The Ontario Securities Commission

OSC Bulletin

November 7, 2003

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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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Chapter 1

Notices / News Releases

1.1 Notices

1.1.1 Current Proceedings Before The Ontario Securities Commission

NOVEMBER 7, 2003

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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20 Queen Street West
Toronto, Ontario
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Robert L. Shirriff, Q.C.	—	RLS
Suresh Thakrar	—	ST
Wendell S. Wigle, Q. C.	—	WSW

SCHEDULED OSC HEARINGS

DATE: TBA	**Teodosio Vincent Pangia, Agostino Capista and Dallas/North Group Inc.** s. 127 Y. Chisholm in attendance for Staff Panel: TBA
DATE: TBA	**Ricardo Molinari, Ashley Cooper, Thomas Stevenson, Marshall Sone, Fred Elliott, Elliott Management Inc. and Amber Coast Resort Corporation** s. 127 E. Cole in attendance for Staff Panel: TBA
November 3-10, 12 and 14-21, 2003 10:00 a.m.	**Patrick Fraser Kenyon Pierrepont Lett, Milehouse Investment Management Limited, Pierrepont Trading Inc., BMO Nesbitt Burns Inc.*, John Steven Hawkyard+ and John Craig Dunn** s. 127 K. Manarin in attendance for Staff Panel: HLM/MTM/ST * BMO settled Sept. 23/02 + April 29, 2003
February 19, 2004 to March 10, 2004	**ATI Technologies Inc., Kwok Yuen Ho, Betty Ho, JoAnne Chang, David Stone, Mary de La Torre, Alan Rae and Sally Daub** s. 127 M. Britton in attendance for Staff Panel: TBA

May 2004 **Gregory Hyrniw and Walter Hyrniw**

s. 127

Y. Chisholm in attendance for Staff

Panel: TBA

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

Global Privacy Management Trust and Robert Cranston

Philip Services Corporation

Robert Walter Harris

Andrew Keith Lech

S. B. McLaughlin

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

1.1.2 Notice of Ministerial Approval of Ontario Securities Commission Amendments to Multilateral Instrument 45-105 Trades to Employees, Senior Officers, Directors, and Consultants and Rule 45-801 Implementing Multilateral Instrument 45-105 Trades to Employees, Senior Officers, Directors, and Consultants

NOTICE OF MINISTERIAL APPROVAL

ONTARIO SECURITIES COMMISSION AMENDMENTS TO MULTILATERAL INSTRUMENT 45-105 TRADES TO EMPLOYEES, SENIOR OFFICERS, DIRECTORS, AND CONSULTANTS

AND

RULE 45-801 IMPLEMENTING MULTILATERAL INSTRUMENT 45-105 TRADES TO EMPLOYEES, SENIOR OFFICERS, DIRECTORS, AND CONSULTANTS

On October 30, 2003, the Minister of Finance approved certain amendments (the "Amendments") to the following two rules, pursuant to subsection 143.3(3) of the *Securities Act* (Ontario):

- Multilateral Instrument 45-105 *Trades to Employees, Senior Officers, Directors, and Consultants*, and
- Rule 45-801 *Implementing Multilateral Instrument 45-105 Trades to Employees, Senior Officers, Directors, and Consultants*.

The Amendments were previously published in the Bulletin on September 5, 2003. **The Amendments will come into force on November 14, 2003.**

The Amendments are published in Chapter 5 of this Bulletin.

1.1.3 CSA Staff Notice 51-307 - Status of Proposed Continuous Disclosure Rule

CSA STAFF NOTICE 51-307
STATUS OF PROPOSED CONTINUOUS DISCLOSURE RULE

Introduction

On June 20, 2003, the CSA published for comment a revised version of National Instrument 51-102 *Continuous Disclosure Obligations*. NI 51-102 would replace existing continuous disclosure obligations of reporting issuers, other than investment funds. The CSA are currently considering the public comment on NI 51-102 and incorporating changes as appropriate. No changes are expected to the filing deadlines as published in the June, 2003 version of NI 51-102. However, it is expected that either the board of directors or the audit committee will be permitted to approve the interim financial statements. Also, the definition of *venture issuer* is expected to change slightly to replace the list of exchanges in the United States with a reference to exchanges registered as national securities exchanges under section 6 of the 1934 Act in the United States.

Expected application of NI 51-102

We are issuing this notice to assist reporting issuers and their advisers in planning and scheduling directors' and securityholders' meetings and their continuous disclosure for the next fiscal year. This notice replaces CSA Staff Notice 51-306, which is withdrawn.

Subject to receiving all necessary commission and ministerial approvals, staff anticipate the NI 51-102 requirements for

- *financial statements, management discussion and analysis (MD&A) and annual information forms* will apply for financial years beginning on or after January 1, 2004; as a result, the first interim financial statements and MD&A that will be required to comply with the requirements of NI 51-102, including the new filing deadlines for non-venture issuers, will be for first quarters ending on or after March 31, 2004;

- *proxy solicitation and information circulars* will apply as of June 1, 2004; and

- *business acquisition reports* will apply for significant acquisitions if the initial legally binding agreement was entered into on or after March 30, 2004.

Questions

Please refer your questions to any of the following people:

British Columbia Securities Commission
Rosann Youck, Senior Legal Counsel (604) 899-6656
Carla-Marie Hait, Chief Accountant (604) 899-6726
Michael Moretto, Associate Chief Accountant (604) 899-6767
You may also call 1-800-373-6393 from B.C. and Alberta.

Alberta Securities Commission
Mavis Legg, Manager, Securities Analysis (403) 297-2663
Karen Wiwchar, Senior Legal Counsel (403) 297-4732

Manitoba Securities Commission
Bob Bouchard, Director, Corporate Finance (204) 945-2555

Nova Scotia Securities Commission
Bill Slattery, Deputy Director, Corporate Finance and Administration (902) 424-7355

Ontario Securities Commission
Joanne Peters, Senior Legal Counsel (416) 593-8134
Irene Tsatsos, Senior Accountant (416) 593-8223

Commission des valeurs mobilières du Québec
Rosetta Gagliardi, Conseillère en réglementation (514) 940-2199 ext. 4554

Saskatchewan Financial Services Commission – Securities Division
Ian McIntosh, Deputy Director, Corporate Finance (306) 787-5867

November 7, 2003

1.1.4 Notice of Commission Approval – Proposed Amendments to MFDA Rule 2.3.1 Regarding Power of Attorney/Limited Trading Authorization

NOTICE OF COMMISSION APPROVAL – PROPOSED AMENDMENTS TO MFDA RULE 2.3.1 REGARDING POWER OF ATTORNEY/LIMITED TRADING AUTHORIZATION

THE MUTUAL FUND DEALERS ASSOCIATION (MFDA)
NOTICE OF COMMISSION APPROVAL
PROPOSED AMENDMENTS TO MFDA RULE 2.3.1 REGARDING POWER OF ATTORNEY/LIMITED TRADING AUTHORIZATION

The Ontario Securities Commission approved proposed amendments to MFDA Rule 2.3.1 regarding power of attorney/limited trading authorization. In addition, the Alberta Securities Commission, Nova Scotia Securities Commission and Saskatchewan Financial Services Commission approved and the British Columbia Securities Commission did not object to the proposed amendments. The proposed amendments will allow Approved Persons to hold a general power of attorney over the accounts of family members provided certain compliance controls are met. A copy and description of these amendments were published on July 11, 2003 at (2003) 26 OSCB 5407. Based on the public comments received, the MFDA decided to include into Rule 2.3.1 the prescribed compliance controls, which were described in the MFDA Notice that was published on July 11, 2003. The MFDA's summary of public comments and response, together with the revised amendment to Rule 2.3.1, are contained in Chapter 13 of this Ontario Securities Commission Bulletin.

1.1.5 Notice of Commission Approval of Proposed Amendment and Restatement of Rule 45-501 Exempt Distributions, Companion Policy 45-501CP Exempt Distributions, Form 45-501F1, Form 45-501F2 and Form 45-501F3 and Proposed Rescission of Existing Rule 45-501, Companion Policy 45-501CP, Form 45-501F1, Form 45-501F2 and Form 45-501F3

NOTICE OF COMMISSION APPROVAL OF PROPOSED AMENDMENT AND RESTATEMENT OF RULE 45-501 *EXEMPT DISTRIBUTIONS,* COMPANION POLICY 45-501CP *EXEMPT DISTRIBUTIONS*, FORM 45-501F1, FORM 45-501F2 AND FORM 45-501F3 AND PROPOSED RESCISSION OF EXISTING RULE 45-501, COMPANION POLICY 45-501CP, FORM 45-501F1, FORM 45-501F2 AND FORM 45-501F3

On September 2, 2003 the Commission made Rule 45-501 *Exempt Distributions* (the Rule) and Forms 45-501F1, F2, and F3 (the Forms) as a rule under the Act and adopted Companion Policy 45-501CP *Exempt Distributions* (The Companion Policy) as a policy under the Act. The Rule, the Forms and the Companion Policy were most recently published for comment on April 18, 2003 at (2003) 26 OSCB 2970.

These materials are intended to replace the current Rule 45-501 *Exempt Distributions*, the Companion Policy to current Rule 45-501 and the current Forms 45-501F1, F2 and F3, which came into effect in Ontario on November 30, 2001.

The Rule, the Forms and the other material required by the Act to be delivered to the Minister of Finance were delivered on October 28, 2003. If the Minister does not reject the Rule and the Forms or return them to the Commission for further consideration, the Rule and the Forms will come into force on January 12, 2004.

These materials are published in Chapter 5 of the Bulletin.

1.2 Notices of Hearing

1.2.1 Teodosio Vincent Pangia et al. - ss. 127(1) and 127.1

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

AND

IN THE MATTER OF
TEODOSIO VINCENT PANGIA,
AGOSTINO CAPISTA AND
DALLAS/NORTH GROUP INC.

AMENDED NOTICE OF HEARING

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 on the 17th Floor, Main Hearing Room, 20 Queen Street West, Toronto, Ontario commencing on Monday, December 1, 2003 at 10:00 a.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, in the opinion of the Commission it is in the public interest to make an order that:

(a) Teodosio Vincent Pangia ("Pangia") cease trading in securities permanently or for such period as the Commission may order;

(b) Agostino Capista ("Capista") cease trading in securities permanently or for such period as the Commission may order;

(c) Dallas/North Group Inc. ("Dallas North") cease trading in securities permanently or for such period as the Commission may order;

(d) the exemptions contained in Ontario securities law do not apply to Pangia permanently or for such period as the Commission may order;

(e) the exemptions contained in Ontario securities law do not apply to Capista permanently or for such period as the Commission may order;

(f) the exemptions contained in Ontario securities law do not apply to Dallas North permanently or for such period as the Commission may order;

(g) Pangia resign any positions he holds as a director or officer of any issuer;

(h) Pangia be prohibited from becoming or acting as a director or officer of any issuer permanently or for such period as the Commission may order;

(i) Capista resign any positions he holds as a director or officer of any issuer;

(j) Capista be prohibited from becoming or acting as a director or officer of any issuer permanently or for such period as the Commission may order;

(k) Pangia, Capista and Dallas North be reprimanded;

(l) Pangia, Capista and Dallas North, or any of them, pay the costs of Staff's investigation and this proceeding; and/or

(m) such other order as the Commission may deem appropriate.

BY REASON of the allegations set out in the Amended Statement of Allegations of Staff 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.

November 3, 2003.

"John Stevenson"

1.3 News Release

1.3.1 OSC Sets Out Regulatory Regime for Foreign-Based Stock Exchanges

FOR IMMEDIATE RELEASE
October 31, 2003

OSC SETS OUT REGULATORY REGIME FOR FOREIGN-BASED STOCK EXCHANGES

TORONTO – Staff of the Ontario Securities Commission published today a notice outlining its approach to regulate foreign-based stock exchanges seeking to access Ontario's capital markets. The notice provides a transparent, uniform approach that staff will apply when the Commission considers requests for recognition or exemption from recognition by foreign-based stock exchanges. The approach was prepared in response to a number of recent inquiries made by foreign-based exchanges.

"We need to accommodate a securities industry that is evolving through technological advances," said OSC Chair David Brown. "Large and highly liquid markets are growing beyond jurisdictional borders and technology now makes remote access possible for all investors. These developments require us to facilitate investor choice while balancing the need to maintain high standards of investor protection and market integrity. Before Ontario investors are given the opportunity to invest directly through a stock exchange that is outside our jurisdiction, we are setting out the appropriate regulatory framework that will provide protection to those investors."

Foreign-based stock exchanges may apply for recognition or for an exemption from recognition. The approach to be taken in exempting a foreign-based exchange is similar to the one used for recognition but seeks to avoid applying duplicative and inefficient requirements on exchanges that are already subject to sufficient regulatory scrutiny in their home jurisdiction. "These proposals continue to build on our framework that allows for a vital, competitive capital market in Ontario that fosters lower trading prices and improved execution of trades," added Brown.

OSC Staff Notice 21-702 is published in today's edition of *OSC Bulletin* and is available on the OSC's web site at **www.osc.gov.on.ca.**

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Manager, Media Relations
416-595-8913

For Investor Inquiries: OSC Contact Centre
416-593-8314
1-877-785-1555 (Toll Free)

1.3.2 Supreme Court of Canada Dismisses Appeal by Deloitte & Touche v. Ontario Securities Commission

FOR IMMEDIATE RELEASE
October 31, 2003

SUPREME COURT OF CANADA DISMISSES APPEAL BY DELOITTE & TOUCHE V. ONTARIO SECURITIES COMMISSION

TORONTO – In a unanimous decision issued today, the Supreme Court of Canada dismissed the appeal of Deloitte & Touche LLP. This appeal arose in the context of a pre-hearing disclosure application brought in the Ontario Securities Commission's (OSC) proceeding in the matter of Philip Services Corporation. The main issue in the appeal focused on whether the OSC properly ordered disclosure of compelled information which is subject to confidentiality provisions in the *Ontario Securities Act*.

In dismissing the appeal with costs, the Supreme Court made the following comments:

> "In short, like the Court of Appeal, I (Justice Iacobucci) find that the decision of the OSC was reasonable and soundly based with respect to the disclosure of all the compelled material to Philip and the officers to allow them in the circumstances to mount a full answer and defence. […] There is a reasonable possibility that all of the compelled material relating to Deloitte's audit of Philip will be relevant to the allegations against Philip and the officers. Consequently, the application by the OSC of the relevance standard from Stinchcombe was reasonable in all the circumstances. […]
>
> The OSC admittedly has a discretion owing to its expertise to order disclosure of the compelled information if found to be in the public interest. Like Doherty J.A., I believe the OSC properly balanced the interests of disclosure to Philip and the officers along with the protection of the confidentiality expectations and interest of Deloitte. In this respect, I am of the view that in making a disclosure order in the public interest under s. 17, the OSC has a duty to parties like Deloitte to protect its privacy interests and confidences. That is to say that OSC is obligated to order disclosure only to the extent necessary to carry out its mandate under the Act. In this case, the OSC properly weighed the necessary disclosure and the interests of Deloitte."

The Supreme Court's reasons for decision are available at www.scs-csc.gc.ca.

For Media Inquiries: Eric Pelletier
Manager, Media Relations
416-595-8913

For Investor Inquiries: OSC Contact Centre
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1-877-785-1555 (Toll Free)

1.3.3 OSC Proceedings in Respect of Teodosio Vincent Pangia, Agostino Capista and Dallas/North Group Inc.

FOR IMMEDIATE RELEASE
November 3, 2003

OSC PROCEEDINGS IN RESPECT OF TEODOSIO VINCENT PANGIA, AGOSTINO CAPISTA AND DALLAS/NORTH GROUP INC.

TORONTO – A hearing in this matter will be held December 1 – 5, 2003, at 10:00 a.m., in the main hearing room of the Commission, located on the 17th floor, 20 Queen Street West, Toronto, Ontario.

Copies of the Amended Notice of Hearing and Amended Statement of Allegations are available at the Commission's website at **www.osc.gov.on.ca.**

For Media Inquiries: Eric Pelletier
Manager, Media Relations
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For Investor Inquiries: OSC Contact Centre
416-593-8314
1-877-785-1555 (Toll Free)

1.3.4 OSC Proceedings in Respect of Patrick Fraser Kenyon Pierrepont Lett, Milehouse Investment Management Limited, Pierrepont Trading Inc., BMO Nesbitt Burns Inc., John Steven Hawkyard and John Craig Dunn

FOR IMMEDIATE RELEASE
November 3, 2003

OSC PROCEEDINGS IN RESPECT OF PATRICK FRASER KENYON PIERREPONT LETT, MILEHOUSE INVESTMENT MANAGEMENT LIMITED, PIERREPONT TRADING INC., BMO NESBITT BURNS INC., JOHN STEVEN HAWKYARD AND JOHN CRAIG DUNN

TORONTO – Following a motion by counsel for the respondent John Craig Dunn, the Ontario Securities Commission has adjourned the hearing with respect to Dunn until January of 2004, on a date to be set by the Secretary to the Commission. The Commission also granted the request for severance brought by Staff and counsel for the respondents Patrick Fraser Kenyon Pierrepont Lett, Milehouse Investment Mangement Limited and Pierrepont Trading Inc. The hearing with respect to Lett, Milehouse and Pierrepont is scheduled to proceed on November 10, 2003 at 10:00 am.

Copies of the Notice of Hearing, the Statement of Allegations and the Reasons for decisions on the severance and the adjournment are available at the Commission's website at **www.osc.gov.on.ca.**

For Media Inquiries: Eric Pelletier
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416-595-8913

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1.3.5 Crime Prevention Week: OSC Offers Tips to Avoid Fraud

FOR IMMEDIATE RELEASE
November 4, 2003

CRIME PREVENTION WEEK: OSC OFFERS TIPS TO AVOID FRAUD

TORONTO – As part of Crime Prevention Week efforts, the Ontario Securities Commission (OSC) is urging investors to take steps to protect themselves against investment fraud. This type of securities offence is widespread: Canadians lose over $5 billion to fraud annually. Investors should equip themselves with the tools and information available to avoid becoming victims.

