, a Participating Organization shall be considered to be a member of the Exchange.~~ **Proposed Repeal**	
PART 2 – ACCESS TO TRADING **DIVISION 1 – QUALIFICATIONS AND APPLICATION** **2-101 Qualifications** An applicant for acceptance as a Participating Organization shall, prior to being accepted as a Participating Organization: (a) be a member in good standing of a recognized self-regulatory organization; (b) <u>be registered as a dealer in accordance with the securities law requirements of a Canadian jurisdiction;</u> (c) meet applicable Exchange Requirements, including compliance with the continuing qualifications applicable to a Participating Organization; ~~and~~ (d) <u>enter into an agreement with the Exchange for access to the trading system;</u> (e) <u>pay the applicable entrance fee as fixed by the Exchange;</u> (f) <u>not have been denied access to a marketplace by a regulation services provider; and</u>	

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(g) meet such standards as may be prescribed from time to time. **Proposed Amendment**	
2-102 Application (1) An application for acceptance as a Participating Organization shall be made in such form and contain such information as the Exchange may from time to time require. (2) The Exchange may examine and make copies of the books and records of an applicant and take such evidence as may be desirable or appropriate to ascertain relevant facts bearing upon the applicant's qualifications.	
2-103 Notice **Repealed (October 20, 2000)**	
2-104 Acceptance as a Participating Organization The Exchange may: (a) accept an applicant unconditionally; (b) accept an applicant subject to such terms and conditions as may be considered appropriate or necessary to ensure compliance by the applicant with Exchange Requirements; or (c) refuse the application if, after having regard to such factors as the Exchange may consider relevant including, without limitation, the past or present conduct, business or condition of the applicant or any of its directors, senior officers or holders of a significant equity interest, the Exchange is of the opinion that: (i) the applicant will not comply with Exchange Requirements, (ii) the applicant is not qualified by reason of integrity, solvency, training or experience, or (iii) such acceptance is otherwise not in the public interest.	
2-105 Rights of Applicant If the Exchange proposes to accept an applicant subject to terms and conditions pursuant to Rule 2-104(b) or to refuse an applicant pursuant to Rule 2-104(c), the applicant shall be:	

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(a) provided with a statement of the grounds upon which the Exchange proposes to accept the applicant subject to terms and conditions or to reject an applicant with the particulars of those grounds; ~~and~~ (b) ~~entitled to a hearing in accordance with the provisions of Part 7.~~ **Proposed Repeal**	
2-106 Waiting Period if Rejected ~~An applicant whose application has been refused may not apply to be accepted as a Participating Organization for six months following the date of the refusal.~~ **Proposed Repeal**	
2-107 Entrance Fee (1) ~~An applicant that has been accepted as a Participating Organization shall pay, before beginning to trade on the Exchange, an entrance fee as may from time to time be fixed by the Board~~. (2) ~~If an applicant has not paid the entrance fee within six months of acceptance by the Exchange, such acceptance shall lapse.~~ **Proposed Repeal**	
2-108 Register of Participating Organizations The Exchange shall keep a register of Participating Organizations ~~with the names of all persons who are or have been Participating Organizations within the last 10 years,~~ together with the address and contact information of each such Participating Organization ~~while a Participating Organization~~, which shall be publicly available. **Proposed Amendment**	
2-109 Representative of Participating Organization (1) A Participating Organization ~~that is not an individual~~ shall appoint, in writing, an individual as its representative who shall be a senior officer, director or partner of the Participating Organization and who shall be actively engaged in the business of the Participating Organization. (2) The representative shall: (a) represent the Participating Organization in all dealings with the Exchange, with full authority to speak for and bind the Participating Organization;	

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(b) ensure that the Participating Organization, each Related Company and the partners, shareholders, directors, officers and employees of the Participating Organization and each Related Company comply with Exchange Requirements; and (c) be primarily responsible to the Exchange for the conduct of the persons named in Rule 2-109(2)(b) without in any way limiting the duties and liabilities of others under these Rules. **Proposed Amendment**	
2-110 Not transferable Acceptance as a Participating Organization is not transferable.	
DIVISION 2 – INTERESTS AND OWNERSHIP **2-201 Change in Control** (1) For the purposes of this Rule, the acquisition of, directly or indirectly, or obtaining the ability to exercise control over, a significant equity interest in a Participating Organization shall, in the absence of evidence to the contrary, be deemed to be a change in control of the Participating Organization. (2) A Participating Organization shall apply, in such form and with such information as the Exchange may require, to the Exchange for prior approval of a change in control of the Participating Organization. (3) **Repealed (October 20, 2000)** (4) The Exchange may: (a) approve a change in control unconditionally; (b) approve a change in control subject to such terms and conditions as may be considered appropriate or necessary to ensure continued compliance with Exchange Requirements by the Participating Organization; (c) refuse to approve a change in control if, after having regard to such factors as the Exchange may consider relevant including, without limitation, the past or present conduct, business or condition of the proposed controlling person or persons, the Exchange is of the opinion that: (i) the Participating Organization will not comply with Exchange Requirements after the change in control,	

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(ii) the proposed controlling person is not qualified by reason of integrity, or (iii) such approval is otherwise not in the public interest. (5) If the Exchange proposes to approve a change in control subject to terms and conditions pursuant to Rule 2-201(4)(b) or to refuse to approve a change in control pursuant to Rule 2–201(4)(c), the applicant shall be: (a) provided with a statement of the grounds upon which the Exchange proposes to approve the change in control subject to terms and conditions or to refuse to approve the change in control with the particulars of those grounds.~~; and~~ (b) ~~entitled to a hearing in accordance with the provisions of Part 7.~~ **Proposed Repeal**	
2-202 Ownership of Significant Equity Interest (1) A Participating Organization shall give the Exchange prompt written notice of a person, or combination of persons acting jointly and in concert, acquiring, directly or indirectly, or obtaining the ability to exercise control over, a significant equity interest in the Participating Organization. (2) Without restricting the generality of Rule 2-202(1), notice shall be given of the acquisition of an indirect significant equity interest through a holding company.	
2-203 Subsidiaries ~~A Participating Organization that is a subsidiary of a Participating Organization may carry on business under a name that is not the same as or is not substantially similar to the name of the parent Participating Organization, provided that:~~ (a) ~~the subsidiary' s letterhead, confirmations, research publications and all other documents issued to the public clearly disclose its association with the parent Participating Organization; and~~ (b) ~~each of the Participating Organization and the subsidiary shall bear full responsibility for compliance by the subsidiary with Exchange Requirements~~. **Proposed Repeal**	

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2-204 Related Companies A Related Company shall comply with all Exchange Requirements as though it were a Participating Organization and each partner, owner, director, officer, shareholder or employee of a Related Company shall comply with Exchange Requirements as though the Related Company were a Participating Organization, except to the extent that non-compliance with specified provisions may be approved from time to time by the Exchange, either generally, individually or by classes.	
DIVISION 3 – CONTINUING QUALIFICATIONS **2-301 ~~Membership in SRO~~ Qualifications** (1) ~~If a Participating Organization ceases to be a member of a recognized self regulatory organization, it shall, without hearing or notice, be suspended, such suspension to be deemed an interim order made pursuant to Rule 7-107.~~ (2) ~~If, in the opinion of the Exchange, a Participating Organization breaches a requirement of a recognized self regulatory organization of which it is a member, the Exchange may impose such terms and conditions on the Participating Organization as the Exchange deems appropriate in the circumstances.~~ A Participating Organization shall not: (a) cease to be a member in good standing of a recognized self-regulatory organization; (b) cease to be registered as a dealer in a Canadian jurisdiction; (c) contravene applicable Exchange Requirements; or (d) be denied access to a marketplace by a regulation services provider. **Proposed Amendment**	
2-302 Approval of Directors and Partners ~~Each partner, director or officer of a Participating Organization as approved by a recognized self regulatory organization shall be deemed to have Exchange Approval.~~ **Proposed Repeal**	
2-303 Fees and Charges (1) A Participating Organization shall pay such fees and charges as shall be fixed by the Exchange, which shall become due and payable to the Exchange at such time or times and in such manner as the Exchange shall require.	

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(2) A Participating Organization or Approved Person shall pay the fees charged by RS in accordance with any fee schedule adopted by RS. **Proposed Amendment**	
2-304 Notifications (1) A Participating Organization shall give the Exchange prior written notice of: (a) a change in its name or the name under which it carries on business; and (b) a change in the address of its head office. (2) A Participating Organization shall give the Exchange prompt written notice of~~:~~ (a) ~~securities of it or its holding company being held contrary to the provisions of Division 2 of this Part;~~ (b) ~~the death, retirement, resignation or termination of employment or association of a partner, director or officer of the Participating Organization or its holding company; and~~ (c) any non-compliance with ~~the provisions of Division 3 of this Part~~ Exchange Requirements as they apply to the Participating Organization, its directors, shareholders, officers and employees or other Approved Persons. **Proposed Amendment**	
2-305 Restrictions on Individuals (1) ~~A director or partner of a Participating Organization, as applicable, shall not:~~ (a) ~~without the prior approval of the Exchange, carry on the business of a broker, dealer or adviser in securities or be a Participating Organization, or be a partner, director, officer, shareholder or employee of another Participating Organization, an entity that has the business of broker, dealer or adviser in securities as its principal business or an affiliate or associate of another Participating Organization, except:~~ (i) ~~where the other Participating Organization is an affiliate or associate of the Participating Organization,~~ (ii) ~~where the relationship with the entity or other Participating~~	

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~~Organization is as shareholder, the shares are publicly traded or the Investment is otherwise permitted by these Rules, or~~ (iii) ~~where the relationship does not represent a significant equity interest in another Participating Organization or in an affiliate or associate thereof and the Exchange has been notified of the relationship and provided with evidence that the other Participating Organization's recognized self regulatory organization does not object to the relationship;~~ (b) ~~be a Participating Organization or an Approved Person whose approval is suspended;~~ (c) ~~be a Participating Organization that has ceased to be a member of a recognized self-regulatory organization; or~~ (d) ~~make an assignment under the Bankruptcy and Insolvency Act (Canada) or have a receiving order made against them.~~ (2) ~~A director, officer or partner of a Participating Organization shall not accept or permit an associate to accept, directly or indirectly any remuneration, gratuity, advantage, benefit or other consideration from any person other than the Participating Organization or its affiliates or related companies in respect of the activities carried out by such director, officer or partner on behalf of the Participating Organization or its affiliates or related companies and in connection with the sale or placement of securities on behalf of any of them.~~ (3) ~~A Participating Organization that is an individual shall not:~~ (a) ~~make an assignment under the *Bankruptcy and Insolvency Act* (Canada) or have a receiving order made against them; or~~ (b) ~~without the prior approval of the Exchange, be a director, officer, shareholder, employee or partner of another Participating Organization or other Participating Organization's Related Company or associate that carries on securities related activities, unless the relationship does not represent a significant equity interest in such Participating Organization, Related Company or associate and the individual Participating Organization notifies the Exchange of the relationship and provides the Exchange with evidence that the	

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~~individual Participating Organization's recognized self-regulatory organization does not object to the relationship; or~~ (c) ~~be a Participating Organization or an Approved Person whose approval is suspended.~~ **Proposed Repeal**	
2-306 Termination of Employment on Withdrawal of Approval (1) ~~Unless otherwise ordered by the Exchange, if the Exchange Approval of any Approved Person is suspended or revoked, the Participating Organization shall immediately terminate the employment of such person, including any office which such person may hold with the Participating Organization.~~ (2) ~~Without the approval of the Exchange, no Participating Organization shall employ in any capacity a person whose Exchange Approval has been suspended or revoked at any time while such suspension or revocation is in effect.~~ (3) ~~Except to the extent permitted by the Exchange, if the Exchange Approval of any partner in or director or shareholder of a Participating Organization is:~~ (a) ~~revoked, such Participating Organization shall take all steps necessary to terminate the partnership interest, directorship, and shareholdings in the Participating Organization of such person;~~ (b) ~~suspended, such partner, director or shareholder shall take no part whatsoever in the affairs of the Participating Organization during the period of such suspension.~~ **Proposed Repeal**	
2-307 Indemnification and Limited Liability of the Exchange (1) To the extent permitted by law, the Exchange shall at all times be indemnified and saved harmless by each Participating Organization from and against all costs, charges and expenses (including an amount paid to settle an action or satisfy a judgement and including legal and professional fees and out of pocket expenses of attending trials, hearings and meetings), whatsoever that the Exchange sustains or incurs in or about any action, suit or proceeding, whether civil, criminal or administrative, and including any investigation, inquiry or hearing, or any appeal therefrom, that is threatened, brought, commenced or prosecuted against the Exchange or in respect of which the Exchange is compelled or requested to participate, for or in respect of any act, deed, matter or thing whatsoever made, done or permitted by such	

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Participating Organization. (2) To the extent permitted by law, all costs, charges and expenses indemnified pursuant to Rule 2-307(1) shall be paid to the Exchange by the Participating Organization in advance of the final disposition of the matter and shall be paid promptly or at the latest within 90 days after receiving the written request of the Exchange. (3) By making use of the trading system, a Participating Organization expressly agrees to accept all liability arising from the use of the trading system. (4) The Exchange shall not be liable for any loss, damage, cost, expense, or other liability or claim suffered or incurred by or made against a Participating Organization as a result of the use by such Participating Organization of the trading system. (5) The Exchange shall not be liable to a Participating Organization for any loss, damage, cost, expense or other liability or claim arising from any: (a) failure of the trading system; or (b) negligent, reckless or wilful act or omission of: (i) a subsidiary or affiliate of the Exchange, (ii) a director, officer or employee of the Exchange or a subsidiary or affiliate of the Exchange or member of a committee appointed by the Board or a subsidiary or affiliate of the Exchange, or (iii) an independent contractor retained by the Exchange or a subsidiary or affiliate of the Exchange. (6) No director, officer or employee of the Exchange or a subsidiary of the Exchange or member of a committee appointed by the Board or a subsidiary of the Exchange shall be liable for any loss, damage or misfortune whatever that happens in the execution of his or her duties or in relation thereto, including in the execution of duties, whether in an official capacity or not, for or on behalf of or in relation to the Exchange or any of its subsidiaries or any body corporate or entity which he or she serves or provides services to at the request of or on behalf of the Exchange or any of its subsidiaries, unless the same is occasioned by his or her own wilful neglect or default. (7) If a legal proceeding that arises directly or indirectly from the use of the trading system by a Participating Organization is brought or threatened against the Exchange or a person named in Rules 2-307 (5) and (6), the participating Organization shall reimburse the Exchange for: (a) all costs, charges, expenses and legal and professional fees incurred to indemnify a person named in Rules 2-307 (5) and (6);	

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(b) any recovery adjudged against the Exchange or a person named in Rules 2-307 (5) and (6) if the Exchange or such person is found to be liable; and (c) any payment made by the Exchange with the consent of the Participating Organization in settlement of such proceeding.	
2-307.1 Indemnification and Limited Liability of RS. (1) To the extent permitted by law, RS, in its capacity as the TSE's agent, shall at all times be indemnified and saved harmless by each Participating Organization from and against all costs, charges and expenses (including an amount paid to settle an action or satisfy a judgement and including legal and professional fees and out of pocket expenses of attending trails, hearings and meetings), whatsoever that RS sustains or incurs in or about any action, suit or proceeding, whether civil, criminal or administrative, and including any investigation, inquiry or hearing, or any appeal therefrom, that is threatened, brought, commenced or prosecuted against RS or in respect of which RS is compelled or requested to participate, for or in respect of any act, deed, mater or thing whatsoever made, done or permitted by such Participating Organization. (2) To the extent permitted by law, all costs, charges and expenses indemnified pursuant to Rule 2-307.1 (1) shall be paid to RS by the Participating Organization in advance of the final disposition of the matter and shall be paid promptly or at the latest within 90 days after receiving the written request of RS. (3) RS shall not be liable for any loss, damage, cost, expense, or other liability or claim suffered or incurred by or made against a Participating Organization as a result of the use by such Participating Organization of the trading system. (4) RS shall not be liable to a Participating Organization for any loss, damage, cost, expense or other liability or claim arising from any: (a) failure of the trading system; or (b) negligent, reckless or wilful act or omission of: (i) the Exchange or a subsidiary or affiliate of the Exchange other than RS, or (ii) a director, officer, employee or other authorized person acting within the course and scope of their employment, office or authority with RS in its capacity as the Exchange's agent. (5) No director, officer, employee or other authorized person acting within the course and scope of their employment, office or authority with RS in its capacity as the Exchange's agent shall be liable for any loss,	

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damage or misfortune whatever that happens in the execution of his or her duties with respect to RS in its capacity as an agent of the Exchange or in relation thereto, including in the execution of duties, whether in an official capacity or not, for or on behalf of or in relation to RS in its capacity as the Exchange's agent or any body corporate or entity which he or she serves or provides services to at the request of or on behalf of RS in its capacity as the Exchange's agent, unless the same is occasioned by his or her own wilful neglect or default. (6) If a legal proceeding that arises directly or indirectly from the use of the trading system by a Participating Organization is brought or threatened against RS or a person named in Rules 2-307.1 (4) and (5), the Participating Organization shall reimburse RS for: (a) all costs, charges, expenses and legal and professional fees incurred to indemnify a person named in Rules 2-307.1 (4) and (5); (b) any recovery adjudged against RS or a person named in Rules 2-307.1 (4) and (5) if RS or such person is found to be liable; and (c) any payment made by RS with the consent of the Participating Organization in settlement of such proceeding. **Proposed Amendment**	
2-308 Compulsory Arbitration (1) In the event of any dispute arising between Participating Organizations regarding an Exchange Contract which has not been settled, such dispute shall be submitted to the decision of three arbitrators, who shall be employees of Participating Organizations, selected as hereinafter provided, and the decision of the majority of such arbitrators shall be final and binding on all parties. (2) The procedure for the nomination of arbitrators shall be as follows: 1. The Participating Organization believing it to be the injured party shall deliver to the Exchange a written memorandum, stating in a summary way the matter in dispute and the redress the Participating Organization claims, and naming its arbitrator. 2. The Exchange shall forward a copy of such memorandum to the opposite party, who shall within two clear Business Days after receipt thereof file with the Exchange a written memorandum containing its statement of the matter in dispute, and naming its arbitrator and the Exchange shall forward a copy thereof to the opposite party and copies of both memoranda so filed to the arbitrators named, and they shall proceed within twenty-four hours after receipt of such memoranda to nominate a third arbitrator. 3. If a party fails to name its arbitrator, the Exchange	

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may name one for the Participating Organization, and in the event of the two arbitrators named failing to nominate the third arbitrator within the time aforesaid the third arbitrator shall be appointed by the Exchange. (3) The three arbitrators so named shall forthwith give written notice to the parties of the time and place of their first sitting, which shall be held within two days after the appointment of the third arbitrator and shall require them to be present and to produce any books, documents or papers respecting the matter at issue, and at such time and place, or at any other time and place to which they shall give written notice to the parties, the arbitrators shall hear the parties, shall make such inquiries and receive such evidences as they may deem necessary, and shall decide the subject matter in dispute and fix the cost of the reference and shall make their award and forward the same in writing to the Exchange which shall give notice of the same to all the parties concerned. (4) The award of such arbitration shall be final and not subject to review or appeal, and shall be binding upon all parties concerned and the *Arbitration Act* (Ontario) shall not apply to any such arbitration. (5) No Participating Organization shall commence legal proceedings against another Participating Organization upon any contract or breach of contract with reference to an Exchange Contract unless and until the Participating Organization has given due notice thereof to the Exchange and has received notice that the Exchange has authorized the commencement of such proceedings.	
2-309 Appointment of Auditors ~~Notwithstanding any exemption from the appointment of auditors which may be available at law, each Participating Organization shall appoint an auditor from a panel of auditors selected by the recognized self-regulatory organization of which the Participating Organization is a member.~~ **Proposed Repeal**	
2-310 Original Records (1) ~~Each Participating Organization and each person subject to the jurisdiction of the Exchange shall maintain all information, financial statements, forms, books, records, reports, filings and papers required by any Exchange Requirement in such manner and form, including electronically, as may be required or permitted by the Exchange from time to time.~~ (2) ~~No Participating Organization nor any person on behalf of a Participating Organization shall send or cause to be sent or remove or cause to be removed any original records of the Participating Organization from Canada to a foreign jurisdiction without the~~	

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~~consent of the Exchange.~~ **Proposed Repeal**	
DIVISION 4 – SUPERVISION OF TRADING **2-401 Supervision of Trading** **Repealed (April 1, 2002)**	
2-402 Accounts (1) Accounts over which an Approved Trader has authority or control, directly or indirectly, shall be maintained with their Participating Organization. (2) **Repealed (April 1, 2002)** (3) **Repealed (April 1, 2002)**	
2-403 Prohibition of Carrying Certain Accounts Without Consent (1) ~~No Participating Organization shall carry any account in securities which is under the control or authority of an Approved Person or employee of another Participating Organization or an partner in or director, officer or employee of a dealer which is not a Participating Organization without the written consent of such other Participating Organization or dealer.~~ (2) ~~For the purposes of this Rule, a Participating Organization making any trade pursuant to the authority or control of such a person shall be considered to be carrying such an account.~~ (3) ~~The Participating Organization carrying the account shall deliver to the other Participating Organization or dealer statements at intervals of not more than a month showing each trade and entry for each such account since the period covered by the last such statement.~~ (4) ~~In the case of an account under the authority or control of a partner or a director of the Participating Organization such statement may be waived and any such waiver and any consent under Rule 2-403(1) must be signed by another partner in or director of the other Participating Organization or dealer.~~ **Proposed Repeal**	
2-404 Records of Orders **Repealed (April 1, 2002)**	
2-405 Confirmation (1) ~~A Participating Organization that has acted in the purchase or sale of a listed security shall promptly send or deliver to its client, if any, a written confirmation of the purchase or sale setting forth the~~	

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~~following:~~ (a) ~~the quantity and description of the security, and where the security is a restricted share, the description of the security shall include the appropriate restricted share term or an abbreviation with an explanation of the abbreviation;~~ (b) ~~the consideration;~~ (c) ~~whether the Participating Organization was acting as principal or agent;~~ (d) ~~if acting as agent, the name of the Participating Organization from or to or through whom the security was bought or sold;~~ (e) ~~the date upon which the purchase or sale took place;~~ (f) ~~the commission, if any, charged in respect of such purchase or sale;~~ (g) ~~the name of the Registered Representative or other person instructed by the client to make the purchase or sale;~~ (h) ~~that the purchase or sale took place upon the Exchange; and~~ (i) ~~in the case of stripped coupons and residual debt instruments:~~ (i) ~~the yield thereon calculated on a semi-annual basis in a manner consistent with the yield calculation for the debt instrument which has been stripped, and~~ (ii) ~~the yield thereon calculated on an annual basis in a manner consistent with the yield calculation for other debt securities which are commonly regarded as being competitive in the market with such coupons or residuals such as guaranteed investment certificates, bank deposit receipts and other indebtedness for which the term and interest rate is fixed.~~ (2) ~~For the purposes of Rule 2 405(1)(d) and (g) the person may be identified in a written confirmation by means of a code or symbols if the written confirmation also contains a statement that the name of the person will be furnished to the client on request.~~ (3) ~~Where the Participating Organization uses a code or symbols for identification in a confirmation under Rule 2 405(1)(d) and (g) the Participating Organization, if requested by the Exchange, shall file the code or symbols and their meaning with the Exchange and shall notify the Exchange within five days of any change in or addition to the code or symbols or their~~	

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~~meaning.~~ (4) ~~Provided that every confirmation contains the information specified in Rule 2-405(1), the confirmation may be recorded and delivered in such form or manner as may be determined from time to time by the recognized self-regulatory organization of which the Participating Organization is a member.~~ (5) ~~A copy of each confirmation shall be retained by each Participating Organization for 5 years.~~ (6) ~~For the purposes of Rule 2-405(1), "restricted shares" shall refer to those classes of shares that are included in lists of restricted shares published from time to time by the Exchange, the Investment Dealers' Association or other Canadian stock exchanges, and "restricted share term" shall refer to the designation of a particular class of shares that appears in such lists.~~ **Proposed Repeal**	
2-406 Records of Security Positions ~~A Participating Organization shall keep a record showing its security position from day to day and such record shall be kept in a manner as to enable the Participating Organization within a reasonable period to show the position on any prescribed date in all securities bought, sold or carried for or in any and all accounts, as well as the long and short position of each account in each security, the number of securities owing to or from the Clearing Corporation, the number of securities hypothecated, the number of securities in transfer and the number of securities on hand.~~ **Proposed Repeal**	
DIVISION 5 – CONNECTION OF ELIGIBLE CLIENTS OF PARTICIPATING ORGANIZATIONS **2-501 Designation of Eligible Clients** The Exchange may from time to time prescribe classes of entities as eligible to transmit orders to the Exchange through a Participating Organization.	**2-501 Designation of Eligible Clients** (1) Prescribed Classes of Entities For the purposes of Rule 2-501, the following classes of entities are prescribed as eligible to transmit orders to the Exchange through a Participating Organization: (a) a client that falls within the definition of "acceptable counterparties" or "acceptable institutions" as defined in the General Notes and Definitions section of the Joint Regulatory Financial Questionnaire and Report; (b) a client that is registered as an investment counsellor or portfolio manager under the *Securities Act* of one or more of the

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	Provinces of Canada; (c) a client that is a foreign broker or dealer (or the equivalent registration) registered with the appropriate regulatory body in the broker's or dealer's home jurisdiction and that is an affiliate of a Participating Organization acting for its own account, the accounts of other eligible clients or the accounts of its clients; (d) a client that in the aggregate owns and invests on a discretionary basis at least $100 million in securities of issuers that are not affiliated with the customer and falls into one of the following categories: (i) an insurance company as defined in section 2(13) of the U.S. Securities Act of 1933, (ii) an investment company registered under the U.S. Securities Act of 1933 or any business development Company as defined in section 2(a)(48) of that Act, (iii) a small business investment company licensed by the U.S. Small Business Administration under section 301(c) or (d) of the U.S. Small Business Investment Act of 1958, (iv) a plan established and maintained by a U.S. state, its political subdivisions, or any agency or instrumentality of a U.S. state or its political subdivisions, for the benefit of its employees, (v) an employee benefit plan within the meaning of Title I of the U.S. Employee Retirement Income Securities Act of 1974, (vi) a trust fund whose trustee is a bank or trust company and whose participants are exclusively plans of the types identified in (iv) or (v) above, except trust funds that include as participants individual retirement accounts or U.S. H.R. 10 plans, (vii) a business development company as defined in section 202(a)(22) of the U.S. Investment Advisers Act of 1940, (viii) an organization described in section 501(c)(3) of the U.S. Internal Revenue Code, corporation (other than a bank as

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	defined in section 3(a)(2) of the U.S. Securities Act of 1933 or a savings and loan association or other institution referenced in section 3(a)(5)(A) of the U.S. Securities Act of 1933 or a foreign bank or savings and loan association or equivalent institution), partnership or Massachusetts or similar business trust, and (ix) an investment adviser registered under the U.S. Investment Advisers Act; (e) a client that is a dealer registered pursuant to section 15 of the U.S. Securities Exchange Act, acting for its own account or the accounts of other eligible clients, that in the aggregate owns and invests on a discretionary basis at least $10 million of securities of issuers that are not affiliated with the dealer, provided that securities constituting the whole or a part of an unsold allotment to or subscription by a dealer as a participant in a public offering shall not be deemed to be owned by such dealer; (f) a client that is an investment company registered under the U.S. Investment Company Act, acting for its own account or for the accounts of other Qualified Institutions, that is part of a family of investment companies which own in the aggregate at least $100 million in securities of issuers, other than issuers that are affiliated with the investment company or are part of such family of investment companies and, for these purposes, “family of investment companies” means any two or more investment companies registered under the U.S. Investment Company Act, except for a unit investment trust whose assets consist solely of shares of one or more registered investment companies, that have the same investment adviser (or, in the case of unit investment trusts, the same depositor), provided, for these purposes: (i) each series of a series company (as defined in Rule 18f-2 under the U.S. Investment Company Act) shall be deemed to be a separate investment company, and (ii) investment companies shall be deemed to have the same adviser (or depositor) if their advisers (or depositors) are

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	majority-owned subsidiaries of the same parent, or if one investment company's adviser (or depositor) is a majority-owned subsidiary of the other investment company's adviser (or depositor); (g) a client, all of the equity owners of which are Qualified Institutions, acting for its own account or the accounts of other Qualified Institutions; (h) a client that is a bank as defined in section 3(a)(2) of the U.S. Securities Act of 1933, or any savings and loan institution or other institution as referenced in section 3(a)(5)(A) of the U.S. Securities Act of 1933, acting for its own account or the accounts of other Qualified Institutions, that in the aggregate owns and invests on a discretionary basis at least $100 million in securities of issuers that are not affiliated with it and that has an audited net worth of at least $25 million; and (i) a client that enters an order through an Order-Execution Account. (2) Interpretation For the purposes of Policy 2-501(1): 1. In determining the aggregate amount of securities owned and invested on a discretionary basis by an entity, the following instruments and interests shall be excluded: bank deposit notes and certificates of deposit; loan participations; repurchase agreements; securities owned but subject to a repurchase agreement; and currency, interest rate and commodity swaps. 2. The aggregate value of securities owned and invested on a discretionary basis by an entity shall be the cost of such securities, except where the entity reports its securities holdings in its financial statements on the basis of their market value and no current information with respect to the cost of those securities has been published and in the latter event, the securities may be valued at market. In determining the aggregate amount of securities owned by an entity and invested on a discretionary basis, securities owned by subsidiaries of the entity that are consolidated with the entity in its financial statements prepared in accordance with generally accepted accounting principles may be included if the investments of such subsidiaries are managed under the discretion of the entity, except that, unless the entity is a reporting company under section 13 or 15(d) of the U.S. Securities Exchange Act, securities owned by such subsidiaries may not be included if the entity itself is a majority-owned subsidiary that would be included in the consolidated financial statements of another enterprise.