The first step is to ensure that the person or company offering you the investment is registered and is in good standing with the OSC, and that the investment product is legal.

Furthermore, don't rely on marketing material to assess the investment. Instead, read the prospectus, the document that provides potential investors with information that is essential in making a decision to buy an investment product. It includes details on the issuer such as its senior management, operations, business and investment plans, risk factors, and intended use of proceeds from the share issue. The prospectus, which is a mandatory document for most share issues, must be filed with the OSC and is publicly available on The System for Electronic Document Analysis and Retrieval (SEDAR) at www.sedar.com.

Watch out for these common indicators, or red flags, of investment fraud:

- Unrealistic promises of spectacular returns on investments, higher than current bank rates, with little or no risk;
- Enticing offers of tax avoidance through offshore investment opportunities;
- Ads or seminars promoting unregistered investments;
- High-pressure sales tactics e.g. claims that the offer will expire shortly or that you are one of the lucky few to be invited to invest.

If you fall prey to investment fraud you can file a complaint with the OSC for further investigation or referral to the appropriate authority. However, legal action is often the only way to recover your money after it's gone.

"Investors should be aware that a court case can be a difficult and time-consuming process and offers no guarantee of recouping losses," notes Perry Quinton, Manager of Investor Communications at the OSC. "Education is the key to protecting your money in the first place."

As the securities industry regulator in Ontario, the OSC has a mandate to foster fair and efficient capital markets; maintain public confidence in the integrity of those markets, and provide protection to investors from unfair, improper or fraudulent practices. More information on frauds and scams is available on www.investorED.ca.

For Media Inquiries: Perry Quinton
Manager,
Investor Communications
416-593-2348

For Investor Inquiries: OSC Contact Centre
416-593-8314
1-877-785-1555 (Toll Free)

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Chapter 2

Decisions, Orders and Rulings

2.1 Decisions

2.1.1 Sherritt International Corporation - MRRS Decision

Headnote

Mutual Reliance Review System for Exemptive Relief Applications – issuer bids – convertible debentures – debentures convertible into common shares at a conversion price far in excess of current value of common shares – conversion feature of no material value – debentures trade like non-convertible, unsecured debt – convertible debentures are out-of-the-money – circular to include summary of opinion letter on convertibility feature – applicant exempt from valuation requirement.

Applicable Rule

61-501 – Insider Bids, Issuer Bids, Going Private Transactions and Related Party Transactions, ss. 3.3, 3.4, and 9.1.

IN THE MATTER OF
THE SECURITIES LEGISLATION OF
BRITISH COLUMBIA, ALBERTA,
SASKATCHEWAN, MANITOBA,
ONTARIO, QUEBEC, 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
SHERRITT INTERNATIONAL CORPORATION

MRRS DECISION DOCUMENT

WHEREAS the local securities regulatory authority or regulator (the "Decision Maker") in each of British Columbia, Alberta, Saskatchewan, Manitoba, Ontario, Quebec, Nova Scotia and Newfoundland and Labrador (the "Jurisdictions") has received an application (the "Application") from Sherritt International Corporation ("Sherritt") for a decision under the securities legislation of the Jurisdictions (the "Legislation") that the requirement contained in the Legislation to obtain a formal valuation (the "Valuation Requirement") shall not apply to the proposed exchange by Sherritt of a portion of its outstanding 6.00% Convertible Unsecured Subordinated Debentures due December 15, 2006 (the "6% Debentures") pursuant to a formal issuer bid (the "Proposed Offer");

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, unless otherwise defined, the terms herein have the meaning set out in National Instrument 14-101 Definitions or in Quebec Commission Notice 14-101;

AND WHEREAS Sherritt has represented to the Decision Makers that:

1. Sherritt was incorporated under the *Business Corporations Act* (New Brunswick) on October 4, 1995. Its principal and head office is located in Toronto, Ontario.

2. Sherritt is a reporting issuer or the equivalent in each of the Jurisdictions and is not in default of any requirements of the Legislation.

3. Sherritt is authorized to issue 100 multiple voting shares and an unlimited number of restricted voting shares (the "Restricted Voting Shares"). As of October 7, 2003, Sherritt had outstanding 100 multiple voting shares and 131,174,679 Restricted Voting Shares.

4. As of October 7, 2003, Sherritt had outstanding 6% Debentures in the aggregate principal amount of $600,000,000.

5. To the knowledge of management of Sherritt, no person or company holds more than 10% of the aggregate principal amount of the 6% Debentures.

6. The 6% Debentures were issued pursuant to an indenture dated as of November 28, 1996 (the "Indenture") between Sherritt and The R-M Trust Company (now CIBC Mellon Trust Company), as trustee, and distributed pursuant to a short form prospectus dated November 21, 1996 by way of instalment receipts.

7. Since December 16, 1999, Sherritt has been entitled to redeem the 6% Debentures in whole or, from time to time, in part, at any time at par plus accrued and unpaid interest, but only if the weighted average trading price of the Restricted Voting Shares on the Toronto Stock Exchange (the "TSX") during the 20 consecutive trading days ending five trading days preceding the date on

which the notice of redemption is given exceeds specified prices in respect of each year, which prices decrease over time.

8. Sherritt may, at its option and subject to all regulatory approvals, elect to redeem the 6% Debentures by payment of that number of freely tradeable Restricted Voting Shares (the "Share Redemption Option") obtained by dividing the principal amount of the outstanding 6% Debentures by 95% of the weighted average trading price of the Restricted Voting Shares on the TSX for the 20 consecutive trading days ending five trading days preceding the date on which the notice of Sherritt's intention to pay in Restricted Voting Shares on the redemption date is first given.

9. At no time since 1999 have the Restricted Voting Shares traded at a price which would permit redemption of the 6% Debentures. However, even if Sherritt is able to redeem the 6% Debentures, it has no intention of triggering the Share Redemption Option prior to, or during the course of, the Proposed Offer.

10. The Indenture provides that Sherritt may purchase for cancellation any or all of the 6% Debentures in the open market by tender or by private contract, subject to any regulatory approval required by law, provided that Sherritt is not in default under the Indenture and that the price at which such 6% Debenture is purchased does not exceed its principal amount, together with accrued and unpaid interest and costs of purchase. Sherritt is not in default under the Indenture. There are no other restrictions upon Sherritt's ability to purchase the 6% Debentures.

11. The 6% Debentures are unsecured and subordinated and are convertible at the 6% Debenture holder's option into Restricted Voting Shares at any time prior to the earlier of December 15, 2006 and the last business day immediately preceding the date specified for redemption by Sherritt. The conversion price is $8.775 per Restricted Voting Share, being a rate of approximately 113.96 Restricted Voting Shares per $1,000 principal amount of 6% Debentures.

12. The Restricted Voting Shares and the 6% Debentures are listed on the TSX.

13. Over the twelve month period prior to October 8, 2003, the 6% Debentures traded at a price range of $795 to $960 per $1,000 of principal amount of 6% Debentures with an average daily volume of $642,498 on the days traded.

14. Over the twelve month period prior to October 8, 2003, the Restricted Voting Shares have traded on the TSX in a range between $5.10 and $3.99 with an average daily volume of 261,649 shares.

15. The closing price of the Restricted Voting Shares on the TSX on October 7, 2003 was $5.06 per share. The closing price of the 6% Debentures on the TSX on October 7, 2003 was $960 per $1,000 principal amount of 6% Debentures.

16. Under the Proposed Offer, Sherritt intends to offer to exchange up to an aggregate principal amount of $300,000,000 of 6% Debentures, representing approximately 50% of the outstanding 6% Debentures, for an equal amount of new convertible unsecured subordinated debentures (the "New Debentures").

17. Sherritt anticipates that the terms of the New Debentures will be substantially the same as the 6% Debentures except with respect to an enhanced interest rate, extended maturity, reduced conversion price, and certain conversion and redemption conditions, all of which will be determined in accordance with market terms at the time the Proposed Offer is made. Sherritt intends to apply to have the New Debentures listed and posted for trading on the TSX.

18. National Bank Financial Inc., in its letter dated October 7, 2003 (the "Opinion Letter"), opines that:

    (i) the convertibility feature of the 6% Debentures is of no material value, and

    (ii) the 6% Debentures trade on the TSX like non-convertible, subordinated, unsecured debt based on the underlying creditworthiness of Sherritt.

19. The Proposed Offer will proceed by way of an issuer bid circular which will include prospectus level disclosure on Sherritt and the New Debentures and a summary and a copy of the Opinion Letter.

20. The Proposed Offer will be made in compliance with the requirements in the Legislation applicable to formal bids made by issuers, except to the extent exemptive relief is granted by the Decision Makers.

21. The Proposed Offer will be an "issuer bid" within the meaning of the Legislation in the Jurisdictions because the 6% Debentures are convertible debt securities.

AND WHEREAS pursuant to the System, this MRRS Decision Document evidences the Decision of each of the Decision Makers (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, in connection with the Proposed Offer, the Valuation Requirement contained in the Legislation shall not apply to Sherritt, provided that:

(iii) prior to, or during the course of, the Proposed Offer, Sherritt shall not have indicated any intention of triggering the Share Redemption Option;

(iv) at the date the Proposed Offer is made, National Bank Financial Inc. shall have confirmed in writing to Sherritt that the conclusions stated in the Opinion Letter remain valid as of the day before the date the Proposed Offer is made; and

(v) Sherritt complies with the other requirements in the Legislation applicable to formal bids made by issuers.

October 28, 2003.

"Ralph Shay"

2.1.2 NeuroMed Technologies Inc. and NeuroMed Pharmaceuticals Inc. - MRRS Decision

Headnote

Subsection 74(1) – registration and prospectus relief granted regarding trades in shares of non-reporting issuers in connection with corporate reorganization utilizing exchangeable share structure – first trade relief granted in respect of trades in shares of U.S. non-reporting issuer subject to certain conditions including existence of a *de minimus* Canadian market at time of first trade and certain other conditions are met.

Statutes Cited

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

Rules Cited

Ontario Securities Commission Rule 45-501 – Exempt Distributions.

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

AND

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

AND

IN THE MATTER OF
NEUROMED TECHNOLOGIES INC.

AND

NEUROMED PHARMACEUTICALS INC.

MRRS DECISION DOCUMENT

WHEREAS the local securities regulatory authority or regulator (the "Decision Maker") in British Columbia, Alberta, Ontario and the Yukon (the "Jurisdictions") has received an application from NeuroMed Technologies Inc. ("NeuroMed Canada") and NeuroMed Pharmaceuticals Inc. ("NeuroMed US") for a decision under the securities legislation of the Jurisdictions (the "Legislation") that the requirement to be registered to trade in a security and to file and obtain a receipt for a preliminary prospectus and prospectus (the "Registration and Prospectus Requirements") do not apply to certain trades in securities relating to a reorganization and subsequent financing of NeuroMed Canada and NeuroMed US;

AND WHEREAS under the Mutual Reliance Review System for Exemptive Relief Applications (the

"System"), the British Columbia Securities Commission is the principal regulator for this application;

AND WHEREAS, unless otherwise defined, the terms herein have the meaning set out in National Instrument 14-101 *Definitions*;

AND WHEREAS NeuroMed Canada and NeuroMed US have represented to the Decision Makers that:

1. NeuroMed US is incorporated under the laws of Delaware and is not a reporting issuer (or equivalent) in any jurisdiction in Canada;

2. none of the shares of NeuroMed US are listed or posted for trading on any exchange, and transfer of its shares is restricted;

3. the authorized capital of NeuroMed US consists of common stock and preferred stock divided into thirteen series, including series A-1, A-2, B-1, B-2, C-1 and C-2 preferred stock (collectively the "Series Preferred Stock") and series A-1, A-2, B-1, B-2, C-1, C-2 and common special voting stock (collectively the "Special Voting Stock");

4. NeuroMed Canada is incorporated under the *Yukon Business Corporations* Act, and is not a reporting issuer (or equivalent) in any jurisdiction in Canada;

5. none of the shares of NeuroMed Canada are listed or posted for trading on any exchange;

6. NeuroMed Canada's authorized capital is an unlimited number of:

   (a) common shares ("NeuroMed Canada Common Shares") of which 3,875,833 are issued and outstanding; and

   (b) preferred shares ("NeuroMed Canada Preferred Shares"), issuable in series, of which 1,865,671 Series A-1, 1,404,493 Series A-2, 5,888,715 Series B-1 and 4,301,036 Series B-2 are issued and outstanding;

7. prior to completing the reorganization, NeuroMed Canada will have 51 shareholders, of which nine will be employees or former employees of NeuroMed Canada or its affiliates;

8. the reorganization will be effected by:

   (a) amending the articles of NeuroMed Canada to create the following:

      (i) ten New Common Shares ("New Common Shares");

      (ii) unlimited Common Exchangeable Shares ("Common Exchangeable Shares");

      (iii) unlimited Class A/B Preferred Exchangeable Shares issuable in series (A-1, A2, B-1, B-2) (the "Class A/B Preferred Exchangeable Shares");

      (iv) unlimited Class C Preferred Exchangeable Shares issuable in series (C-1, C-2) ("Class C Preferred Exchangeable Shares");

      (v) unlimited Special Voting Shares ("Special Voting Shares"); and

      (vi) unlimited Non-Voting Preferred Shares ("Non-Voting Preferred Shares"),

      (Class A/B Preferred Exchangeable Shares and Class C Preferred Exchangeable Shares are collectively the "Preferred Exchangeable Shares" and Common Exchangeable Shares and Preferred Exchangeable Shares are collectively the "Exchangeable Shares");

   (b) changing all of the issued and outstanding NeuroMed Canada Common Shares into Common Exchangeable Shares and Special Voting Shares on the basis of one NeuroMed Canada Common Share being exchanged for 0.5602 of a Common Exchangeable Share and 0.5602 of a Special Voting Share;

   (c) changing all of the issued and outstanding NeuroMed Canada Preferred Shares (per series) into Preferred Exchangeable Shares (of the corresponding series) and Special Voting Shares on the basis of one NeuroMed Canada Preferred Share being exchanged for 0.5602 of a Preferred Exchangeable Share and 0.5602 of a Special Voting Share; and

   (d) deleting and cancelling the authorized and unissued NeuroMed Canada Common Shares and NeuroMed Canada Preferred Shares as classes of shares (including all series);

9. the NeuroMed Canada shareholders approved the reorganization by consent resolution, and the reorganization will not be completed by way of a statutory procedure;

10. each NeuroMed Canada Shareholder will be required to purchase from NeuroMed US, for nominal consideration, Special Voting Stock as follows:

    (a) for each Common Exchangeable Share received under the exchange, one share of Common Special Voting Stock, and

    (b) for each Preferred Exchangeable Share (per series) received under the exchange, one share of Special Voting Stock (of the corresponding series);

11. NeuroMed Canada has outstanding incentive stock options granted under one of two stock option plans (the "NeuroMed Canada Plan" and the "Affiliate Plan") entitling Canadian and US holders, respectively, to purchase up to 1,507,050 NeuroMed Canada Common Shares;

12. NeuroMed Canada will amend the NeuroMed Canada Plan to provide for a joint NeuroMed US - NeuroMed Canada stock option plan (the "Joint NeuroMed US - NeuroMed Canada Plan") under which optionees will be entitled to purchase units consisting of one Common Exchangeable Share, one Special Voting Share and one share of Common Special Voting Stock, or, if all of the Exchangeable Shares that have been issued have been redeemed or acquired by NeuroMed US, one share of common stock of NeuroMed US;

13. existing options governed by the NeuroMed Canada Plan will be replaced with options governed by the Joint NeuroMed US - NeuroMed Canada Plan;

14. NeuroMed Canada will amend the Affiliate Plan to provide for a joint NeuroMed US - NeuroMed Canada stock option plan (the "Joint NeuroMed US - NeuroMed Canada Affiliate Plan") under which optionees will be entitled to purchase units consisting of one share of common stock of NeuroMed US and one Special Voting Share, or, if all of the Exchangeable Shares that have been issued have been redeemed or acquired by NeuroMed US, one share of common stock of NeuroMed US;

15. existing options governed by the Affiliate Plan will be replaced with options governed by the Joint NeuroMed US – NeuroMed Canada Affiliate Plan;

16. NeuroMed Canada and NeuroMed US are not affiliated as that term is defined in the Legislation;

17. certain investors (the "Series C Investors") are proposing to provide up to approximately US$32 million of additional financing to NeuroMed Canada and NeuroMed US in two separate tranches;

18. the Series C Investors may choose to receive units consisting of either:

    (a) one Series C-1 Exchangeable Share, one Special Voting Share and one share of Series C-1 Special Voting Stock on the first tranche and units consisting of one Series C-2 Exchangeable Share, one Special Voting Share and one share of Series C-2 Special Voting Stock on the second tranche; or

    (b) one share of Series C-1 Preferred Stock and one Special Voting Share on the first tranche and units consisting of one share of Series C-2 Preferred Stock and one Special Voting Share on the second tranche;

19. on completing the Series C Financing, NeuroMed US will purchase one New Common Share of NeuroMed Canada;

20. the holders of Common Exchangeable Shares will have voting rights which will be, as nearly as practicable, equivalent to the holders of shares of common stock of NeuroMed US;

21. the holders of Preferred Exchangeable Shares will have voting rights which will be, as nearly as practicable, equivalent to the holders of the corresponding series of Series Preferred Stock;

22. the holders of Common Exchangeable Shares will have economic rights which will be, as nearly as practicable, equivalent to the holders of shares of common stock of NeuroMed US;

23. the holders of Preferred Exchangeable Shares will have economic rights which will be, as nearly as practicable, equivalent to the holders of shares of the corresponding series of Series Preferred Stock of NeuroMed US;

24. NeuroMed US or a subsidiary (other than NeuroMed Canada), will have overriding call rights ("Overriding Call Rights") to purchase up to all of the outstanding Common Exchangeable Shares and Preferred Exchangeable Shares in exchange for shares of common stock or the corresponding series of Series Preferred Stock of NeuroMed US, as applicable, using predetermined calculations (including amounts for any declared and unpaid dividends):