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2-502 Conditions for Connections A Participating Organization may transmit orders received electronically from an eligible client directly to the trading system provided that the Participating Organization has: (a) obtained prior written approval of the Exchange that the system of the Participating Organization meets the prescribed conditions; (b) obtained prior written approval of the Exchange for a standard form of agreement containing the prescribed conditions to be entered into between the Participating Organization and an eligible client and the Participating Organization has entered into an agreement in such form with the eligible client; and (c) met such other conditions as prescribed.	**2-502 Conditions for Connections** (1) System Requirements For the purposes of Rule 2-502(a), the system of the Participating Organization is required to: (a) support compliance with Exchange Requirements dealing with the entry and trading of orders by all eligible clients who will have direct access (for example, it must support all valid order information that may be required, including designation of short sales); (b) ensure security of access to the system (for example, through a password that will only enable persons at the eligible client authorized by the Participating Organization to have access to the system); (c) comply with specific requirements prescribed pursuant to Rule 2-502, including a facility to receive an immediate report of the entry or execution of orders; (d) enable the Participating Organization to employ order parameters or filters that will route orders over a certain size or value to the Participating Organization's trading desk (which parameters can be customized for each eligible client on the system); and (e) enable the Participating Organization to transmit information concerning unattributed orders entered by eligible clients to the Participating Organization's compliance staff on a real time basis. (2) Standard Form of Agreement For the purposes of Rule 2-502(b), the agreement between the Participating Organization and the client shall provide that: (a) the eligible client is authorized to connect to the Participating Organization's order routing system, eVWAP Facility., or the POSIT Call Market; (b) the eligible client shall enter orders in compliance with Exchange Requirements respecting the entry and trading of orders and other applicable regulatory requirements; (c) specific parameters defining the orders that may be entered by the eligible client are stated, including restriction to specific securities or size of orders; (d) the Participating Organization has the right to reject an order for any reason; (e) the Participating Organization has the

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	right to change or remove an order in the Book and has the right to cancel any trade made by the eligible client for any reason; (f) the Participating Organization has the right to discontinue accepting orders from the eligible client at any time without notice; (g) the Participating Organization agrees to train the eligible client in the Exchange Requirements dealing with the entry and trading of orders and other applicable Exchange Requirements; and (h) the Participating Organization accepts the responsibility to ensure that revisions and updates to Exchange Requirements relating to the entry and trading of orders are promptly communicated to the eligible client. (3) Additional Requirements For the purposes of Rule 2-502(c), the following additional conditions shall apply: 1. Any changes to the standard system interconnect agreement shall be approved by the Exchange in writing before becoming effective. 2. If required by the terms of the agreement between the eligible client and the Participating Organization, the Participating Organization shall ensure that its eligible clients are trained in the appropriate Exchange trading rules, as well as the use of the terminal and system. Training materials regarding Exchange trading rules that the Participating Organization proposes to use must be reviewed by the Exchange prior to use. 3. The Participating Organization shall have the ability to receive an immediate report of the entry and execution of orders. The Participating Organization shall have the capability of rejecting orders that do not fall within the designated parameters of authorized orders for a particular client. 4. The Participating Organization shall designate a specific person as being responsible for the System Interconnect. Orders executed through System Interconnects shall be reviewed for compliance and credit purposes daily by such designated person of the Participating Organization. 5. The Participating Organization shall have procedures in place to ensure that only eligible clients use System Interconnects and that such eligible clients can comply with Exchange Requirements and other applicable regulatory requirements. The eligibility of eligible clients using System Interconnects shall be reviewed at least annually by the Participating Organization. 6. The Participating Organization shall make available

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	for review by the Exchange, as required from time to time, copies of the system interconnect agreements between the Participating Organization and its eligible clients. (4) Order-Execution Account Requirements If the agreement required by Rule 2-502(b) is between a Participating Organization and a client in respect of an Order-Execution Account, the agreement: (a) may be in written form or be in the form of a written or electronic notice acknowledged by the client prior to the entry of the initial order in respect of such Order-Execution Account; and (b) may omit provisions that would otherwise be required by Policy 2-502(2)(c), (g) and (h) if the order routing system of the Participating Organization: (i) enforces the Exchange Requirements relating to the entry of orders, or (ii) routes orders that do not comply with Exchange Requirements relating to the entry of orders to an Approved Trader for review prior to entry to the trading system. (5) eVWAP Facility Requirements (a) Notwithstanding Policy 2-501(1)(i), for the purposes of Rule 2-501, clients eligible to transmit orders to the Exchange's eVWAP Facility exclude: (i) a client that is the resident in the U.S., and (ii) a client entering orders through an Order-Execution Account. (b) If the agreement required by Rule 2-502(b) is between a designated Participating Organization and a client with respect to the eVWAP Facility, the agreement may omit provisions which may otherwise be required by Policy 2-502(1)(d), 2-502(2)(d) and (e), and 2-502(2)(3)3 if the system through which the order is transmitted: (i) enforces Exchange Requirements relating to the entry of orders, (ii) enforces the credit limits imposed by the designated Participating Organization, and (iii) has the ability to transmit a trade report to both the client and the designated Participating

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	Organization. (6) POSIT Call Market Requirements The agreement required by Rule 2-502(b) between a Participating Organization and a client with respect to the POSIT Call Market may omit provisions otherwise required by Policy 2-502(1)(d), 2-502(2)(d) and (e), and 2-502(3)3 if: (a) the agreement provides that any person, other than the Exchange, who provides software, hardware or services to the Exchange ("Third Party Provider") to support the operations of, or the services or information accessible through, the trading system which shall include without limitation, the POSIT Call Market, shall not be liable to the Participating Organization or the eligible client or any other person for any loss, damage, cost, expense or other liability or claim (including loss of business, profits, trading losses, loss of anticipated profits, business interruption, loss of business information or for indirect, special, punitive, consequential or incidental loss or damage or other pecuniary loss) of any nature arising from any use or inability to use the trading system, howsoever caused, including by the Third Party Provider's negligence or reckless or wilful act or omissions, even if the Third Party Providers are advised of such possibilities; and (b) a system through which the order is transmitted: (i) enforces Exchange Requirements relating to the entry of POSIT Orders; and (ii) has the ability to generate a trade report to the client and, for the purposes of disseminating the trade report to eligible clients outside of Canada, to the designated Participating Organization; and (c) the Participating Organization has the ability to access an eligible client's trade report through the STAMP query.
2-503 Responsibility of Participating Organizations A Participating Organization which enters into an agreement with a client to transmit orders received from the client in accordance with Rule 2-502 shall: (a) be responsible for compliance with Exchange Requirements with respect to the entry and execution of orders transmitted by	

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eligible customers through the Participating Organization; and (b) provide the Exchange with prior written notification of the individual appointed to be responsible for such compliance.	
DIVISION 6 – SUSPENSION AND TERMINATION **2-601 Good Standing** (1) No person shall use, exercise or enjoy any of the rights or privileges of a Participating Organization unless the person is a Participating Organization that has not been suspended or terminated and that has not been deprived of such rights or privileges pursuant to Exchange Requirements. (2) A Participating Organization that has been suspended or terminated or that has been deprived of some rights or privileges pursuant to Exchange Requirements shall not for that reason alone lose its rights hereunder in respect of any claims it may have against another Participating Organization unless such rights are expressly dealt with.	
2-602 Suspension and Termination (1) A Participating Organization may terminate its status as such by giving not less than 3 months' written notice to the Exchange. (2) The Exchange may postpone the effective date of termination until it is satisfied that the Participating Organization has: (a) complied with Exchange Requirements; and (b) obtained the necessary consents from the recognized self-regulatory organization of which it is a member. (3) A Participating Organization's status shall be automatically suspended if: (a) the Participating Organization ceases to be a member in good standing of a recognized self-regulatory organization; (b) the Participating Organization ceases to be registered as a dealer in a Canadian jurisdiction; or (c) the Participating Organization has been denied access to a marketplace by a regulation services provider. (4) ~~The Board may terminate~~ The Exchange may suspend a Participating Organization~~'s status as a~~ if the Participating Organization~~, if a Tribunal determines, after a hearing conducted according to the rules established under Part 7, that a Participating Organization has~~: (a) has contravened or is not in compliance with	

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an Exchange Requirement; or (b) is engaged in conduct, business or affairs that is unbecoming, inconsistent with just and equitable principles of trade or detrimental to the interests of the Exchange or the public. (5) Where a Participating Organization's status has been suspended pursuant to subsection (3) or (4) and the cause for the suspension has not been remedied within 12 months from the date of suspension, the Participating Organization's status shall be automatically terminated unless the Exchange determines otherwise. **Proposed Amendment**	
2-603 Automatic Suspension (1) ~~If a Participating Organization becomes insolvent or bankrupt or adjudged to be a defaulter in accordance with Part V, the Participating Organization shall automatically and without the necessity of any action by the Board or the Exchange, be suspended as a Participating Organization and notice of such suspension shall be provided by the Exchange to Participating Organizations.~~ (2) ~~A Participating Organization shall be deemed to be insolvent if:~~ (a) ~~the Participating Organization is for any reason unable to meet its obligations as they generally become due;~~ (b) ~~the Participating Organization has ceased paying its current obligations in the ordinary course of business as they generally become due; or~~ (c) ~~the aggregate of the property of the Participating Organization is not, at a fair valuation, sufficient or, if disposed of at a fairly conducted sale under legal process, would not be sufficient to enable payment of all its obligations, due and accruing due.~~ (3) ~~A Participating Organization shall be deemed to be bankrupt if the Participating Organization has committed an act of bankruptcy as set forth in the *Bankruptcy and Insolvency Act* (Canada).~~ **Proposed Repeal**	
DIVISION 7 – TRADING NUMBERS **2-701 - Repealed (April 1, 2002)**	
2-702 Disclosure of Trading Number No order shall be entered into the trading system, unless such	

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order discloses the trading number which has been assigned to the Participating Organization which has entered the order.	
DIVISION 8 – ACCESS TO THE TRADING SYSTEM BY MARKETPLACES, PARTICIPANTS OR ACCESS PERSONS **2-801 Access to the Trading System** A marketplace, Participant or Access Person that is not a Participating Organization shall be permitted to access the trading system solely in accordance with applicable legal and regulatory requirements and in accordance with the written standards set out by the Exchange as amended from time to time. **Proposed Amendment**	
2-802 Fees and Charges (1) A marketplace, Participant or Access Person that is permitted to access the trading system in accordance with Rule 2-801 shall pay such fees and charges as shall be fixed by the Exchange, which shall become due and payable to the Exchange at such time or times and in such manner as the Exchange shall require. (2) A marketplace, Participant or Access Person that is permitted to access the trading system in accordance with Rule 2-801 shall pay the fees charged by RS, in accordance with any fee schedule adopted by RS. **Proposed Amendment**	
PART 3 – GOVERNANCE OF TRADING SESSIONS **DIVISION 1 - SESSIONS** **3-101 Date and Time of Sessions** (1) The Exchange shall be open for Sessions on each Business Day. (2) Unless otherwise changed by a resolution of the Board (a) the Regular Session shall open at 9:30 a.m. and close at 4:00 p.m.; (b) the Special Trading Session shall open at 4:05 p.m. and close at 5:00 p.m.; and (c) the eVWAP Session shall open at 9:15 a.m. and close prior to the opening of the Regular Session.	
3-102 Trades Outside of Hours for Sessions ~~Except as approved by a Market Surveillance Official, no trade in a listed security shall be made on the Exchange at a time prior to the dissemination by the Exchange on the trading system of a message opening the Session or at a time after~~	

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~~the dissemination by the Exchange on the trading system of a message closing the Session.~~ **Proposed Repeal**	
3-103 Changes in Sessions, Trading Suspensions and Halts (1) ~~The Board,~~ The Exchange, at any time ~~by resolution,~~ may: (a) suspend all trading at any Session or Sessions; (b) close any Session or Sessions; or (c) reduce, extend or otherwise alter the time of any Session or Sessions. (2) ~~The Chairman or, in the absence of the Chairman, the Vice-Chairman, or in the absence of the Vice-Chairman, the President may, at any time in the event of an emergency:~~ (a) ~~suspend all trading at any Session or Sessions; or~~ (b) ~~reduce, extend or otherwise alter the time of any Session or Sessions.~~ **Proposed Repeal** (3) ~~The President or, in the absence of the President, any Senior Vice-President as may at any time in the event of a technical problem with the trading system that is substantially impairing trading or will likely substantially impair trading if not resolved:~~ (a) ~~suspend operation of any or all trading systems at any Session or Sessions; or~~ (b) ~~reduce, extend or otherwise alter the time of any Session or Sessions.~~ **Proposed Repeal** (4) **Repealed (April 1, 2002)** (5) **Repealed (April 1, 2002)**	
DIVISION 2 – DECISIONS **3-201 Powers of Trading Policy Committee** **Repealed (April 3, 2000)**	
3-202 Powers of Equities Procedure Committee **Repealed (April 3, 2000)**	
3-203 - Repealed (April 1, 2002)	

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3-204 General Exemptive Relief (1) The Board may by Policy exempt any class of persons or class of transactions from the application of an Exchange Requirement if, in the opinion of the Board, the provision of such exemption: (a) would not be contrary to the provisions of the *Securities Act* and the rules and regulations thereunder; (b) would not be prejudicial to the public interest or to the maintenance of a fair and orderly market; and (c) is warranted after due consideration of the circumstances of such class of persons or class of transactions. (2) The Exchange may by Decision exempt any particular person or particular transaction from the application of an Exchange Requirement if, in the opinion of the Exchange, the provision of such exemption: (a) would not be contrary to the provisions of the *Securities Act* and the rules and regulations thereunder; (b) would not be prejudicial to the public interest or to the maintenance of a fair and orderly market; and (c) is warranted after due consideration of the circumstances of the particular person or transaction.	
3-205 General Prescriptive Power The Board may prescribe such other terms and conditions, as the Board considers appropriate in the circumstances, related to: (a) trading in listed securities, either on or off the Exchange; and (b) settlement of trades in listed securities.	
3-206 General Anti-Avoidance Provision If, in the opinion of the Exchange, a Participating Organization has organized its business and affairs for the purpose of avoiding the application of any Exchange Requirement, the Exchange may apply such Exchange Requirement to the Participating Organization or Approved Person in the same manner as if such provision had directly applied to such Participating Organization or Approved Person.	
3-207 Withdrawal of Approval and Changes in Exchange Requirements Any Exchange Approval and any Exchange Requirement may at any time be changed, suspended, withdrawn or revoked by	

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the Exchange, with or without notice or cause, and notwithstanding any action taken or position changed by anyone, including the Exchange, any Participating Organization and any Approved Person, since the granting of the Exchange Approval or the making of the Exchange Requirement, each Participating Organization and each Approved Person will comply with such change, suspension, withdrawal or revocation and any Decisions made by the Exchange.	
3-208 Appeals of Decisions **Repealed (April 1, 2002)**	
PART 4 – TRADING OF LISTED SECURITIES **DIVISION 1 - MARKET FOR LISTED SECURITIES** **4-101 ~~Trades of Listed Securities to be on the Exchange~~ "Trades Through the Facilities of the Exchange"** (1) All trades in listed securities by a Participating Organization that result from orders that are not exposed on a marketplace shall be executed through the facilities of the Exchange. (2) Subsection (1) does not apply where a trade is made in accordance with Rule 6.4 of UMIR by means other than entry on a marketplace ~~**Repealed (April 1, 2002)**~~ **Proposed Amendment**	
4-102 Off-Exchange Trades in Listed Securities **Repealed (April 1, 2002)**	
4-103 Wide Distributions (1) Definitions In this Rule: **"distributing Participating Organization"** means the Participating Organization or Participating Organizations making a wide distribution but does not include Participating Organizations participating in the distribution under Rule 4-103(4)(d). **"distribution period"** means the period of time until a wide distribution is completely sold, but shall not exceed the end of the second trading session after the session in which the distribution was announced. **"distribution price"** means the price at which shares are to be sold under a wide distribution. **"qualified bid"** means a bid that was on the Exchange or on any other Canadian exchange, at the commencement of the distribution period at a price that is at or above the distribution price. **"qualified order"** means an order having a value of at least	**4-103 Wide Distributions** Introduction — In order to facilitate the distribution of listed securities to a broad spectrum of investors, Rule 4-103 permits a Participating Organization (or a group of Participating Organizations) having a position regardless of how it was to effect a wide distribution off the Exchange. The essential requirements of a wide distribution are: (a) distribution to 25 or more accounts, no one of which is to receive more than 50% of the amount distributed; (b) timely public announcement of the wide distribution; (c) completion of the wide distribution by the end of the fourth trading Session after the Session in which the Distribution is announced; and (d) inclusion of the already-committed orders of other Participating Organizations. These procedures are designed to facilitate distributions that are neither sales from control nor trades that require delivery of a prospectus under the *Securities Act*. Trades that require delivery of a prospectus may be made off the Exchange

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$25,000,000. **"wide distribution"** means a series of distribution principal trades to not less than 25 separate and unrelated client accounts, no one of which participates to the extent of more than 50% of the total value of the distribution. (2) Qualification for Wide Distribution A Participating Organization having a qualified order and intending to effect a wide distribution may take that order into its account by making an off-Exchange principal trade for the purpose of immediately effecting a wide distribution. (3) Distribution from Inventory A Participating Organization may make a wide distribution of securities previously acquired by that Participating Organization and held in inventory, provided that the securities to be distributed have an aggregate value of at least $25,000,000. (4) Wide Distribution A Participating Organization may undertake a wide distribution off the Exchange only in compliance with the following provisions: (a) the prior consent of the Exchange to the distribution and any off-Exchange take-on trade must be obtained; (b) all qualified bids above the distribution price shall be filled at the distribution price; (c) qualified bids at the distribution price shall be filled at the distribution price, provided that the distributing Participating Organization need fill the bids only to the extent that 20% of the total shares to be distributed are sold to all qualified bids; (d) shares may be made available for distribution to other Participating Organizations at the distribution price, provided that all bids at the distribution price are filled; (e) the sales to the qualified bids shall be on-Exchange trades at the distribution price; (f) Participating Organizations purchasing shares pursuant to sales to qualified bids or in any off-Exchange distribution shall give priority to orders for the accounts of clients in accordance with ~~Rule 4-501~~ UMIR Rule 5.3; (g) the transactions of the distributing Participating Organization on the Exchange during the distribution period are subject to ~~Rule 4-303~~ UMIR Rule 7.7; and (h) at the end of the distribution period, the privilege of making distribution principal trades shall terminate.	pursuant to the exemption in ~~Rule 4-102(1)(k)~~ UMIR Rule 6.4(h). Large distributions that are sales from a control block may be effected by a distribution pursuant to ~~Policy 4-305~~ applicable securities law requirements. Purpose — The wide distribution procedure is an exception to the general rule that listed securities must be traded on ~~the Exchange~~ a marketplace, and the rule has been written to parallel the procedure for a prospectus distribution as closely as possible. It is designated to facilitate Participating Organizations that have acquired a large block of stock in inventory and wish to distribute it to a number of clients at a fixed price. Because this procedure is an exception to the general rule that Participating Organizations must trade on ~~the Exchange~~ a marketplace, it is considered conduct unbecoming of a Participating Organization to acquire a qualified order off the Exchange with no intention to immediately make a wide distribution. Such trades are to be made on ~~the Exchange~~ a marketplace pursuant to ~~Rule 4-101~~ UMIR Rule 6.4. To restrict the period during which special privileges are available, the distribution period should be limited to the minimum time necessary for a distributing Participating Organization to complete a well-organized distribution –in any case, the distribution period is to be no longer than until the end of the Second Session after the Session in which the distribution is announced. Joint Distributing Participating Organizations — A Participating Organization may make a wide distribution jointly with other Participating Organizations. If this is the case, the Regulatory and Market Policy Division must be informed of the identity of all Participating Organizations making the distribution. All of the Participating Organizations will be considered "distributing Participating Organizations" for the purpose of the Rule and this Policy. Special Source Of Positions Of Qualified Stock — In addition to the usual ways of acquiring a block of securities (accumulation on the Exchange, outside-of-Canada, conversion of debentures, preferred shares or warrants, etc.), Rule 4-103 provides a Participating Organization with the ability to purchase off the Exchange a block of securities equal in size to a qualified order in that security for the express purpose of making a wide distribution off the Exchange. The definition of a qualified order is in Rule 4-103(1). Timing of Sales Effort in a Wide Distribution — Regardless of whether the stock is being purchased in an off-Exchange take-on trade or has been acquired in some other manner, it is understood that prior to making all details firm the trading department may have conferred with salesmen and had some calls made to potential buyers in order to assess the probabilities of a successful distribution, and to set the price of deal. However, firm sales may not be made until the announcement by the Exchange of the distribution. Announcing the Distribution - Timing and Form — The Regulatory and Market Policy Division of the Exchange must be consulted in advance of any proposed wide distribution

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(5) Exemption from Records Requirements ~~During a distribution period, the distributing Participating Organization is exempt from the provisions of Rule 2-404 with respect to the listed securities subject to the distribution.~~ **Proposed Repeal**	or off-Exchange take-on trade. It will prepare the Official announcement of the wide distribution to notify the Participating Organizations and the public of the deal. Normally, a wide distribution will take place at the close of trading. Immediately following the close, the Exchange will announce the distribution in substantially the following form: "(Participating Organization) *has undertaken a Rule 4-103 wide distribution of* (number of shares) *of* (security) *at* (distribution price) *net. Bids that exist on any Canadian stock exchange above* (distribution price) *shall be filled at* (distribution price). *Bids at the distribution price shall be filled to a maximum of X shares." "A selling group letter has been distributed by* (Participating Organization*). Purchase orders must be submitted to* (contact) *before* (time)." The announcement may contain other information if necessary. At the request of the distributing Participating Organization, the Exchange may make a pre-announcement that particulars of a wide distribution will be announced at the close. The identity of the stock to be distributed will not be revealed in a pre-announcement unless the distributing Participating Organization so requests. The taping of the announcement denotes the beginning of the distribution period, i.e., the period during which the distributing Participating Organization is entitled to certain privileges, e.g., the ability to unwind by off-Exchange transactions with its own clients and to be exempt from certain trading restrictions which generally apply. The privileges are not available until after the announcement has been made. In certain cases (and only if the security to be distributed is not traded on a United States securities market) the Exchange may permit a distribution to be made during the trading day. Because this will require the stock to be halted to announce the delay (and to determine whether qualified bidders wish to be filled), this will only be permitted in circumstances where the distributing Participating Organization can demonstrate that it would not be feasible to wait until the close. For any security, a Participating Organization may make a distribution at the opening. Qualified Bids — At the announcement of the distribution, the market in the security shall be halted. All bids above the distribution price on the Exchange shall be filled at the distribution price. Bids at the distribution price shall be filled, however, the distributing Participating Organization is only required to fill qualified bids at the distribution price until 20% of the distribution has been sold on the Exchange. This means that, of the total distribution, at least 20% must be made available to qualified bids and the Responsible Registered Trader and options specialist (as set out below). However, all qualified bids above the distribution price must be filled, even if this represents more than 20% of the distribution. The distributing Participating Organization may increase the distribution price at any time before the Exchange announces the distribution. In addition to the qualified bids, a minimum of 10 times the Minimum Guaranteed Fill for the stock shall be made

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	available to the responsible Registered Trader to enable the Registered Trader to perform market making Responsibilities, except as noted below. A minimum of 10 times the MGF shall also be allocated to the options specialist(s), if any, to enable them to conduct a closing rotation. Less stock may be made available if the stock to be sold the Registered Trader and options specialist, when combined with the qualified bids that are filled, exceeds 20% of the distribution (in which case, stock only need be provided up to the 20% threshold). For example, a Participating Organization wishes to distribute 625,000 shares of ABC Co. at $40 (20% is 125,000 shares). At the time the distribution is announced, the following bids are on the Exchange at the close: 22,500 40.20 22,500 40.15 25,000 40.10 20,000 40.05 15,000 40.00 90,000 shares are required to fill qualified bids at above the distribution price. Assuming an MGF of 1099 on the stock (and assuming that ABC options are traded on the Exchange), a total of 20,000 shares are to be made available to the Registered Trader and options specialist. This, added together to the 15,000 shares bid at the distribution price, would bring the total amount required to fill all qualified bids to 125,000 shares, or more than 20% of the total. Only 35,000 shares would be required to be made available to the qualified bids and to the Registered Trader and options specialist, and these would be allocated on an equal basis. If, in this example, the distributing Participating Organization wished to bring other Participating Organizations into the distribution to assist in selling, it would have to fill all bids at $40. Acceptance of shares by qualified bidders is not mandatory. *Note: The above paragraphs refer to entitlement of bidders on the Exchange to Participation. If a disturbing Participating Organization wishes to include other Participating Organizations at the same price after announcement of the distribution but before the end of the distribution period, such inclusion is not contrary to these rules, provided that all qualified bids at the distribution price have been filled and stock made available to the Registered Trader and the options specialist. Equally, the distributing Participating Organization may take back any unsold shares or unwanted shares. Such flexibility is to emulate the practices used in underwritten distributions.* <u>Settlement</u> — Participating Organizations representing qualified bids will confirm to their clients at the distribution price (with any commission), and will disclose on the confirmation that the shares were obtained pursuant to a wide distribution under Rule 4-103. Settlement of distribution principal transactions shall be over-the-counter. The confirmation shall state that the shares were sold pursuant to a distribution principal transaction under Rule 4-103. <u>Market Activity in Connection with the Announcement and Distribution</u>

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	Period**-** (a) Price limitation on bids and purchases during distribution period – In trading after the commencement of a distribution, the distributing Participating Organization is permitted to fill any bid vacuum which was created by filling the qualified bids. In doing this it is permitted to make bids no higher than the distribution price. In addition, purchase transactions and bids in the market by a distributing Participating Organization are restricted by ~~Rule 4-303~~ UMIR Rule 7.7. Until completion of the wide distribution, a distributing Participating Organization is not permitted to bid above the distribution price even on behalf of an unsolicited client order. The Participating Organization may not hold client buy orders in order to fill them at a higher price following the distribution, but must sell to the client at the distribution price. (b) Trading privileges to support a wide distribution – During the distribution period the distributing Participating Organization can act with discretion on the Exchange for purposes of maintaining an orderly market in the stock during the wide distribution. Over Allotment — Over-allotment of up to 10% of the amount announced for distribution is permitted; thus, if 600,000 shares were announced for distribution, a distributing Participating Organization could sell a total of 660,000 shares through off-Exchange distribution principal trades and qualified bids combined in order to permit a cushion against which to accept cancellations to offset shares purchased from its own clients during the distribution period and to assist with providing purchases on the Exchange in the interest of an orderly market. Incomplete Distributions — In the event that an offering goes badly and the distribution ends without the distributing Participating Organization having been able to sell the whole position, then the Participating Organization may not routinely continue to sell to its own clients off-Exchange without the prior consent of the Exchange. However, it may sell remaining shares out of the position: (a) to its own clients in on the Exchange principal unwinding trades; (b) to other Participating Organizations on the Exchange; or (c) through other means as provided for in the Rules.
4-104 Proprietary Electronic Trading Systems (1) A Participating Organization may operate or sponsor	

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a PETS provided the Participating Organization has provided to the Exchange reasonable prior notice of: (a) the intention of the Participating Organization to operate or sponsor a PETS; (b) the functionality of the PETS; and (c) any material modifications to the operation or functionality of the PETS. (2) The operation of a PETS shall be: (a) limited to orders for more than 50 standard trading units~~.~~ (i) ~~1,200 units of a listed security other than a debt security, and~~ (ii) ~~$10,000 in principal amount of a listed security that is a debt security;~~ (b) subject to Exchange Requirements; and (c) integrated with the Exchange's market. **Proposed Amendment**	
4-105 eVWAP Facility (1) Execution – Orders are to be executed at the time the match results are determined with a to-be-determined (TBD) price. (2) Eligible Orders – Orders eligible for the eVWAP Facility must be a minimum size of 2 board lots. (3) Board Lots – "Board Lot" for the purposes of the eVWAP Facility means 500 units of an eVWAP Security. (4) Settlement – All trades in the eVWAP Facility must be for regular settlement, as prescribed by the Exchange from time to time. (5) Unfilled Portions of Orders – Any unfilled portion of an order in the eVWAP Facility shall be considered to be cancelled unless otherwise specified. (6) Allocation of Trades – Notwithstanding Rules 4-801 and 4-802 and unless otherwise provided, (a) trades in the eVWAP Facility shall be calculated at the eVWAP Price; (b) trades shall be allocated among orders in the following manner and sequence: (i) to intentional crosses; (ii) to one-sided commitments, first by size and then by time priority; (iii) to two-sided commitments, first by size and then by time priority; and then (iv) to residual orders in amounts up to the limit guaranteed by a	

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Participating Organization. (c) trades allocated in the manner described in Rule 4-105(6)(b)(ii) and (iii) are subject to a revolving sequence in increments as designated by the Exchange from time to time. (7) Restriction on Setting Last Sale or Closing Price – Trades executed in the eVWAP Facility shall not be used in calculation of either a last sale price or closing price for a stock for the Regular Session or the Special Trading Session. (8) Exemption from Short Sale Rule – ~~Short sale orders in the eVWAP Facility are exempt from the application of Rule 4-301(1).~~ **Proposed Repeal** (9) Client Priority – ~~Rule 4-501(2)~~ UMIR Rule 5.3 shall not apply to an allocation made by the eVWAP Facility, provided that the order has been entered by an eligible client pursuant to Rule 2-502. **Proposed Amendment** (10) Exemption from the Client-Principal Trading Rule – ~~Rule 4-502 shall not apply to trades in the eVWAP Facility.~~ **Proposed Repeal**	
4-106 POSIT Call Market (1) Establishment of Times for POSIT Calls– Unless otherwise prescribed, a POSIT Call shall occur on each Trading Day at: (a) 10:30 a.m. (b) 2:30 p.m. (2) Order Entry– A POSIT Participant may enter a POSIT Order at any time on a Trading Day as may be determined by the Exchange. (3) Orders for Board Lots – a POSIT Order for a particular security must be for a board lot or an integral multiple of a board lot of that security. (4) Restrictions on Execution – A POSIT Order for a particular security shall not execute if, at the POSIT Match Time: (a) trades in the security are subject to special settlement rules issued by the Exchange in accordance with Rule 5-103(2); (b) trading in the particular security has been halted or delayed by the Exchange or a Market Surveillance Official; or (c) there is not both and ask price and a bid price for the security. (5) Unfilled Orders - Unless an order is a Multiple Match Order, any POSIT Order which is not executed at the POSIT Call which occurs immediately following the entry of the POSIT order shall be automatically cancelled. (6) Execution and Allocation of Trades – Subject to	

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compliance with any Constraints, in respect each POSIT Call, POSIT Orders shall execute at the POSIT Price at the POSIT Match Time and shall be allocated among orders: (a) to maximize the total number of securities traded during the particular POSIT Call; and (b) on a *pro rata* basis rounded to the nearest board lot in respect of each security. (7) ~~Compliance with~~ Exemption from Short Sale Rule ~~For the purposes of Rule 4-301(1), a short sale in a security may be made in the POSIT Call Market notwithstanding that the POSIT Price in respect of such security is below the price of the last board lot sale of the security on the Exchange.~~ **Proposed Repeal** (8) Exemption from the In-House Client Priority Rule – Notwithstanding ~~Rule 4-501~~ UMIR Rule 5.3, a Participating Organization need not give priority to a client order if the client has entered the order as a POSIT Order pursuant to access provided to the client under Rule 2-501. **Proposed Amendment**	
DIVISION 2 – MARKET INTEGRITY **4-201 General Compliance Requirement** Each Participating Organization and each person under the jurisdiction of the Exchange shall comply with all applicable: (a) Securities legislation; (b) Exchange Requirements; and (c) Provisions of UMIR. **Added (April 1, 2002)**	
4-201- Just and Equitable Principles **Repealed (April 1, 2002)**	
4-202- Maniplulative or Deceptive Method of Trading **Repealed (April 1, 2002)**	
4-203- Recorded Prices **Repealed (April 1, 2002)**	
4-204- Frontrunning **Repealed (April 1, 2002)**	
4-205- Cancelled Trades **Repealed (April 1, 2002)**	
4-206- Records of Trades **Repealed (April 1, 2002)**	
4-207- Liability of Participating Organizations for Bids, Offers and Contracts	

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Repealed (April 1, 2002)	
DIVISION 3 – RESTRICTIONS ON TRADING **4-301 – Short Selling** **Repealed (April 1, 2002)**	
4-302 – Report of Short Positions **Repealed (April 1, 2002)**	
4-303 – Restrictions on Trading by Participating Organizations involved in a Distribution **Repealed (April 1, 2002)**	
4-304 – Market Balancing in a Securities Exchange Take-Over **Repealed (April 1, 2002)**	
4-305 Sales from Control Block Through the Facilities of the Exchange ~~If any order for the sale of a listed security on the Exchange is being undertaken in reliance on clause 72(7)(b) of the *Securities Act,* the client and the Participating Organization shall comply with such requirements as prescribed.~~ **Proposed Repeal**	**4-305 Sales from Control Block Through the Facilities of the Exchange** (1) ~~Responsibility of Participating Organization and Seller~~ ~~It is the responsibility of both the selling shareholder and the Participating Organization acting on their behalf to ensure compliance with Exchange Requirements and applicable securities laws. In particular, Participating Organizations and selling shareholders should familiarize themselves with the procedures and requirements set out in subsection 72(7) of the *Securities Act* and the restrictions on control block sales imposed in Part 3 of Rule 45-501 made under the *Securities Act*.~~ (2) ~~Sales Pursuant to an Order or Exemption~~ ~~If securities are to be sold from a control block pursuant to an order made under section 74 of the *Securities Act* or an exemption contained in subsection 72(1) of the *Securities Act*, the securities acquired by the purchaser may be subject to a hold period in accordance with the provisions of the *Securities Act*. Sales of securities subject to a hold period are special terms trades and will normally be permitted to take place on the Exchange without interference.~~ (3) ~~General Rules for Control Block Sales on the Exchange~~ 1. ~~***Filing*** – The seller shall file "Form 23" under the Regulation under the *Securities Act* with the Exchange at least seven days prior to the first trade made to carry out the distribution.~~ 2. ~~Notification of Appointment of Participating Organization – The seller must notify the Exchange of the name of the Participating Organization which will act on behalf of the seller. The seller shall not change the Participating Organization without prior notice to the Exchange.~~ 3. ~~***Acknowledgement of Participating Organization*** – The Participating Organization acting as agent for~~

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	~~the seller shall give notice to the Exchange of its intention to act on the sale from control, and such notice shall be accepted in writing by the Exchange, before any sales commence.~~ 4. ~~***Report of Sales*** - The Participating Organization shall report in writing to the Exchange Division on the last day of each month the total number of securities sold by the seller during the month, and, if and when all of the securities have been sold, the Participating Organization shall so report forthwith in writing to the Exchange.~~ 5. ~~***Issuance of Exchange Bulletin*** - The Exchange shall issue a bulletin respecting the proposed sale from control which bulletin will contain the name of the seller, the number of securities of the listed company held by the seller, the number proposed to be sold, and any other information that the Exchange considers appropriate. The Exchange may issue further bulletins from time to time regarding the sales made by the seller.~~ 6. ~~***Special Conditions*** – The Exchange may, in circumstances it considers appropriate, require that special conditions be met with respect to any sales. Possible conditions include, but are not limited to, the requirement that the seller not make a sale below the price of the last sale of a board lot of the security on the Exchange which is made by another person acting independently.~~ 7. ~~***Term and Renewal*** – The initial filing of Form 23 is valid for a period of 60 days and a renewal of the Form 23 must be filed with the Exchange every 28 days thereafter if sales are to continue.~~ 8. ~~***First Sale*** - The first sale cannot be made until at least 7 days after the filing of Form 23 and the first sale under the initial Form 23 must be made within 14 days of the filing.~~ (4) ~~Restrictions on Control Block Sales on the Exchange~~ 1. ~~***Private Agreements*** A Participating Organization is not permitted to participate in sales from control by private agreement transactions. If Participating Organizations are to participate, transactions must be executed on the Exchange or the transactions must be exempt from the requirement to be conducted on the Exchange in accordance with Rule 4-102.~~ 2. ~~***Normal Course Issuer Bids*** If the issuer of the securities which are the subject of the sale from control block is undertaking a normal course issuer bid in accordance with Part 6 of the Rules, the normal course issuer bid and the sale from control block will be permitted on the condition that:~~ (a) ~~the Participating Organization acting for the issuer confirms in writing to the Exchange that it will not bid for securities on behalf of the issuer at a time when securities are being offered on behalf of~~

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	~~the control block seller;~~ (b) ~~the Participating Organization acting for the control block seller confirms in writing to the Exchange that it will not offer securities on behalf of the control block seller at a time when securities are being bid for under the issuer bid; and~~ (c) ~~transactions in which the issuer is on one side and the control block seller on the other are not permitted.~~ 3. ~~***Price Guarantees*** - The price at which the sales are to be made can not be established or guaranteed prior to the seventh day after the filing of Form 23 with the Exchange.~~ 4. ~~***Crosses*** - A Participating Organization may distribute the whole of a control block sale to its own clients by means of a cross. Established crossing rules require that, prior to execution, all orders that are entered on any Canadian Exchange at better prices than the price of the proposed cross must be filled in full. If the market is to be moved before execution of a cross, the Responsible Registered Trader should be notified in advance.~~ **Proposed Repeal**
4-306- Trading and Equities by Market Makers and Option Traders **Repealed (April 1, 2002)**	
DIVISION 4 – GENERAL TRADING RULES **4-401 Trading in the Book** (1) The Book shall contain and display all orders to buy or sell a listed security that are made on the Exchange, unless otherwise provided by the Exchange. (2) Subject to Rule 4-1101, ~~O~~only committed orders shall participate in trading.~~, except for trading in the special terms market~~. (3) All trades in listed securities on the Exchange shall be executed in the Book, unless otherwise provided by the Exchange Requirements or by UMIR. **Proposed Amendment**	
Rule 4-402 Exposure of Client Orders **Repealed (April 1, 2002)**	
4-403 Designating Orders (1) Except as provided below, all non-client orders shall	

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be marked "N" at the time of entry on the Exchange. (2) Orders for Registered Trader accounts shall be marked "R". (3) Orders for all other principal accounts shall be marked "NX". (4) All jitney orders shall be marked "J". (5) Orders that constitute part of a program trade shall be marked “PT” for client orders and “PPT” for non-client orders in addition to any other marker required by this Rule. (6) The Exchange may from time to time require additional designations for certain orders.	
4-404 Minimum Ticks Until otherwise fixed by the Board, orders for listed securities shall only be entered on the Exchange at the following price increments: Increment Selling under $0.50…..... $0.005 Selling at $0.50 and over $0.010	
4-405 Approved Traders (1) ~~Except as permitted by the Exchange, no person shall enter orders or trade listed securities for or on behalf of a Participating Organization (whether as principal or agent) on the Exchange by any means unless that person has been approved for access to the equities market as an Approved Trader by the Exchange.~~ (2) ~~The Exchange may delegate the authority to approve persons to enter orders and trade listed securities on the Exchange to another self-regulatory organization designated by the Board.~~ (3) ~~No person shall be approved as an Approved Trader unless that person is a partner in or a director of a Participating Organization or an employee of a Participating Organization, is over the age of majority and meets such qualifications as to experience, formal education and knowledge of trading rules as may be established by the Exchange.~~ (4) ~~***Deleted***~~ (5) ~~A Participating Organization shall notify the Exchange in writing of the names of its Approved Traders and substitutions or deletions to the list shall not be made without first advising the Exchange.~~ **Proposed Repeal**	**4-405 Approved Traders** (1) ~~For the purposes of Rule 4-405(3), an individual shall not be approved by the Exchange as an Approved Trader unless such individual:~~ (a) ~~has an education equivalent to at least grade 12 in Ontario or has experience in the investment industry satisfactory to the Exchange;~~ (b) ~~is a registered representative or holds such other registration with a securities regulatory authority or recognized self-regulatory organization as is acceptable to the Exchange;~~ (c) ~~has not less than 14 weeks prior experience with the equities trading department of a Participating Organization;~~ (d) ~~(has:~~ (i) ~~successfully completed the Canadian Securities Course and has not less than one year’s experience with a Participating Organization, or~~ (ii) ~~has not less than two years experience with a Participating Organization; and~~ (e) ~~has successfully completed:~~ (i) ~~the Trader Training Course of the Canadian Securities Institute or such other course as approved~~

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	~~by the Exchange for the purpose of this Policy, or~~ (ii) ~~prior to October 5, 1998, examinations set by the Exchange that demonstrate proficiency in trading rules of the Exchange.~~ (2) If ~~an individual does not have the experience required by Policy 4-405(1)(c) or (d), the Exchange may grant approval to the individual as an Approved Trader if the Exchange is satisfied that the individuals will receive such individual supervision from the Participating Organization as may be appropriate given the experience of the individual.~~ (3) ~~For the purposes of Rule 4-405(3), the Exchange may refuse to grant approval to an individual as an Approved Trader if the Exchange is of the opinion that:~~ (a) ~~such individual will not comply with Exchange Requirements;~~ (b) ~~such individual is not qualified by reason of integrity; or~~ (c) ~~such approval is otherwise not in the public interest.~~ (4) ~~***Deleted***~~ **Proposed Repeal**
4-406 Trades on a "When Issued" Basis (1) The Exchange may post any security to trade on a when issued basis if such security is conditionally approved for listing on the Exchange. (2) Unless otherwise specified, trades on a when issued basis are subject to all applicable Exchange Requirements relating to trading in a listed security, notwithstanding that the security is not listed. (3) All trades on a when issued basis shall be cancelled if the Exchange determines that the securities subject to such trades will not be issued.	
4-407 Advantage Goes with Securities Sold (1) Except as provided in Rule 4-407(2), in all trades of listed securities, all entitlements to receive dividends or any other distribution made or right given to holders of that security shall pass with the security and shall belong to the purchaser, unless otherwise provided by the Exchange or the parties to the trade by mutual agreement. (2) In all sales of listed bonds and debentures, all accrued interest shall belong to the seller unless otherwise provided by the Exchange or parties to the	

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trade by mutual agreement. (3) Claims for dividends, rights or any other benefits to be distributed to holders of record of listed securities on a certain date shall be made in accordance with the procedures established by the Clearing Corporation. (4) ~~If subscription rights attaching to securities are not claimed by the persons entitled to those rights at least twenty four hours before the expiration of the time within which trading in respect of such rights may take place on the Exchange, a Participating Organization holding such rights may, in its discretion, sell or exercise all or any part of such rights, and shall account for such sale or exercise to the person or persons entitled to such rights, but in no case shall a Participating Organization be liable for any loss arising through failure to sell or exercise any unclaimed rights.~~ **Proposed Repeal**	
4-408 Foreign Currency Trading (1) A report of a cross trade agreed to in a foreign currency shall be converted to Canadian dollars using the mid-market spot rate or 7-day forward exchange rate in effect at the time of the trade, plus or minus 15 basis points. (2) If the converted price falls between two ticks, trades shall be done at each of the ticks immediately above and below the converted price for the number of shares, which yields the appropriate average price per share. (3) The Participating Organization making the cross shall keep a record of the exchange rate used.	
DIVISION 5 – TRADING CLIENT ORDERS **4-501- In-House Client Priority** **Repealed (April 1, 2002)**	
4-502- Client-Principal Trading **Repealed (April 1, 2002)**	
4-503 Prohibition of Trading Against Client's Account ~~No Participating Organization shall directly or indirectly make a practice of taking the side of the market opposite to the side taken by their clients.~~ **Proposed Repeal**	
DIVISION 6 – REGISTERED TRADERS **4-601 Appointment of Registered Traders** (1) In order to have a reasonable market quoted for each listed security, the Exchange may from time to time	**Division 6 – REGISTERED TRADERS** **4-601 Appointment of Registered Traders** (1) General Principles

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listed security, the Exchange may from time to time allocate to a Registered Trader specified securities of responsibility. (2) ~~Any person directly affected by a decision made under Rule 4-601(1) may appeal the decision to the Board, such appeal to be conducted in accordance with the provisions of Part 7 of the Rules.~~ **Proposed Repeal**	The primary responsibilities of Registered Traders are to maintain a fair and orderly market in their stocks of responsibility and generally to make a positive contribution to the functioning of the market. Each Registered Trader must ensure that trading for the Registered Trader' s own account is reasonable under the circumstances, is consistent with just and equitable principles of trading, and is not detrimental to the integrity of the Exchange or the market. (2) Allocation of Securities The Exchange shall assign stocks of responsibility to Registered Traders. Since certain privileges are accorded to the responsible Registered Trader, some stocks may be regarded as desirable ones in which to have responsibility. Where two or more Registered Traders are contending for assignment of responsibility, the Exchange shall make the determination. In making such decisions, the Exchange shall apply the criteria established by the Board. The Exchange categorizes listed securities according to "tiers" for certain purposes. These tiers are determined by the average number of trades on a daily basis. The two major tier categories are Tier A and Tier B. Stocks that fall into the Tier A category are the most active stocks. Tier B covers stocks that, on average, trade less actively. The Tiers are further divided into subtiers. Registered Traders without stocks of responsibility and Registered Traders with responsibility for Tier A stocks shall collectively assume responsibility for certain Tier B stocks that do not have a responsible Registered Trader. These stocks shall first be assigned by the Exchange to Registered Traders without any stocks of responsibility, then to Registered Traders with responsibility for Tier A stocks. In making such assignments, the Exchange shall use the criteria determined by the Board.
4-602 Qualifications (1) No person shall be approved as a Registered Trader unless such person is a Participating Organization, or a partner, director, or employee of a Participating Organization and has had at least one year of experience as an Approved Trader (2) The Exchange may waive the requirement of one year of experience as an Approved Trader where, in its opinion, the person has equivalent suitable qualifications. (3) No person shall be approved as a Registered Trader unless: (a) the Participating Organization making the application: (i) has provided sufficient trading desk and operations area support staff, (ii) has installed a terminal acceptable to the Exchange, that will permit the expeditious handling of both the Participating Organization's client orders and the proper carrying out of all registered trading	

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responsibilities, and (iii) has designated another Registered Trader to act as back-up; and (b) the person for whom application is made is a person of good reputation and trading ability with a thorough understanding of not only the Exchange trading rules but also the objects and purposes pertaining to registered trading. **Amended (April 3, 2000)**	
4-603 Failure to Obtain Approval If an application for approval as a Registered Trader is refused, no further application for the same person shall be considered within a period of 90 days after the date of refusal.	
4-604 Responsibilities of Registered Traders Registered Traders shall trade on behalf of their own accounts to a reasonable degree under existing circumstances, particularly when there is a lack of price continuity and lack of depth in the market or a temporary disparity between supply and demand and in each of their securities of responsibility shall: (a) contribute to market liquidity and depth, and moderate price volatility; (b) maintain a continuous two-sided market within the spread goal for the security agreed upon with the Exchange; (c) maintain a market for the security on the Exchange that is competitive with the market for the security on the other exchanges on which it trades; (d) perform their duties in a manner that serves to uphold the integrity and reputation of the Exchange; (e) arrange for a back-up Registered Trader, who in their absence, will carry out the responsibilities set out in this Policy; (f) guarantee fills for odd lot and mixed lot orders at the current board lot quotation; (g) maintain the size of the Minimum Guaranteed Fill requirements agreed upon with the Exchange; (h) comply with the Minimum Guaranteed Fill requirements agreed upon with the Exchange, which include guaranteeing an automatic and immediate "one price" execution of MGF – eligible orders; (i) be responsible for managing the opening of their stocks of responsibility in accordance with Exchange Requirements and, if necessary, for opening those stocks or, if	**4-604 Responsibilities of Registered Traders** (1) Assistance to Market Surveillance Officials and Members Registered Traders shall report forthwith any unusual situation, rumour, activity, price change or transaction in any of their stocks of Responsibility to Market Surveillance. As much as possible, Registered Traders shall assist Participating Organizations' traders by providing them with information regarding recent trading activity and interest in their stocks of responsibility. They shall assist traders in matching offsetting orders. Based on their knowledge of current market conditions, Registered Traders shall, on a best efforts basis, identify anomalies in Participating Organizations' orders in the Book and bring them to the attention of those Participating Organizations or to the Exchange. (2) Availability and Back-up Registered Traders are expected to be at their terminal continuously during the trading day in order to fulfil the responsibilities set out in this Policy. Each Registered Trader shall arrange for another Registered Trader from their Participating Organization firm to fulfil those responsibilities during breaks or other temporary absences from their terminal. Such arrangements shall also be made for vacations and absences due to illness or other reasons. Registered Traders must provide the Exchange with advance written notification of the name of their designated back-up and, subsequently, of any changes. In unusual cases, such as where there is only one Registered Trader at a firm, a Registered Trader may select an Approved Trader to act as back-up. The prior consent of the Exchange must be obtained. A Registered Trader may designate a second back-up at another Participating Organization to fulfil the Registered Trader' s responsibilities during an extended absence that will be longer than one week. The prior consent of the Exchange must be obtained. (3) Maintenance of a Two-Sided Market Registered Traders must call a continuous two-sided market