    (a) on liquidation, dissolution or winding up of NeuroMed Canada;

    (b) on exercise of a retraction right by a holder of Common Exchangeable Shares;

(c) on exercise of a retraction right by a holder of Preferred Exchangeable Shares;

(d) on exercise of a redemption right by NeuroMed Canada to redeem all the Common Exchangeable Shares; or

(e) on exercise of a redemption right by NeuroMed Canada to redeem all the Preferred Exchangeable Shares;

25. subject to the Overriding Call Rights, a holder of Common Exchangeable Shares will be entitled to receive shares of common stock of NeuroMed US from NeuroMed Canada and a holder of Preferred Exchangeable Shares will be entitled to receive shares of the corresponding series of Series Preferred Stock of NeuroMed US from NeuroMed Canada, using predetermined calculations (including amounts for any declared and unpaid dividends):

(a) on liquidation, dissolution or winding-up of NeuroMed Canada; or

(b) on exercise of the retraction right by the holder (the shares and other amounts received on retraction collectively being the "Retraction Consideration");

26. subject to the Overriding Call Rights, NeuroMed Canada will be entitled to redeem all the Common Exchangeable Shares and Preferred Exchangeable Shares then outstanding at any time on the occurrence of particular events so that holders of Common Exchangeable Shares will receive shares of common stock of NeuroMed US from NeuroMed Canada and holders of Preferred Exchangeable Shares will receive shares of the corresponding series of Series Preferred Stock of NeuroMed US from NeuroMed Canada using predetermined calculations (including amounts for any declared and unpaid dividends);

27. NeuroMed Canada, NeuroMed US and the shareholders of the companies will enter into an exchange agreement (the "Exchange Agreement), under which:

(a) each holder of Common Exchangeable Shares and Preferred Exchangeable Shares will have an exchange right (the "Optional Exchange Right"), exercisable on the insolvency of NeuroMed Canada or the failure of NeuroMed Canada to pay the Retraction Consideration to require NeuroMed US to purchase all or part of the holder's:

(i) Common Exchangeable Shares in exchange for shares of common stock of NeuroMed US; and

(ii) Preferred Exchangeable Shares in exchange for shares of the corresponding series of Series Preferred Stock of NeuroMed,

using predetermined calculations (including amounts for declared and unpaid dividends);

(b) on the liquidation, dissolution or winding-up of NeuroMed US, NeuroMed US will be required to purchase all outstanding Common Exchangeable Shares and Preferred Exchangeable Shares and each holder of such shares will be required to sell such shares to NeuroMed US:

(i) in the case of Common Exchangeable Shares, in exchange for shares of common stock of NeuroMed US; and

(ii) in the case of Preferred Exchangeable Shares, in exchange for shares of the corresponding series of Series Preferred Stock of NeuroMed US,

using predetermined calculations (including amounts for declared and unpaid dividends)

(the "Automatic Exchange Right");

28. NeuroMed Canada and NeuroMed US will enter into a support agreement ("Support Agreement") whereby, among other things:

(a) NeuroMed US will not declare dividends on shares of common stock or Series Preferred Stock unless NeuroMed Canada simultaneously declares equivalent dividends on the Common Exchangeable Shares or the corresponding series of Preferred Exchangeable Shares, as the case may be;

(b) NeuroMed US will ensure that NeuroMed Canada is able to fulfill its obligations in respect of redemption and retraction rights and dissolution entitlements; and

(c) except in certain circumstances, NeuroMed US will not undertake certain rights offerings or share capital alterations unless the same or an economically equivalent offering or

alteration is undertaken by NeuroMed Canada, and vice versa;

29. there are exemptions from the Registration and Prospectus Requirements or exemption orders available for the trades to effect the reorganization;

30. there may not be exemptions from the Registration and Prospectus Requirements for possible trades in securities relating to Common Exchangeable Shares, Preferred Exchangeable Shares and securities received under the following exchange rights:

(a) issuing and delivering shares of common stock or Series Preferred Stock of NeuroMed US by NeuroMed US or, if applicable, trades of such shares by a subsidiary of NeuroMed US or NeuroMed Canada (and such required trades or transfers by NeuroMed US to a subsidiary and to NeuroMed Canada) and delivering such shares on:

(i) the liquidation, dissolution or winding-up of NeuroMed Canada;

(ii) the exercise of the Overriding Call Rights;

(iii) a holder's retraction of Common Exchangeable Shares or Preferred Exchangeable Shares;

(iv) the redemption of Common Exchangeable Shares or Preferred Exchangeable Shares by NeuroMed Canada; and

(v) the exercise of the Optional Exchange Right or the occurrence of the Automatic Exchange Right;

(b) the transfer of Common Exchangeable Shares or Preferred Exchangeable Shares to NeuroMed Canada on:

(i) the liquidation, dissolution or winding-up of NeuroMed Canada;

(ii) the holder's retraction of Common Exchangeable Shares or Preferred Exchangeable Shares; and

(iii) the redemption of Common Exchangeable Shares or Preferred Exchangeable Shares by NeuroMed Canada;

(c) the transfer of Common Exchangeable Shares or Preferred Exchangeable Shares by the holder to NeuroMed US (or a subsidiary of NeuroMed US) on exercise of the Overriding Call Rights;

(d) the transfer of Common Exchangeable Shares or Preferred Exchangeable Shares by the holder to NeuroMed US on exercise of the Optional Exchange Right or the occurrence of the Automatic Exchange Right; and

(e) the redemption of Special Voting Shares by NeuroMed Canada, and the redemption of shares of Special Voting Stock by NeuroMed US,

(collectively, the "Exchangeable Share Trades");

31. the Exchange Agreement will also provide for the following options (the "Equivalency Options"):

(a) options granted by each holder of Special Voting Stock to NeuroMed US to purchase Special Voting Stock from the holder for nominal consideration;

(b) options granted by each holder of Special Voting Shares to NeuroMed Canada to purchase Special Voting Shares from the holder for nominal consideration; and

(c) options granted by NeuroMed Canada to each holder of Special Voting Shares to purchase Special Voting Shares for nominal consideration,

in each case to align the number of shares of Special Voting Stock or Special Voting Shares held with the number of shares of common stock of NeuroMed US that the holder would hold if all of the Exchangeable Shares of NeuroMed Canada and Series Preferred Stock of NeuroMed US held by such holder were exchanged or converted into shares of common stock of NeuroMed US;

32. as a result of the exchangeable share structure, discretionary relief may be necessary for:

(a) the granting of options under the Joint NeuroMed US - NeuroMed Canada Plan to purchase Common Special Voting Stock of NeuroMed US;

(b) the granting of options under the Joint NeuroMed US - NeuroMed Canada Affiliate Plan to purchase Special Voting Shares of NeuroMed Canada; and

(c) the granting of the Equivalency Options,

(the "Option Trades");

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 provides the Decision Maker with the jurisdiction to make the Decision has been met;

THE DECISION of the Decision Maker under the Legislation is that the Registration and Prospectus Requirements do not apply to the Exchangeable Share Trades and the Option Trades, provided that the first trade of a security acquired under this Decision shall be a distribution unless:

(a) such first trade if made by a director, senior officer, employee, consultant or scientific advisory board member of NeuroMed Canada or an affiliate of NeuroMed Canada complies with section 2.6 of Multilateral Instrument 45-102 ("MI 45-102");

(b) such first trade, in any other case, complies with section 2.5 of MI 45-102; or

(c) if at the distribution, NeuroMed US is not a reporting issuer in any jurisdiction in Canada, the first trade is made through an exchange or a market outside Canada, or to a person or company outside of Canada, provided that at the time of such trade, holders of shares of common stock of NeuroMed US (together with holders of Exchangeable Shares and shares of Series Preferred Stock considered to be holders of shares of common stock of NeuroMed US) who are residents of Canada, do not own, directly or indirectly, more than 10% of the shares of common stock of NeuroMed US and represent in number, not more than 10% of the total number of owners, directly or indirectly, of common stock of NeuroMed US.

October 29, 2003.

"Brenda Leong"

2.1.3 AXA S.A. - MRRS Decision

Headnote

Mutual Reliance Review System for Exemptive Relief Applications - relief granted to certain vice presidents of a reporting issuer from the insider reporting requirements subject to certain conditions.

Statutes Cited

Securities Act, R.S.O. 1990, c. S.5, as am., ss. 1(1), 107, 108, 121(2)(a)(ii).

Regulations Cited

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

Rules Cited

National Instrument 55-101 - Exemption From Certain Insider Reporting Requirements.

IN THE MATTER OF
THE SECURITIES LEGISLATION OF
BRITISH COLUMBIA, ALBERTA, MANITOBA, ONTARIO, QUÉBEC, NEW BRUNSWICK, NEWFOUNDLAND AND LABRADOR

AND

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

AND

IN THE MATTER OF
AXA S.A.

MRRS DECISION DOCUMENT

WHEREAS the local securities regulatory authority or regulator (the "**Decision Maker**") in each of British Columbia, Alberta, Manitoba, Ontario, Québec, New Brunswick and Newfoundland and Labrador (collectively, the "**Jurisdictions**") has received an application from AXA S.A. (the "**Filer**") for a decision under the securities legislation (the "**Legislation**") of the Jurisdictions that:

(i) the prospectus requirements contained in the Legislation shall not apply to certain trades in units ("**Units**") of the AXA Actionnariat II Fund (the "**Classic Fund**") and the AXA Plan 2003 Global Fund (the "**Leveraged Fund**" and, together with the Classic Fund, the "**Funds**") made pursuant to the Employee Share Offering (as defined below) to or with Qualifying Employees (as defined below) resident in the Jurisdictions who elect to participate

in the Employee Share Offering (the "**Canadian Participants**");

(ii) the registration requirements contained in the Legislation shall not apply to trades in Units of the Classic Fund to or with Canadian Participants, nor to trades in Units of the Leveraged Fund to or with Canadian Participants not resident in Ontario or Manitoba;

(iii) the registration and prospectus requirements shall not apply to the trades of ordinary shares of the Filer (the "**Shares**") by the Funds to Canadian Participants upon the redemption of Units by Canadian Participants, nor to the issuance of Units of the Classic Fund to holders of Leveraged Fund Units upon the transfer of the assets of the Leveraged Fund to the Classic Fund at the end of the Lock-Up Period (as defined below);

(iv) the registration and prospectus requirements shall not apply to the first trade in any Shares acquired by Canadian Participants under the Employee Share Offering where such trade is made through the facilities of a stock exchange outside of Canada; and

(v) the manager of the Funds, AXA Gestion Intéressement (the "**Manager**") is exempt from the adviser registration requirements contained in the Legislation to the extent that its activities in relation to the Employee Share Offering require compliance with such requirements.

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

AND WHEREAS, unless otherwise defined, the terms herein have the meaning set out in National Instrument 14-101 Definitions or in Québec Commission Notice 14-101;

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

1. The Filer is a corporation formed under the laws of France. It is not and has no intention of becoming a reporting issuer (or equivalent) under the Legislation. The Shares are listed on Euronext Paris and on the New York Stock Exchange (in the form of American Depositary Shares).

2. The Filer carries on business in Canada through the following affiliated companies: AXA Assurances Inc., AXA Canada Inc., AXA Insurance (Canada), AXA Pacific Insurance Company, Insurance Corporation of Newfoundland Limited, AXA Assistance Canada Inc., AXA RE, and AXA Corporate Solutions Assurance (the "**Canadian Affiliates**", together with the Filer and other affiliates of the Filer, the "**AXA Group**"). Each of the Canadian Affiliates is a direct or indirect controlled subsidiary of the Filer and is not, and has no intention of becoming, a reporting issuer (or equivalent) under the Legislation.

3. The Filer has established a worldwide stock purchase plan for employees of the AXA Group (the "**Employee Share Offering**") which is comprised of two subscription options: (i) an offering of Shares to be subscribed through the Classic Fund (the "**Classic Plan**"); and (ii) an offering of Shares to be subscribed through the Leveraged Fund (the "**Leveraged Plan**").

4. Only persons who are employees of a member of the AXA Group at the time of the Employee Share Offering (the "**Employees**"), or persons who have retired from an affiliate of the AXA Group and who continue to hold units in French investment funds (fonds communs de placement d'entreprise or "**FCPEs**") in connection with previous employee share offerings by the Filer (the "**Retired Employees**" and, together with the Employees, the "**Qualifying Employees**") will be invited to participate in the Employee Share Offering.

5. The Funds were established for the purposes of implementing the Employee Share Offering.

6. The Funds are not and have no intention of becoming reporting issuers under the Legislation.

7. The Funds are collective shareholding vehicles of a type commonly used in France for the conservation or custodianship of shares held by employee investors. Only Qualifying Employees will be allowed to hold Units of the Funds in an amount proportionate to their respective investments in the Funds.

8. Under French law, all Units acquired in the Employee Share Offering will be subject to a hold period of approximately five years (the "**Lock-Up Period**"), subject to certain exceptions prescribed by French law (such as a release on death or termination of employment). At the end of the Lock-Up Period, a Canadian Participant may:

(i) redeem Units: (a) in the Classic Fund in consideration for the underlying Shares or a cash payment equal to the then market value of the Shares, or (b) in the Leveraged Fund according to the Redemption Formula (described below), to be settled by delivery of the number of

Shares equal to such amount or the cash equivalent, or

(ii) continue to hold Units in the Classic Fund and redeem those Units at a later date (as explained below, at the end of the Lock-Up Period, holders of Units in the Leveraged Fund who do not redeem their Units will receive Units in the Classic Fund).

9. In the event of an early unwind resulting from the Canadian Participant satisfying one of the exceptions to the Lock-Up Period prescribed by French law, a Canadian Participant may redeem Units: (a) from the Classic Fund in consideration for the underlying Shares or a cash payment equal to the then market value of the Shares, or (b) from the Leveraged Fund using the Redemption Formula (described below), but using the market value of the Shares at the time of unwind to measure the increase, if any, from the Reference Price (described below).

10. Under the Classic Plan, Canadian Participants will subscribe for Units in the Classic Fund, which will subscribe for Shares on behalf of the Canadian Participants, at a subscription price that is equal to the average of the opening price of the Shares on the 20 trading days ending on the date of approval of the Employee Share Offering by the board of directors of the Filer (the "**Reference Price**"), less a 20% discount. Dividends paid on the Shares held in the Classic Fund will be capitalized and Canadian Participants may be credited with additional Units.

11. Under the Leveraged Plan, Canadian Participants will subscribe for Units in the Leveraged Fund, and the Leveraged Fund will then subscribe for Shares using the Employee Contribution (as described below) and certain financing made available by a French financial institution governed by French law (the "**Bank**").

12. As with the Classic Plan, Canadian Participants in the Leveraged Plan enjoy the benefit of a 20% discount in the Reference Price. Under the Leveraged Plan, the Canadian Participants effectively receive a share appreciation entitlement in the increase in value, if any, of the Shares financed by the Bank Contribution (as described below).

13. Participation in the Leveraged Plan represents an opportunity for Qualifying Employees potentially to obtain significantly higher gains than would be available through participation in the Classic Plan, by virtue of the Qualifying Employee's indirect participation in a financing arrangement involving a swap agreement (the "**Swap Agreement**") between the Leveraged Fund and the Bank. In economic terms, the Swap Agreement effectively involves the following exchange of payments: for each Share which may be subscribed for by the Qualifying Employee's contribution (the "**Employee Contribution**") under the Leveraged Plan at the Reference Price less the 20% discount, the Bank will lend to the Leveraged Fund (on behalf of the Canadian Participant) an amount sufficient to enable the Leveraged Fund (on behalf of the Canadian Participant) to subscribe for an additional nine Shares (the "**Bank Contribution**") at the Reference Price less the 20% discount.

14. Under the terms of the Swap Agreement, at the end of the Lock-Up Period (the "**Settlement Date**"), the Leveraged Fund will owe to the Bank an amount equal to the market value of the Shares held in that Fund, less

(i) 100% of the Employee Contributions; and

(ii) an amount equal to approximately 62.5% of the increase, if any, in the market price of the Shares from the Reference Price (the "**Appreciation Amount**").

15. If, at the Settlement Date, the market value of the Shares held in the Leveraged Fund is less than 100% of the Employee Contributions, the Bank will, pursuant to a guarantee agreement, make a cash contribution to the Leveraged Fund to make up any shortfall.

16. At the end of the Lock-Up Period, the Swap Agreement will terminate after the making of final swap payments and a Canadian Participant may redeem his or her Leveraged Fund Units in consideration for a payment of an amount equal to the value of the Canadian Participant's Employee Contribution and the Canadian Participant's portion of the Appreciation Amount, if any, to be settled by delivery of such number of Shares equal to such amount or the cash equivalent of such amount (the "**Redemption Formula**"). Following these redemptions, all assets (including Shares) remaining in the Leveraged Fund will be transferred to the Classic Fund. New Units of the Classic Fund will be issued to the applicable Canadian Participants in recognition of the assets transferred to the Classic Fund. The Canadian Participants may redeem the new Units whenever they wish.

17. Under no circumstances will a Canadian Participant in the Leveraged Fund be entitled to receive less than 100% of his or her Employee Contribution at the end of the Lock-Up Period, nor be liable for any other amounts.

18. Under French law, the Funds, as FCPEs, are limited liability entities. The risk statement provided to Canadian Participants will confirm

that, under no circumstances, will a Canadian Participant in the Leveraged Plan be liable to any of the Leveraged Fund, the Bank or the Filer for any amounts in excess of his or her Employee Contribution under the Leveraged Plan.

19. During the term of the Swap Agreement, dividends paid on the Shares held in the Leveraged Fund will be remitted to the Leveraged Fund, and the Leveraged Fund will remit an equivalent amount to the Bank as partial consideration for the obligations assumed by the Bank under the Swap Agreement.

20. For Canadian federal income tax purposes, the Canadian Participants in the Leveraged Fund will be deemed to receive all dividends paid on the Shares financed by either the Employee Contribution or the Bank Contribution, at the time such dividends are paid to the Leveraged Fund, notwithstanding the actual non-receipt of the dividends by the Canadian Participants by virtue of the terms of the Swap Agreement. Consequently, Canadian Participants will be required to fund the tax liabilities associated with the dividends from their own resources.

21. The declaration of dividends on the Shares remains at the sole discretion of the board of directors of the Filer. The Filer has not made any commitment to the Bank as to any minimum payment in respect of dividends.

22. To respond to the fact that, at the time of the initial investment decision relating to participation in the Leveraged Plan, Canadian Participants will be unable to quantify their potential income tax liability resulting from such participation, the Filer will indemnify each Canadian Participant in the Leveraged Plan for all tax costs to the Canadian Participants associated with the payment of dividends in excess of a specified amount of euros per Share during the Lock-Up Period such that, in all cases, a Canadian Participant will, at the time of the original investment decision, be able to quantify, with certainty, his or her maximum tax liability in connection with dividends received by the Leveraged Fund on his or her behalf under the Leveraged Plan.

23. At the time the Canadian Participant's obligations under the Swap Agreement are settled, the Canadian Participant will realize a capital gain (or capital loss) by virtue of having participated in the Swap Agreement to the extent that amounts received by the Leveraged Fund, on behalf of the Canadian Participant, from the Bank exceed (or are less than) amounts paid by the Leveraged Fund, on behalf of the Canadian Participant to the Bank. To the extent that dividends on Shares that are deemed to have been received by a Canadian Participant are paid by the Fund on behalf of the Canadian Participant to the Bank, such payments will reduce the amount of any capital gain (or increase the amount of any capital loss) to the Canadian Participant under the Swap Agreement. Capital losses (gains) realized by a Canadian Participant under the Swap Agreement may be offset against (reduced by) any capital gains (losses) realized by the Canadian Participant on a disposition of the Shares, in accordance with the rules and conditions under the *Income Tax Act* (Canada) or comparable provincial legislation (as applicable).

24. The Manager, AXA Gestion Intéressement, is a portfolio management company governed by the laws of France. The Manager is registered with the French Commission des Opérations de Bourse (the "**COB**") to manage French investment funds and complies with the rules of the COB. The Manager is not and has no intention of becoming a reporting issuer under the Legislation.

25. The Manager's portfolio management activities in connection with the Employee Share Offering and the Funds are limited to subscribing for Shares from the Filer, selling such Shares as necessary in order to fund redemption requests, and such activities as may be necessary to give effect to the Swap Agreement.

26. The Manager is also responsible for preparing accounting documents and publishing periodic informational documents as provided by the rules of each Fund. The Manager's activities in no way affect the underlying value of the Shares.

27. Shares issued in the Employee Share Offering will be deposited in the relevant Fund through BNP Paribas Securities Services (the "**Depositary**"), a large French commercial bank subject to French banking legislation.

28. Under French law, the Depositary must be selected by the Manager from among a limited number of companies identified on a list by the French Minister of the Economy, and its appointment must be approved by the COB. The Depositary carries out orders to purchase, trade and sell securities in the portfolio and takes all necessary action to allow each Fund to exercise the rights relating to the securities held in its portfolio.

29. Canadian Participants will not be induced to participate in the Employee Share Offering by expectation of employment or continued employment.

30. The total amount invested by a Canadian Participant in the Employee Share Offering, including any Bank Contribution, cannot exceed 25% of his or her estimated gross annual compensation for 2003, or for his or her last year of employment, as the case may be, although a

lower limit may be established by the Canadian Affiliates.

31. None of the Filer, the Manager, the Canadian Affiliates or any of their employees, agents or representatives will provide investment advice to the Qualifying Employees with respect to an investment in the Units.

32. The Filer will retain a securities dealer registered as a broker/investment dealer under the Legislation of Ontario and Manitoba (the "**Registrant**") to provide advisory services to Canadian Participants resident in Ontario or Manitoba who express interest in the Leveraged Plan and to make a determination, in accordance with industry practices, as to whether an investment in the Leveraged Plan is suitable for each such Canadian Participant based on his or her particular financial circumstances. The Registrant will establish accounts for, and will receive the initial account statements from the Leveraged Fund on behalf of, such Canadian Participants. The Units of the Leveraged Fund will be issued by the Leveraged Fund to Canadian Participants resident in Ontario or Manitoba solely through the Registrant.

33. Units of the Leveraged Fund will be evidenced by account statements issued by the Leveraged Fund.

34. The Canadian Participants will receive an information package in the French or English language, as applicable, which will include a summary of the terms of the Employee Share Offering, a tax notice relating to the relevant Fund containing a description of Canadian income tax consequences of subscribing to and holding the Units in the Funds and redeeming Units for cash or Shares at the end of the Lock-Up Period. The information package for Canadian Participants in the Leveraged Plan will also include a risk statement which will describe certain risks associated with an investment in Units pursuant to the Leveraged Plan, and a tax calculation document which will illustrate the general Canadian federal income tax consequences of participating in the Leveraged Plan.

35. Upon request, Canadian Participants may receive copies of the Filer's annual report on Form 20-F filed with the United States Securities and Exchange Commission (the "**SEC**") and/or the French *Document de Référence* filed with the COB in respect of the Shares and a copy of the relevant Fund's rules (which are analogous to company by-laws). The Canadian Participants will also receive copies of the continuous disclosure materials relating to the Filer furnished to AXA shareholders generally.

36. It is not expected that there will be any market for the Units or Shares in Canada.

37. There are approximately 1,884 Employees resident in Canada, in the provinces of Québec (1,211), Ontario (377), British Columbia (138), Alberta (95), Newfoundland and Labrador (50), New Brunswick (9) and Manitoba (4), who represent in the aggregate approximately 2% of the number of Employees worldwide.

38. There are approximately 24 eligible Retired Employees resident in Canada, in the provinces of Québec (15), Ontario (7), and British Columbia (2), for a total of 1,908 Qualifying Employees resident in Canada.

39. As of the date hereof and after giving effect to the Employee Share Offering, Canadian residents do not and will not beneficially own (which term, for the purposes of this paragraph, is deemed to include all Shares held by the Funds on behalf of Canadian Participants) more than 10% of the Shares and do not and will not represent in number more than 10% of the total number of holders of the Shares as shown on the books of the Filer.

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:

(a) the prospectus requirements shall not apply to trades in Units of the Funds made pursuant to the Employee Share Offering to or with the Canadian Participants, provided that the first trade in Units acquired by Canadian Participants pursuant to this Decision, in a Jurisdiction, shall be deemed a distribution or a primary distribution to the public under the Legislation of such Jurisdiction;

(b) the registration requirements shall not apply to:

(i) trades in Units of the Classic Fund made pursuant to the Employee Share Offering to or with Canadian Participants; and

(ii) trades in Units of the Leveraged Fund made pursuant to the Employee Share Offering to or

with Canadian Participants not resident in Ontario and Manitoba;

(c) the registration and prospectus requirements shall not apply to:

(i) trades of Shares by the Funds to Canadian Participants upon the redemption of Units by Canadian Participants pursuant to the Employee Share Offering; and

(ii) the issuance of Units of the Classic Fund to holders of Leveraged Fund Units upon the transfer of the assets of the Leveraged Fund to the Classic Fund;

provided that, the first trade in any such Shares or Units acquired by a Canadian Participant pursuant to this Decision, in a Jurisdiction, shall be deemed a distribution or a primary distribution to the public under the Legislation of such Jurisdiction;

(d) the registration and prospectus requirements shall not apply to the first trade in any Shares acquired by a Canadian Participant under the Employee Share Offering provided that such trade is:

(i) made through a person or company who/which is appropriately licensed to carry on business as a broker/dealer (or the equivalent) under the applicable securities legislation in the foreign jurisdiction where the trade is executed; and

(ii) executed through the facilities of a stock exchange outside of Canada; and

(e) the Manager shall be exempt from the adviser registration requirements, where applicable, in order to carry out the activities described in paragraphs 25 and 26 hereof.

November 3, 2003.

"Josée Deslauriers"

2.1.4 Ford Motor Credit Company - MRRS Decision

Headnote

Mutual Reliance Review System for Exemptive Relief Applications – Subsidiary of U.S. corporation where U.S. parent is credit supporter exempt from GAAP reconciliation requirements and eligiblity requirements of NI 44-101 and AIF requirement for future offerings - Subsidiary further exempt from MD&A requirements, material change requirements, proxy requirements and insider reporting requirements - Relief subject to conditions, including filing, under issuer's SEDAR profile of documents filed by the credit supporter of the issuer with the Securities and Exchange Commission.

Applicable Ontario Statutory Provisions

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

Ontario Rules

National Instrument 44-101 - Short Form Prospectus Distributions.
National Instrument 44-102 - Shelf Distributions.
National Instrument 71-101 - Multijurisdictional Disclosure System.

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

AND

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

AND

IN THE MATTER OF
FORD MOTOR CREDIT COMPANY AND FORD CREDIT CANADA LIMITED

MRRS DECISION DOCUMENT

WHEREAS the local securities regulatory authority or regulator (the "Decision Maker") in each of British Columbia, Alberta, Saskatchewan, Manitoba, Ontario, Quebec, New Brunswick, Newfoundland and Labrador, Nova Scotia, Prince Edward Island, Yukon, Northwest Territories and Nunavut (the "Jurisdictions") has received an application from Ford Motor Credit Company ("Ford Credit") and its subsidiary Ford Credit Canada Limited (the "Issuer", and together with Ford Credit, the "Filer") for a decision under the securities legislation of the

Jurisdictions (the "Legislation") that the following requirements contained in the Legislation shall not apply:

(a) the requirement under National Instrument 44-101 *Short Form Prospectus Distributions* ("NI 44-101") and National Instrument 44-102 *Shelf Distributions* ("NI 44-102") that Ford Credit must be a reporting issuer with a 12-month reporting history in a Jurisdiction (the "Eligibility Requirement") in connection with the issuance by the Issuer of non-convertible debt securities ("Notes") with an Approved Rating (as such term is defined in NI 44-101) which are and will continue to be fully and unconditionally guaranteed by Ford Credit pursuant to the Prospectus (as defined below) and any subsequently filed short form base shelf prospectus, and, if applicable, prospectus supplement and pricing supplement filed under NI 44-101 and NI 44-102 (collectively, a "Renewal Prospectus");

(b) the requirements under NI 44-101 that (i) the financial statements of Ford Credit that are incorporated or included in the Prospectus and any Renewal Prospectus of the Issuer which are prepared in accordance with U.S. generally accepted accounting principles and audited in accordance with U.S. generally accepted auditing standards be reconciled to Canadian generally accepted accounting principles, and (ii) that the report of Ford Credit's auditor be reconciled to Canadian standards by disclosing any material differences in form and content from a Canadian auditor's report and by confirming that the auditing standards applied are substantially equivalent to Canadian generally accepted auditing standards (the "Reconciliation Requirements");

(c) the requirement under clause 13.1(1)2 of Form 44-101F3 under NI 44-101 that a summary of financial information relating to the Issuer's operations be included in a note to Ford Credit's annual financial statements that are incorporated or included in the Prospectus and any Renewal Prospectus (the "Summary Financial Information Requirement");

(d) the requirements that the Issuer:

(i) issue and file with the Decision Makers press releases and file with the Decision Makers material change reports (together, the "Material Change Requirements");

(ii) comply with the proxy and proxy solicitation requirements, including filing with the Decision Makers of an information circular or, if not applicable, a report in the prescribed form (the "Proxy Requirements"); and

(iii) in Ontario, Quebec and Saskatchewan, the Issuer file with the applicable Decision Maker an annual information form, and, where applicable, interim and annual management discussion and analysis (collectively the "Annual Information Form and MD&A Requirements").

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, unless otherwise defined, the terms herein have the meaning set out in National Instrument 14-101 Definitions or in Québec Commission Notice 14-101;

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

1. Ford Credit was incorporated under the laws of the State of Delaware in 1959 and is not a reporting issuer or the equivalent in any of the Jurisdictions.

2. Ford Credit has been a reporting company under the United States Securities Exchange Act of 1934, as amended (the "1934 Act"), for more than 20 years with respect to its debt securities. Ford Credit has filed with the United States Securities and Exchange Commission (the "SEC") all filings required to be made with the SEC under sections 13 and 15(d) of the 1934 Act since it first became a reporting company under the 1934 Act.

3. As at December 31, 2002, Ford Credit had in excess of US$124 billion in long-term debt outstanding. All of Ford Credit's outstanding long-term debt is rated "BBB" by Standard & Poor's, "A3" by Moody's Investors Service, and "BBB+" by Fitch, Inc.

4. Ford Credit has, for a period of more than 12 months, filed its annual reports on Form 10K, quarterly reports on Form 10Q, and current reports on Form 8K in Canada under the System for Electronic Document Analysis and Retrieval

("SEDAR") established by National Instrument 13-101, under the SEDAR profile of the Issuer.

5. The common stock in the capital of Ford Credit is indirectly owned by Ford Motor Company ("**Ford**"), a publicly traded Delaware corporation.

6. Ford Credit offers a wide variety of automotive financial services to and through automotive dealers throughout the world under the Ford Credit brand name and through dealers of Ford vehicles and non-Ford dealers. For the year ended December 31, 2002, the net income of Ford Credit was approximately US$1.2 billion.

7. The registered and principal office of the Issuer is in Ontario.

8. The Issuer was incorporated under the federal laws of Canada on July 23, 1962 and was continued under the *Canada Business Corporations Act* on December 5, 1980. The Issuer is an indirect wholly-owned subsidiary of Ford Credit.

9. The Issuer provides wholesale financing and capital loans to authorized Ford Motor Company of Canada, Limited vehicle dealers and purchases retail installment sale contracts and retail leases from such dealers. The Issuer also makes loans to vehicle leasing companies, the majority of which are affiliated with such dealers.

10. The Issuer is, and has been for more than 12 months, a reporting issuer or the equivalent thereof in all Jurisdictions and will continue to be a reporting issuer or the equivalent thereof in the Jurisdictions. As of the date hereof, the Issuer is not in default of any requirements under the Legislation.

11. The long-term debt of the Issuer is currently rated "BBB(High)" by Dominion Bond Rating Service Limited, "BBB" by Standard & Poor's, "A3" by Moody's Investors Service, and "BBB+" by Fitch, Inc.

12. As of June 12, 2003, the Issuer had approximately Cdn.$4.19 billion of Notes outstanding.

13. Ford Credit satisfies all the criteria set forth in paragraph 3.1(a) of National Instrument 71-101 ("NI 71-101") and is eligible to use the multi-jurisdictional disclosure system ("MJDS") (as set out in NI 71-101) for the purpose of distributing approved rating non-convertible debt in Canada based on compliance with United States prospectus requirements with certain additional Canadian disclosure.

14. Except for the fact that the Issuer is not incorporated under United States law, Future Offerings (as defined below) would comply with the alternative eligibility criteria for offerings of non-convertible debt having an approved rating under the MJDS as set forth in paragraphs 3.1 and 3.2 of NI 71-101.

15. In the circumstances, were Ford Credit to effect an offering of the Notes under the MJDS it would be unnecessary for it to reconcile to Canadian GAAP its financial statements included in or incorporated by reference into the prospectus in connection with the issuance of the Notes.

16. Part 7 of NI 44-101 and Item 20.1 of Form 44-101F3 of NI 44-101 require the reconciliation to Canadian GAAP of financial statements prepared in accordance with foreign GAAP that are included in a short form prospectus.

17. The Issuer does not satisfy the alternative qualification criteria for issuers of guaranteed non-convertible debt securities, as set out in section 2.5 of NI 44-101, solely because Ford Credit (as guarantor of Future Offerings) is not a reporting issuer or the equivalent in any Jurisdiction notwithstanding that Ford Credit has filed in the Jurisdictions for more than 12 months its continuous disclosure documents filed with the SEC in the U.S.

18. The Issuer has established a program to raise up to approximately Cdn.$3 billion in Canada through the issuance of Notes from time to time during the currency of the Prospectus (as defined below), pursuant to a short form base shelf prospectus dated December 6, 2002, prospectus supplement dated December 6, 2002 and applicable pricing supplements (collectively, the "Prospectus"), and the Issuer intends to effect future offerings ("Future Offerings") of Notes by filing a Renewal Prospectus upon the lapse of the Prospectus and each Renewal Prospectus.

19. The Issuer was exempted from the Reconciliation Requirements and the Summary Financial Information Requirement in respect of the Prospectus as was evidenced by the issuance of a receipt therefor by the Decision Makers.

20. The Notes are and will continue to be fully and unconditionally guaranteed by Ford Credit as to payment of principal, premium, if any, and interest, if any, such that the holders thereof will be entitled to receive payment from Ford Credit upon the failure by the Issuer to make any such payment. All Notes are and will continue to have an Approved Rating (as defined in NI 44-101).

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 in Ontario, Québec and Saskatchewan is that the Annual Information Form and MD&A Requirements shall not apply to the Issuer, so long as the Issuer and Ford Credit comply with all of the requirements of the Decisions below.

September 30, 2003.