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appropriate, requesting that a Market Surveillance Official delay the opening; (j) assume responsibility for certain additional listed securities in accordance with applicable Exchange Requirements; (k) assist Participating Organizations in executing orders; and (l) assist the Exchange by providing information regarding recent trading activity and interest in their securities of responsibility.	in their stocks of responsibility. In order to assist them in carrying out this Responsibility, Registered Traders are given certain privileges and certain exemptions from the short sale rule. 1. ***Spread Maintenance -*** Registered Traders shall maintain the spread goal agreed upon with the Exchange in each of their stocks of responsibility on a time-weighted average basis. Market Surveillance monitors spreads on an ongoing basis, and assesses the performance of Registered Traders on a monthly basis. 2. ***Relief from Spread Goals -*** The initial establishment of a spread goal for a security is subject to negotiation between each responsible Registered Trader and Exchange staff. The Registered Trader shall notify the Exchange if the Registered Trader is unable to maintain their spread goal. Any further changes to the spread goal are also subject to negotiation. 3. **Odd-lot Responsibilities** –General - Registered Traders shall maintain an odd lot market at the board lot quotation. *Expiring Rights and Warrants* - Registered Traders shall not be responsible for providing bids and offers for odd lots in rights and warrants within 10 days of the date of expiry of the right or warrant. If a Registered Trader chooses to trade odd lots of such stocks during this period, the Registered Trader must do so at the board lot quotation unless prior consent of a Market Surveillance Official for a wider spread is obtained. *Special Circumstances* - The above exemption is also available in any securities that are affected by special circumstances relative to that security. If a Registered Trader wishes to call an odd-lot market at a different price than the board lot market, the prior consent of a Market Surveillance Official must be obtained. 4. ***Relief from Responsibilities in Unusual Situations –*** In extreme cases, such as illiquidity in a security on expiry of a take-over bid, a Market Surveillance Official may relieve a responsible Registered Trader from their responsibility to maintain a posted bid or offer. This exemption is also available when a Registered Trader' s obligation to post an offer would require him to assume or to increase a short position in a security that the Registered Trader cannot reasonably be expected to cover because of the relative liquidity of that security or lack of stock available for borrowing. 5. **Client Priority and Frontrunning** -Client *Priority* - The in-house client priority rule in ~~Rule 4.501~~ UMIR Rule 5.3 requires Participating Organizations to execute their client orders ahead of any non-client orders at the same price. This rule applies to trading by Registered Traders. Registered Traders may participate in trading with one or more of their firm' s client orders if the Participating

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	Organization obtains the express consent of the client(s) involved. *Frontrunning Client Orders* - ~~Rule 4.204~~ UMIR Rule 4.1 prohibits Participating Organizations, Approved Persons and persons associated with a Participating Organization from taking advantage of non-public material information concerning imminent transactions in equities, options or futures markets. Information about a trade is material if the trade would reasonably be expected to move the market in which the frontrunning trade is made. The frontrunning restrictions apply to Registered Traders. Participating Organizations, Approved Persons and persons associated with a Participating Organization are prohibited from taking advantage of a client's order by trading ahead of it in the same or a related market. A trade made solely for the benefit of the client for whom the imminent transaction will be made, and a trade that is a bona fide hedge of a position that the Participating Organization has Agreed to assume from a client, are exempt from the restrictions. *Frontrunning in Options and Futures* - The restrictions further prohibit a frontrunning trade in the options or futures markets with knowledge of an imminent undisclosed material transaction in any of the equities, options or futures markets, including transactions by another Participating Organization. Again, a trade made solely for the benefit of the client for whom the imminent transaction will be made, and a trade that is a bona fide hedge of a position that the Participating Organization has assumed or agreed to assume from a client, are exempt from the restrictions. *Tipping and Trading Ahead* - Participating Organizations and Approved Persons and persons associated with a Participating Organization are prohibited from tipping others about an imminent undisclosed material order to be executed for one of the firm' s clients in any market, including the equities market. The Participating Organization executing the order may, however, contact the Registered Trader to ask for assistance (for example, to ask if the Registered Trader knows of Participating Organizations who may want to take the other side of the trade). If details of an imminent material trade in one of their stocks of responsibility have been disclosed by another Participating Organization to the Registered Trader, the Registered Trader is prohibited from trading ahead of that order unless the Registered Trader receives the express consent of the Participating Organization involved. 6. ***Client-Principal Trading -*** Trades by Registered Traders with clients of their Participating Organization, whether made pursuant to their market-making obligations or not, must comply with all ~~Exchange Requirements~~ UMIR Requirements governing client-principal trading.
4-605 Stabilizing Trades	**4-605 Stabilizing Trades**

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(1) In this Rule, **"neutral trades"** means trades that would otherwise be destabilizing trades except that: (a) the Registered Trader is unwinding a long or short position in a security taken previously; (b) the trade is made pursuant to the Registered Trader' s obligation to fill a MGF order; (c) the trade is made pursuant to the Registered Trader' s obligation to maintain a specific maximum spread between bid and ask quotes; or (d) the trade is made for the purpose of maintaining a proportionate market (based on the conversion ratio) in a security that another security is convertible into or in the convertible security; provided that, in the case of the exceptions in (b), (c), and (d) above, the Registered Trader is on the passive side of the trade. (2) At least 70% of Registered Traders' trades in their securities of responsibility shall be stabilizing or neutral trades.	(1) Reporting and Performance Measurement In accordance with Rule 4-605(2), it is expected that at least 70% to 80% of Registered Traders' trades in their stocks of responsibility shall be stabilizing or neutral trades. Performance in this area will be measured periodically by the Exchange and reported to the Exchange. If 30% or more of a Registered Trader's trades in their stocks of responsibility are destabilizing trades, based on the number of transactions, share volume, dollar value of trading or any combination of those factors, the Registered Trader' s performance shall be considered unsatisfactory and the Registered Trader may be subject to any of the penalties set out in this Policy. Each Registered Trader shall report the opening positions of all stocks in their Registered Trading Account for the week before 12:00 noon on the first trading day of each week to Market Surveillance. Reconciliation between weekly opening and closing positions is important for effective tick-testing. Daily reports on the inventory of stocks in any Registered Trading Account may be required by the Exchange. (2) Exemption for Certain Interlisted Stocks In order to encourage trading in certain interlisted securities on the Exchange, Registered Traders shall be exempt from the stabilization requirements in dealing in all U.S.-based interlisted issues and in those Canadian-based interlisted issues in which more than 25% of the trading occurred on exchanges in the United States or on NASDAQ in the preceding year. (3) Application of Stabilization Requirement to Trading in Other Markets The stabilization requirements apply to all trading be Registered Traders in listed securities, whether on the Exchange or on another Canadian exchange. The exemptions contained in this Policy also apply to such Trading.
4-606 Registered Traders Leaving Stocks of Responsibility A Registered Trader intending to relinquish one or more securities or responsibility shall provide the Exchange with prior notice in such form as may be required by Exchange.	**4-606 Registered Traders Leaving Stocks of Responsibility** Registered Traders may leave their stocks of responsibility for a number of reasons. These may include leaving the Participating Organization at which they are presently employed, being terminated by the Participating Organization or leaving the industry altogether. In addition, Registered Traders have on occasion refused to continue with their responsibilities. The following are the procedures to be followed by Registered traders, Participating Organization firms and back-up Registered Traders in these circumstances: (a) The back-up Registered Trader shall become responsible in the event that the responsible Registered Trader designated by the Exchange is unable to act for any reason. (b) Subject to paragraph (f) below, the back-up Registered Trader must assume full

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	responsibility for the stock in the absence, either temporary or permanent, of the Registered Trader. (c) If a Registered Trader with stocks of responsibility resigns from their Participating Organization firm (and does not immediately join another firm) the Registered Trader must give the Exchange a minimum of 14 days notice. The Registered Trader shall be responsible for maintaining their stocks of responsibility until a new Registered Trader is appointed or until the notice period has elapsed, whichever comes first. (d) If a Registered Trader with stocks of responsibility resigns from their Participating Organization and immediately joins another Participating Organization, the Registered Trader shall designate a new back-up Registered Trader from that Participating Organization. The prior consent of the Exchange must be obtained for any such designation. (e) A Participating Organization that proposes to terminate the employment of one or more Registered Traders to relinquish responsibility for a listed security, for the purpose of reducing the scope of the Registered Trading operations of the Participating Organization, shall give 60 days prior notice to the Exchange. If such notice is not given, the Exchange may require the Participating Organization to carry out the responsibilities of the Registered Trader for any security that is affected until the Exchange makes satisfactory alternative arrangements for the security. The Participating Organization shall have such responsibilities for a maximum of 60 days. (f) Upon the absence of a Registered Trader in any of the circumstances listed above, other than a temporary absence, the Exchange shall act forthwith to appoint a permanent Registered Trader.
4-607 Assessment of Registered Trader Performance The Exchange shall review the approvals of all Registered Traders at least once each calendar year and may review such approvals at other times.	**4-607 Assessment of Registered Trader Performance** (1) Review of Performance The performance of each Registered Trader shall be periodically reviewed by the Exchange, as provided in Rule 4-607. The Exchange shall determine whether the Registered Trader is adhering to Exchange Requirements and shall assess the degree to which the Registered Trader had made a positive contribution to the market in their stocks of responsibility over the period. In making this assessment, considerable weight shall be placed on the

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	degree to which the Registered Trader has: (a) maintained a fair and orderly market in their stocks of responsibility; and (b) maintained adequate quotation and liquidity in their stocks of responsibility, including maintaining the specific maximum spreads that the Registered Trader is committed to maintain. (2) Criteria for Review The Exchange shall consider such performance or conduct unsatisfactory if the Registered Trader has: (a) failed to meet the responsibilities set out in this Policy or to act in a manner that is consistent with the general intent of any of the Exchange Requirements relating to registered Traders; or (b) engaged in any conduct, manner of proceeding, or method of carrying on business that is unbecoming of a Registered Trader, that is inconsistent with just and equitable principles of trade, or that is detrimental to the Exchange or the public. (3) Penalties for Non-Compliance The Exchange may recommend that: (a) a Registered Trader's approval be suspended or revoked; (b) a Registered Trader's responsibility for one or more stocks be removed and those reassigned; (c) an investigation into a Registered Trader's trading or activities be carried out; and (d) ~~a Registered Trader be disciplined pursuant to the provisions of Part 7 of the Rules for failing to adhere to Exchange Requirements.~~ ~~The above recommendations may be pursued by the Exchange, subject to the provisions of Part 7 of the Rules.~~ **Proposed Repeal**
4-608 Appointment of Specialist (1) Notwithstanding any other provision of this Division, the Exchange may appoint a Participating Organization as a Specialist in connection with responsibility for the trading of: (a) IPUs of a particular trust; (b) units of a trust which is a mutual fund trust for the purposes of the *Income Tax Act* (Canada) where substantially all of the assets of the fund are the same as the	

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underlying interest of an option or future listed on an exchange; or (c) shares of a listed security for which, in the opinion of the Exchange, the requirements of the market making activities make it appropriate to appoint a Participating Organization. (2) The application for appointment as a Specialist shall be in the form required by the Exchange from time to time. (3) Except as otherwise provided in the Specialist Agreement, all Exchange Requirements pertaining to Registered Traders shall apply to a Specialist, including but not limited to, procedures for allocation of Specialist appointments, determination of responsibilities of Specialists and review of performance of Specialists. (4) Where more than one Participating Organization is appointed by the Exchange as Specialist for a particular security, the obligations of the Participating Organizations may be joint and several as specified in the Specialist Agreement. (5) The Exchange may revoke or suspend approval of a Specialist~~, subject to the provisions of Part 7~~. **Proposed Amendment** (6) The trading activities of the Specialist in securities the subject of the Specialist Agreement shall be performed by an Approved Trader employed by the Specialist.	
DIVISION 7 – OPENING **4-701 Execution of Trades at the Opening** (1) Subject to Rule 4-702, listed securities shall open for trading at the opening time, and any opening trades shall be at the calculated opening price. (2) The following orders shall be completely filled at the opening: (a) market orders and better-priced limit orders for client accounts; (b) MBF orders; (c) market orders and better-priced limit orders for non-client accounts that were entered prior to 9:28 a.m.; and (d) market orders and better-priced limit orders for non-client accounts that were entered after 9:28 a.m. where the opening of the security is delayed pursuant to Rule 4-702. (3) The following orders are eligible to participate in the opening but are not guaranteed to be filled: (a) **repealed (August 7, 2001)** (b) limit orders at the opening price; and	

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(c) market orders and better-priced limit orders for non-client accounts that were entered after 9:28 a.m., where the security opens at the opening time. (4) Unless otherwise provided, trades shall be allocated among orders at the opening price in the following manner and sequence: (a) trades shall be allocated to orders guaranteed a fill pursuant to Rule 4-701(2) then; (b) all possible crosses shall be executed; then (c) **Repealed (August 7, 2001)** (d) to limit orders at the opening price according to time priority. (5) **Repealed (August 7, 2001)** (6) **Repealed (August 7, 2001)** (7) Orders at the opening price that are not completely filled at the opening shall remain in the Book, at the opening price.	
4-702 Delayed Openings (1) A security shall not open for trading if, at the opening time: (a) orders that are guaranteed to be filled pursuant to Rule 4-701 cannot be completely filled by offsetting orders; or (b) the COP exceeds price volatility parameters set by the Exchange. (2) The Responsible Registered Trader may delay the opening of a security for trading if: (a) the COP differs from the previous closing price for the security or from the anticipated opening price on any other recognized stock exchange where the security is listed by an amount greater than the greater of 5% of the previous closing price for the security and $0.05; (b) the opening of another recognized stock exchange where the security is interlisted for trading has been delayed; or (c) the COP is less than the permitted difference from the previous closing price for the security, but is otherwise unreasonable. (3) ~~A Market Surveillance Official may delay the opening of a listed security when the circumstances specified in Rule 4-702(2) exist and there is no Responsible Registered Trader for the security or neither the Responsible Registered Trader nor the designated back-up is available to delay the opening.~~ **Proposed Repeal**	

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(4) If the opening of the listed security is delayed, the Responsible Registered Trader or Market Surveillance Official, as the case may be, shall open the security for trading according to Exchange Requirements.	
DIVISION 8 – POST OPENING **Rule 4-801 "Establishing Priority"** (1) Subject to Rule 4-802, an order at a particular price shall be executed prior to any orders at that price entered subsequently, and after all orders entered previously ("time priority"), except as may be provided otherwise. (2) An undisclosed portion of an order does not have time priority until it is disclosed, unless there is no other disclosed order at that price. (3) An order shall lose time priority if its disclosed volume is increased and shall rank behind all other disclosed orders at that price.	
Rule 4-802 "Allocation of Trades" (1) An order that is entered for execution on the Exchange may execute without interference from any order in the Book if the order is: (a) part of an internal cross; or (b) an unattributed order that is part of an intentional cross. (2) Subject to subsection (1), an intentional cross is executed without interference from orders in the Book, other than orders entered in the Book by the same Participating Organization according to time priority, provided that the order in the Book is not an unattributed order. (3) A tradeable order that is entered in the Book shall be executed on allocation in the following sequence: (a) to offsetting orders entered in the Book by the Participating Organization that entered the tradeable order according to the time of entry of the offsetting order in the Book, provided that neither the tradeable order nor the offsetting order is an unattributed order; then (b) to offsetting orders in the Book according to the time of entry of the offsetting order in the Book; then (c) to the Responsible Registered Trader if the tradeable order is eligible for a Minimum Guaranteed Fill.	**4-802 Allocation of Trades** (1) MGF Facility The MGF facility provides an automatic and immediate "one price" execution of Participating Organizations' client market orders and tradeable limit orders of up to the MGF in the security at the current market price. (a) **Obligations** Responsible Registered traders shall buy or sell the balance of an incoming MGF-eligible order at the current market price when there are not sufficient committed orders to fill the incoming order at that price. In return, they are entitled to one-half of each incoming MGF-eligible order after Participating Organizations crosses. Responsible Registered Traders shall also purchase or sell to any imbalance of MGF-eligible orders on the opening that cannot be filled by orders in the Book. (b) **Size of MGF** The minimum size of MGF is one share less than two board lots. For stocks with a board lot size of 100 shares, the minimum is 199 shares. This minimum is acceptable for Tier B stocks. The minimum size of the MGF for Tier A stocks is 599 shares (for stocks with a 100 share board lot). (2) Registered Trader Participation At the option of the Responsible Registered Trader, the Responsible Registered Trader may participate in any immediately tradeable orders (including non-client orders) that are equal to or less than the size of the Registered Trader' s MGF for the stock. The Responsible Registered Trader may participate for 40% of the MGF order at the bid price, the ask price, or both. While the Responsible Registered Trader is participating, all client orders that are equal to or less in size than the MGF for the stock, including

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	those marked “BK”, shall be guaranteed a fill. If the Responsible Registered Trader is not participating, only MGF-eligible orders shall be guaranteed a fill. (3) Use of MGF by US Dealers Orders on behalf of American securities dealers ("U.S. dealers") to buy or sell listed securities that are interlisted with NASDAQ are not eligible for entry into the MGF system. The orders (if they would otherwise be MGF-eligible) must be marked "BK" in order to avoid triggering the responsible Registered Trader's Minimum Guaranteed Fill obligation. This Policy applies even if the U.S. dealer is paying a commission. Orders on behalf of clients of U.S. dealers are eligible for entry into the system. Participating Organizations accepting an order from a U.S. dealer must ascertain whether the order is on behalf of a client. If the Participating Organization is unable to determine the status of the order, the order is to be treated as ineligible for entry into the MGF system. Orders on behalf of U.S. dealers that are facilitating a trade for a client of that dealer are not eligible for entry into the MGF system and must be marked "BK".
4-803 - Repealed (August 7, 2001)	
4-804 Registered Trader and Principal Account Orders All orders for listed securities for a Registered Trader account or a principal account that better the bid or the ask shall be for at least the amount of the MGF for that listed security.	
DIVISION 9 – SPECIAL TRADING SESSION **4-901 General Provisions** (1) All listed securities shall be eligible for trading during the Special Trading Session. (2) All transactions in the Special Trading Session shall be at the price of the last sale of the security on the Exchange during the Regular Session. **(Amended effective March 26, 2002).** (3) Except as otherwise provided, the normal rules of priority and allocation and all other Exchange Requirements shall apply to the Special Trading Session.	
DIVISION 10 – PROGRAM TRADING **4-1001 Short Sale Exemption** For the purposes of Rule 3.1 of UMIR, ~~A~~ a program trade is exempt provided that ~~from Rule 4-301 providing~~ the short position is entered into within 30 minutes of the establishment of the corresponding long position and the sale is a reasonable hedge of the long position. **Proposed Amendment**	**4-1001 Short Sale Exemption** (1) Definition of Program Trading for Short Sale Exemption For purposes of Rule 4-1001, a program trade is: (a) a simultaneous trade in listed securities comprising at least 80 percent of the component share weighting of an Index that offsets a pre-existing position in: (i) a future, the underlying interest

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	of which is the Index, (ii) the opinion, the underlying interest of which is the index, or (iii) an option, the underlying interest of which is the Index Participation Unit in respect of the Index; (b) a trade in Index Participation Units that offsets a pre-existing position in: (i) a future, the underlying interest of which is the Index in respect of the Index Participation Unit, (ii) an option, the underlying interest of which is the Index in respect of the Index Participation Unit, or (iii) listed securities comprising at least 80 percent of the component share weighting of the Index Participation Unit; or (c) a trade in units of a trust which is a mutual fund trust for the purposes of the *Income Tax Act* (Canada) where substantially all of the assets of the fund are the same as the underlying interest of an option or future listed on an exchange that offsets a pre-existing position in: (i) the applicable future, (ii) the applicable option, or (iii) listed securities comprising at least 80 percent of the component share weighting of the portfolio of the mutual fund. (2) Acceptable Hedge Ratios The Participating Organization making the trade shall make a reasonable determination of the equivalent spot, future, option, stock, IPU or mutual fund unit positions. The Exchange will apply the following guidelines in considering whether a determination is reasonable. 1. ***Units Against Baskets -*** The number of IPUs or mutual funds that can be shorted against the assumption of a long position in the underlying securities must be in accordance with the prescribed number of units per basket as reported by the Exchange, which number may change from time to time. As the prescribed number of units may not be an integral multiple of a board lot, the number of units may be rounded up to the nearest integral multiple of a board lot. 2. ***Baskets Against Units*** - The basket of securities that can be shorted against the assumption of a long position in the applicable IPU must be in accordance with the prescribed number of units per basket as reported by the Exchange, which number

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	may change from time to time. 3. ***Units Against Futures*** -The IPU equivalents to a futures contract must be in accordance with the prescribed number of units per basket as reported by the Exchange, which number may change from time to time. 4. ***Units Against Options –*** Each long 50 call and short 50 put position (synthetic future) with the same strike and expiry has an equivalent position offset of short the prescribed number of units to a basket. 5. ***Baskets Against Options*** - One short basket has an equivalent options offset of long 50 calls and short 50 puts of the same strike and expiry. For other option positions, approximate deltas should be used. As a guide, at-the-money options would have an approximate delta value of 0.50. In-the-money options should have deltas greater than 0.50, and out-of-the-money options should be less than 0.50. 6. ***Baskets Against Futures -*** One short basket has an equivalent futures offset of 25 long futures contracts if the underlying interest of which is the S&P/TSE 60 Index and such other number of futures contracts as is acceptable to the Exchange if the underlying interest is other than the S&P/TSE 60 Index.
4-1002 Record Keeping Each Participating Organization that makes a trade which qualifies as a program trade for the purposes of this Rule must keep a record of the offsetting position held at the time of the program trade.	
4-1003 ~~Offsetting Orders on Expiry~~ Must-Be-Filled Orders ~~Orders in listed securities that offset an expiring Index derivatives position, or that substitute an equities position for an expiring Index derivatives position, shall be entered as prescribed by the Exchange.~~ Must-Be-Filled Orders shall be entered as prescribed by the Exchange. **Proposed Amendment**	**4-1003 ~~Offsetting Orders on Expiry~~ Must-Be-Filled Orders** (1) Definition of Program Trading for Must-Be-Filled Orders For purposes of Rule 4-1003, a program trade is a simultaneous trade undertaken on the expiry date of an option or future in listed securities comprising at least 70 percent of the component share weighting of an Index where such trade offsets a per-existing position in a future or an option the underlying interest of which is the Index. (2) Must-Be-Filled Order Reporting Requirements The following requirements apply to Must-Be-Filled Orders: (a) *Entry of Orders* – A Must-Be-Filled Order shall be entered on the day prior to the expiry date (normally a Thursday) between ~~4:30 and 5:30 p.m.~~ 4:05 and 5:00 p.m. or at such other times as may be required or permitted by the Exchange (the “reporting time”). An order for a program trade may be entered at a time

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	other than the reporting time only with the consent of the Exchange. A Must-Be-Filled Order may be cancelled prior to the end of the reporting time through normal cancellation and correction procedures. After the end of the reporting time, each Must-Be-Filled Order is committed and may be withdrawn from the trading system only with the consent of the Exchange. The Exchange may release a ticker notice regarding material imbalances in orders for a particular listed security after the end of the reporting time. (b) *Prearranged Trades* – A Participating Organization with both sides of a program trade arranged may enter the orders at a time other than during the reporting time. The trading system will seek out such orders and will cross them automatically where possible. (c) *Automatic matching* – The trading system will automatically match all program trades, market orders and better-priced limit orders where possible. Any imbalance after matching of these orders will be included in the regular opening following the normal allocation rules and receive the calculated opening price. Market orders and better-priced limit orders will be filled first against an imbalance of large program trades.
DIVISION 11 — SPECIAL TERMS **4-1101 Special Terms Trades** (1) Special terms orders have no standing in the ~~regular market~~ Regular Session and may be traded through. (2) Special terms trades, other than trades for a non-standard settlement date, shall not be executed unless all orders in the ~~regular market~~ Book at a better price have been filled in full or the persons entering the orders have been given an opportunity to participate in the trade and have declined. **Proposed Amendment**	
4-1102 IPU Switch Transactions (1) For the purpose of this Rule, an *"IPU Switch Transaction"* is a simultaneous sale of an Index Participation Unit and purchase of the equivalent number of underlying securities or a simultaneous purchase of an Index Participation Unit and sale of the equivalent number of underlying securities. (2) IPU Switch Transactions involving two Participating Organizations may be done at the bid or offer without displacement to orders in the Book provided that:	

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(a) the Participating Organizations have finalized the terms to the IPU Switch Transaction, including the price; (b) the Participating Organizations making the IPU Switch Transaction notify the Market Surveillance Section at the time the transaction is agreed to (the "reporting time"); (c) the trades in each security are executed as special terms trades at prices that are at or between the bid and ask as at the reporting time; and (d) the Participating Organizations may not use a quotation from after the reporting time to validate an execution that is outside the bid and ask as at the reporting time.	
4-1103 Exchange for Physicals and Contingent Option Trades Orders which are conditional upon a simultaneous trade in a derivative on another exchange shall be special terms trades and shall be traded in accordance with the prescribed procedures and conditions.	**4-1103 Exchange for Physicals and Contingent Option Trades** (1) Application This Policy applies to each person who has been granted trading access to the Exchange and who seeks to enter an order on the Exchange for a listed security which is contingent upon the execution of one or more trades in an option on the Montreal Exchange or who seeks to exchange an index futures contract that is listed for trading on the Exchange for the equivalent number of listed securities underlying the futures contract (including an equivalent number of index participation units) on a contingent basis. (2) Procedure for Contingent Option Trade If a person to whom this Policy applies seeks to enter an order on the Exchange for a listed security which is contingent upon the execution of one or more trades in an options market, the following rules shall apply: (a) the trade in the listed security and the offsetting option trades must be for the same account; (b) the option portion of the trade must be approved by a floor governor or other exchange official of the stock exchange on which the option is listed and such approval shall be evidenced by the initials of the governor or official on the options trade ticket; (c) the options trade ticket shall be time stamped; (d) the person shall telephone Trading and Client Services of the Exchange at (416) 947-4440 and provide the details of the contingent trade including the name of the person with trading access to the Exchange with whom the contingent trade

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	has been made; (e) the trade in the listed security must be within the existing market for the listed security on the Exchange at the time of the telephone call to Trading and Client Services; (f) a copy of the options trade ticket as initialled by a floor governor or exchange official and time stamped shall be provided by facsimile transmission to Trading and Client Services at (416) 947-4280 within ten minutes following the time stamp on the ticket; and (g) provided the trade has been made and reported in accordance with the above rules, the Exchange shall manually execute the trade in the listed security as a special terms trade with the marker "MS" effective as of the time stamped on the option trade ticket. (3) Procedure for Exchange for Physicals If a person to whom this Policy applies seeks to exchange a futures contract for the equivalent number of listed securities underlying the futures contract (including an equivalent number of units of the applicable Index Participation Fund or mutual fund), the following provisions shall apply: (a) the trade in the listed security and the trade in the futures contract must be for the same account; (b) the equities component may be made as a cross or as a trade between persons with trading access on the Exchange; (c) the futures portion of the trade must be approved by a floor governor or other exchange official of the stock exchange on which the future is listed and such approval shall be evidenced by the initials of the governor or official on the futures trade ticket; (d) the futures trade ticket shall be time stamped; (e) the person shall telephone Trading and Client Services of the Exchange at (416) 947-4440 and provide the details of the exchange including the name of the person with trading access to the Exchange with whom the exchange has been made; (f) the trade in the listed securities made from 9:30 a.m. to 4:00 p.m. will be at the bid price of the listed securities on the Exchange at the time of the telephone call to Trading and Client Services and the trade in listed securities made from 4:00 p.m. to 4:15 p.m. will be at the last sale