"Cameron McInnis"

THE DECISION of the Decision Makers under the Legislation is that the Eligibility Requirement, the Reconciliation Requirements and the Summary Financial Information Requirement shall not apply to offerings of Notes under the Prospectus or to Future Offerings under any Renewal Prospectus provided that:

(a) the Issuer complies with all of the other requirements of NI 44-101 and NI 44-102, except as varied in paragraph (c) below;

(b) at all times during the currency of the Prospectus and each Renewal Prospectus:

(i) Ford Credit files with the Decision Makers an annual information form in the form of an annual report on Form 10-K ("Ford Credit's AIF") for each of its subsequently completed fiscal years ended December 31, in electronic format through SEDAR (as defined in National Instrument 13-101) under the Issuer's SEDAR profile on the same date as, or as soon as practicable after, the date on which Ford Credit files or furnishes the material to the SEC; and

(ii) Ford Credit files with the Decision Makers, in electronic format under the Issuer's SEDAR profile, the Form 10Qs and the Form 8Ks that Ford Credit has filed under sections 13 and 15(d) of the 1934 Act on the same date as, or as soon as practicable after, the date on which Ford Credit files or furnishes the material to the SEC;

(c) each Renewal Prospectus is prepared pursuant to the procedures contained in NI 44-101 and NI 44-102 and complies with the requirements set out in Form 44-101F3, with the disclosure required by Item 12 of Form 44-101F3 being addressed by incorporating by reference Ford Credit's public disclosure documents as well as Ford Credit's AIF, and instead of the financial information disclosure required by item 13.1(1)2 of Form 44-101F3, the Issuer will incorporate by reference in each Renewal Prospectus the applicable documents set forth in paragraphs (j) and (k) of the Further Decision below;

(d) each Renewal Prospectus includes all material disclosure concerning the Issuer;

(e) each Renewal Prospectus incorporates by reference disclosure made in Ford Credit's most recent Form 10-K (as filed under the 1934 Act) together with all Form 10-Qs and Form 8-Ks filed under the 1934 Act in respect of the financial year following the year that is the subject of Ford Credit's most recently filed Form 10-K and incorporates by reference any documents of the foregoing type filed after the date of such Renewal Prospectus and prior to termination of the applicable Future Offering;

(f) the consolidated annual and interim financial statements of Ford Credit that will be included in or incorporated by reference into the Prospectus and each Renewal Prospectus are prepared in accordance with U.S. GAAP as supplemented by the SEC and otherwise comply with the requirements of U.S. law, and in the case of audited financial statements, such financial statements are audited in accordance with U.S. GAAS;

(g) Ford Credit continues to fully and unconditionally guarantee the Notes as to the payments required to be made by the Issuer to holders of the Notes;

(h) the Notes have an Approved Rating (as defined in NI 44-101);

(i) Ford Credit signs each Renewal Prospectus as credit supporter;

(j) Ford Credit or an affiliate thereof remains the direct or indirect beneficial owner of all the issued and outstanding voting securities of the Issuer;

(k) Ford Credit continues to satisfy the criteria set forth in paragraph 3.1 of NI 71-101 (or any successor provision) and remains eligible to use MJDS (or any

successor instrument) for the purpose of distributing approved rating non-convertible debt in Canada; and

(l) Ford Credit undertakes to file with the Decision Makers, in electronic format under the Issuer's SEDAR profile, all documents that it files under sections 13 and 15(d) of the 1934 Act until such time as the Notes are no longer outstanding.

September 30, 2003.

"Cameron McInnis"

THE FURTHER DECISION of the Decision Makers under the Legislation is that the Material Change Requirements and the Proxy Requirements (collectively, the "Continuous Disclosure Requirements"), in all Jurisdictions having Continuous Disclosure Requirements, shall not apply to the Issuer, so long as:

(a) in place of the Material Change Requirements: (i) Ford Credit files with the Decision Makers the mandatory reports on Form 8-K (including press releases) filed by Ford Credit with the SEC on the same date as, or as soon as practicable after, the date on which Ford Credit files the report with the SEC; (ii) Ford Credit forthwith issues in each Jurisdiction any press release that discloses material information and which is required to be issued in connection with the mandatory Form 8-K requirements applicable to Ford Credit; (iii) if there is a material change in respect of the business, operations or capital of the Issuer that is not a material change in respect of Ford Credit, the Issuer will comply with the requirements of the Legislation to issue a press release and file a material change report notwithstanding that the change may not be material in respect of Ford Credit; and (iv) such documents are provided, as soon as practicable, to holders of Notes whose last address as shown on the books of the Issuer is in Canada, in the manner and if required by applicable US law to be sent to Ford Credit debt holders resident in the US;

(b) in the place of the Proxy Requirements: (i) Ford Credit shall comply with the requirements of the 1934 Act and the rules and regulations thereunder relating to proxy statements, proxies and proxy solicitations in connection with any meetings of its noteholders (if any); (ii) Ford Credit shall file with the Decision Makers the materials relating to any such meeting filed by Ford Credit within one business day after they are filed by Ford Credit with the SEC; and (iii) such documents are provided, as soon as practicable, to holders of Notes whose last address as shown on the books of the Issuer is in Canada, in the manner and if required by applicable US law to be sent to Ford Credit debt holders resident in the US;

(c) Ford Credit or an affiliate thereof remains the direct or indirect beneficial owner of all the issued and outstanding voting securities of the Issuer;

(d) Ford Credit maintains a class of securities registered pursuant to the 1934 Act;

(e) Ford Credit signs each Renewal Prospectus as credit supporter;

(f) Ford Credit continues to satisfy the criteria set forth in paragraph 3.1 of NI 71-101 (or any successor provision) and remains eligible to use MJDS (or any successor instrument) for the purpose of distributing approved rating non-convertible debt in Canada;

(g) the Notes have an Approved Rating (as defined in NI 44-101);

(h) Ford Credit continues to fully and unconditionally guarantee the Notes as to the payments required to be made by the Issuer to holders of the Notes;

(i) the Issuer does not issue additional securities other than Notes and debt securities ranking *pari passu* or junior to the Notes, and other than securities issued to Ford Credit or Ford or to wholly owned subsidiaries of Ford Credit or Ford;

(j) the Issuer continues to file, in electronic format on SEDAR, annual audited comparative financial statements for each completed financial year, prepared in accordance with generally accepted accounting principles in Canada ("Canadian GAAP"), accompanied by a report of the auditors of the Issuer;

(k) the Issuer continues to file, in electronic format on SEDAR, interim comparative consolidated financial statements for each completed interim period and the corresponding interim period in the previous financial year, prepared in accordance with Canadian GAAP,

together with earnings coverage ratios as and if required by the Legislation;

(l) such filings as are referred to in (j) and (k) above are provided, as soon as practicable, to holders of Notes whose last address as shown on the books of the Issuer is in Canada, in the manner and if required by applicable US law to be sent to Ford Credit debt holders resident in the US;

(m) Ford Credit provides, as soon as practicable, copies of all continuous disclosure documents filed by it with the SEC under sections 13 and 15(d) of the 1934 Act, including, but not limited to, copies of any Form 10-K and Form 10-Q to holders of Notes whose last address as shown on the books of the Issuer is in Canada, in the manner and if required by applicable US law to be sent to Ford Credit debt holders resident in the US;

(n) such filings as are referred to in (j) and (k) above are made within the time limits required by the Legislation in respect of such financial statements; and

(o) all filing fees that would otherwise be payable by the Issuer in connection with the Continuous Disclosure Requirements are paid.

September 30, 2003.

"Paul M. Moore" "Wendell S. Wigle"

2.1.5 Terra Payments Inc. - MRRS Decision

Headnote

Mutual Reliance Review System for Exemptive Relief Applications – related party transactions – relief from valuation requirement in connection with a proposed related party transaction – unwinding of arm's length merger agreement that resulted in other party to transaction becoming related party of the issuer – settlement negotiations between merger parties conducted at arm's length – valuation of transactions contemplated under settlement too subjective and uncertain to be useful to shareholders – fairness opinion to be provided to shareholders – minority approval to be obtained –applicant exempt from valuation requirement.

Ontario Rule Cited

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

IN THE MATTER OF
THE SECURITIES LEGISLATION OF
QUEBEC AND ONTARIO

AND

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

AND

IN THE MATTER OF
TERRA PAYMENTS INC.

MRRS DECISION DOCUMENT

WHEREAS the local securities regulatory authority or regulator (the "**Decision Maker**") in each of Québec and Ontario (the "**Jurisdictions**") has received an application from Terra Payments Inc. (formerly SureFire Commerce Inc.) ("**Terra**") for a decision, under the securities legislation of the Jurisdictions (the "**Legislation**"), exempting Terra from the requirements of providing a valuation in connection with a related party transaction in accordance with Québec Policy Statement Q-27 ("**Policy Q-27**") of the Commission des valeurs mobilières du Québec (the "**CVMQ**") and Rule 61-501 ("**Rule 61-501**") of the Ontario Securities Commission (the "**OSC**");

AND WHEREAS under the Mutual Reliance Review System for Exemptive Relief Applications (the "**System**") the CVMQ is the principal regulator for this application;

AND WHEREAS Terra has presented to the Decision Makers that:

1. Terra was incorporated under the *Canada Business Corporations Act* on December 16, 1982;

2. the registered office and principal place of business of Terra is located at 2 Place Alexis-Nihon, 3500 de Maisonneuve Blvd. West, Suite 700, Montreal, Québec, H3Z 3C1;

3. Terra is a reporting issuer under the *Securities Act* (Québec) the ("**Act**") and is also a reporting issuer in the provinces of Ontario, Alberta and British Columbia;

4. the common shares of Terra (the "**Common Shares**") are currently traded on the Toronto Stock Exchange (the "**TSX**");

5. on October 1st, 2002, Terra entered into a merger agreement (the "**Merger Agreement**") and an option agreement (the "**Option Agreement**") with ebs Holding AG ("**EBS Holding**"), a company governed by the laws of Germany, and ebs Electronic Billing Systems AG ("**EBS Billing**"), a company governed by the laws of Germany and, at that time, wholly-owned subsidiary of EBS Holding;

6. neither EBS Holding nor EBS Billing is a reporting issuer, or the equivalent, in any of the provinces or territories of Canada and neither has shares which are listed or posted for trading on any stock exchange;

7. the Merger Agreement provided that Terra would, on the closing date of the transactions contemplated in such agreement, purchase such number of shares of EBS Billing as would represent 51% of the total number of issued and outstanding shares of EBS Billing, in exchange for the issuance by Terra to EBS Holding of 2,795,249 Common Shares, which would represent approximately 21% of the issued and outstanding Common Shares immediately after the closing;

8. the Option Agreement provided that Terra would, on the closing of the transactions contemplated in the Merger Agreement, grant to EBS Holding an irrevocable, exclusive and non-transferable option (the "**Option**") to subscribe for and purchase 15,109,453 Common Shares, which, together with the Common Shares issued pursuant to the Merger Agreement, would represent approximately 63% of the issued and outstanding Common Shares immediately after the closing of the transactions contemplated by the Option Agreement, in consideration for the sale and delivery by EBS Holding to Terra of all of the shares of EBS Billing which had not been transferred to Terra on the closing of the transactions contemplated by the Merger Agreement, such shares representing 49% of all of the shares of EBS Billing;

9. EBS Holding would be entitled to exercise the Option only once and at any time after the closing of the transactions contemplated by the Merger Agreement and no later than December 31, 2003;

10. the Option Agreement also provided that, on the closing of the transactions contemplated therein, Terra would enter into a warrant agreement with EBS Holding pursuant to which EBS Holding would have the non-transferable option to receive 0.42 of a Common Share in certain circumstances upon issuance of Common Shares pursuant to the exercise of Terra stock options;

11. the provisions of the Merger Agreement and the Option Agreement were the result of arm's length negotiations conducted among representatives of Terra, EBS Holding, EBS Billing and their legal advisors;

12. pursuant to the requirements of the TSX, the Merger Agreement and Option Agreement were approved by a majority of votes cast by the holders of Common Shares present in person or by proxy at a meeting of such holders held on March 26, 2003;

13. on April 1, 2003, the closing of the transactions contemplated by the Merger Agreement occurred and the Option was granted to EBS Holding;

14. as of the date hereof, EBS Holding holds 2,795,249 Common Shares, representing approximately 21% of the issued and outstanding Common Shares, and Terra holds 51% of the total number of issued and outstanding shares of EBS Billing;

15. as of the date hereof, the Option held by EBS Holding had not yet been exercised;

16. the Merger Agreement contains an indemnification provision pursuant to which any damages payable to either party to the Merger Agreement as a result of any breach of any representation, warranty or covenant by any party under the Merger Agreement must be satisfied by the surrender for cancellation or issuance, as the case may be, by a party to the other party of a number of Common Shares having a value equal to the amount of such damages as of the date of payment;

17. the Merger Agreement also provides that any disputes arising therefrom shall be settled under the Rules of Arbitration of the International Chamber of Commerce (the "**Arbitration**");

18. shortly after April 1, 2003, the parties to the Merger Agreement alleged facts that, if proven true, would have consisted of breaches of

representations, warranties and covenants contained in the Merger Agreement by the other party;

19. the dispute arising from those allegations and from determining whether or not there have been damages suffered by Terra would have caused Terra and EBS Holding to go to Arbitration;

20. in the interest of avoiding the significant costs and inconveniences resulting from a formal Arbitration, Terra and EBS Holding initiated discussions in early July, 2003 with the intention of reaching an agreement that would apply the indemnification provision contained in the Merger Agreement without the necessity of resorting to arbitration;

21. on August 7, 2003, a merger adjustment agreement (the "**MAA**") was entered into among Terra, EBS Holding and EBS Billing pursuant to which the parties agreed to amend the terms of the transactions contemplated by the Merger Agreement and the Option Agreement;

22. the MAA provides that, upon closing of the transactions contemplated therein (the "**MAA Closing**"), the Option Agreement will be terminated; EBS Holding will retain its 21% interest in Terra but will no longer be entitled to exercise the Option.

23. the MAA also provides that all warrant rights that would have been granted to EBS Holding upon exercise of the Option will be cancelled;

24. the other salient terms of the MAA are as follows:

    (a) EBS Holding will pay to Terra the sum of U.S.$500,000 in six monthly installments.

    (b) Terra will reduce its ownership of EBS Billing from 51% to 10.5%.

    (c) Until Terra's 2004 annual meeting, EBS Holding has agreed to a restriction on the voting rights attached to its Terra shares such that it may only vote its shares in proportion to all other shareholders of Terra who exercise their voting rights at a particular meeting.

    (d) EBS Holding has agreed not to acquire for a period of two (2) years any securities of Terra (other than treasury issuances of securities).

    (e) Terra will grant to EBS Holding an option, exercisable after July 2004, to purchase its remaining 10.5% interest in EBS Billing (the "**Call Option**"). The MAA contains provisions allowing the parties to obtain a valuation from an independent valuator in the event there is a dispute on the value of the shares underlying the Call Option.

    (f) Beginning on the date of the MAA, EBS Holding only has the right to propose one (1) nominee for election to the board of directors of Terra (down from three (3) prior to the execution of the MAA);

25. by virtue of EBS Holding having a 21% interest in Terra and the Option, the transaction contemplated by the MAA, as a whole, is considered as a related party transaction under Policy Q-27 and Rule 61-501 thereby requiring Terra, absent an exemption or discretionary relief, to comply with the valuation and minority approval requirements contained in Part 5 of Policy Q-27 and Part 5 of Rule 61-501;

26. the transactions contemplated under the MAA were the result of protracted and difficult negotiations between the parties who each retained their own legal counsel and, according to the parties to the MAA, such transactions were negotiated and concluded in a manner comparable to an arm's length transaction, as is demonstrated by many of the salient features of the MAA described above in paragraph 24;

27. according to the Corporation's financial advisor, a valuation for the transactions contemplated under the MAA would be very subjective due to the factual assumptions and hypothetical scenarios a valuator would have to take into account and make in ascertaining the value for avoiding arbitration proceedings which is an essential element in the present case;

28. the shareholders of Terra will be provided with an opinion from a financial advisor to the effect that the transaction is fair to Terra from a financial point of view;

29. it is expected that Terra will comply with all of the other requirements of Policy Q-27 and Rule 61-501 in connection with the transaction contemplated by the MAA, including the minority approval requirement.

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;

IT IS DECIDED pursuant to section 9.1 of Policy Q-27 and section 9.1 of Rule 61-501 that Terra shall be exempted from the valuation requirements applicable to related party transactions pursuant to Part 5 of Policy Q-27

and Part 5 of Rule 61-501 in connection with the transactions contemplated by the MAA.

October 31, 2003.

"Josée Deslauriers"

2.1.6 Canadian Imperial Bank of Commerce - MRRS Decision

Headnote

Mutual Reliance Review System for Exemptive Relief Applications – application for relief from the insider reporting requirement in connection with certain dispositions of securities made to satisfy a withholding tax obligation arising from the distribution of common shares under various automatic securities purchase plans – relief granted subject to certain conditions including a condition that the plan participant irrevocably elect not less than 30 days prior to the distribution date as to how the withholding tax obligation will be satisfied.

Statutes Cited

Securities Act, R.S.O. 1990, c. S.5, as am., ss. 1(1), 107, 108, 121(2)(a)(ii).

Regulations Cited

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

Rules Cited

National Instrument 55-101 - Exemption From Certain Insider Reporting Requirements.

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

AND

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

AND

IN THE MATTER OF
CANADIAN IMPERIAL BANK OF COMMERCE

MRRS DECISION DOCUMENT

WHEREAS the local securities regulatory authority or regulator (the "Decision Maker") in each of Alberta, British Columbia, Manitoba, Newfoundland and Labrador, Nova Scotia, Ontario, Québec and Saskatchewan (collectively, the "Jurisdictions") has received an application from Canadian Imperial Bank of Commerce ("CIBC") for a decision pursuant to the securities legislation of the Jurisdictions (the "Legislation") that the requirement contained in the Legislation to file insider reports shall not apply to insiders of CIBC in respect of certain dispositions of securities made to satisfy income tax withholding obligations under certain CIBC equity incentive plans, subject to certain conditions;

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 CIBC has represented to the Decision Makers that:

1. CIBC is a Schedule 1 Canadian chartered bank governed by the *Bank Act* (Canada).

2. CIBC is a reporting issuer (or equivalent) in each province and territory of Canada.

3. CIBC is not in default of any requirements under the Legislation.

4. The authorized share capital of CIBC consists of an unlimited number of common shares, without nominal or par value, provided that the maximum aggregate consideration for all outstanding common shares at any time does not exceed $15,000,000,000 (the "Common Shares"); an unlimited number of Class A preferred shares, without nominal or par value, provided that the maximum aggregate consideration for all outstanding Class A preferred shares at any time does not exceed $10,000,000,000; and an unlimited number of Class B preferred shares, without nominal or par value, provided that the maximum aggregate consideration for all outstanding Class B preferred shares at any time does not exceed $10,000,000,000.

5. The Common Shares are listed and posted for trading on the Toronto and New York stock exchanges. As at July 31, 2003, 360,920,799 Common Shares are issued and outstanding.