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	price of the listed securities on the Exchange provided that where the last sale price is outside of the closing quotes for any listed security the price for that listed security shall be the bid or offer which is closest to the last sale price; (g) a copy of the futures trade ticket as initialled by a floor governor or exchange official and time stamped shall be provided by facsimile transmission to Trading and Client Services at (416) 947-4280 within ten minutes following the time stamp on the ticket; and (h) provided the trade has been made and reported in accordance with the above rules, the Exchange shall manually execute the trade in the listed securities as a special terms trade with the marker "MS" effective as of the time stamped on the futures trade ticket.
PART 5 – CLEARING AND SETTLEMENT OF TRADES IN LISTED SECURITIES **DIVISION 1 – GENERAL SETTLEMENT RULES** **5-101 Definitions** In this Part: **"Buy-In Notice"** means the written notice in the form required by the Exchange to be delivered by a Participating Organization which has failed to receive listed securities to which it is entitled from another Participating Organization. **"delivery"** or **"delivered"** means the transfer of listed securities through physical transfer of certificates evidencing the listed security, or by transfer of a book-based position in accordance with the rules of the Clearing Corporation. **"delivering Participating Organization"** means a Participating Organization obligated to make settlement by delivering listed securities against payment. **"depository eligible transaction"** means a transaction in securities for which affirmation and settlement can be performed through the facilities of a securities depository by book entry settlement or certificate based settlement. **"first settlement cycle"** means the settlement cycle through the Clearing Corporation for listed securities as prescribed in the written procedures of the Clearing Corporation.	
5-102 Clearing and Settlement (1) All trades in listed securities shall be reported, confirmed and settled through the Clearing Corporation pursuant to the Clearing Corporation' s rules and procedures, unless otherwise authorized or	

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directed by the Exchange, or unless the rules of the Clearing Corporation do not permit settlement of that trade through its facilities. (2) Trades that are not confirmed and settled through the Clearing Corporation shall be governed by the Rules in Division 2 in addition to the Rules in this Division.	
5-103 Settlement of Exchange Trades (1) Exchange trades in listed securities shall settle on the third Settlement Day after the trade date, unless otherwise provided by the Exchange or the parties to the trade by mutual agreement. (2) Notwithstanding Rule 5-103(1), unless otherwise provided by the Exchange or the parties to the trade by mutual agreement: (a) trades on a when issued basis made: (i) prior to the second Trading Day before the anticipated date of issue of the security shall be settled on the anticipated date of issue of such security, and (ii) on or after the second Trading Day before the anticipated date of issue of the security shall settle on the third settlement day after the trade date, provided if the security has not been issued on the date for settlement such trades shall be settled on the date that the security is actually issued; (b) trades for rights, warrants and installment receipts made: (i) on the third Trading Day before the expiry or payment date shall be for special settlement on the Settlement Day before the expiry or payment date, (ii) on the second and first Trading Day before the expiry or payment date, shall be cash trades for next day settlement, and (iii) on expiry or payment date shall be cash trades for immediate settlement and trading shall cease at 12:00 Noon (unless the expiry or payment time is set prior to the close of business in which case trading shall cease at the close of business on the first Trading Day preceding the expiry or payment), provided selling Participating Organizations must have the securities that are being sold in their possession or credited to the selling account' s position prior to	

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such sale; (c) cash trades in listed securities for next day delivery shall be settled through the facilities of the Clearing Corporation on the first settlement cycle following the date of the trade or, if applicable, over-the-counter, by noon of the first settlement day following the trade; and (d) cash trades in listed securities that have been designated by the Exchange for same day settlement shall be settled by over-the-counter delivery no later that than 2:00 p.m. on the trade day. (3) Notwithstanding Rule 5-103(1), an Exchange Contract may specify delayed delivery which shall provide the seller with the option to deliver at any time within the period specified in the contract, and, if no time is specified, delivery shall take place at the option of the seller within thirty days from the date of the trade unless the parties by mutual agreement specify a delivery date more than thirty days from the date of the trade.	
5-104 Action by the Exchange The Exchange may take such action as the Exchange considers appropriate, if in the opinion of the Exchange, settlement of a trade appears to be unreasonably or improperly delayed.	
5-105 Uniform Settlement Rule (1) ~~A Participating Organization shall provide to a client, by electronic, facsimile, physical or verbal means, a confirmation of all the information required in a written confirmation made pursuant to Rule 2-405, as soon as possible on the next Business Day following execution, with respect to execution of any order, in whole or in part, for the purchase or delivery of securities where payment for or delivery of the securities is to be made to or by a settlement agent of the client.~~ (2) ~~No Participating Organization shall accept an order from a client for the purchase or delivery of securities where payment for or delivery of the securities is to be made to or by a settlement agent of the client unless:~~ (a) ~~the Participating Organization receives from the client prior to or at the time of accepting the order, the name and address of the settlement agent and the client' s account number with the settlement agent;~~ (b) ~~where settlement is to be made through a depository offering an identification number system for the clients of settlement agents of the depository, the Participating Organization shall have the client identification number prior to or at the time~~	

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~~of accepting the order and shall use the number in the settlement of the trade;~~ (c) ~~each order is identified either as a delivery or receipt against payment;~~ (d) ~~the Participating Organization has obtained an agreement from the client that the client will provide instructions with respect to the receipt or delivery of the securities to the settlement agent promptly upon the receipt by the client of the confirmation referred to in Rule 5-105(1) and that the client will ensure that its settlement agent affirms the transaction no later than the next Trading Day after the date of execution of the trade to which the confirmation relates; and~~ (e) ~~except in circumstances where the transaction is settled outside Canada or where the Participating Organization and the settlement agent are not participants in the same securities depository, the client or settlement agent utilize the facilities or services of a securities depository for the affirmation and settlement of all depository eligible transactions, including both book entry settlements and certificate based settlements.~~ **Proposed Repeal**	
5-106- Disputes Regarding Trade Reports **Repealed (April 1, 2002)**	
5-107- Corners **Repealed (April 1, 2002)**	
5-108 When Security Delisted, Suspended or No Fair Market (1) The Exchange may postpone the time for delivery on Exchange Contracts if: (a) the listed security is delisted; (b) trading is suspended in the listed security; or (c) the Exchange is of the opinion that there is not a fair market in the listed security. (2) If the Exchange is of the opinion that a fair market in the listed security is not likely to exist the Exchange may provide that the Exchange Contracts be settled by payment of a fair settlement price and if the parties to the Exchange Contract can not agree on the amount, the Exchange shall fix the fair settlement price after providing each party with an opportunity to be heard.	
DIVISION 2 – OVER-THE-COUNTER SETTLEMENT	

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5-201 Delivering Participating Organization Responsible for Good Delivery Form (1) Delivering Participating Organization Responsible for Form of Certificate The delivering Participating Organization is responsible for the genuineness and complete regularity of the listed security, and a certificate that is not in proper negotiable form shall be replaced forthwith by one which is valid and in prior negotiable form, or by a certified lieu cheque, if a replacement certificate is not available. (2) Where Certificates Delivered Not Acceptable to Transfer Agents A Participating Organization that has received delivery of a certificate that is not acceptable as good transfer by the transfer agent shall return it to the delivering Participating Organization, which shall make delivery of a certificate that is good delivery or of a certified lieu cheque in place thereof.	
5-202 Good Delivery The following certificates shall be deemed good delivery: (a) a properly endorsed certificate registered in the name of a Participating Organization or a member of any Canadian stock exchange or their nominees; (b) a certificate registered in the name of any other person and properly endorsed with the endorsement guaranteed by a Participating Organization or a member of any Canadian stock exchange; and (c) a certificate that has been the subject of alteration or erasure, provided that such alteration or erasure has been guaranteed by a Participating Organization or a member of any Canadian stock exchange.	
5-203 Certificates Not Good Delivery Delivery of any of the following certificates shall be deemed not to be good delivery: (a) a defaced or torn certificate; (b) a certificate registered in the name of a firm or company that has made an assignment for the benefit of creditors or has been declared bankrupt; (c) a certificate on which the form of power of attorney to transfer has been signed by: (i) a trustee, or (ii) an executor or administrator; (d) a certificate with document attached; (e) a certificate of a company maintaining share	

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registers in Ontario and elsewhere that is registered only on a register located outside of Ontario and is therefore not transferable on the Ontario register except after transfer to the Ontario register; (f) a certificate indicating that subsequent transfer by the purchaser is restricted in any way, unless the entire class of listed securities traded on the Exchange is subject to the same restriction or unless the trade was made subject to that restriction; or (g) a certificate not acceptable as good transfer by the transfer agent.	
5-204 Endorsement of Guarantees An endorsement guarantee shall be a guarantee of the signature and of the legal capacity and authority of the signer.	
DIVISION 3 – CLOSING OUT CONTRACTS **5-301 Buy-ins** (1) Failed trade In the event that a Participating Organization fails to: (a) carry out an Exchange Contract within the time provided in the Exchange Requirements; or (b) settle a loan of securities as provided in Rule 5-301(2); or (c) deliver securities as provided in Rule 5-301(3), such Participating Organization is in default of the Exchange Contract and the trade may be closed out through the buy-in procedure set out in this Division. (2) Security Loans In the absence of any agreement to the contrary, a loan of listed securities between Participating Organizations may be called through service of notice in writing of termination of the loan to the borrowing Participating Organization and the borrowing Participating Organization shall return securities of the same class as those loaned in the specified quantity by the close of business on the third Settlement Day following the date of receipt of such notice. (3) Other Failed Positions In the absence of any agreement to the contrary, a Participating Organization shall deliver listed securities to another Participating Organization pursuant to an obligation to deliver that results from a reorganization of the issuer, an allocation of securities or any other obligation considered applicable by the Exchange. (4) Costs The Participating Organization in default shall be responsible	

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for the costs incurred through failure to deliver, including any lost benefit or entitlement to the purchaser. (5) Notice A Buy-in Notice shall be delivered to the Exchange and to the Participating Organization in default before 12:00 noon on the day that the trade is to be closed out and any Notice not delivered by such time shall be considered to be effective at the opening of the next Trading Day. (6) Cancellation of Buy-In A buy-in may be cancelled by the Participating Organization that has issued the Buy-In Notice by delivering a notice of cancellation in writing to the Exchange before 3:00 p.m. on the day the buy-in is to be executed. (7) Time and Terms If Buy-In is not cancelled, the Exchange shall execute the buy-in at 3:00 p.m. on the effective day of the buy-in and for this purpose a portion of the buy-in may be executed. (8) Role of Market Surveillance In connection with a buy-in, a Market Surveillance Official may: (a) defer the buy-in if the Market Surveillance Official is of the opinion that a fair market in which to close out the trade does not exist; (b) allow such premium above the prevailing market price for the securities sought on the buy-in which, in the opinion of the Market Surveillance Official, is required to execute the buy-in and is consistent with a fair market for the securities sought, provided that such premium is within the buy-in price guidelines established by the Exchange; and (c) execute a buy-in at a premium that exceeds the buy-in price guidelines established by the Exchange, on a same day cash basis or on any other settlement basis as the Market Surveillance Official considers appropriate in the circumstances. (9) Settlement Unless otherwise required or agreed to by the Exchange, a buy-in shall be executed on a cash basis for next day delivery. **Amended (April 3, 2000)**	
5-302 Special Provisions for Buy-Ins from Securities Loans and Other Failed Positions In connection with a buy-in that is the result of a default pursuant to Rules 5-301(2) or (3), the following rules shall apply in addition to the provisions of Rule 5-301: 1. If the Participating Organization in default wishes to dispute the claim, the Participating Organization shall file a dispute in writing with the Exchange before 1:00	

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p.m. on the day that the Notice is effective and if the dispute is not resolved by agreement between the Participating Organizations or the buy-in is disapproved by a Market Surveillance Official, the dispute shall be determined by arbitration in accordance with Rule 2-308. 2. Where the Participating Organization in default delivers the listed securities subject to the Buy-In Notice prior to execution of the buy-in, the Participating Organization in default shall notify the Exchange and the buy-in will be cancelled upon confirmation by the Exchange of the delivery of the listed securities. 3. The Participating Organization which has issued a Buy-In Notice may extend the buy-in by delivering a notice of extension in writing to the Exchange before 3:00 p.m. on the day the buy-in is to be executed. 4. Failure to settle a trade that is the result of a buy-in that is the result of a default in accordance with the terms of the buy-in, if not resolved by the Participating Organizations concerned, shall be resolved by cancellation of the buy-in contract and issuance of a further buy-in and, in such case, the Participating Organization selling to the original buy-in shall be liable for any loss or damage resulting from failure to deliver. 5. Following execution of a buy-in, the Participating Organization that issued the Buy-In Notice shall notify the Participating Organization in default in writing of the amount of the difference between the amount to be paid on the Exchange Contract closed out, and the amount paid on the buy-in, if any, and such difference shall be paid to the Participating Organization entitled to receive the same within 24 hours of receipt of such notice. 6. Where more than one buy-in has been arranged in connection with the same listed securities, the Market Surveillance Official may combine any number of the trades.	
5-303 Failed Trade in Rights, Warrants and Installment Receipts (1) Notwithstanding Rule 5-301, should fail positions in rights, warrants or installment receipts exist on the expiry or payment date, purchasing Participating Organizations have the option of demanding delivery of the securities into which the rights, warrants or installment receipts are exercisable, any additional subscription privilege, and any subscription fee payable to a Participating Organization, that may be available, such demand shall be made before 4:00 p.m. on the expiry date. (2) Where a demand has been made in accordance with Rule 5-303(1), payment by purchasing Participating Organizations for: (a) the rights, warrants or installment receipts	

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shall be in accordance with normal settlement procedures, but delivery of the rights, warrants or installment receipts, as the case may be, is not required; and (b) for the securities into which the rights, warrants or installment receipts are exercisable and payment for any additional subscription privilege shall be made upon delivery of the securities. (3) Where a demand has not been made in accordance with Rule 5-303(1), settlement shall be in accordance with normal settlement procedures, but delivery of the rights, warrants or installment receipts, as the case may be, is not required.	
5-304 Restrictions on Participating Organizations' Involvement in Buy-ins (1) No Participating Organization shall knowingly permit any person on whose behalf a Buy-In Notice has been issued to fill all or any part of such order by selling the securities for the account of that person or an associated account and prior to selling to a buy-in, the Participating Organization, shall receive written or verbal confirmation that the order to sell is not being placed on behalf of the account of the person on whose behalf the Buy-In Notice was issued or an associated account. (2) A Participating Organization that issued a Buy-In Notice and the Participating Organization against whom a Buy-In Notice has been issued may supply all or a part of the listed securities provided that the principal supplying the listed securities is not: (a) the Participating Organization; (b) an Approved Person or employee of the Participating Organization; or (c) an associate of any person described in Rules 5-304(2)(a) or (b). (3) If listed securities are supplied by the Participating Organization that issued the Buy-In Notice, delivery shall be made in accordance with the terms of the contract thus created, and the Participating Organization shall not, by consent or otherwise, fail to make such delivery.	
5-305 When Issue Delisted or Suspended An Exchange Contract which has not settled for a security which has been delisted or suspended may be closed out in a transaction in the over-the-counter market with the consent of the Participating Organization in default provided that if the Participating Organization in default does not so consent, the Participating Organization that wishes to close out in the over-the- counter market may request the Exchange to make a Decision permitting such transaction.	
5-306 Defaulters	

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(1) If a Participating Organization against which an Exchange Contract is closed out under this Part fails to make payment of the money difference between the contract price and the buy-in price within the time specified or fails to conform to an award of arbitrators under Rule 2-308, the Participating Organization concerned shall become a defaulter, and notice of such default shall be provided by the Exchange to each Participating Organization. (2) If a Participating Organization makes default in, or fails to meet, or admits or discloses an inability to meet, its liabilities or engagements to the Exchange or to the Clearing Corporation or to another Participating Organization or to the public, the Participating Organization concerned may be adjudged a defaulter by the Exchange and notice of such default shall be provided by the Exchange to each Participating Organization. (3) A Participating Organization failing to make delivery to the Clearing Corporation of securities and/or a certified cheque within the time limited by the rules governing the Clearing Corporation may be adjudged a defaulter by the Exchange.	
5-307 Verified Statement of Outstanding Exchange Contracts Where in connection with an audit of a Participating Organization, another Participating Organization has verified in writing a statement of outstanding Exchange Contracts with the Participating Organization, such verification shall be binding and any outstanding Exchange Contracts not disclosed on such statement shall be unenforceable between the Participating Organizations.	
PART 6 – EXCHANGE TAKE-OVER BIDS AND EXCHANGE ISSUER BIDS **DIVISION 1 – DEFINITIONS AND INTERPRETATION** **6-101 Definitions** In this Part: **"average bid value"** means the amount obtained by dividing: (i) the aggregate of the bid price times the number of shares of the class of securities sought plus the market price times the number of shares of such class of securities not sought, by (ii) the aggregate of the number of shares of the class of securities sought plus the number of shares of such class of securities not sought. **"bid"** means either a stock exchange take-over bid or a	

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substantial issuer bid, as the case may be. **"circular bid"** means a take-over bid or an issuer bid made in compliance with the requirements of Part XX of the *Securities Act* or, if applicable, Part XVII of the *Canada Business Corporations Ac*t. **"closing price"** means: (a) the price per share at which the last trade in that class of securities was effected on the Exchange on that day as shown on the record of sales published by the Exchange; or (b) if there were no trades in that class of securities on the Exchange, the price per share at which the last trade in that class of securities was effected on another exchange recognized for this purpose; or (c) if there were no trades in that class of securities on the Exchange or any recognized exchange, but closing bid and ask prices were published therefor, the average of such bid and ask prices as shown on the list of closing quotations published by the Exchange. **"competing stock exchange take-over bid"** means a stock exchange take-over bid announced while another stock exchange take-over bid for the same class of securities of an offeree issuer is outstanding. **"insider bid"** means a stock exchange take-over bid made by an insider of a listed offeree issuer, by any associate or affiliate of an insider of a listed offeree issuer, by any associate or affiliate of a listed offeree issuer or by an offeror acting jointly or in concert with any of the foregoing. **"issuer bid"** means an offer to acquire listed securities made by or on behalf of a listed company for securities issued by that listed company, unless: (a) the securities are purchased or otherwise acquired in accordance with the terms and conditions attaching thereto that permit the purchase or acquisition of the securities by the issuer without the prior agreement of the owners of the securities, or where the securities are purchased to meet sinking fund or purchase fund requirements; (b) the purchase or other acquisition is required by instrument creating or governing the class of securities or by the stature under which the issuer was incorporated, organized or continued; or (c) the securities carry with them or are accompanied by a right of the owner of the securities to require the issuer to repurchase the securities and the securities are acquired pursuant to the exercise of such	

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right; **"last bid"** means the stock exchange take-over bid, notice of which was accepted by the Exchange at the latest point in time. **"market price"** means the simple average of the closing price of the shares for each of the twenty Trading Days preceding the Exchange's acceptance of the notice in respect of the initial stock exchange take-over bid. **"normal course issuer bid"** means an issuer bid where the purchases (other than purchases by way of a substantial issuer bid): (a) do not, when aggregated with the total of all other purchases in the preceding 30 days, whether through the facilities of a stock exchange or otherwise, aggregate more than 2% of the securities of that class outstanding on the date of acceptance of the notice of normal course issuer bid by the Exchange; and (b) over a 12-month period, commencing on the date specified in the notice of the normal course issuer bid, do not exceed the greater of (i) 10% of the public float, or (ii) 5% of such class of securities issued and outstanding, excluding any held by or on behalf of the issuer on the date of acceptance of the notice of normal course issuer bid by the Exchange, whether such purchases are made through the facilities of a stock exchange or otherwise. **"normal course purchase"** means a take-over bid made by way of a purchase on the Exchange of such number of a class of securities of a listed offeree issuer that, together with all purchases of such securities made by the offeror and any person or company acting jointly or in concert with the offeror in the preceding 12 months through the facilities of a stock exchange or otherwise, do not aggregate more than 5% of the securities of that class outstanding at the time such purchase is made. **"notice"** means a notice of a stock exchange take-over bid filed in accordance with Rule 6-203 or a notice of stock exchange substantial issuer bid filed in accordance with Rule 6-203 or, if applicable, Rule 6-402. **"principal shareholder"** of a company means a person or company who beneficially owns or exercises control or direction over more than 10% of the issued and outstanding shares of any class of voting securities or equity securities of the company. **"public float"** means the number of shares of the class which are issued and outstanding, less the number of shares of the	

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class beneficially owned, or over which control or direction is exercised by: (a) every senior officer or director of the listed company; (b) every principal shareholder of the listed company; and (c) the number of shares that are pooled, escrowed or non-transferable. **"ranking bid"** means the stock exchange take-over bid that yields the highest average bid value. **"shares sought"** means the number of shares of the class of securities for which a bid is made. **"shares not sought"** means the number of shares outstanding of the class of securities for which the bid is made minus the aggregate of the number of such shares sought and the number of such shares owned directly or indirectly by the offeror, its insiders, associates, affiliates, and any person or company acting jointly or in concert with the offeror. **"stock exchange take-over bid"** means a take-over bid, other than a normal course purchase, made through the facilities of the Exchange. **"substantial issuer bid"** means an issuer bid, other than a normal course issuer bid, made through the facilities of the Exchange. **"take-over bid"** means an offer to acquire such number of the listed voting or listed equity securities of an offeree issuer that will in the aggregate constitute: (a) 20% or more of the outstanding securities of that class, together with the offeror' s securities; or (b) in the case of an offeree issuer that is subject to the *Canada Business Corporations Ac*t, 10% or more of the outstanding shares of a class of listed voting shares, together with: (i) shares already beneficially owned or controlled, directly or indirectly by the offeror of an affiliate or associate of the offeror, and (ii) securities held by such persons or companies that are currently convertible into such shares, and (iii) currently exercisable rights and options to acquire such shares or to acquire securities that are convertible into such shares, on the date of the offer to acquire.	
6-102 Interpretation	

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(1) For the purposes of this Part, a purchase shall be deemed to have taken place when the offer to buy or the offer to sell, as the case may be, is accepted. (2) For the purposes of this Part, (a) the beneficial ownership of securities of an offeror or of any person or company acting jointly or in concert with the offeror shall be determined in accordance with section 90 of the *Securities Act*; and (b) where any person or company is deemed by Rule 6-102(2)(a) to be the beneficial owner of unissued securities, the number of outstanding securities of a class in respect of an offer to acquire shall be determined in accordance with subsection 90(3) of the *Securities Act*. (3) For the purposes of this Part, whether a person or company is acting jointly or in concert with an offeror shall be determined in accordance with section 91 of the *Securities Act*.	
DIVISION 2 – GENERAL RULES APPLICABLE TO BIDS **6-201 Compliance with Exchange Requirements** An offeror shall not make a take-over bid or issuer bid through the facilities of the Exchange except in accordance with Exchange Requirements.	**6-201 Compliance with Exchange Requirements** (1) Background and Policy Premises This Policy explains and expands on Part 6 of the Rules. It sets out the stock exchange take-over bid and substantial issuer bid process. Also, special rules applicable to insider bids, take-over bids where a "going private" transaction is contemplated and certain issuer bids for non-voting and non-equity securities are set out. Normal course issuer bids are addressed in Policy 6-501. ***Statutory Rules -*** The statutory rules regulating take-over and issuer bids, form a comprehensive code. That is, all purchases made by an offeror (which, for the purposes of these rules, includes a listed company repurchasing its own shares) must proceed by way of the procedures stipulated by the relevant securities statute unless the transaction(s) may be brought within the ambit of an exemption from the rules. One of the exemptions in the *Securities Act* is for bids made through the facilities of a recognized stock exchange, provided that the bid is made in accordance with the rules of that Exchange. This exemption is found at clause 93(1)(a) of the *Securities Act* for take-over bids and clause 93(3)(e) for issuer bids. Equivalent exemptions exist in other provinces' rules. Although the exemptions apply to many of the statutory rules, certain provisions of the *Securities Act*, the Regulation under the *Securities Act* and policies of the Commission apply to bids made through the facilities of the Exchange. These are detailed below. Rule 6-102 states that an offeror shall not make a take-over bid or issuer bid through the facilities of the Exchange except in accordance with Exchange Requirements. Failure to comply with Exchange Requirements will result in the Exchange advising the Commission that subsection 93(4) has been violated and shall result in a determination that the exemptions found

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	in section 93 are not applicable because the applicable Exchange Requirements have not been observed. ***Exchange Requirements -*** The Exchange Requirements also form a comprehensive code covering any take-over bid or issuer bid made through the facilities of the Exchange. The rules that will govern a particular transaction will depend on the nature of that transaction. Separate requirements exist for the following bids: *Take-Over Bids* "Formal" Take-Over Bids Insider Bids Normal Course Purchases *Issuer Bids* Substantial Issuer Bids Certain Substantial Issuer Bids for Non Equity and Non Voting Securities Normal Course Issuer Bids The Exchange Requirements governing take-over bids and issuer bids made through its facilities have been amended from time to time in the light of experience and in response to changing practices. The Exchange Requirements are intended to be simple and efficient, and to protect investors, while balancing the goals of maintaining confidence and neutrality as between the offerors, the management of the offeree Management and competing offerors. The Exchange Requirements are not intended to (nor do they) reduce the effective protection available to shareholders in any transaction. Except that offers made through the facilities of the Exchange are restricted to cash consideration, cannot be withdrawn (except in limited circumstances) and may not specify a minimum number of shares that must be tendered before the offeror is bound to take them up, they are very similar to bids made by way of circular. For example, as with the rules applicable to circular bids, the Exchange Requirements specify periods for disclosure, solicitation, and take-up of shares tendered pursuant to an offer. The Exchange Requirements are designed to give the offeree shareholders sufficient time to digest the notice of the bid and their directors' response to it, seek advice, and respond to the offer, thereby mitigating the pressure created by the offer of a premium price and limited time frame in which to consider the offer. They also counterbalance the offeror's informational advantage by requiring it to disclose all relevant facts known to it, as well as its intentions for the target company if the offer should succeed. In the case of offers for less than all the shares, shares tendered must be taken up pro rata, thereby allowing all shareholders to participate in the offer. In effect, the rules require that all shareholders have an equal opportunity to participate when a take-over bid or issuer bid is made. Additional provisions govern insider bids and substantial issuer bids. In these cases, the offeror must normally prepare a valuation of the target company, so that shareholders will have the same information that is available to the offeror to judge whether the bid price is fair. Small purchases by offerors are