6. CIBC has established certain equity incentive plans which provide equity incentives to participants. Payout under the plans is in the form of CIBC Common Shares which are acquired and held by a trust in accordance with the plans until distribution to participants. In the future, CIBC may establish similar plans from time to time. These existing and future plans are referred to as the “Plans”.

7. Generally, each of the Plans has the following terms:

   (a) Awards are available to certain employees of CIBC and, for some Plans, certain employees of CIBC affiliates (as defined in the *Bank Act)*. CIBC and its affiliates are referred to as the “CIBC Group”. Employees of the CIBC Group who receive awards under any of the Plans are referred to as “participants”.

   (b) Funding for awards is paid by CIBC to a trust set up for each Plan to purchase CIBC Common Shares in the open market.

   (c) An award is denominated into award units by dividing the value of a participant’s award by the “average cost” paid by the trust for purchasing Common Shares at the time the participant's award is made. “Average cost” is the average weighted price of the Common Shares purchased in accordance with the Plans.

   (d) An award unit represents the right to receive one Common Share on vesting in accordance with the terms of the applicable Plan. Awards are not transferable.

   (e) Awards generally vest according to one of two vesting schedules: One third per year, starting on the first anniversary of the end of the fiscal year to which the award relates, or 100% on the third anniversary of the end of the fiscal year to which the award relates. CIBC’s fiscal year ends on October 31.

   (f) On October 31 of each year in accordance with the terms of each Plan, the trust automatically distributes to each Plan participant one Common Share for each vested award unit (except in certain Plans where the participant elects, at the time the award is made, to defer receipt of Common Shares until the end of the third year.)

   (g) The Income Tax Act places a withholding tax obligation on CIBC at the time Common Shares are distributed from the trust (the “Distribution Date”) except where a specific participant would suffer hardship in which case the withholding tax obligation is waived.

   (h) CIBC estimates the withholding tax in respect of a distribution of Common Shares to each Participant in advance of the Distribution Date. Participants are required to elect how to deal with the resulting tax obligation. A participant may

      1) provide the trustee of the trust with a cheque for the estimated tax amount,

      2) request that the trustee of the trust sell, on the Distribution Date, a sufficient number of the Common Shares being distributed, or

3) advise that the withholding obligation would result in hardship to the participant and that no withholding should occur. This election must be made by a prescribed date well in advance of the Distribution Date.

Elections are generally completed at least six weeks before the Distribution Date. The Plans provide that if the participant does not make an election by the prescribed date, then before distributing Common Shares to the participant, the trustee must sell a sufficient number of Common Shares on the Distribution Date to deal with the withholding tax obligation.

(i) A participant's election is driven primarily by personal tax planning and cash flow considerations. A participant would require sufficient funds to provide the trustee with a cheque for the estimated withholding tax amount. As a result, in prior years, a majority of participants in the Plans elected to have shares sold. A smaller number have elected to deal with the withholding tax amount by providing a cheque because the sale of shares distributed from the trust could result in a further tax liability to the participant. This further tax liability could arise if the participant already holds other CIBC shares, as the cost base of all such CIBC shares would be averaged in determining whether the participant has realized a gain or loss for tax purposes.

(j) Once the award units vest on October 31, the withholding tax estimates are finalized using the October 31 share value. For employees who elected to have shares sold on October 31, the trustee sells that number of shares that are equal to the number of vested awards units multiplied by the appropriate tax rate for the employee.

(k) Occasionally, awards are made under the Plans to new hires or for retention purposes. The descriptions in section 7 (a)-(j) apply equally to such awards, except that the vesting date and Distribution Date may be a day other than October 31.

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 requirement contained in the Legislation to file insider reports shall not apply to an insider in respect of a sale of Common Shares if

(a) the sale of Common Shares occurs on or about the Distribution Date and is made to satisfy a withholding tax obligation arising from the distribution of Common Shares for vested awards under the Plans;

(b) either,

(i) the insider elects how the income tax withholding obligation is to be satisfied, communicates such election to CIBC or the Plan trustee not less than 30 days prior to the Distribution Date and such election is irrevocable as of the 30th day before the Distribution Date; or

(ii) the insider does not elect how the income tax withholding obligation is to be satisfied and, in accordance with the terms of the Plan, the Plan trustee is therefore required to sell Common Shares automatically on or about the Distribution Date to satisfy a withholding tax obligation;

(c) the insider files a report, in the form prescribed for insider trading reports under the Legislation, disclosing all sales of Common Shares under the Plans that have not been previously disclosed by or on behalf of the insider,

(i) for any Common Shares under the Plans which have been disposed of or transferred, other than in respect of withholding taxes on the distribution of vested awards, within the time required by the Legislation for reporting the disposition or transfer; and

(ii) for any Common Shares disposed of under the Plans during the calendar year in respect of withholding taxes, within 90 days of the end of the calendar year; and

(d) the insider does not beneficially own, directly or indirectly, voting securities of CIBC, or exercise control or direction over voting securities of CIBC or a combination of both, that carry more than 10% of the voting rights attached to CIBC's outstanding voting securities.

October 21, 2003.

"R. W. Korthals" "W.S. Wigle"

2.1.7 Wells Fargo & Company and Wells Fargo Financial Canada Corporation - MRRS Decision

Headnote

Mutual Reliance Review System for Exemptive Relief Applications – issuer to distribute guaranteed medium term notes – issuer exempt from requirement that financial statements be reconciled to Canadian GAAP and that auditor's report be accompanied by statement of auditor, subject to conditions – issuer exempt from certain continuous disclosure requirements, including material change, proxy, insider reporting, and annual and interim financial statement requirements, subject to conditions – issuer exempt from certain prospectus and eligibility requirements, subject to conditions – issuer exempt from requirement to file current annual information form in Ontario, Quebec and Saskatchewan, subject to conditions.

Applicable Ontario Statutory Provisions

Securities Act, R.S.O. 1990, c. S.5, as am., ss. 80(b)(iii), 88(2)(b) and 121(2)(ii).

Applicable Ontario Rules

Rule 51-501 AIF and MD&A.
National Instrument 44-101 Short Form Prospectus Distributions.
National Instrument 44-102 Shelf Distributions.
National Instrument 71-101 Multijurisdictional Disclosure System.

IN THE MATTER OF
THE SECURITIES LEGISLATION OF
BRITISH COLUMBIA, ALBERTA, SASKATCHEWAN,
MANITOBA, ONTARIO, QUEBEC,
NEW BRUNSWICK, PRINCE EDWARD ISLAND,
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
WELLS FARGO & COMPANY AND
WELLS FARGO FINANCIAL CANADA CORPORATION

MRRS DECISION DOCUMENT

WHEREAS the local securities regulatory authority or regulator (the "Decision Maker") in each of British Columbia, Alberta, Saskatchewan, Manitoba, Ontario, Quebec, New Brunswick, Prince Edward Island, Nova Scotia and Newfoundland and Labrador (the "Jurisdictions") has received an application (the "Application") from Wells Fargo & Company ("WFC") and

Wells Fargo Financial Canada Corporation ("WFFC" or the "Issuer" and together with WFC, the "Applicants") for a decision under the securities legislation of the Jurisdictions (the "Legislation") that the Applicants be exempted from the following requirements contained in the Legislation:

(a) the requirements in section 2.5(1) of National Instrument 44-101 ("NI 44-101") that a person or company guaranteeing non-convertible debt issued by an issuer be a reporting issuer with a 12 month reporting history in a Canadian province or territory and have a current annual information form (an "AIF") (the "Eligibility Requirement") in order to permit the Issuer to issue non-convertible debt securities, and in particular Notes (as defined below), with an approved rating (as defined in NI 44-101) which will be fully and unconditionally guaranteed by WFC (any issue of the Notes being referred to as an "Offering");

(b) the requirement pursuant to NI 44-101 to reconcile financial statements included in a short form prospectus and prepared in accordance with generally accepted accounting principles ("GAAP") of a foreign jurisdiction to Canadian GAAP (the "GAAP Reconciliation Requirement"), and with the requirements to provide, where financial statements included in a short form prospectus are audited in accordance with generally accepted auditing standards ("GAAS") of a foreign jurisdiction, a statement by the auditor disclosing any material differences in the auditor's report and confirming that the auditing standards of the foreign jurisdiction are substantially equivalent to Canadian GAAS (the "GAAS Reconciliation Requirement" and together with the GAAP Reconciliation Requirement, the "Reconciliation Requirement");

(c) the requirement that a short form prospectus include the information set forth in items 12.1(1)(1), 12.1(1)(2), items 12.1(1)(5) to 12.1(1)(8), items 12.2(1) and 12.2(4) of Form 44-101F3 of NI 44-101 ("Form 44-101F3") (the "Prospectus Disclosure Requirements");

(d) the requirement that the Issuer issue and file with the Decision Makers press releases, and file with the Decision Makers material change reports (together, the "Material Change Requirements");

(e) the requirement that the Issuer comply with the proxy and proxy solicitation requirements under the Legislation, including filing an information circular or report in lieu thereof annually (the "Proxy Requirements");

(f) the requirement that insiders of the Issuer file insider reports with the Decision Makers (the "Insider Reporting Requirements");

(g) the requirement that the Issuer file with the Decision Makers and send to its security holders audited annual financial statements and an annual report, where applicable, including without limitation management's discussion and analysis thereon (the "Annual Filing Requirement");

(h) the requirement that the Issuer file with the Decision Makers and send, where applicable, to its security holders unaudited interim financial statements, including without limitation management's discussion and analysis thereon (the "Interim Financial Statement Requirements");

(i) the requirement in NI 44-101 and under the Legislation of Ontario (Ontario Securities Commission Rule 51-501), Quebec (section 159 of the Regulation to the *Securities Act* (Quebec)) and Saskatchewan (Saskatchewan Instrument 51-101) that the Issuer have a current annual information form ("AIF") and file renewal AIFs (the "AIF Requirement") with the Decision Makers.

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

AND WHEREAS, unless otherwise defined, the terms herein have the meaning set out in National Instrument 14-101 Definitions or in Quebec Commission Notice 14-101;

AND WHEREAS WFC and the Issuer have represented to the Decision Maker that:

1. WFC is a diversified financial services company organized under the laws of the State of Delaware and registered as a bank holding company and financial holding company under the *Bank Holding Company Act of 1956, as amended*. The principal executive offices of WFC are located in San Francisco, California. Based on assets at June 30, 2003, WFC was the fourth largest bank holding company in the United States.

2. WFC is not a reporting issuer or the equivalent thereof in any Jurisdiction and has no present intention of becoming a reporting issuer or the equivalent thereof in any Jurisdiction. All of the directors and senior officers of WFC reside outside Ontario.

3. WFC became a reporting company under the *Securities Exchange Act of 1934* of the United States (the "Exchange Act") many years ago. WFC has filed with the United States Securities and Exchange Commission (the "SEC") all periodic reports required to be filed with the SEC under sections 13(a) and 15(d) of the Exchange Act.

4. At June 30, 2003, WFC had approximately $58.5 billion in long-term debt outstanding (on a consolidated basis). All of WFC's outstanding long-term debt is rated A+ by Standard & Poor's, AA by Fitch, Inc. and Aa1 by Moody's Investors Service.

5. WFFC is an unlimited liability company amalgamated under the laws of the Province of Nova Scotia and is a wholly-owned indirect subsidiary of WFC. The principal executive offices of WFFC are located in Toronto, Ontario. The main business of WFFC is to raise capital for its Canadian affiliates for use in their consumer finance and related businesses. In addition, WFFC provides commercial revolving lines of credit to small businesses in Canada. Debt obligations relating to these lines of credit currently represent approximately 10% of the total assets of WFFC.

6. WFFC is a reporting issuer or the equivalent thereof in each Jurisdiction.

7. WFFC has established a medium term note program (the "MTN Program") and has issued $950,000,000 principal amount of medium term notes (together with any further medium term notes issued under the MTN Program or any renewal thereof, including any Additional Notes (as defined below) issued under the Proposed Offering (as defined below), the "Notes") under a short form base shelf prospectus dated October 3, 2001, as amended by amendment no. 1 dated March 13, 2003. WFFC may issue up to $1,500,000,000 principal amount of Notes (or the equivalent thereof in US dollars) under the prospectus from time to time over a twenty-five month period which began October 3, 2001.

8. WFC has unconditionally guaranteed the payment of principal, premium (if any) and interest due under the currently outstanding Notes, and as such WFC is a credit supporter (as defined under NI 44-101) in respect of the currently outstanding Notes. Accordingly, WFC files copies of its Exchange Act filings with Canadian provincial securities regulatory authorities.

9. The Issuer proposes to "renew" the MTN Program by filing another short form base shelf prospectus (the "Proposed Offering") pursuant to NI 44-101 and National Instrument 44-102 ("NI 44-102" and together with NI 44-101, the "Shelf Requirements") to provide the ability to raise funds through the issuance of additional Notes (the "Additional Notes") from time to time over a 25 month period. The Additional Notes will be fully and unconditionally guaranteed by WFC as to payment of principal, interest and all other amounts due thereunder. All Additional Notes will have an Approved Rating (as defined in the Shelf Requirements) and will be rated by a recognized security evaluation agency in one of the categories determined by the Commission des valuers mobiliéres du Quebec (an "Approved Rating"). The Issuer may also renew the MTN Program again in the future by filing additional short form prospectuses in each of the Jurisdictions for Notes (the "Future Offerings").

10. WFC satisfies the criteria set forth in paragraph 3.1(a) of National Instrument 71-101 ("NI 101") and is eligible to use the multi-jurisdictional disclosure system ("MJDS") (as set out in NI 71-101) for the purposes of distributing approved rating non-convertible debt in Canada based on compliance with United States ("US") prospectus requirements with certain additional Canadian disclosure.

11. Except for the fact that the Issuer is not incorporated under US law, an Offering would comply with the eligibility criteria under the MJDS as set forth in paragraphs 3.1 and 3.2 of NI 71-101.

12. In connection with an Offering (which, for great certainty, includes the Proposed Offering and any Future Offerings):

    (a) a short form base shelf prospectus and a prospectus supplement or supplements will be prepared pursuant to the Shelf Requirements, with the disclosure required by Item 12 (documents incorporated by reference) and Item 13 (issues of guaranteed securities) of Form 44-101F3 being addressed by incorporating by reference WFC's public disclosure documents including WFC's most recently filed Form 10-K and the disclosure required by Item 7 (earnings coverage ratios) of Form 44-101F3 of NI 44-101 and section 8.4 (requirement to update earnings coverage ratios) of NI 44-102 being addressed by fixed charge coverage ratio disclosure with respect to

WFC in accordance with US requirements;

(b) each prospectus will include all material disclosure concerning the Issuer;

(c) each prospectus will incorporate by reference the most recent WFC 10-K (as filed under the Exchange Act) together with all Form10-Qs and Form 8-Ks of WFC filed under the Exchange Act in respect of the financial year following the year that is the subject of the WFC Form 10-K, as would be required were WFC to file a registration statement on Form S-3 in the United States, and will incorporate by reference any documents of the foregoing type filed after the date of the prospectus and prior to termination of the particular Offering and will state that purchasers of the Notes will not receive separate continuous disclosure information regarding the Issuer;

(d) the consolidated annual and interim financial statements of WFC that will be included in or incorporated by reference into the short form prospectus are prepared in accordance with U.S. GAAP and otherwise comply with the requirements of U.S. law, and in the case of audited annual financial statements, such financial statements are audited in accordance with U.S. GAAS;

(e) in respect of the prospectus filed in connection with the Proposed Offering only, the audited annual financial statements of the Issuer for the fiscal years ended December 31, 2002 and 2001 and the unaudited interim financial statements of the Issuer for three months ended and March 31, 2003 and the six months ended June 30, 2003;

(f) in respect of a prospectus filed in connection with any Future Offering:

(i) the annual comparative selected financial information (the "Annual Selected Financial Information") derived from the audited annual financial statements of the Issuer for its most recently completed financial year and the financial year immediately preceding such financial year, prepared in accordance with Canadian GAAP, accompanied by a specified procedures report of the auditors to the Issuer, which shall define and include at least the following line items (or such other line items that provide substantially similar disclosure): (1) total income; (2) net income; (3) notes receivable — related parties; (4) finance receivables, net (together with a descriptive note on the allowance for credit losses); (5) total assets; (6) short-term debt; (7) long-term debt (which shall include the Notes); (8) total liabilities; and (9) total shareholder's equity; and

(ii) the interim comparative selected financial information (the "Interim Selected Financial Information") derived from the unaudited interim financial statements of the Issuer for its most recently completed interim period and the corresponding interim period in the previous financial year, prepared in accordance with Canadian GAAP, which shall define and include at least the line items which set out above in paragraph 12(f)(i) (or such line items that provide substantially similar disclosure);

(g) WFC will fully and unconditionally guarantee the payments to be made by the Issuer on the Notes, together with any other amounts that may be due under any provisions of the trust indenture relating to the Notes;

(h) the Notes will have an Approved Rating;

(i) WFC will sign each prospectus as credit supporter; and

(j) WFC will undertake to file with the Decision Maker in each Jurisdiction in electronic format through SEDAR (as defined in National Instrument 13-101) under the Issuer's SEDAR profile all documents that it files under sections 13 (other than sections 13(d), (f) and (g) which relate, *inter alia*, to holdings by WFC of securities of other public companies) and 15(d) of the Exchange Act, together with appropriate filing fees, until such time as the Notes are no longer outstanding.

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:

(A) the Applicants be exempted from the Eligibility Requirement and the Reconciliation Requirement in connection with any Offering (which, for greater certainty, includes the Proposed Offering and any Future Offering) provided that:

(i) each of WFC and the Issuer complies with paragraph 12 above;

(ii) the Issuer complies with all of the filing requirements and procedures set out in NI 44-101 except as varied by the Decision or as permitted by National Instrument 44-102;

(iii) WFC financial statements that are included or incorporated by reference in the Prospectus are prepared in accordance with US GAAP and, in the case of the audited annual financial statements, such financial statements are audited in accordance with US GAAS;

(iv) WFC, or any successor thereto, maintains direct or indirect 100% ownership of the voting shares of the Issuer; and

(v) WFC continues to satisfy the eligibility criteria set forth in paragraph 3.1 of NI 71-101 (or any applicable successor provision) for using MJDS (or any successor instrument) for the purpose of distributing approved rating non-convertible debt in Canada based on compliance with US prospectus requirements with certain additional Canadian disclosure; and

(B) the Prospectus Disclosure Requirements shall not apply to a prospectus for any Offering provided that each of the Issuer and WFC complies with paragraph 12 above.

(C) the AIF Requirement shall not apply to the Issuer, provided that (i) WFC complies with the AIF requirements of NI 44-101 as if it is the issuer by filing an AIF in the form of WFC's most recently filed Form 10-K (as filed under the Exchange Act) and (ii) each of the Issuer and WFC complies with all of the conditions in the Decisions above and below.

October 31, 2003.

"Iva Vranic"

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

(A) the Material Change Requirements shall not apply to the Issuer in connection with any Notes (which, for greater certainty, includes Notes currently outstanding and any Notes issued under the Proposed Offering and Future Offerings), provided that:

(i) WFC files with the Decision Makers, in electronic format through SEDAR under the Issuer's SEDAR profile, the current reports on Form 8-K of WFC which are filed by it with the SEC promptly after they are filed with the SEC provided such current reports would be required to be incorporated by reference in a Form S-3 registration statement of WFC;

(ii) WFC promptly issues in each Jurisdiction and the Issuer files with the Decision Makers, in electronic format through SEDAR under the Issuer's SEDAR profile, any news release that discloses material information and which is required to be issued in connection with the Form 8-K requirements applicable to WFC; and

(iii) if there is a material change in respect of the business, operations or capital of the Issuer that is not a material change in respect of WFC, the Issuer will comply with the requirements of the Legislation to issue a press release and file a material change report notwithstanding that the change may not be a material change in respect of WFC;

(B) the Proxy Requirements shall not apply to the Issuer in connection with any Notes (which, for greater certainty, includes Notes currently outstanding and any Notes issued under the Proposed Offering and Future Offerings), provided that:

(i) WFC complies with the requirements of the Exchange Act and the rules and regulations made thereunder relating to proxy statements, proxies and proxy solicitations in connection with any meeting of the holders of its notes;

(ii) WFC files with the Decision Makers, in electronic format through SEDAR under the Issuer's SEDAR profile, materials relating to any such meeting filed by

WFC with the SEC promptly after they are filed with the SEC; and

(iii) such documents are provided to any holder of Notes whose last address as shown on the books of the Issuer is in Canada, in the manner, at the time and if required by applicable US law to be sent to WFC debt holders resident in the US.

(C) The Insider Reporting Requirements shall not apply to insiders of the Issuer in connection with any Notes (which, for greater certainty, includes Notes currently outstanding and any Notes issued under the Proposed Offering and Future Offerings), provided that such insiders file with the SEC on a timely basis the reports, if any, required to be filed with the SEC pursuant to section (16)(a) of the Exchange Act and the rules and regulations thereunder;

(D) The Annual Filing Requirements shall not apply to the Issuer in connection with any Notes (which, for greater certainty, includes Notes currently outstanding and any Notes issued under the Proposed Offering and Future Offerings), provided that:

(i) The Issuer files with the Decision Makers, in electronic format through SEDAR under the Issuer's SEDAR profile, the Annual Selected Financial Information, accompanied by a specified procedures report of the auditors to the Issuer, in accordance with paragraph 12(f)(i) above, commencing with the fiscal year ended December 31, 2003;

(ii) WFC files with the Decision Makers, in electronic format through SEDAR under the Issuer's SEDAR profile, the annual reports in Form 10-K filed by it with the SEC within one business day after they are filed with the SEC; and

(iii) such documents are provided to security holders whose last address as shown on the books of the Issuer in Canada, in the manner, at the time and, if required, by applicable US law to be sent to WFC debt holders; and

(E) The Interim Financial Statement Requirements shall not apply to the Issuer in connection with any Notes (which, for greater certainty, includes Notes currently outstanding and any Notes issued under the Proposed Offering and Future Offerings), provided that:

(i) The Issuer files with the Decision Makers, in electronic format through SEDAR under the Issuer's SEDAR profile, the Interim Selected Financial Information in accordance with paragraph 12(f)(ii) above commencing with the interim period ended September 30, 2003;

(ii) WFC files with the Decision Makers quarterly reports on Form10-Q in electronic format through SEDAR under the Issuer's SEDAR profile, filed by it with the SEC within one business day after they are filed with the SEC; and

(iii) such documents are provided to security holders whose last address as shown on the books of the Issuer is in Canada, in the manner, at the time and, if required, by applicable US law to be sent to WFC debt holders;

further provided that (for A through E):

(a) the Issuer does not issue additional securities to the public other than securities fully guaranteed by WFC;

(b) each of the Issuer and WFC comply with paragraph 12 above;

(c) the Notes maintain an Approved Rating;

(d) WFC, or any successor thereto, maintains direct or indirect 100% ownership of the voting shares of the Issuer;

(e) WFC maintains a class of securities registered pursuant to section 12 of the Exchange Act or is required to file reports under section 15(d) of the Exchange Act;

(f) WFC continues to satisfy the eligibility criteria set forth in paragraph 3.1 of NI 71-101 (or any applicable successor provision) for using MJDS (or any successor instrument) for the purpose of distributing approved rating non-convertible debt in Canada based on compliance with US prospectus requirements with certain additional Canadian disclosures;

(g) the Issuer carries on no other business other than that set out in paragraph 5 above;

(h) WFC continues to fully and unconditionally guarantee payment of the principal and interest on the Notes, together with any other amounts that may be due under any provisions of the trust indenture relating to the Notes; and

(i) all filing fees that would otherwise be payable by the Issuer in connection with the Material Change Requirements, the Proxy Requirements, the Insider Reporting Requirements, the Annual Filing Requirements and the Interim Financial Statement Requirements and the AIF requirement are paid.

October 31, 2003.

"Paul K. Bates" "Wendell S. Wigle"

2.2 Orders

2.2.1 The NRG Group Inc. - s. 144

Headnote

Section 144 - application for partial revocation of cease trade order - issuer cease traded due to failure to file with the Commission and send to shareholders annual financial statements - issuer contemplating acquiring private oil and gas company - issuer has brought its filings up to date and has placed on the public record disclosure about the proposed acquisition - partial revocation granted to permit shareholders of the issuer to vote on the acquisition and to issue common shares in connection with related private placement.

Applicable Ontario Statutory Provisions

Securities Act, R.S.O., c. S.5, as am., ss. 127 and 144.

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

AND

IN THE MATTER OF
THE NRG GROUP INC.

ORDER
(Section 144)

WHEREAS the securities of The NRG Group Inc. ("NRG" or the "Company") are subject to a temporary order made by the Manager, Corporate Finance (the "Manager") of the Ontario Securities Commission (the "Commission") dated May 22, 2003 and extended by an order of the Manager dated June 3, 2003 made under section 127 of the Act (collectively referred to as the "Cease Trade Order") directing that trading in the securities of NRG cease until it is revoked by a further order of revocation;

AND WHEREAS the Company 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 Company having represented to the Commission as follows:

1. The Company was formed by the amalgamation under the laws of the Province of Ontario on March 10, 2000 of 2FundEcom Inc. and its wholly-owned subsidiaries, The NRG Group Inc., NRG Factory (Toronto) Inc., Solutions Architecture Inc., Wealth Architecture Inc., Dynamic Education Solutions Inc. and KidsNRG Inc.

2. The authorized capital of the Company consists of an unlimited number of common shares of which 28,198,240 common shares were issued and outstanding as of August 26, 2003. At its annual and special meeting of shareholders to be held at 10:00 a.m. on Thursday, August 28, 2003 at the offices of Lang Michener, 181 Bay Street, Suite 2500, Toronto, Ontario (the "Meeting"), the shareholders of the Company will consider, and if thought fit, approve as a special resolution an amendment to the articles of the Company to create a new class of non-voting special shares.

3. NRG has been a reporting issuer in Ontario since April 26, 2000.

4. The Company's common shares were listed on the Toronto Stock Exchange (the "Exchange") but were suspended from trading on the Exchange on October 25, 2002 for failure to meet the Exchange's continued listing requirements. On July 23, 2003, the Company was voluntarily delisted from the Exchange.

5. The Cease Trade Order was issued as a result of the Company's failure to file its audited annual financial statements for the year ended December 31, 2002 (the "Annual Financial Statements") as a result of financial difficulties. Subsequently, the Company failed to file its interim financial statements for the three month period ended March 31, 2003.

6. On August 7, 2003, the Company filed on SEDAR the Annual Financial Statements, its annual information form for the period ended December 31, 2002 and its annual management's discussion and analysis for the period ended December 31, 2002. On August 18, 2003, the Company filed on SEDAR its interim financial statements for the three-month period ended March 31, 2003 and on August 26, 2003, the Company filed on SEDAR its interim financial statements for the six-month period ended June 30, 2003 (collectively referred to as the "Interim Financial Statements"). The Annual Financial Statements were mailed to NRG shareholders on August 7, 2003 and the Interim Financial Statements were mailed to NRG shareholders on August 27, 2003.

7. Except for the Cease Trade Order, the Company has not been subject to any other cease trade orders issued by the Commission, and the Company is not otherwise in default of any requirements of the Act or the rules or regulations thereunder.

8. The Company is contemplating acquiring all of the outstanding shares of Welton Energy Limited ("Welton"), a private Alberta-based oil and natural gas company, for an aggregate purchase price of $1,600,000 (the "Acquisition"). Each Welton shareholder is to receive $7.40 cash consideration or 370 NRG special shares for each Welton share held, or a combination thereof, subject to a maximum cash consideration of $932,000 and a maximum share consideration of 48 million NRG

special shares. Under the terms of the Acquisition, NRG will also acquire all of the outstanding warrants to acquire shares of Welton in exchange for warrants to acquire NRG special shares.

9. It is a condition of the Acquisition that the Company raise a minimum of $500,000 through the issuance of 25 million NRG common shares at $0.02 per share by way of private placement (the "Private Placement") prior to closing of the Acquisition. The proceeds of the Private Placement will be used to pay part of the cash consideration due to Welton shareholders who elect not to receive share consideration for their Welton shares.

10. The Acquisition and the Private Placement will be subject to the approval of the shareholders of the Company at the Meeting. The Company filed on SEDAR and sent to its shareholders on August 7, 2003, an information circular (the "Circular") outlining the terms of the Private Placement and the Acquisition. The Circular contains detailed disclosure about NRG, Welton and the Acquisition, and includes copies of the audited financial statements for Welton for the fiscal years ended December 31, 2002 and December 31, 2001.

11. The common shares of the Company are not listed or quoted on any exchange or market in Canada or elsewhere.

12. The Company has applied for partial revocation of the Cease Trade Order to permit the shareholders of the Company to consider the Private Placement and the Acquisition and to issue NRG common shares under the Private Placement and NRG special shares under the Acquisition.

13. Following such approval by its shareholders, the Company intends to make a further application for a full revocation of the Cease Trade Order to permit the trading of its securities generally.

AND UPON considering the application and the recommendation of 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 is partially revoked solely to permit the shareholders of the Company to vote on the Private Placement and the Acquisition and to issue NRG common shares under the Private Placement and NRG special shares under the Acquisition.

August 27, 2003.

"John Hughes"

2.2.2 Welton Energy Corporation - s. 144

Headnote

Section 144 - application for revocation of cease trade order - issuer previously granted partial revocation of cease trade order to permit shareholders of issuer to vote on proposed acquisition of private oil and gas company and to issue common shares in connection with related private placement - issuer has brought its filings up to date and has placed on the public record disclosure about the acquisition - issuer has undertaken to amend disclosure, on a going-forward basis, to disclose its revenue recognition policy, and to conform certain other disclosure items to the requirements of NI 51-101 Standards of Disclosure of Oil and Gas Activities.

Applicable Ontario Statutory Provisions

Securities Act, R.S.O., c. S.5, as am., ss. 127 and 144.

Applicable Ontario Rules

NI 51-101 Standards of Disclosure of Oil and Gas Activities.

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

AND

IN THE MATTER OF
WELTON ENERGY CORPORATION
(FORMERLY, THE NRG GROUP INC.)

ORDER
(Section 144)

WHEREAS the securities of Welton Energy Corporation (the "Company") (formerly, The NRG Group Inc. ("NRG")) are subject to a temporary order made by a Director of the Ontario Securities Commission (the "Commission") dated May 22, 2003 and extended by an order of a Director dated June 3, 2003 made under section 127 of the Act (collectively referred to as the "Cease Trade Order") directing that trading in the securities of the Company cease until it is revoked by a further order of revocation;

AND WHEREAS the Company applied to the Commission pursuant to section 144 of the Act for a partial revocation of the Cease Trade Order, and on August 27, 2003 a Director of the Commission issued a partial revocation of the Cease Trade Order (the "Partial Revocation Order") to permit the shareholders of the Company to consider the Private Placement (as hereinafter defined) and the Acquisition (as hereinafter defined) and to issue common shares of the Company under the Private Placement and special shares of the Company under the Acquisition;

AND UPON the Company having represented as follows:

1. Except as necessarily modified below, the representations contained in the Partial Revocation Order remain true, and are incorporated in this Order by reference.

2. At the Company's annual and special meeting of shareholders held on August 28, 2003, the shareholders of the Company considered and approved the issuance of 25 million common shares of the Company at $0.02 per share by way of private placement (the "Private Placement") and the acquisition of all of the outstanding shares of Welton Energy Limited ("Welton"), an Alberta-based oil and natural gas company, for an aggregate purchase price of $1,600,000 (the "Acquisition"), which purchase price was to be satisfied by a combination of cash and the issuance of special shares of the Company.

3. On August 29, 2003, the Company completed the Private Placement and the Acquisition and under the terms of the Acquisition, the Company also acquired all of the outstanding warrants to acquire shares of Welton in exchange for warrants to acquire special shares of the Company.

4. Pursuant to Articles of Amendment dated September 2, 2003 issued by the Ontario Ministry of Consumer and Business Services, NRG changed its name to Welton Energy Corporation.

5. The Company has provided certain undertakings to the Commission to make changes, on a going-forward basis, to its public disclosure documents (as appropriate) including (i) clearly disclosing its revenue recognition policy, and (ii) conforming certain other disclosure items to the requirements of *NI 51-101 Standards of Disclosure of Oil and Gas Activities*.

6. Except for the Cease Trade Order, the Company has not been subject to any other cease trade orders issued by the Commission, and the Company is not otherwise in default of any requirements of the Act or the rules or regulations thereunder.

AND UPON considering the application and the recommendation of 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 is fully revoked to permit trading in the securities of the Company generally.

October 24, 2003.

"Charlie MacCready"

2.2.3 Afcan Mining Corporation - ss. 83.1(1)

Headnote

Subsection 83.1(1) – issuer deemed to be a reporting issuer in Ontario – issuer has been a reporting issuer in Quebec since 1984 and in Alberta and British Columbia since 2001 – issuer's securities are listed and posted for trading on the TSX Venture Exchange – continuous disclosure requirements of Quebec, Alberta and British Columbia substantively the same as those of Ontario.

Applicable Ontario Statutory Provisions

Securities Act, R.S.O. 1990, c. S.5, as amended, s.83.1(1).

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

AND

IN THE MATTER OF
AFCAN MINING CORPORATION

ORDER
(Subsection 83.1(1))

UPON the application of Afcan Mining Corporation (the "Corporation" or "Afcan") to the Ontario Securities Commission (the "Commission") for an order pursuant to Section 83.1(1) of the *Securities Act* (Ontario) (the "Act") deeming the Corporation to be a reporting issuer for the purposes of Ontario securities law;

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

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

1. Afcan is a company governed by the *Company Act* (Quebec). Afcan was formed on August 21, 1984 under the name Pétro-Gaspé inc. as a result of the amalgamation of Compagnie Minière Gaspésie Limitée and Sembec inc. The name of the Corporation was changed to Afcan Mining Corporation/Corporation Minière Afcan on January 9, 1997.

2. Afcan's head office and registered office is located at 750 boul. Marcel-Laurin, suite 375, Montreal, Quebec H4M 2M4.

3. Afcan became a "reporting issuer" under the *Securities Act* (Quebec) on August 21, 1984 as a result of the amalgamation of two reporting issuers: Compagnie Minière Gaspésie Limitée and Sembec inc.

4. The Corporation's common shares were listed on the Montreal Exchange Inc. ("ME") in 1985.

5. Afcan became a reporting issuer under the *Securities Act* (Alberta) and the *Securities Act* (British Columbia) on September 25, 2001 following the transfer of its shares from the ME to the TSX Venture Exchange (formerly the Canadian Venture Exchange) (the "TSX Venture").

6. Afcan is not a reporting issuer under the securities legislation of any jurisdiction other than the provinces of Quebec, Alberta and British Columbia.

7. The Corporation's common shares currently trade on the TSX Venture under the trading symbol "AFK".

8. Afcan's authorized share capital consists of an unlimited number of common shares without par value. As of October 23, 2003, there were 81,561,940 common shares of Afcan issued and outstanding.

9. Afcan has a significant connection to Ontario, in that a number of registered and/or beneficial shareholders, who collectively hold more than 20% of the issued and outstanding common shares of Afcan, are resident in Ontario.

10. Afcan is in good standing under the rules, regulations and policies of the TSX Venture.

11. Afcan has not been the subject of any enforcement actions by the Quebec, Alberta or British Columbia Securities Commissions or the TSX Venture.

12. Afcan is not in default of any requirement of the Act, the *Securities Act* (Quebec), the *Securities Act* (Alberta) or the *Securities Act* (British Columbia).

13. The continuous disclosure requirements of the *Securities Act* (Quebec), the *Securities Act* (Alberta) and the *Securities Act* (British Columbia) are substantially the same as the requirements under the Act.

14. The materials filed by the Corporation as a reporting issuer in the provinces of Quebec, Alberta and British Columbia since January 1st, 1997 are available on the System for Electronic Document Analysis and Retrieval.