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	governed by the Exchange Requirements on normal course purchases and normal course issuer bids. (2) Take-over Bids ***Definitions*** - Rule 6-101 defines "stock exchange take-over bid" as "a take-over bid, other than a normal course purchase, made through the facilities of the Exchange." "Take-over bid" means an offer to acquire a sufficient number of listed voting or listed equity securities to bring the offeror's holdings to 20% or more of the outstanding securities of the class. Purchase thresholds are determined in accordance with section 89 of the *Securities Act*. In accordance with Rule 1-101, certain definitions in the *Securities Act* apply. For the purposes of determining whether the threshold for a take-over bid has been met and whether the normal course purchase limits have been observed, each class of shares is viewed separately. Therefore, if a purchaser offers to acquire 20% or more of a particular class of voting or equity securities it is a take-over bid within the meaning of the definition. A security is an equity security if it carries a residual right to participate both in the earnings of the issuer and the assets of the issuer upon liquidation or winding-up, and includes restricted shares that are listed on the Exchange if they fall within this definition. A purchaser must count the number of target shares owned or controlled on the date of the offer to acquire by the purchaser and by any person acting jointly or in concert with the purchaser, together with the number of target shares proposed to be acquired through the offer. The purchaser must also count the number of target shares that it has the right to acquire within 60 days of the date of the offer to acquire by conversion, subscription, option, warrant or otherwise. If the total number of target shares owned and proposed to be acquired is 20% or more of the total number of target shares outstanding, the purchaser is making a take-over bid. If the offeree company is incorporated under the *Canada Business Corporations Act*, the threshold is 10% of the issued and outstanding securities in the case of voting securities, including securities already beneficially owned or controlled, directly or indirectly, by the offeror of an affiliate or associate of the offeror, and securities held by such persons or companies that are currently convertible or exerciseable into such securities or into convertible securities. ***Restrictions on Acquisitions Before and After a Bid -*** The definition of "formal bid" in subsection 89(1) of the *Securities Act* includes a bid made pursuant to the stock exchange exemption. Section 94 of the *Securities Act* applies to stock exchange bids since for the purposes of that section an "offeror" is defined as an offeror making a formal bid. Section 94 restricts acquisitions of target securities by an offeror during a take-over bid to purchases made on a stock exchange. Purchases are limited to 5% of the shares outstanding on the date of the bid. (Exchange Requirements further limit purchases by an offeror, as explained below.) Section 94 contains rules governing private transactions in the 90 days preceding a bid and restricts acquisitions for 20 business days after expiry of a bid. However, normal course purchases on a stock exchange are exempt from these restrictions. Exchange Requirements on normal course purchases must be observed. Offerors are also restricted by

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	the provisions contained in OSC Policy 9.3. ***Going Private Transactions –*** Where an offeror making a stock exchange take-over bid anticipates that a "going private transaction" (as defined in OSC Policy 9.1) will follow the take-over bid, the valuation requirements set out in section 182 of the Regulations to the *Securities Act* and OSC Policy 9.1 must be complied with. ***Procedure Applicable to Stock Exchange Take-over Bids*** 1. *Intention to Make a Stock Exchange Take-over Bid* - A person proposing to make a stock exchange take-over bid should first consult with staff of the Regulatory and Market Policy Section of the Exchange. This facilitates effective market surveillance and timely disclosure, in addition to providing an early opportunity to discuss applicable procedures. 2. *Timely Disclosure* - Pursuant to Exchange Requirements on timely disclosure, an offeror must publicly announce its intention to make a bid as soon as the final decision to proceed with a bid is made. 3. *Submission of Draft Notice* - The offeror must prepare and submit to the Regulatory and Market Policy Section a draft of the notice required under Part 6 of the Rules. The disclosure requirements are set out in Rule 6-203. All drafts are filed on a confidential basis. Rule 6-203(1)(m) requires that the notice include a statement of the rights provided by subsection 131(1) of the *Securities Act*. Subsection 131(10) of the *Securities Act* deems a disclosure document filed with the Exchange pursuant to a stock exchange take-over or issuer bid to be a circular for the purposes of section 131. The following language is recommended: "Securities legislation in certain of the provinces and territories of Canada provides security holders of the offeree issuer with, in addition to any other rights they may have at law, rights of rescission or to damages, or both, if there is a misrepresentation in a circular or notice that is required to be delivered to such security holders. However, such rights must be exercised within prescribed time limits. Security holders should refer to the applicable provisions of the securities legislation of their province or territory for particulars of those rights or consult with a lawyer." For the purpose of calculating the closing price pursuant to Rule 6-101, the Exchange recognizes the New York Stock Exchange and the American Stock Exchange. 4. *Evidence of Satisfactory Financial Arrangements* – Rule 6- 203(1)(o) requires the offeror to provide information satisfactory to the Exchange regarding its identity and financial resources. Normally, the Exchange will require a bank letter or some other satisfactory evidence that the offeror has access to

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	sufficient funds to pay for any shares that it must take up pursuant to the offer. 5. *Acceptance of Notice* - When the draft notice is in satisfactory form, the offeror submits a copy of the final version, duly executed, for acceptance by the Exchange. A bid commences once it is formally accepted. 6. *Press Release* - The offeror must issue a press release announcing that the notice has been accepted by the Exchange and specifying the terms of the offer. The press release must be filed with the Exchange in advance of its release. 7. *Communication to Shareholders* – Rule 6-202(7) requires that the terms of the offer be communicated by first class mail to all holders of the target securities to whom the bid is made in Canada and in each other jurisdiction where the bid is made and such communication is not prohibited by law. The offer must also be mailed to each registered holder of securities convertible or exchangeable into the class of securities that the bid is for, and to each holder that has a right to participate in the offer on some other basis. In the event of a disruption in postal service, or in cases where there are only a few shareholders in a particular province, direct communication with such shareholders by telephone, telegraph, telex, telecopier or e-mail would, subject to the approval of the Exchange, be acceptable. Participating Organizations shall make reasonable efforts to communicate the terms of the bid to all clients who are shown on their books as holding target shares. The offer must also be advertised in the manner prescribed by the Exchange unless some other means of communication is approved. The Exchange normally requires that an advertisement containing a summary of the offer be placed in national newspapers of sufficiently wide circulation to assure dissemination of the offer to all shareholders resident in Canada. The Exchange will disseminate the notice to its Participating Organizations. The offeror must provide the Exchange with such number of copies of the notice as may be required by the Exchange. 8. *Time Period of Bid* – Rule 6-204 provides that the book for receipt of tenders may not be opened until the morning of the twenty-first calendar day after acceptance of the notice. It is important to note that the time begins to run from acceptance of the notice and not from the time of mailing. Nevertheless, if the notice is not mailed to shareholders within a reasonably short period following acceptance, the Exchange will require that the time for the offer be extended in order to ensure adequate dissemination. If the offer is to remain open for the minimum period, i.e., until the morning of the twenty-first calendar day after acceptance of the notice, then mailing of the notice should occur within 24 hours of acceptance of the

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	notice by the Exchange. 9. P*urchases During a Take-over Bid* - Pursuant to Rule 6-304, an offeror making a stock exchange take-over bid may only purchase shares through the facilities of the Exchange if granted an exemption by the Exchange under Rule 6-601 (Powers of the Exchange). An exemption will only be granted by the Exchange where there is a competing circular bid. If an exemption is granted, such purchases are limited 5 per cent of the issued and outstanding, including purchases by the offeror and persons or companies acting jointly or in concert with the offeror during the preceding 90 days. As noted above, reference should also be made to section 94 of the *Securities Ac*t. 10. *Competing Bids* – Rule 6-302 provides that where a competing stock exchange take-over bid is made neither the ranking bid nor the last bid may be withdrawn. The ranking bid is the bid that yields the highest average bid value. The calculation of each competing bid's average bid value should be made at the time of the announcement of the last bid. If an offeror making a stock exchange bid also makes a circular bid, the date of the book may be the original date set or such later date as the Exchange determines to be necessary for proper dissemination. 11. *Amendments to Bids* – Rule 6-207 provides that the terms of a stock exchange take-over bid may be amended, but only to increase the price offered per share or the number of shares sought or to agree to pay an amount in respect of the seller's commission, or both. Notice must be given pursuant to Rule 6- 207. In the case of ranking bids, Rule 6-302(c) provides that the terms of such bids may not be altered except to increase the average bid value. 12. *Withdrawal of Bids* - Subject to Rule 6-302(b), Rule 6-202(4) provides that a stock exchange take-over bid may not be withdrawn unless the Exchange is satisfied that any undisclosed action prior to the date of the offer or any actions subsequent to that date by the board of directors or senior officers of the target company or by any person other than the offeror, effects an adverse material change in the affairs of the target company. Rule 6-110(b) pertains to the situation where there are competing stock exchange take-over bids, and permits a bid that is neither the ranking bid nor the last bid to be withdrawn. 13. *Book for Receipt of Tenders* - Normally, a book for receipt of shares tendered to a stock exchange take-over bid is opened on the Exchange between 8:30 a.m. and 9:00 a.m. on a particular day. However, the Exchange recognizes that in certain circumstances - for example, to facilitate simultaneous acceptance and settlement - it may be desirable to open the book at other times, such as between 4:00 p.m. and 5:00 p.m. The regular

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	settlement rules shall normally apply to bids made before the opening; however, the Exchange may determine that other settlement rules shall apply to a particular bid. For bids made after the close, it may not be possible to enter the trades until the following morning. In such a case settlement shall be as determined by the Exchange. 14. *Extension of Bids* – Pursuant to Rule 6-601, the Exchange may, in its discretion and at the request of the offeror, grant an extension of the bid after the book has closed. An extension will normally be granted where the offeror has failed to acquire the number of shares that it originally intended to acquire in a bid for all outstanding shares. 15. *Rounding Up* – In order to simplify the pro-rating and to reduce the number of odd-lots, the Exchange may request the offeror to take up a number of shares slightly in excess of the number for which it originally bid. 16. *Conduct of Participating Organizations* – Rule 6-205(a) prohibits Participating Organizations of the Exchange from knowingly assisting or participating in the tendering of more listed voting shares than are owned by the tendering party. The Exchange's trading and tendering rules will be designed in each case to effectively protect the integrity of the prorate. Participating Organizations should take note of Rule 4-203 which prohibits a Participating Organization from recording a price on the Exchange that, in the case of a sale by a client, is lower than the actual net price to the client. In other words, negative commissions are prohibited in the interests of the integrity of the tape. A client may not be paid more for their shares than the actual price of the trades pursuant to a take-over bid. 17. *Filing Fee* - A filing fee of $1000 shall be paid to the Exchange on filing a duly executed notice. In addition, the regular Exchange trading fees shall apply to purchases under the bid. (3) Normal Course Purchases A "normal course purchase" is defined in Rule 6-101 as a purchase of such number of a class of securities that, together with all other Purchases in the preceding 12 months, constitutes no more than 5% of the securities outstanding. A normal course purchase is a take-over bid, and therefore the rules only apply to purchasers that hold, or would hold after the purchase, at least 20% of the outstanding shares of a class of voting or equity securities (10% of a class of voting securities in the case of a company incorporated under the *Canada Business Corporations Act*). Shares purchased by persons or companies acting jointly or in concert with the offeror are included in determining the total number of shares purchased. An offeror may acquire up to 5% of the outstanding shares in a given 12 month period through the facilities of the Exchange without filing with the Exchange. An offeror may not acquire more than 5% of the outstanding shares in a 12 month period unless a formal take-over bid is made. Note that for the purpose of determining whether an offeror is making a normal course

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	purchase (i.e. calculating whether the 20% threshold has been or will be reached), the beneficial ownership of securities by the offeror and any person acting jointly or in concert with the offeror is determined in accordance with section 90 of the *Securities Act*. Refer to Rule 6-101(3). Similarly, the number of outstanding securities is determined in accordance with subsection 90(3) of the *Securities Act* if the offeror or any person acting jointly or in concert with the offeror is deemed to be the beneficial owner of any such securities by section 90. (4) Insider Bids Where a stock exchange take-over bid is made by any insider of a listed offeree company, by any associate or affiliate of an insider, by any Associate or affiliate of a listed offeree issuer or by any person acting jointly or in concert with any of the foregoing (all as defined in the *Securities Act* and OSC Policy 9.1), or where the offeror anticipates that a going-private transaction will follow the bid, the procedure is basically the same as that outlined above. Unless a waiver is obtained from the Director of the Commission, a valuation of the target company must be prepared in accordance with section 182 of the Regulation. Further, unless exempted by OSC Policy 9.1, or a waiver is obtained from the Director of the Commission pursuant to OSC Policy 9.1, a valuation of the target company must be prepared in accordance with the requirements set out in the Policy. Form 33-type disclosure and disclosure on legal matters must be included in the notice. In addition, corporate law may impose valuation requirements on offerors. (5) Issuer Bids ***Definition of an "Issuer Bid" -*** "Issuer Bid" is defined in Rule 6-101 as an offer to acquire listed securities made by or on behalf of a listed company for securities issued by that listed company, unless: (a) the securities are purchased or acquired in accordance with terms and conditions attaching thereto that permit the purchase or acquisition of the securities by the issuer without the prior agreement of the owners of the securities, or where the securities are acquired to meet sinking fund or purchase fund requirements; (b) the purchase or acquisition is required by the instrument creating or governing the class of securities or by the statute under which the issuer was incorporated, organized or continued; or (c) the securities carry with them or are accompanied by a right of the owner of the securities to require the issuer to repurchase the securities and the securities are acquired pursuant to the exercise of such right. ***Types of Issuer Bids -*** Issuer bids made through the Exchange facilities fall into two categories:

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	(a) *Normal Course Issuer Bids* - Normal course issuer bids are limited to small market purchases made at the market price over an extended period of time. The term is defined in Rule 6-101. Generally, purchases may not exceed the greater of 5% of issued and outstanding shares or 10% of the public float over a 12-month period and 2% in any 30 day period. The Exchange Requirements with respect to normal course issuer bids are set out in the Policy 6-501. (b) *Substantial Issuer Bids* - Substantial issuer bids are issuer bids that are not normal course issuer bids. There are two types of substantial issuer bids: issuer bids for voting or equity securities, and issuer bids for non-voting and non-equity securities. Each type of bid is subject to separate requirements. Pursuant to the Exchange's Requirements on timely disclosure, an issuer shall publicly disclose its intention to make an issuer bid as soon as the final decision to proceed with the bid is made. ***Substantial Issuer Bids -*** The requirements applicable to substantial issuer bids for voting or equity securities are basically the same as those outlined above for a take-over bid. An issuer making a substantial issuer bid for voting or equity securities through the facilities of the Exchange shall file a notice with the Exchange in accordance with Rule 6-203, and with the procedures described in this Policy under the Heading "Procedure Applicable to Stock Exchange Take-over Bids". In addition, unless a waiver is obtained from the Director or the Commission, a valuation of the target company must be prepared in accordance with s. 182 of the Regulation under the *Securities Ac*t. Further, unless exempted by OSC Policy 9.1, or a waiver is obtained from the Director of the Commission pursuant to OSC Policy 9.1, a Valuation of the target company must be prepared in accordance with the requirements set out in OSC Policy 9.1. OSC Policy 9.1 requires that Form 33-type disclosure and disclosure on legal matters be included in the notice. In addition, the notice must state the purpose or business reasons for the bid. The Exchange will disseminate copies of the notice to its Participating Organizations, and the offeror shall provide the Exchange with such number of copies of the notice as may be required by the Exchange. ***Substantial Issuer Bids for Non-Voting and Non-Equity Securities*** –A simpler procedure is available for issuer bids for securities that are neither voting nor equity securities if there is no requirement to provide a valuation or if exemptions from all applicable valuation requirements have been obtained. In this case, the issuer may file a less detailed form of notice with the Exchange, and is not required to mail a copy of the notice to each shareholder. The book for receipt of tenders may be held on the twenty-first day following acceptance of the notice of issuer bid by the Exchange. The issuer shall issue a press release indicating its intention to make a substantial issuer bid

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	immediately after the Exchange has accepted notice of the bid. The press release shall summarize the material Aspects of the contents of the notice, including the class of securities sought, the maximum number of securities sought, the date of the book and procedures for tendering. Once a press release has been issued, the issuer is committed to making the bid. The Exchange will disseminate copies of the notice to its Participating Organizations, and the offeror shall provide the Exchange with such number of copies of the notice as may be required by the Exchange. (6) Filing Fee A filing fee of $1000 shall be paid to the Exchange on filing a duly executed notice. In addition, the regular Exchange trading fees shall apply to purchases under the bid. (7) Exchange Discretion Rule 6-601 allows the Exchange to relieve any person from the Provisions of Part 6 of the Rules where it would not be prejudicial to the public interest to do so. The Exchange may impose additional obligations on a person as circumstances may warrant. The Exchange has discretion to deny any person or company the use of Exchange facilities. Exemptions will only be granted after prior discussions with and the concurrence of the Commission.
6-202 Obligations of Offeror (1) An offeror shall not attach any conditions to a stock exchange take-over bid other than: (a) establishing a maximum number of shares sought, which shall be the number of shares the offeror is obliged to take up; and (b) in the case of a transaction in respect of which notice must be given to the Director of Investigation and Research under the provisions of the *Competition Act* (Canada), making the bid conditional on no action being taken by the Director under the provisions of such Act within the time period specified in such Act for a transaction effected through the facilities of a stock exchange in Canada. (2) An offeror shall not attach any conditions to a substantial issuer bid other than establishing a maximum number of shares sought, which shall be the number of shares the offeror is obliged to take up. (3) An offeror shall not take up more than the number of shares sought without the approval of the Exchange. (4) A stock exchange take-over bid shall not be withdrawn except: (a) pursuant to Rule 6-302(b); or (b) if the Exchange is satisfied that any undisclosed action prior to the date of the offer or any actions subsequent to that date by the board of directors or senior officers of	

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the offeree issuer or by a person or company other than the offeror effects an adverse material change in the affairs of the offeree issuer. (5) A substantial issuer bid shall not be withdrawn. (6) An offeror making a bid shall file with the Exchange, and shall not proceed with the bid until the notice has been accepted by the Exchange. (7) Except where otherwise provided, an offeror making a bid shall take the following steps to inform shareholders of the offeree issuer of the terms of the bid forthwith after the Exchange has accepted notice of the bid: (a) disseminate details of the bid to the news media in the form of a press release; (b) communicate the terms of the bid: (i) by sending a copy of the notice filed pursuant to Rule 6-203 by first class mail to each registered holder of the class of securities that is the subject of the bid in Canada and in each other jurisdiction where the bid is made and such communication is not prohibited by law, and to each such registered holder of securities convertible or exchangeable for such class of securities or that otherwise has a right to participate in the offer, (ii) by advertising in the manner prescribed by the Exchange, or by such other means as may be approved by the Exchange. (8) If an offeror makes or intends to make a bid, neither the offeror nor any person or company acting jointly or in concert with the offeror shall enter into any collateral agreement, commitment or understanding with any holder or beneficial owner of securities of the offeree issuer that has the effect of providing to the holder or owner, a consideration of greater value than that offered to the other holders of the same class of securities. (9) An offeror filing a notice shall pay a filing fee in such amount as may be prescribed by the Exchange.	
6-203 Notice by Offeror (1) A notice of a stock exchange take-over bid filed by an offeror with the Exchange shall provide the following information, in a form acceptable to the Exchange: (a) the identity of the offeree issuer; (b) the class of securities that are the subject of the bid and a description of the rights of the holders of any other class of securities that	

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have a right to participate in the offer by conversion or otherwise; (c) the cash price to be paid per share and the number of shares sought; (d) the terms of the bid, including the date of the book, method of tendering to the bid and settlement of tenders, any commissions to be paid to Participating Organizations, the names of any person or company retained to make solicitations in respect of the bid, and any other relevant information with respect to such terms; (e) the number and percentage of each class of outstanding equity or voting securities of the offeree issuer owned directly or indirectly by: (i) the offeror, (ii) each of the offeror's directors and senior officers and their associates, (iii) any other person or company acting jointly or in concert with the offeror, (iv) where known after reasonable enquiry, any person or company holding 10 percent or more of any class of equity or voting securities of the offeror, and (v) where known after reasonable enquiry, any person or company holding 10 percent or more of any class of equity or voting securities of the offeree issuer; (f) where known after reasonable enquiry, the number of each class of equity or voting securities of the offeree issuer traded by each of the persons or companies referred to in Rule 6-203(1)(e) during the six-month period preceding the date of filing of the notice, including the purchase or sale price and the date of each such transaction; (g) details of any commitments made by any of the persons or companies referred to in Rule 6-203(1)(e) hereof to acquire any equity or voting securities of the offeree issuer (other than pursuant to the bid) and the terms and conditions of such commitments; (h) a summary showing in reasonable detail the volume of trading and price range of the securities for which the bid is made in the twelve-month period preceding the date of filing of the notice, on the Exchange and on any other principal market, and the market price of such securities immediately before the announcement of the bid; (i) the particulars of any arrangement or agreement made or proposed to be made	

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between the offeror and any of the directors or senior officers of the offeree issuer, including particulars of any payment or other benefit proposed to be made or given by way of compensation for loss of office or for remaining in or retiring from office if the bid is successful; (j) the particulars of any information known to the offeror of any material change in the affairs of the offeree issuer, or any material fact concerning the securities of the offeree issuer that has not been generally disclosed; (k) information regarding any plans or proposals of the offeror to liquidate the offeree issuer, to sell, lease or exchange all or substantially all of the assets of the offeree issuer or to amalgamate such issuer with any other company, or to make any other major change in the business, operations, corporate structure, management or personnel of the offeree issuer; (l) a statement of any right of appraisal that shareholders of the offeree issuer may have under applicable laws and whether the offeror intends to exercise any right of acquisition it may have under applicable legislation; (m) a statement of the rights provided by subsection 131(1) of the *Securities Ac*t; (n) a statement to the effect that the bid may only be withdrawn pursuant to Rule 6-302(b), or in the circumstances referred to in Rule 6-202(4); (o) information satisfactory to the Exchange regarding the identity and financial resources of the offeror, including: (i) if it is a corporation, the names of its directors, officers and principal shareholders, (ii) if it is a partnership, the names of its partners, and suitable disclosure regarding any corporate partners, and (iii) the source of funds to be used to pay for securities tendered to the bid and the terms of any financing obtained; (p) where a valuation is provided pursuant to a legal requirement or otherwise, (i) a summary of the valuation disclosing the basis of computation, scope of review, relevant factors and their values, and the key assumptions on which the valuation is based, and	

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(ii) where copies of the valuation are available for inspection and a statement that a copy of the valuation will be mailed upon payment of a charge covering copying and postage; (q) details of any important business relationship between the offeror and the offeree issuer; (r) any other information not disclosed in the foregoing that would reasonably be expected to affect the decision of the security holders of the offeree issuer to accept or reject the bid. (2) The notice shall conclude with a signed statement certifying that: (a) the information provided is complete and accurate, and in compliance with Part 6 of the Rules; (b) the contents of the notice and the making of the offer have been authorized by the offeror, and in the case of an offeror that has directors, by its board of directors; and (c) the notice contains no untrue statement of a material fact and does not omit to state a material fact that is required to be stated or that is necessary to make a statement not misleading in the light of the circumstances in which it is made. (3) A notice of a substantial issuer bid filed by an offeror with the Exchange shall provide the information contained in Rules 6-203(1) and (2) with appropriate modifications for a transaction that is not a take-over bid and such notice shall contain such additional information as may be required by the Exchange. (4) A copy of the notice shall be filed with the Commission and, in the case of a stock exchange take-over bid, with the offeree issuer forthwith after acceptance by the Exchange.	
6-204 Book for Receipt of Tenders A book for receipt of tenders to the bid shall be opened on the Exchange not sooner than the twenty-first calendar day after the date on which notice of the bid is accepted by the Exchange and at such time, and for such length of time, as may be determined by the Exchange.	
6-205 Conduct of Participating Organizations In respect of a bid: (a) no Participating Organization shall knowingly assist or participate in the tendering of more shares than are owned by the tendering party; and	

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(b) tendering, trading and settlement by Participating Organizations shall be in accordance with such rules as the Exchange shall specify to govern each bid.	
6-206 Allotment Procedure (1) Where in a bid more shares are tendered than the number of shares sought, the offeror shall take up a proportion of all shares tendered equal to the number of shares sought divided by the number of shares tendered, and Participating Organizations shall make allocations in respect of shares tendered in accordance with the instructions of the Exchange. (2) As soon after the closing of the book for receipt of tenders as may be possible, the Exchange shall announce the total number of shares acquired by the offeror pursuant to the terms of the bid and the allocation thereof.	
6-207 Amendments to the Bids and Notices (1) The terms of a bid may only be amended to increase the price per share offered or the number of shares sought or to agree to pay an amount in respect of the seller's commission or a combination thereof and such amendment shall be made by filing with the Exchange a notice of amendment in a form acceptable to the Exchange. (2) Forthwith upon acceptance of the notice of amendment by the Exchange, the offeror shall issue a press release containing a summary of the information set forth in such notice of amendment, including reference to any change in the date of the book and the offeror shall disseminate such notice of amendment in such manner as the Exchange may deem to be appropriate in the circumstances. (3) Where the offeror becomes aware of a material change in any of the information contained in the notice in respect of a bid, the offeror shall file with the Exchange forthwith a notice of change in a form acceptable to the Exchange. (4) Forthwith upon acceptance of the notice of change by the Exchange, the offeror shall issue a press release containing a summary of the information set forth in such notice of change, including reference to any change in the date of the book and the offeror shall disseminate such notice of change in such manner as the Exchange may deem to be appropriate in the circumstances.	
DIVISION 3 – SPECIAL RULES APPLICABLE TO STOCK EXCHANGE TAKE-OVER BIDS **6-301 Offeree Directors' Press Release** (1) The board of directors of the offeree issuer shall, within seven Trading Days of the date of acceptance	

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by the Exchange of the notice of a stock exchange take-over bid, issue a press release recommending acceptance or rejection of the offer and the reasons therefor, or indicating that they are making a recommendation and the reasons therefor and such press release shall also contain the following information: (a) a summary of any agreement entered into or proposed between the offeree issuer and its senior executives in regard to any payment or other benefit granted as indemnity for the loss of their positions or in regard to retaining or losing their positions if the bid is accepted; and (b) a summary of any transaction, board resolution, agreement in principle or signed contracts in response to the bid, indicating whether or not the offeree issuer has undertaken any negotiations that relate to or would result in one of the following: (i) an extraordinary transaction such as a merger or reorganization involving the offeree issuer or one of its subsidiaries, (ii) the purchase, sale or transfer of a material amount of assets of the offeree issuer or one of its subsidiaries, (iii) the acquisition of its own securities by way of an issuer bid or of the securities of another company, or (iv) any material change in the present capitalization or dividend policy of the offeree issuer. (2) The press release required by Rule 6-301(1) should disclose negotiations underway, without giving details if there has been no agreement in principle. (3) A copy of the press release required by Rule 6-301(1) shall be delivered to the Exchange prior to its release. (4) A stock exchange take-over bid may proceed notwithstanding failure by the board of directors of the offeree issuer to comply with the requirements of Rule 6-301(1).	
6-302 Competing Stock Exchange Take-over Bids If a competing stock exchange take-over bid is announced, the stock exchange take-over bids shall be governed by the following additional provisions: (a) neither the ranking bid nor the last bid may be withdrawn, and the offerors making such bids must take up and pay for the all shares tendered to them, up to the maximum numbers of shares sought by each respectively;	

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(b) a bid that is neither the ranking bid not the last bid may be withdrawn within one clear Trading Day of the announcement of the last bid; and (c) the terms of the ranking bid may not be altered except to increase the average bid value thereof.	
6-303 Purchases During a Take-over Bid If granted an exemption under Rule 6-601, an offeror making a stock exchange take-over bid and any person or company acting jointly or in concert with the offeror may purchase shares which are subject to the bid through the facilities of the Exchange, provided that: (a) a press release is issued announcing the the offeror's intention to make such purchases; (b) such purchases do not begin until the second clear Trading Day following the date of the issuance of the press release; (c) such purchases, together with all purchases of such securities made by the offeror and any person or company acting jointly or in concert with the offeror during the preceding 90 days through the facilities of a stock exchange or otherwise, do not aggregate more than 5 percent of that class outstanding at the time such purchases are made; (d) the offeror issues and files with the Exchange a press release forthwith after the close of each Trading Day on which shares are purchased under this rule disclosing: (i) the identity of the purchaser, (ii) the number of shares of the offeree issuer purchased that day, (iii) the highest price paid per share, (iv) the aggregate number of shares of the offeree issuer purchased up to and including that day under this Rule during the currency of the take-over bid, (v) the average price paid for such shares, (vi) the total number of shares owned by the purchaser at the time, and (e) if the offeror or any person or company acting jointly or in concert with the offeror pays a price for any such shares that is higher than the price offered pursuant to the stock exchange take-over bid, then the price offered pursuant to the stock exchange take-over bid shall be increased to equal such higher price.	

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6-304 Notice of Insider Bid A notice in respect of an insider bid shall, in addition to the information required by Rule 6-203, provide the information required by the Exchange.	
6-305 Normal Course Purchases An offeror making a normal course purchase is not subject to any notice requirement under this part.	
DIVISION 4 – SPECIAL RULES APPLICABLE TO SUBSTANTIAL ISSUER BIDS **6-401 Purchases During A Substantial Issuer Bid** Notwithstanding any other provision of this Part, an offeror and any person or company acting jointly or in concert with an offeror shall not make any other purchases or agreements or commitments to purchase securities that are the subject of the issuer bid during the course of such bid unless such purchases are permitted by the Exchange.	
6-402 Special Procedures for Issuer Bids for Securities that are Neither Equity nor Voting Securities (1) The provisions of this Rule shall apply to a substantial issuer bid for securities that are neither voting nor equity securities provided that: (a) there is no legal or regulatory requirement to provide a valuation of the securities that are the subject of the bid to shareholders; or (b) exemptions from all applicable requirements have been obtained. (2) The provisions of Rules 6-202(7), 6-203 and 6-204 shall not apply to a bid made pursuant to this Rule. (3) A notice filed with the Exchange pursuant to this Rule shall provide the following information in a form acceptable to the Exchange: (a) the name of the offeror; (b) class of securities that are the subject of the bid and a description of the rights of the holders of any other class of securities that have a right to participate in the offer by conversion or otherwise; (c) the price to be paid per share and the number of shares sought; (d) the terms of the bid, including the date of the book, method of tendering to the bid and settlement of tenders, any commissions to be paid to Participating Organizations, the names of any person or company retained to make solicitations in respect of the bid, and any other relevant information with respect of such terms;	

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(e) the purpose or business reasons for the bid; (f) information satisfactory to the Exchange regarding the financial resources of the offeror, including the source of funds to be used to pay for securities tendered to the bid and the terms of any financing obtained; (g) the particulars of any material change in the affairs of the offeror or any material fact concerning the offeror that has not been generally disclosed; (h) a statement of any right of appraisal that security holders may have under applicable laws and whether the offeror intends to exercise any right of acquisition it may have under applicable legislation; and (i) any other information not disclosed in the foregoing that would reasonably be expected to affect the decision of the security holders to accept or reject the bid. (4) The notice shall conclude with a signed statement certifying that: (a) the information provided is complete and accurate, and in compliance with Part 6 of the Rules; (b) the contents of the notice and the making of the offer have been authorized by the board of directors of the offeror; and (c) the notice contains no untrue statement of a material fact and does not omit to state a material fact that is required to be stated or that is necessary to make a statement not misleading in the light of the circumstances in which it is made. (5) Forthwith after the Exchange has accepted notice of the bid, the offeror shall: (a) disseminate details of the bid to the media in the form of a press release; and (b) communicate the terms of the bid by advertising in the manner prescribed by the Exchange, or by such other means as may be approved by the Exchange. (6) A book for receipt of tenders to the bid shall be opened on the Exchange not sooner than the twenty-first calendar day after the date on which notice of the bid is accepted by the Exchange and at such time, and for such length of time, as may be determined by the Exchange. (7) In all other respects, the provisions of this Part shall apply to a bid made pursuant to this Rule.	
DIVISION 5 – NORMAL COURSE ISSUER BIDS **6-501 Normal Course Issuer Bids**	**6-501 Normal Course Issuer Bids**

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A normal course issuer bid shall be made in accordance with the prescribed terms and procedures.	(1) Introduction Rule 6-501 requires a normal course issuer bid to be made in accordance with this Policy. "Normal course issuer bid" is defined in Rule 6-101. This Policy sets out the procedures and policies of the Exchange for normal course issuer bids made through its facilities. Subject to certain restrictions, a listed company is generally permitted to purchase through normal market purchases up to 2% of a class of its voting securities in a given 30-day period up to a maximum in a 12-month period of the greater of 5% of outstanding shares or 10% of the public float. The objectives of the Policy are to: (a) provide listed companies with a reasonable and flexible framework within which they may purchase their own shares; (b) provide shareholders with satisfactory disclosure; (c) encourage listed companies to treat shareholders equally; (d) ensure that purchases listed companies do not have a significant effect on the market price of the company's securities; and (e) set forth a clear set of rules for normal course issuer bids to facilitate compliance. (2) Securities Act Exemption The *Securities Act* exempts from its requirements an issuer bid (as defined in the *Securities Ac*t) where it is made through the facilities of a stock exchange recognized by the Commission. The Exchange has been recognized by the Commission. The *Canada Business Corporations Act* and the *Securities Ac*ts of certain other provinces have similar provisions. Subsection 93(4) of the *Securities Act* requires a bid made through a stock exchange pursuant to any exemption in the *Securities Ac*t, including the stock exchange exemption, to be made in accordance with by-laws, regulations and policies of the Exchange. Rule 6-201 states that an issuer shall not make an issuer bid through the facilities of the Exchange except in accordance with Exchange Requirements. Where a notice filed with the Exchange contains a misrepresentation or where the issuer otherwise fails to comply with any of the provisions of this Policy, the Exchange will advise the Commission that subsection 93(4) has been violated. This may result in a determination that the *Securities Act* exemption does not apply and the issuer will therefore be in contravention of the *Securities Act* as well as Exchange Requirements. The requirements set out in this Policy must also be followed by an issuer purchasing shares of a class of the issuer through the facilities of the Exchange pursuant to any applicable exemption of the *Securities Act* other than the stock

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	exchange exemption. This is required by subsection 93(4) of the *Securities Act*. (3) Substantial Issuer Bids A listed company may make repurchases of its shares in excess of those permitted under the normal course issuer bid rules by making a formal bid pursuant to the provisions of Part 6 of the Rules and the Policy on Stock Exchange Take-over Bids and Issuer Bids. Questions regarding formal bids through the facilities of the Exchange should be directed to the Regulatory and Market Policy Section of the Exchange. (4) Definitions Please refer to Part 6 of the Rules for the definitions applicable to this Policy, including definitions of "issuer bid", "normal course issuer bid" and "public float". The terms "issuer" and "listed company" are used interchangeably herein. The definitions in Part I of the Rules also apply to this Policy. (5) Restricted Shares Where the issuer has a class of Restricted Shares, the notice shall include a description of the voting rights of all equity securities (as defined in the *Securities Act*) of the issuer. Reference is made to OSC Policy 1.3 and the Exchange Requirements on Restricted Shares. Where the issuer does not propose to make the same normal course issuer bid for all classes of voting and equity securities, Item 6 of the notice shall state the business reasons for so limiting the normal course issuer bid. (6) Procedure for Making a Normal Course Issuer Bid (a) ***Intention to Acquire Shares*** - The filing of a notice is a declaration by the issuer that it has a present intention to acquire shares. The notice should set out the number of shares that the issuer's board of directors has determined may be acquired rather than simply reciting the maximum number of shares that may be purchased pursuant to this Policy. A notice is not to be filed if the issuer does not have a present intention to purchase shares. The Exchange will not accept a notice if the company would not meet the criteria for continued listing on the Exchange, assuming all of the purchases contemplated by the notice were made. (b) ***Contents and Filing of the Notice*** - The Exchange requires that the issuer prepare and submit to the Exchange a draft of a notice containing the information prescribed by the Appendix to this Policy.

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	When the notice is in a form acceptable to the Exchange, the issuer shall file the notice in final form, duly executed by a senior officer or director of the issuer, for acceptance by the Exchange. (c) ***Duration*** - A normal course issuer bid shall not extend for a period of more than one year from the date on which purchases may begin. (d) ***Press Release*** - The issuer will generally issue a press release indicating its intention to make a normal course issuer bid, subject to regulatory approval, prior to acceptance of the executed notice by the Exchange. The press release should summarize the material aspects of the contents of the notice, including the number of shares sought, the reason for the bid and previous purchases. If a press release has not already been issued, a draft press release should be provided to the Exchange and the issuer shall issue a press release as soon as the notice is accepted by the Exchange. A copy of the final press release shall be filed with the Exchange. (e) ***Disclosure to Shareholders*** - The issuer shall include a summary of the material information contained in the notice in the next annual report, annual information circular, quarterly report or other document mailed to shareholders. The document should indicate that shareholders may obtain a copy of the notice, without charge, by contacting the issuer. (f) ***Commencement of Purchases*** - A normal course issuer bid may commence on the date that is two trading days after the latest of: (i) the date of acceptance by the Exchange of the issuer's notice in final Executed form; or (ii) the date of issuance of the press release required by Policy 6-501(6)(d). (g) ***Publication by the Exchange*** - Upon acceptance of the notice the Exchange will publish summary notification of the normal course issuer bid in its Daily Record. (h) ***Amendment*** – During the course of a normal course issuer bid an issuer may determine that it wishes to amend its notice by increasing the number of shares sought while not exceeding the maximum percentages referred to in the definition of normal course issuer bid. The issuer may

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	do so by issuing a press release and advising the Exchange in writing. (7) Purchases by a Trustee or Agent A trustee or other purchasing agent (hereinafter referred to as a "trustee") for a pension, stock purchase, stock option, dividend reinvestment or other plan in which employees or shareholders of a listed company may participate is deemed to be making an offer to acquire securities on behalf of the listed company where the trustee is deemed to be non-independent. Trustees that are deemed to be non-independent are subject only to Policy 6-501(8) and (9) and to the limits on purchases of the issuer's securities prescribed by the definition of "normal course issuer bid". Trustees that are non-independent must notify the Exchange before commencing purchases. A trustee is deemed to be non-independent where: (a) the trustee (or one of the trustees) is an employee, director, associate or affiliate of the issuer; or (b) the issuer, directly or indirectly, has control over the time, price, amount and manner of purchases or the choice of the broker through which the purchases are to be made. The issuer is not considered to have control where the purchase is made on the specific instructions of the employee or shareholder who will be the beneficial owner of the shares. The Exchange should be contacted where there is uncertainty as to the independence of the trustee. (8) Reporting Purchases Within 10 days of the end of each month in which any purchases are made, whether the securities were purchased through the facilities of the Exchange or otherwise, the issuer shall report its purchases to the Exchange stating the number of securities purchased during its purchases that month, giving the average price paid and stating whether the securities have been cancelled, reserved for issuance or otherwise dealt with. Nil reports are not required. The monthly reports are to be addressed to the attention of Regulatory and Market Policy Section, Issuer Bid Reporting. The issuer may delegate the reporting requirement to the Exchange Participating Organization appointed to make its purchases; however, the issuer bears the responsibility of ensuring timely reports are made. The Exchange periodically publishes a list of securities purchased pursuant to normal course issuer bids. This paragraph also applies to purchases by non-independent trustees pursuant to Policy 6-501(7) and to purchases by any party acting jointly or in concert with the issuer. (9) Prohibited Purchases The Exchange has set the following rules for issuers and Participating Organizations acting on their own behalf:

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	1. ***Price Limitations*** - It is inappropriate for an issuer making a normal course issuer bid to abnormally influence the market price of its shares. Therefore, purchases made by issuers pursuant to a normal course issuer bid other than purchases made in the eVWAP Facility or the POSIT Call Market shall be made at a price which is not higher than the last independent trade of a board lot of the class of shares which is the subject of the normal course issuer bid. In particular, the following are not "independent trades": (a) trades directly or indirectly for the account of (or an account under the direction of) an insider of the issuer, or any associate or affiliate of either the issuer or an insider of the issuer; (b) trades for the account of (or an account under the direction of) the Approved Trader making purchases for the bid; and (c) trades solicited by the Approved Trader making purchases for the bid. 2. ***Prearranged Trades*** - It is important to investor confidence that all holders of identical shares be treated in a fair and even-handed manner by the issuer. Therefore, a cross or pre-arranged trade is not permitted where the seller is an insider of the issuer, an associate of an insider, or an associate or affiliate of the issuer. 3. ***Private Agreements*** - It is the view of the Exchange that it is in the interest of shareholders that transactions pursuant to an issuer bid should be made in the open market. This philosophy is also reflected in the *Securities Ac*t, which provides very limited exemptions for private agreement purchases. The Exchange, therefore, will not normally accept a notice which indicates that purchases will be made other than by means of open market transactions. 4. ***Sales from Control*** -.Purchases pursuant to a normal course issuer bid shall not be made from a person effecting a sale from control block pursuant to subsection 72(7) of the *Securities Act* and Policy 4-305 on Sales from Control Blocks Through the Facilities of the Exchange. It is the responsibility of the Participating Organization acting as agent for the issuer to ensure that it is not bidding in the market for the normal course issuer bid at the same time as a Participating Organization is offering the same class of securities of the issuer under a sale from control. 5. ***Purchases During a Take-Over Bid*** - An issuer shall not make any purchases of its securities pursuant to a normal course issuer bid during a take-over bid for those securities. This restriction applies during the period from the first public announcement of the bid until the termination of the

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	period during which securities may be deposited under such bid, including any extension thereof. This restriction does not apply to purchases made solely as a trustee pursuant to a pre-existing obligation under a pension, stock purchase, stock option, dividend reinvestment or other plan. In addition, if the issuer is making a securities exchange take-over bid, it shall not make any purchases of the security offered in the bid pursuant to OSC Policy 9.3. (10) Participating Organization The issuer shall appoint only one Participating Organization at any one time as its broker to make purchases. The issuer shall inform the Exchange in writing of the name of the responsible broker. The Participating Organization shall be provided with a copy of the notice and be instructed to make purchases in accordance with the provisions of this Policy and the terms of such notice. The Exchange will look to its Participating Organizations to make purchases in accordance with such instructions. To assist the Exchange in its surveillance function, the issuer is required to receive the written consent of the Exchange where it intends to change its broker. (11) Powers of the Exchange The powers of the Exchange with respect to normal course issuer bids are set out in Rule 6-601. They include the power to exempt any person from Exchange Requirements where in the opinion of the Exchange, it would not be prejudicial to the public interest to do so. Blanket exemptions will only be granted after prior discussions with and the concurrence of the Commission. (12) Suspension for Non-Compliance Failure to comply with any requirement herein may result in the suspension of the bid. (13) Fees A fee of $1000 shall be paid on filing a duly executed notice. (14) Enquiries Notices of normal course issuer bids and monthly reports regarding purchases should be addressed to the Regulatory and Market Policy Section of the Exchange. Questions and comments regarding the procedures and policies of the Exchange relating to normal course issuer bids should be directed to the Market Policy Section at 947-4566.
DIVISION 6 – POWERS OF THE EXCHANGE **6-601 Powers of the Exchange** The Exchange may, subject to such terms and conditions as it may impose:	

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(a) require additional disclosure or impose additional obligations on a person or company proposing to make or making a stock exchange take-over bid, substantial issuer bid, normal course purchase or normal course issuer bid where, in the opinion of the Exchange, it would be beneficial to the public interest to do so; (b) determine that any person or company shall not be permitted to purchase shares through the facilities of the Exchange; (c) delay the date upon which the book in respect of a stock exchange take-over bid or substantial issuer bid is to be opened to such date as it may, in its discretion, determine on the occurrence of any of the following: (i) the announcement or making of a competing stock exchange bid or circular bid for securities of the same offeree issuer, (ii) the acceptance of a notice of change or a notice of amendment of the terms of the stock exchange take-over bid or of a competing bid, or the announcement of a change in the terms of a circular bid for securities of the same offeree issuer, or (iii) any other event that, in the opinion of the Exchange, justifies such a delay; (d) permit an offeror to extend a stock exchange take-over bid or substantial issuer bid after the announcement referred to in Rule 6-207; (e) determine whether a stock exchange take-over bid is the ranking bid; (f) deem any transaction made through the facilities of the Exchange to be a stock exchange take-over bid; and (g) exempt any person from any Exchange Requirements where in the opinion of the Exchange it would not be prejudicial to the public interest to do so.	
PART 7 – INVESTIGATIONS AND ENFORCEMENT **~~REPEAL April 1, 2002~~. Repealed (April 1, 2002)**	

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PART 8 – ADMINISTRATION **8-101 Method of Giving Notice** (1) Unless otherwise specifically provided in any Exchange Requirement, notice shall be sufficiently given if delivered personally to the person to whom it is to be given or if delivered to the last address of such person as recorded by the Exchange or any recognized self-regulatory organization or if mailed by pre-paid ordinary or air mail addressed to such person at the said address or if sent to the said address by any means of wire or wireless or any other form of transmitted or recorded communication or if given in any manner which may, in all the circumstances, be reasonably expected to come to the attention of such person. (2) The Exchange may change the address of any person on the records of the Exchange in accordance with any information believed by the Exchange to be reliable. (3) A notice delivered in accordance with this Rule shall be deemed to have been given when it is delivered personally or at the address aforesaid; a notice so mailed shall be deemed to have been given when deposited in a post office or public letter box; and a notice sent by any means of wire or wireless or any other form of transmitted or recorded communication shall be deemed to have been given when delivered to the appropriate communication company or agency or its representatives for dispatch.	
8-102 Computation of Time (1) In computing the time when a notice must be given or for the doing of anything or taking any proceeding under any provision of an Exchange Requirement requiring that a notice be given a specified number of days prior to any meeting, hearing, action or proceeding or that any action be done or proceeding taken within a specified number of days after some event, the date of giving of the notice or of such event shall be excluded and the date of the meeting, hearing, doing of the act or taking of the proceedings shall be included. (2) Where the time limited for a proceeding or the doing of anything under any provision of an Exchange Requirement expires or falls upon a day which is not a Trading Day, the time so limited extends to and the thing may be done on the next day following that is a Trading Day.	
8-103 Waiver of Notice Any person referred to in Rule 8-101 may waive any notice required to be given to such person and such waiver, whether given before or after the meeting, hearing or other event of which notice is required to be given, shall cure any default in giving such notice.	

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8-104 Omissions or Errors in Giving Notice The accidental omission to give any notice to any person or the non-receipt of any notice by any person or any error in any notice not affecting the substance thereof shall not invalidate any action or proceeding founded thereon or taken at any hearing held pursuant thereto	
8-105 Transitional Provisions (1) Subject to Rule 8-105(2), any provision of the General By-law of the Exchange and any policy, ruling, decision or direction in effect immediately prior to the coming into effect of these Rules shall remain in full force and effect until such provision, policy, ruling, decision or direction has been repealed. (2) In the event of a conflict between these Rules and the provisions of the General By-law and any policy, ruling, decision or direction which remains in effect after these Rules come into effect, the provisions of these Rules shall prevail.	

APPENDIX A
THE TORONTO STOCK EXCHANGE INC.

PARTICIPATING ORGANIZATION
APPLICATION, CERTIFICATE AND AGREEMENT

The Applicant will complete all parts and sign the Application, Certificate and Agreement. Signatures must be original.

Prior to being accepted as a Toronto Stock Exchange Participating Organization an applicant must be a member in good standing of a recognized self-regulatory organization (a participating institution in the Canadian Investor Protection Fund that regulates the business conduct and affairs of its members).

Capitalized terms used herein have the meanings assigned to them in Rule 1-101 of the Exchange.

Submit the completed Application, Certificate and Agreement, together with Personal Information Forms and any attachments or supporting documents, to:

Regulatory & Market Policy
The Toronto Stock Exchange
The Exchange Tower
2 First Canadian Place
Toronto, Ontario
M5X 1J2

APPLICATION

_____ (the "Applicant") hereby applies for acceptance as a Toronto Stock Exchange Participating Organization and provides the following information:

Particulars of Applicant

1. Full legal name of Applicant.
2. Name under which the Applicant will carry on business.
3. Former names of Applicant, if any.
4. Head office:

   address

   telephone number

   fax number

   e-mail address

5. Describe the Applicant' s business, briefly and succinctly.

Formation and Capitalization

6. If the Applicant is a corporation, give jurisdiction and date of incorporation, and continuation if applicable. If applicant is a partnership, give date of formation and governing statute.

7. If the Applicant is a corporation, describe capitalization, including classes of shares, number authorized and number issued and outstanding; describe material characteristics such as voting rights, restrictions and conversion rights. If a partnership, list partnership interests and describe material characteristics such as voting rights and restrictions.

8. Names of affiliates in the securities industry, if any.

9. If the Applicant is part of a group of companies, attach a diagram showing the companies of the group with percentages of holdings and jurisdiction of incorporation for each company.

Significant Shareholders

10. Name of each person holding 10% or more of the voting interests of the Applicant; if any such person is not an individual, name of the ultimate beneficial individual owner(s) of the interest or individual(s) controlling the interest. Attach a completed and signed Personal Information Form for each individual.

Directors and Officers or Partners.

11. If the Applicant is a corporation, list names of directors and names and titles of senior officers; if the Applicant is a partnership, list names of partners. Attach a completed and signed Personal Information Form for each individual.

Key Personnel and Operating Information

12. Provide names of head trader and head of compliance, with their titles and contact numbers.

13. Clearing and settlement arrangements.

Regulatory Information

14. Name of the recognized self regulatory organization responsible for regulating the Applicant (the primary audit jurisdiction).

15. List all stock exchange and self regulatory organization memberships, with dates of membership and current status.

16. List all registrations held by the Applicant or an affiliate of the Applicant, at present or in the past, relating to trading or advising in securities, commodities or futures; specify jurisdiction, regulatory authority, category of registration, date of registration and state whether registration continues in effect.

17. List all registrations or licences to deal with the public other than those listed in item 16 that the Applicant, or affiliate of the Applicant, has held; specify nature of registration or licence, jurisdiction and title of legislation under which granted and dates held.

18. Has the Applicant, or an affiliate of the Applicant, ever been refused registration, a licence or membership or had a registration, licence or membership suspended or cancelled? If yes, give particulars.

History of Disciplinary, Criminal and Civil Proceedings

19. Describe all disciplinary proceedings, with resolution of each, relating to the Applicant, or affiliate of the Applicant, including pending proceedings, by any of the registering authorities, self-regulatory organizations or stock exchanges named in the section above.

20. Provide particulars of any criminal conviction, indictment or current charge relating to the Applicant or any affiliate of the Applicant. (If a pardon under the Canada *Criminal Records Act* has been granted and has not been revoked, the Applicant does not have to disclose the pardoned offence and may respond, e.g., "Pardon granted on [date]".)

21. Provide particulars of any past or pending civil proceedings relating to securities, commodities or futures or involving fraud in which the Applicant, or an affiliate of the Applicant, is or was a defendant.

22. If the Applicant, or an affiliate of the Applicant, has ever been declared bankrupt or made a voluntary assignment in bankruptcy or had a receiver appointed by or at the request of its creditors, provide particulars, with date of discharge.

CERTIFICATE AND AGREEMENT

The Applicant hereby certifies that the information provided in this Application and any attachment hereto is true and correct. The Applicant acknowledges that any wilful material omission or misstatement in this Application or any attachment hereto may lead to rejection of the Application or termination of Participating Organization status.

In consideration of acceptance by The Toronto Stock Exchange Inc. (the “Exchange”) as a Participating Organization, the Applicant agrees with the Exchange as follows:

1. In this Agreement, capitalized terms have the meanings assigned to such terms in Rule 1-101 of the Exchange.

2. The Applicant agrees that it will comply with and be bound by Exchange Requirements that are or may be in force from time to time and of which the Exchange has provided public notice.

3. Without limiting the generality of paragraph 2, the Applicant agrees:

   (a) to notify the Exchange in writing of a material change in the information in this Application;

   (b) to obtain prior approval of a change in control as required by Exchange Requirements;

   (c) to notify the Exchange prior to changing the Recognized Self-Regulatory Organization of which it is a member or ceasing to be a member of a Recognized Self-Regulatory Organization;

   (d) to provide, or to provide access to, any information or document that the Exchange requests and to cooperate with any review or investigation by or on behalf of the Exchange;

   (e) to indemnify the Exchange as provided in the Rules; and

   (f) that neither this Agreement nor Participating Organization status is transferable or assignable by the Participating Organization or its affiliates.

4. The Applicant submits to the jurisdiction of the Exchange and agrees that Participating Organization status may be revoked, terminated or suspended at any time in accordance with Exchange Requirements. If such status is revoked or terminated, the Applicant agrees to terminate its connection with the Exchange forthwith and to take all steps necessary to dissociate itself from the business and affairs of the Exchange and other Participating Organizations of the Exchange.

5. This Agreement shall be governed by and construed in accordance with the laws of the Province of Ontario and the laws of Canada applicable therein, without regard to conflicts of law rules.

6. The Applicant hereby acknowledges that it has expressly required this document and all other documents required or permitted to be given or entered into pursuant hereto to be drawn up in the English language only. Les parties reconnaissent avoir expressément demandé que la présente document ainsi que tout autre document à être ou pouvant être donné ou conclu en vertu des dispositions des présentes, soit rédigé en langue anglaise seulement.

Dated at this day of , 20 .

_____
Name of Applicant

BY:

_____
Signature

_____
Name and title of director, officer or partner

_____
Signature

_____
Name and title of director, officer or partner

The Exchange hereby accepts as a Participating Organization.

Dated at Toronto this day of , 20 .

THE TORONTO STOCK EXCHANGE INC.

BY:

_____
Signature

_____
Title

APPENDIX B

THE TORONTO STOCK EXCHANGE INC.

PARTICIPATING ORGANIZATION

APPLICATION FOR APPROVAL OF CHANGE IN CONTROL

_____ (the "Participating Organization") hereby applies for approval of a change in control and provides the following information:

1. Describe the current ownership of the Participating Organization, including controlling interests; attach an organization chart setting out the ownership structure.

2. Describe the proposed transaction, including changes in the ownership of securities of the Participating Organization and any changes in the capitalization of the Participating Organization.

3. Describe the ownership of the Participating Organization following the proposed transaction, including controlling interests; attach an organization chart setting out proposed ownership structure.

4. Provide the name of each person who will hold a Significant Equity Interest in the Participating Organization following the proposed transaction. If any such person is not an individual, provide the name of the ultimate beneficial individual owner of the interest or individual controlling the interest.

5. Provide the name of each director or partner and name and title of each senior officer of the Participating Organization following the proposed transaction.

6. Attach a Personal Information Form for each individual named in response to items 4 and 5 who is not a director, officer, partner or the holder of a Significant Equity Interest of the Participating Organization prior to the proposed transaction.

7. Describe any changes to the business of the Participating Organization as a result of the proposed transaction.

8. Describe any changes to clearing and settlement arrangements of the Participating Organization as a result of the proposed transaction.

9. List all material contracts or other material documents relating to the proposed transaction (and, if applicable, attach copies of the documents or drafts of the documents).

CERTIFICATE

The undersigned hereby certify that the information provided in this application is true and correct.

Dated at this day of , 20 .

_____
Name of Participating Organization

BY:

_____
Signature

_____
Name and title of director, officer or partner

_____
Signature

13.1.3 IDA Discipline Penalties Imposed on Anthony Petriccione – Violation of By-Law 29.1

Contact:
Elsa Renzella
Enforcement Counsel
(416) 943-5877

BULLETIN #3026
August 6, 2002

DISCIPLINE

**DISCIPLINE PENALTIES IMPOSED ON ANTHONY PETRICCIONE
VIOLATION OF BY-LAW 29.1**

Person Disciplined

The Ontario District Council of the Investment Dealers Association ("the Association") has imposed discipline penalties on Anthony Petriccione, at the material times a Registered Representative Options with Scotia Capital Inc., a Member of the Association.

By-laws, Regulations, Policies Violated

On July 24, 2002, the Ontario District Council considered, reviewed and accepted a Settlement Agreement negotiated between Mr. Petriccione and Association staff.

Pursuant to the Settlement Agreement, Mr. Petriccione acknowledged that during approximately a seventeen (17) month period, he deposited numerous personal cheques into nine of his clients' accounts in order to cover margin calls, without the knowledge, consent or authorization of his employer Member, and thereby engaged in business conduct or practice unbecoming a Registered Representative or detrimental to the public interest, contrary to By-law 29.1

Penalty Assessed

The discipline penalties assessed against Mr. Petriccione are a fine in the amount of $12,000; and as a condition of his continued approval by the Association in any registered capacity that he must re-write and pass the examination based on the *Conduct and Practices Handbook Course* within six (6) months of the acceptance of the Settlement Agreement. In addition, Mr. Petriccione is required to pay $3,000.00 towards the Association's costs of this matter.

Summary of Facts

At all material times, Mr. Petriccione was employed as a Registered Representative Options ("RRO") with Scotia Capital Inc.

During the period from May 1999 to October 2000, Mr. Petriccione deposited numerous personal cheques into nine client accounts totalling $50,250.00. The clients who were the recipients of these deposits were either close relatives or friends of Mr. Petriccione. The purpose of these deposits was to cover margin calls which arose as a result of a drop in the stock market. The deposits were made without the consent, knowledge or authorization of Scotia Capital Inc. Scotia Capital Inc. only learned of these deposits in late October 2000 when Mr. Petriccione attempted to deposit three additional personal cheques into his clients' accounts.

Mr. Petriccione is currently employed as a RRO with Yorkton Securities Inc.

Kenneth A. Nason
Association Secretary

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Chapter 25

Other Information

25.1 Exemptions

25.1.1 Everest Financial Planning Inc. - s. 59(2) of Sched. 1 to Reg. 1015 and s. 5. 1 of Rule 31-506

Headnote

Section 5.1 – OSC Rule 31-506 – exemption to mutual fund dealer from the requirement to be a member of the Mutual Fund Dealers Association of Canada – exemption for a limited period of time.

Applicable Ontario Securities Commission Rule

Rule 31-506 - SRO Membership - Mutual Fund Dealers.

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

AND

IN THE MATTER OF
ONTARIO SECURITIES COMMISSION RULE 31-506
SRO MEMBERSHIP - MUTUAL FUND DEALERS (the "Rule")

AND

IN THE MATTER OF
EVEREST FINANCIAL PLANNING INC.

EXEMPTION
(Section 59(2) of Schedule 1 to Ontario Regulation 1015)
(Section 5.1 of the Rule)

UPON the Director having received an application (the "Application") from Everest Financial Planning Inc. ("EFPI") seeking a decision (i) pursuant to section 5.1 of the Rule, to exempt EFPI from the application of section 2.1 of the Rule, which would require EFPI to be a member of the Mutual Fund Dealers Association of Canada (the "MFDA") by July 2, 2002 on the condition that EFPI is a member of the MFDA by December 1, 2002, and (ii) pursuant to section 59(2) of Schedule I to Ontario Regulation 1015 to exempt EFPI from the requirement to pay an application fee in respect of such application;

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

AND UPON EFPI having represented to the Director that:

1. EFPI is registered under the Act as a mutual fund dealer and has its head office in Ontario;

2. EFPI filed a membership application (the "MFDA Application") with the MFDA;

3. EFPI has complied, on a timely basis, with all requests by the MFDA for information and/or documents pertaining to its MFDA Application;

4. EFPI is not aware of any issues which remain unresolved between it and the MFDA in respect of its MFDA Application; and

5. EFPI is not, to its knowledge, in breach of any requirements of the Act or the regulations or rules made thereunder.

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

IT IS THE DECISION of the Director, pursuant to section 5.1 of the Rule, that EFPI is exempt from the requirement of section 2.1 of the Rule on the condition that from and after December 1, 2002, so long as EFPI is registered as a mutual fund dealer under the Act, it is a member of the MFDA.

IT IS THE FURTHER DECISION of the Director, pursuant to section 59(2) of Schedule I to Ontario Regulation 1015, that EFPI is exempt from the requirement to pay the application fee required by section 53(1) of Schedule 1 to Ontario Regulation 1015 in respect of the MFDA Application.

June 28, 2002.

"David M. Gilkes"

25.1.2 Beacon II Inc. - s. 59(2) of Sched. 1 to Reg. 1015 and s. 5. 1 of Rule 31-506

Headnote

Section 5.1 – OSC Rule 31-506 – exemption to mutual fund dealer from the requirement to be a member of the Mutual Fund Dealers Association of Canada – exemption for a limited period of time.

Applicable Ontario Securities Commission Rule

Rule 31-506 - SRO Membership - Mutual Fund Dealers.

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

AND

IN THE MATTER OF
ONTARIO SECURITIES COMMISSION RULE 31-506
SRO MEMBERSHIP - MUTUAL FUND DEALERS (the "Rule")

AND

IN THE MATTER OF
BEACON II INC.

EXEMPTION
(Section 59(2) of Schedule 1 to Ontario Regulation 1015)
(Section 5.1 of the Rule)

UPON the Director having received an application (the "Application") from Beacon II Inc. ("BEACON") seeking a decision (i) pursuant to section 5.1 of the Rule, to exempt BEACON from the application of section 2.1 of the Rule, which would require BEACON to be a member of the Mutual Fund Dealers Association of Canada (the "MFDA") by July 2, 2002 on the condition that BEACON is a member of the MFDA by December 1, 2002, and (ii) pursuant to section 59(2) of Schedule I to Ontario Regulation 1015 to exempt BEACON from the requirement to pay an application fee in respect of such application;

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

AND UPON BEACON having represented to the Director that:

1. BEACON is registered under the Act as a mutual fund dealer and has its head office in Ontario;

2. BEACON filed a membership application (the "MFDA Application") with the MFDA;

3. BEACON has complied, on a timely basis, with all requests by the MFDA for information and/or documents pertaining to its MFDA Application;

4. BEACON is not aware of any issues which remain unresolved between it and the MFDA in respect of its MFDA Application; and

5. BEACON is not, to its knowledge, in breach of any requirements of the Act or the regulations or rules made thereunder.

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

IT IS THE DECISION of the Director, pursuant to section 5.1 of the Rule, that BEACON is exempt from the requirement of section 2.1 of the Rule on the condition that from and after December 1, 2002, so long as BEACON is registered as a mutual fund dealer under the Act, it is a member of the MFDA.

IT IS THE FURTHER DECISION of the Director, pursuant to section 59(2) of Schedule I to Ontario Regulation 1015, that BEACON is exempt from the requirement to pay the application fee required by section 53(1) of Schedule 1 to Ontario Regulation 1015 in respect of the MFDA Application.

June 28, 2002.

"David M. Gilkes"

25.1.3 Hub Capital Inc. - s. 59(2) of Sched. 1 to Reg. 1015 and s. 5. 1 of Rule 31-506

Headnote

Section 5.1 – OSC Rule 31-506 – exemption to mutual fund dealer from the requirement to be a member of the Mutual Fund Dealers Association of Canada – exemption for a limited period of time.

Applicable Ontario Securities Commission Rule

Rule 31-506 - SRO Membership - Mutual Fund Dealers.

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

AND

IN THE MATTER OF
ONTARIO SECURITIES COMMISSION RULE 31-506
SRO MEMBERSHIP - MUTUAL FUND DEALERS (the "Rule")

AND

IN THE MATTER OF
HUB CAPITAL INC.

EXEMPTION
(Section 59(2) of Schedule 1 to Ontario Regulation 1015)
(Section 5.1 of the Rule)

UPON the Director having received an application (the "Application") from Hub Capital Inc.("HCI") seeking a decision (i) pursuant to section 5.1 of the Rule, to exempt HCI from the application of section 2.1 of the Rule, which would require HCI to be a member of the Mutual Fund Dealers Association of Canada (the "MFDA") by July 2, 2002 on the condition that HCI is a member of the MFDA by December 1, 2002, and (ii) pursuant to section 59(2) of Schedule I to Ontario Regulation 1015 to exempt HCI from the requirement to pay an application fee in respect of such application;

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

AND UPON HCI having represented to the Director that:

1. HCI is registered under the Act as a mutual fund dealer and has its head office in Ontario;

2. HCI filed a membership application (the "MFDA Application") with the MFDA;

3. HCI has complied, on a timely basis, with all requests by the MFDA for information and/or documents pertaining to its MFDA Application;

4. HCI is not aware of any issues which remain unresolved between it and the MFDA in respect of its MFDA Application; and

5. HCI is not, to its knowledge, in breach of any requirements of the Act or the regulations or rules made thereunder.

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

IT IS THE DECISION of the Director, pursuant to section 5.1 of the Rule, that HCI is exempt from the requirement of section 2.1 of the Rule on the condition that from and after December 1, 2002, so long as HCI is registered as a mutual fund dealer under the Act, it is a member of the MFDA.

IT IS THE FURTHER DECISION of the Director, pursuant to section 59(2) of Schedule I to Ontario Regulation 1015, that HCI is exempt from the requirement to pay the application fee required by section 53(1) of Schedule 1 to Ontario Regulation 1015 in respect of the MFDA Application.

June 28, 2002.

"David M. Gilkes"

25.1.4 Blueprint Investment Corp. - s. 59(2) of Sched. 1 to Reg. 1015 and s. 5. 1 of Rule 31-506

Headnote

Section 5.1 – OSC Rule 31-506 – exemption to mutual fund dealer from the requirement to be a member of the Mutual Fund Dealers Association of Canada – exemption for a limited period of time.

Applicable Ontario Securities Commission Rule

Rule 31-506 - SRO Membership - Mutual Fund Dealers.

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

AND

IN THE MATTER OF
ONTARIO SECURITIES COMMISSION RULE 31-506
SRO MEMBERSHIP - MUTUAL FUND DEALERS (the "Rule")

AND

IN THE MATTER OF
BLUEPRINT INVESTMENT CORP.

EXEMPTION
(Section 59(2) of Schedule 1 to Ontario Regulation 1015)
(Section 5.1 of the Rule)

UPON the Director having received an application (the "Application") from Blueprint Investment Corp. ("BIC") seeking a decision (i) pursuant to section 5.1 of the Rule, to exempt BIC from the application of section 2.1 of the Rule, which would require BIC to be a member of the Mutual Fund Dealers Association of Canada (the "MFDA") by July 2, 2002 on the condition that BIC is a member of the MFDA by December 1, 2002, and (ii) pursuant to section 59(2) of Schedule I to Ontario Regulation 1015 to exempt BIC from the requirement to pay an application fee in respect of such application;

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

AND UPON BIC having represented to the Director that:

1. BIC is registered under the Act as a mutual fund dealer and has its head office in Ontario;

2. BIC filed a membership application (the "MFDA Application") with the MFDA;

3. BIC has complied, on a timely basis, with all requests by the MFDA for information and/or documents pertaining to its MFDA Application;

4. BIC is not aware of any issues which remain unresolved between it and the MFDA in respect of its MFDA Application; and

5. BIC is not, to its knowledge, in breach of any requirements of the Act or the regulations or rules made thereunder.

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

IT IS THE DECISION of the Director, pursuant to section 5.1 of the Rule, that BIC is exempt from the requirement of section 2.1 of the Rule on the condition that from and after December 1, 2002, so long as BIC is registered as a mutual fund dealer under the Act, it is a member of the MFDA.

IT IS THE FURTHER DECISION of the Director, pursuant to section 59(2) of Schedule I to Ontario Regulation 1015, that BIC is exempt from the requirement to pay the application fee required by section 53(1) of Schedule 1 to Ontario Regulation 1015 in respect of the MFDA Application.

June 28, 2002.

David M. Gilkes"

25.1.5 W.H. Stuart Mutuals Ltd. - s. 59(2) of Sched. 1 to Reg. 1015 and s. 5. 1 of Rule 31-506

Headnote

Section 5.1 – OSC Rule 31-506 – exemption to mutual fund dealer from the requirement to be a member of the Mutual Fund Dealers Association of Canada – exemption for a limited period of time.

Applicable Ontario Securities Commission Rule

Rule 31-506 - SRO Membership - Mutual Fund Dealers.

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

AND

IN THE MATTER OF
ONTARIO SECURITIES COMMISSION RULE 31-506
SRO MEMBERSHIP - MUTUAL FUND DEALERS (the "Rule")

AND

IN THE MATTER OF
W.H. STUART MUTUALS LTD.

EXEMPTION
(Section 59(2) of Schedule 1 to Ontario Regulation 1015)
(Section 5.1 of the Rule)

UPON the Director having received an application (the "Application") from W.H. Stuart Mutuals Ltd. ("W.H. Stuart") seeking a decision (i) pursuant to section 5.1 of the Rule, to exempt W.H. Stuart from the application of section 2.1 of the Rule, which would require W.H. Stuart to be a member of the Mutual Fund Dealers Association of Canada (the "MFDA") by July 2, 2002 on the condition that W.H. Stuart is a member of the MFDA by December 1, 2002, and (ii) pursuant to section 59(2) of Schedule I to Ontario Regulation 1015 to exempt W.H. Stuart from the requirement to pay an application fee in respect of the Application;

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

AND UPON W.H. Stuart having represented to the Director that:

1. W.H. Stuart is registered under the Act as a mutual fund dealer and has its head office in Ontario. W.H. Stuart is also registered as a mutual fund dealer in Newfoundland and Labrador, Nova Scotia, Prince Edward Island, Manitoba, Saskatchewan, Alberta and British Columbia;

2. W.H. Stuart filed a membership application (the "MFDA Application") with the MFDA;

3. W.H. Stuart has complied, on a timely basis, with all requests by the MFDA for information and/or documents pertaining to its MFDA Application;

4. W.H. Stuart is not aware of any issues which remain unresolved between it and the MFDA in respect of its MFDA Application;

5. W.H. Stuart is not, to its knowledge, in breach of any requirements of the Act or the regulations or rules made thereunder; and

6. W.H. Stuart will not be a member of the MFDA by July 2, 2002.

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

IT IS THE DECISION of the Director, pursuant to section 5.1 of the Rule, that W.H. Stuart is exempt from the requirement of section 2.1 of the Rule on the condition that from and after December 1, 2002, so long as W.H. Stuart is registered as a mutual fund dealer under the Act, it is a member of the MFDA.

IT IS THE FURTHER DECISION of the Director, pursuant to section 59(2) of Schedule I to Ontario Regulation 1015, that W.H. Stuart is exempt from the requirement to pay the application fee required by section 53(1) of Schedule 1 to Ontario Regulation 1015 in respect of the MFDA Application.

June 28, 2002.

"David M. Gilkes"

25.1.6 Tom Delaney Financial Inc. - s. 59(2) of Sched. 1 to Reg. 1015 and s. 5. 1 of Rule 31-506

Headnote

Section 5.1 – OSC Rule 31-506 – exemption to mutual fund dealer from the requirement to be a member of the Mutual Fund Dealers Association of Canada – exemption for a limited period of time.

Applicable Ontario Securities Commission Rule

Rule 31-506 - SRO Membership - Mutual Fund Dealers.

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

AND

IN THE MATTER OF
ONTARIO SECURITIES COMMISSION RULE 31-506
SRO MEMBERSHIP B MUTUAL FUND DEALERS (the "Rule")

AND

IN THE MATTER OF
TOM DELANEY FINANCIAL INC.

EXEMPTION
(Section 59(2) of Schedule 1 to Ontario Regulation 1015)
(Section 5.1 of the Rule)

UPON the Director having received an application (the "Application") from Tom Delaney Financial Inc. ("Delaney") seeking a decision (i) pursuant to section 5.1 of the Rule, to exempt Delaney from the application of section 2.1 of the Rule, which would require Delaney to be a member of the Mutual Fund Dealers Association of Canada (the "MFDA") by July 2, 2002 on the condition that Delaney is a member of the MFDA by December 1, 2002, and (ii) pursuant to section 59(2) of Schedule I to Ontario Regulation 1015 to exempt Delaney from the requirement to pay an application fee in respect of the Application;

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

AND UPON Delaney having represented to the Director that:

1. Delaney is registered under the Act as a mutual fund dealer and has its head office in Ontario;

2. Delaney filed a membership application (the "MFDA Application") with the MFDA;

3. Delaney has complied, on a timely basis, with all requests by the MFDA for information and/or documents pertaining to its MFDA Application;

4. Delaney is not aware of any issues which remain unresolved between it and the MFDA in respect of its MFDA Application;

5. Delaney is not, to its knowledge, in breach of any requirements of the Act or the regulations or rules made thereunder; and

6. Delaney will not be a member of the MFDA by July 2, 2002.

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

IT IS THE DECISION of the Director, pursuant to section 5.1 of the Rule, that Delaney is exempt from the requirement of section 2.1 of the Rule on the condition that from and after December 1, 2002, so long as Delaney is registered as a mutual fund dealer under the Act, it is a member of the MFDA.

IT IS THE FURTHER DECISION of the Director, pursuant to section 59(2) of Schedule I to Ontario Regulation 1015, that Delaney is exempt from the requirement to pay the application fee required by section 53(1) of Schedule 1 to Ontario Regulation 1015 in respect of the MFDA Application.

June 28, 2002.

"David M. Gilkes"

25.1.7 LBC Financial Services Inc. - s. 59(2) of Sched. 1 to Reg. 1015 and s. 5. 1 of Rule 31-506

Headnote

Section 5.1 – OSC Rule 31-506 – exemption to mutual fund dealer from the requirement to be a member of the Mutual Fund Dealers Association of Canada – exemption for a limited period of time.

Applicable Ontario Securities Commission Rule

Rule 31-506 - SRO Membership - Mutual Fund Dealers.

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

AND

IN THE MATTER OF
ONTARIO SECURITIES COMMISSION RULE 31-506
SRO MEMBERSHIP - MUTUAL FUND DEALERS (the "Rule")

AND

IN THE MATTER OF
LBC FINANCIAL SERVICES INC.

EXEMPTION
(Section 59(2) of Schedule 1 to Ontario Regulation 1015)
(Section 5.1 of the Rule)

UPON the Director having received an application (the "Application") from LBC Financial Services Inc. ("LBC") seeking a decision (i) pursuant to section 5.1 of the Rule, to exempt LBC from the application of section 2.1 of the Rule, which would require LBC to be a member of the Mutual Fund Dealers Association of Canada (the "MFDA") by July 2, 2002 on the condition that LBC is a member of the MFDA by December 1, 2002, and (ii) pursuant to section 59(2) of Schedule I to Ontario Regulation 1015 to exempt LBC from the requirement to pay an application fee in respect of the Application;

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

AND UPON LBC having represented to the Director that:

1. LBC is registered under the Act as a mutual fund dealer and has its head office in Quebec. LBC is also registered as a mutual dealer in Quebec, Manitoba, Saskatchewan, Alberta, BC and New Brunswick. LBC has applied to be a mutual fund dealer in Nova Scotia, Prince Edward Island and Newfoundland and Labrador;
2. LBC filed a membership application (the "MFDA Application") with the MFDA in May, 2001;
3. LBC has complied, on a timely basis, with all requests by the MFDA for information and/or documents pertaining to its MFDA Application;
4. LBC is entering into an introducing/carrying dealer agreement with an affiliated company and the MFDA is reviewing such agreement. Other than the review by the MFDA of the introducing/carrying dealer agreement, LBC is not aware of any issues which remain unresolved between it and the MFDA in respect of its MFDA Application;
5. LBC is not, to its knowledge, in breach of any requirements of the Act or the regulations or rules made thereunder; and
6. LBC will not be a member of the MFDA by July 2, 2002.

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

IT IS THE DECISION of the Director, pursuant to section 5.1 of the Rule, that LBC is exempt from the requirement of section 2.1 of the Rule on the condition that from and after December 1, 2002, so long as LBC is registered as a mutual fund dealer under the Act, it is a member of the MFDA.

IT IS THE FURTHER DECISION of the Director, pursuant to section 59(2) of Schedule I to Ontario Regulation 1015, that LBC is exempt from the requirement to pay the application fee required by section 53(1) of Schedule 1 to Ontario Regulation 1015 in respect of the MFDA Application.

June 28, 2002.

"David M. Gilkes"

25.1.8 Members Mutual Management Corp. - s. 59(2) of Sched. 1 to Reg. 1015 and s. 5. 1 of Rule 31-506

Headnote

Section 5.1 – OSC Rule 31-506 – exemption to mutual fund dealer from the requirement to be a member of the Mutual Fund Dealers Association of Canada – exemption for a limited period of time.

Applicable Ontario Securities Commission Rule

Rule 31-506 - SRO Membership - Mutual Fund Dealers.

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

AND

IN THE MATTER OF
ONTARIO SECURITIES COMMISSION RULE 31-506
SRO MEMBERSHIP - MUTUAL FUND DEALERS (the "Rule")

AND

IN THE MATTER OF
MEMBERS MUTUAL MANAGEMENT CORP.

EXEMPTION
(Section 59(2) of Schedule 1 to Ontario Regulation 1015)
(Section 5.1 of the Rule)

UPON the Director having received an application (the "Application") from Members Mutual Management Corp. ("Members") seeking a decision (i) pursuant to section 5.1 of the Rule, to exempt Members from the application of section 2.1 of the Rule, which would require Members to be a member of the Mutual Fund Dealers Association of Canada (the "MFDA") by July 2, 2002 on the condition that Members is a member of the MFDA by December 1, 2002, and (ii) pursuant to section 59(2) of Schedule I to Ontario Regulation 1015 to exempt Members from the requirement to pay an application fee in respect of such application;

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

AND UPON Members having represented to the Director that:

1. Members is registered under the Act as a mutual fund dealer and has its head office in Ontario;

2. Members filed a membership application (the "MFDA Application") with the MFDA;

3. Members has complied, on a timely basis, with all requests by the MFDA for information and/or documents pertaining to its MFDA Application;

4. Members is not aware of any issues which remain unresolved between it and the MFDA in respect of its MFDA Application; and

5. Members is not, to its knowledge, in breach of any requirements of the Act or the regulations or rules made thereunder.

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

IT IS THE DECISION of the Director, pursuant to section 5.1 of the Rule, that Members is exempt from the requirement of section 2.1 of the Rule on the condition that from and after December 1, 2002, so long as Members is registered as a mutual fund dealer under the Act, it is a member of the MFDA.

IT IS THE FURTHER DECISION of the Director, pursuant to section 59(2) of Schedule I to Ontario Regulation 1015, that Members is exempt from the requirement to pay the application fee required by section 53(1) of Schedule 1 to Ontario Regulation 1015 in respect of the MFDA Application.

June 28, 2002.

"David M. Gilkes"

25.1.9 MoneyWI$E Financial Inc. - s. 5. 1 of Rule 31-506

Headnote

Section 5.1 – OSC Rule 31-506 – exemption to mutual fund dealer from the requirement to be a member of the Mutual Fund Dealers Association of Canada – exemption for a limited period of time.

Applicable Ontario Securities Commission Rule

Rule 31-506 - SRO Membership - Mutual Fund Dealers.

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

AND

IN THE MATTER OF
ONTARIO SECURITIES COMMISSION RULE 31-506
SRO MEMBERSHIP – MUTUAL FUND DEALERS (the "Rule")

AND

IN THE MATTER OF
MONEYWI$E FINANCIAL INC.

EXEMPTION
(Section 5.1 of the Rule)

UPON the Director having received an application (the "Application") from MoneyWI$E Financial Inc. ("MoneyWI$E") seeking a decision pursuant to section 5.1 of the Rule, to exempt MoneyWI$E from the application of section 2.1 of the Rule, which would require MoneyWI$E to be a member of the Mutual Fund Dealers Association of Canada (the "MFDA") by July 2, 2002 on the condition that MoneyWI$E is a member of the MFDA by February 1, 2003;

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

AND UPON MoneyWI$E having represented to the Director that:

1. MoneyWI$E is registered under the Act as a mutual fund dealer and has its head office in Ontario;

2. MoneyWI$E filed a membership application (the "MFDA Application") with the MFDA;

3. MoneyWI$E is in the process of transferring its business to another mutual fund dealer and expects to complete the transfer sometime in July;

4. upon completion of the transfer of its business, MoneyWI$E will surrender its mutual fund dealer registration;

5. MoneyWI$E is not, to its knowledge, in breach of any requirements of the Act or the regulations or rules made thereunder; and

6. MoneyWI$E will not be a member of the MFDA by July 2, 2002.

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

IT IS THE DECISION of the Director, pursuant to section 5.1 of the Rule, that MoneyWI$E is exempt from the requirement of section 2.1 of the Rule on the condition that from and after August 1, 2002, so long as MoneyWI$E registered as a mutual fund dealer under the Act, MoneyWI$E will be a member of the MFDA.

June 28, 2002.

"David M. Gilkes"

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