15. Neither Afcan, any of its officers, directors, nor, to the knowledge of Afcan and its officers and directors, any of its controlling shareholders, has: (i) been the subject of any penalties or sanctions imposed by a court relating to Canadian securities legislation or by a Canadian securities regulatory authority, (ii) entered into a settlement agreement with a Canadian securities regulatory authority, or (iii) been subject to any other penalties or sanctions imposed by a court or regulatory body that would be likely to be considered important to a reasonable investor making an investment decision.

16. Neither Afcan, any of its officers, directors nor, to the knowledge of Afcan and its officers and directors, any of its controlling shareholders, is or has been subject to: (i) any known ongoing or concluded investigations by: (a) a Canadian securities regulatory authority; or (b) a court or regulatory body, other than a Canadian securities regulatory authority, that would be likely to be considered important to a reasonable investor making an investment decision; or (ii) any bankruptcy or insolvency proceedings, or other proceedings, arrangements or compromises with creditors, or the appointment of a receiver, receiver-manager or trustee, within the preceding 10 years.

17. Except for Benoit La Salle, a director and Chairman of the Board of Afcan and Yves Grou, a director and Chief Financial Officer of Afcan, none of the directors or officers of Afcan, nor, to the knowledge of Afcan and its officers and directors, any of its controlling shareholders, is or has been, at the time of such event, an officer or director of any other issuer which is or has been subject to: (i) any cease trade order or similar order, or order that denied access to any exemptions under Ontario securities law, for a period of more than 30 consecutive days, within the preceding 10 years; or (ii) any bankruptcy or insolvency proceedings, or other proceedings, arrangements or compromises with creditors, or the appointment of a receiver, receiver-manager or trustee, within the preceding 10 years.

18. Benoit La Salle is a director of BridgePoint International Inc. ("BridgePoint") and Yves Grou is the President of BridgePoint. On November 26, 2002, the securities of BridgePoint were subject to a cease trade order issued by the Commission, which was extended on December 6, 2002, for failure to file with the Commission its audited financial statements and the accompanying auditor's report for the fiscal year ended June 30, 2002. The financial statements for the year ended June 30, 2002 were filed with the Commission via SEDAR on January 10, 2003. The cease trade order was revoked on January 17, 2003. BridgePoint is now in compliance with the continuous disclosure requirements of the *Securities Act* (Ontario).

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

IT IS HEREBY ORDERED, pursuant to Section 83.1(1) of the Act, that Afcan be deemed to be a reporting issuer for the purposes of Ontario securities law.

October 28, 2003.

"Charlie MacCready"

2.2.4 Digital Rooster.Com Ltd. - s. 144

Headnote

Cease-trade order revoked where the issuer has remedied its default in respect 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,
RS.O. 1990, CHAPTER S.5, AS AMENDED (the "Act")

AND

IN THE MATTER OF
DIGITAL ROOSTER.COM LTD.

ORDER
(Section 144)

WHEREAS the securities of Digital Rooster.Com Ltd. (the "Corporation") are subject to a Temporary Order of the Director made on behalf of the Ontario Securities Commission (the "Commission"), pursuant to paragraph 2 of subsection 127(1) and subsection 127(5) of the Act, on August 28, 2003, as extended by a further order of the Director on September 9, 2003, on behalf of the Commission pursuant to subsection 127(8) of the Act (collectively, the "Cease Trade Order") directing that trading in the securities of the Corporation cease until the Cease Trade Order is revoked by a further Order of Revocation;

AND WHEREAS the Corporation has made application to the Commission for an order revoking the Cease Trade Order;

AND UPON the Corporation having represented to the Commission that:

1. The Corporation was incorporated under the Ontario Business Corporations Act as Storimin Exploration Limited on March 27, 1984. The name was changed to Storimin Resources Limited by Articles of Amendment dated April 1, 1999. The name of the corporation was changed to Digital Rooster.Com Inc. by Articles of Amendment, dated January 19, 1999. Pursuant to a stock consolidation the name of the corporation was changed to Digital Rooster.Com Ltd. by Articles of Amendment dated November 13, 2002;

2. The Corporation is a reporting issuer in the Province of Ontario;

3. The authorized capital of the Corporation consists of an unlimited number of common shares of

which 3,978,639 are issued and outstanding as of the date hereof;

4. The Cease trade Order was issued as a result of the Corporation's failure to file with the Commission its audited annual financial statements for the year ended March 31, 2003 (the "Annual Financial Statements") as required by the Act;

5. The Annual Financial Statements were filed with the Commission via SEDAR on October 15, 2003. The interim financial statements for the three-month period ended June 30, 2003 (the "Interim Financial Statements"), which were required to be filed by August 29, 2003 were also filed with the Commission via SEDAR on October 15, 2003;

6. During September 2003, there was a change of staff in the departments responsible for accounting, administration and statutory filing matters. The new staff includes individuals with superior expertise in these areas than those of the former staff and is confident that all future deadlines will be met. The Corporation anticipates receipt of new financing upon the revocation of the cease-trade order;

7. The date of the annual meeting of the shareholders of the Corporation has been fixed as December 22, 2003 by the board of directors and the Corporation will mail the Annual Financial Statements and the Interim Financial Statements to all of its shareholders, together with the Corporation's 2003 Annual Report on November 17, 2003;

8. Except for the Cease trade Order and the failure to mail copies of its financial statements to shareholders when due, the Corporation is not otherwise in default of any requirements of the Act or the regulation made thereunder ;

AND UPON considering the application and the recommendation of 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 pursuant to Section 144 of the Act that the Cease Trade Order be hereby revoked.

November 3, 2003.

"John Hughes"

2.2.5 Leading Brands, Inc. - s. 83

Headnote

Issuer deemed to have ceased to be a reporting issuer. Issuer has 47 security holders in Ontario holding a de minimis number or securities. Issuer is a reporting issuer in British Columbia, and security holders will therefore continue to have access to continuous disclosure information about the issuer via SEDAR.

Statutes Cited

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

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

AND

IN THE MATTER Of
LEADING BRANDS, INC.

ORDER
(Section 83 of the Act)

UPON the application of Leading Brands, Inc. ("Leading Brands") to the Ontario Securities Commission (the "Commission") for an order, pursuant to section 83 of the Act, that Leading Brands be deemed to have ceased to be a reporting issuer for the purposes of the Act;

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

AND UPON Leading Brands having represented to the Commission that:

1. Leading Brands is a corporation formed under the laws of the Province of British Columbia. Leading Brands' common shares (the "Shares") trade on the NASDAQ small cap market under the trading symbol "LBIX".

2. Leading Brands is currently a reporting issuer under the *Securities Act* (British Columbia).

3. The common shares of Leading Brands are registered under the United States *Securities Exchange Act of 1934* and Leading Brands is considered to be a "foreign private issuer" under the *Securities Exchange Act of 1934.*

4. On May 8, 2002, the Shares were listed and posted for trading on the Toronto Stock Exchange (the "TSX") under the symbol "LBI", by virtue of which the Company also became a reporting issuer within the meaning of the Act.

5. On April 8, 2003, the Shares were voluntarily delisted from the TSX, and they are not currently quoted on any exchange or market in Canada.

6. Between May 2, 2002 and April 8, 2003, the simple average daily volume of the Shares traded on the TSX was 3,538 Shares, or approximately 3.6% of the total number of Shares that were traded during that period.

7. As of May 23, 2003, Leading Brands had 14,796,669 Shares issued and outstanding, of which 79,736 Shares were held by 47 residents of Ontario. These 79,736 Shares represent approximately 0.5% of the issued and outstanding Shares. Holders of Shares in Canada represent approximately 15% of holders of Shares worldwide, and hold approximately 32% of the issued and outstanding Shares, of which approximately 50% are held by insiders of Leading Brands. Other than the Shares, Leading Brands does not have any other securities (other than stock options exercisable for listed Shares), including debt securities, issued and outstanding.

8. Leading Brands has not accessed the Ontario capital markets to raise funding in the past.

9. Leading Brands is a U.S. registrant and will remain a reporting issuer in British Columbia. Accordingly, all information relating to the Company will continue to be available on SEDAR.

10. Leading Brands does not intend to seek financing by way of an offering to the public in Ontario or in any other jurisdiction in Canada.

11. Leading Brands is not in default of any of its requirements as a reporting issuer in Ontario or in British Columbia.

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

IT IS ORDERED, pursuant to section 83 of the Act, that Leading Brands is deemed to have ceased to be a reporting issuer for purposes of the Act.

November 4, 2003.

“Paul M. Moore” “Paul K. Bates”

2.3 Rulings

2.3.1 Homecare Building Centres Limited - ss. 74(1)

Headnote

Application under subsection 74(1) for relief from the registration and prospectus requirements – issuer is in the business of negotiating favourable buying programs and volume rebates on behalf of its 112 members - the issuer wants to expand its operations by establishing new hardware distribution channels - to cover the costs of establishing the new distribution channels, the issuer will issue Class A shares to interested members at an initial subscription price of $10,000 - relief granted subject to conditions, including first trade restrictions.

Statutes Cited

Securities Act, R.S.O. 1990, c. S.5, as am., ss. 25, 53, 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
HOMECARE BUILDING CENTRES LIMITED

RULING
(Subsection 74(1))

UPON the application (the "Application") of Homecare Building Centres Limited ("Homecare") to the Ontario Securities Commission (the "Commission") pursuant to subsection 74(1) of the Act for a ruling (the "Ruling") that, subject to certain conditions, trades in the securities of a subsidiary of Homecare to certain existing shareholders of Homecare shall not be subject to the registration and prospectus requirements set out in sections 25 and 53 of the Act (the "Registration and Prospectus Requirements");

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

AND UPON Homecare having represented to the Commission that:

1. Homecare is a corporation existing under the laws of the province of Ontario. Homecare is not, and has no current intention of becoming, a reporting issuer in any jurisdiction. No securities of Homecare are listed or quoted on any stock exchange or market.

2. Homecare obtained a ruling from the Commission on February 18, 1987 that, subject to certain conditions, exempted Homecare from the Registration and Prospectus Requirements in connection with the issuance of securities to its securityholders.

3. Homecare has 112 securityholders (together with any future Homecare securityholders, the "Homecare Members"). Each Homecare Member is a company that carries on business as an independent building supply dealer. The typical Homecare Member building supply business is family-operated and services rural based communities throughout Ontario. Homecare is in the business of providing services to Homecare Members who specialize in the sale of lumber, building materials, hardware and seasonal products. Homecare negotiates favourable buying programs and volume rebates on purchases with selected suppliers on behalf of Homecare Members.

4. In order to provide greater stability in the supply of hardware inventory to Homecare Members, Homecare intends to expand its operations by establishing new hardware distribution channels (the "Warehouse Project").

5. The Warehouse Project will be established in two stages. In the first stage, a newly incorporated subsidiary of Homecare ("Newco") will fill hardware inventory purchase orders by sourcing hardware products from the existing hardware distribution operations of a separate Montreal-based central purchasing company (the "Montreal Warehouse"). In the second stage, Newco will establish its own hardware distribution operations by opening a hardware warehouse and distribution centre in Ontario (the "Ontario Warehouse"). When the Ontario Warehouse opens for business, Newco's sourcing of hardware products from the Montreal Warehouse will diminish greatly.

6. Homecare Members who wish to purchase hardware inventory through the Warehouse Project will be invited to become shareholders of Newco ("Newco Members"). Through Newco's sourcing of hardware inventory from the Montreal Warehouse and subsequent operation of the Ontario Warehouse, Newco Members will benefit from the economies of scale achieved through the central purchasing and distribution of hardware inventory. The interests of Homecare Members who do not participate in the Warehouse Project will remain unchanged as they will continue to participate as shareholders of Homecare and will be entitled to purchase hardware inventory from Homecare's other suppliers and elsewhere.

7. Newco will be incorporated under the *Business Corporations Act* (Ontario) (the "OBCA") and will have authorized capital consisting of an unlimited number of voting shares and an unlimited number of Class A shares (the "Class A shares"). Newco will not be a reporting issuer in any jurisdiction.

Neither the voting shares nor the Class A shares will be listed or quoted on any stock exchange or market.

8. The voting shares of Newco, which will be fully voting but will not participate in the profits of Newco, will be held by Homecare and entitle Homecare to elect Newco's board of directors. Newco's board of directors will be composed of individual representatives of Homecare Members.

9. Each Homecare Member who wishes to purchase hardware inventory through the Warehouse Project will subscribe for one Class A share and commit to purchase a second Class A share at such time as the board of directors of Newco decide to commence the second stage of the Warehouse Project.

10. In becoming a Class A shareholder of Newco, Homecare Members will become Newco Members and will be entitled to participate in the Warehouse Project by ordering hardware inventory from Newco at reduced cost. Newco will negotiate rebate programs with hardware suppliers. Newco Members will be entitled to various rebates on their hardware purchases. The Class A shares will be non-voting (except as required by the OBCA) and transferable only to Eligible Transferees (as defined below) upon the consent of the board of directors of Newco. The Class A shares will also participate in the profits of Newco. If Newco Members decide to no longer participate in the Warehouse Project, the Class A shares will be repurchased by Newco at their fair market value (as determined by the board of directors of Newco from time to time), provided that certain initial hold periods have been satisfied. If Newco Members decide to no longer participate in the Warehouse Project prior to the expiry of the hold period, the Class A shares will be repurchased by Newco for a nominal amount. To cover the costs of establishing the Warehouse Project, Class A shares will be issued to Newco Members at an initial subscription price of $10,000. It is anticipated that this subscription price will be quickly recovered by Newco Members through rebates and savings on hardware inventory purchases.

11. When the board of directors of Newco is satisfied that the ongoing success of Newco's participation in the Montreal Warehouse is indicative of the ongoing viability of the Ontario Warehouse, the board of directors of Newco will authorize Newco to carry out the second stage of the Warehouse Project.

12. In order to establish the Ontario Warehouse, Newco Members will be required to fulfill their agreement to purchase a second Class A share. Homecare will provide financing (a "Homecare Loan") to each Newco Member who is not otherwise able to pay the full subscription price of the second Class A share. Each Newco Member who takes advantage of the Homecare Loan will forfeit its right to any rebate entitlement from Newco for each year in which the Homecare Loan remains outstanding. In addition, Newco Members who take advantage of the Homecare Loan will agree to forfeit both Class A shares if the Homecare Loan is not repaid in accordance with its terms.

13. Newco Members will be restricted to holding a maximum of two Class A shares, one issued in connection with each stage of the Warehouse Project.

14. The Class A shares may be transferred only to (i) Newco; (ii) an affiliate of Newco; (iii) an affiliate of the Newco Member; or (iv) a corporate successor to the entirety of a Newco Member's business, provided that such corporate successor is also a Homecare Member (each an "Eligible Transferee").

15. Newco will prepare and send audited annual financial statements to each Newco Member.

16. The only Homecare Members to whom Class A shares will be issued pursuant to this Ruling are those Homecare Members who (i) are not "accredited investors" under Commission Rule 45-501 – *Exempt Distributions*, and (ii) are not able to avail themselves of any other exemption from the Registration and Prospectus Requirements.

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

IT IS RULED pursuant to section 74(1) of the Act that the issuance of Class A shares to Homecare Members shall not be subject to the Registration and Prospectus Requirements provided that:

A. prior to the initial issuance of the Class A shares, Newco will deliver to each subscriber for Class A shares a copy of the Ruling and a statement that, as a result of the Ruling, certain protections, rights and remedies provided by the Act, including statutory rights of rescission or damages, will not be available to such subscriber;

B. Newco will prepare and send audited financial statements to each Newco Member on an annual basis;

C. the first trade of Class A shares issued in reliance upon the Ruling to a person or company who is not an Eligible Transferee will be deemed to be a distribution;

D. the certificates representing the Class A shares are engrossed with a legend disclosing the relevant transfer restrictions; and

E. the Ruling shall cease to be effective if any of the restrictions on the transfer of the Class A shares are amended in any material respect without the prior written consent of the Commission.

October 10, 2003.

"R.L. Shirriff" "R.W. Davis"

2.3.2 Grand Oakes Resources Corp. - s. 9.1 of Rule 61-501

Headnote

Going private transaction – valuation and minority approval requirements – reverse take-over bid ("RTO") accomplished by way of amalgamation – issuer's securities subject to a cease trade order but a conditional partial revocation obtained solely to permit shareholders to vote on the RTO – cost of conducting formal valuation would greatly exceed consideration issuer's shareholders to receive under the RTO – issuer does not have the funds to do a formal valuation – issuer has no assets – shareholders to vote on the RTO mailing in proxies – RTO to be implemented upon receipt of the majority of the minority of the votes cast – shareholders to be mailed disclosure document summarizing main elements of RTO - more detailed information available on SEDAR and can be requested from issuer without charge – applicant exempt from valuation and minority approval requirements.

Applicable Rule

61-501 -- Insider Bids, Issuer Bids, Going Private Transactions and Related Party Transactions, ss. 4.4, 4.5, 4.7, 4.8. and 9.1.

IN THE MATTER OF
ONTARIO SECURITIES COMMISSION RULE 61-501

AND

IN THE MATTER OF
GRAND OAKES RESOURCES CORP.

RULING
(Section 9.1 of Rule 61-501)

UPON the application (the "Application") of Grand Oakes Resources Corp. (the "Issuer" to the Director of the Ontario Securities Commission (the "Commission") for a decision pursuant to section 9.1 of Rule 61-501 (the "Rule") that, in connection with an amalgamation between the Issuer and Midland Minerals Corporation ("Midlands"), the Issuer be exempt from the minority approval requirement in section 4.7 of the Rule (the "Minority Approval Requirement") and the formal valuation requirement in section 4.4 of the Rule (the "Formal Valuation Requirement");

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

AND UPON the Issuer representing to the Director as follows:

1. The Issuer was incorporated under the *Business Corporations Act* (Ontario) on February 23, 1988 and is a reporting issuer under the *Securities Act* (Ontario) (the "Act"). The Issuer is not a reporting issuer or the equivalent in any other jurisdiction in Canada.

2. The authorized capital of the Issuer consists of an unlimited number of common shares (the "Common Shares"), of which 2,575,005 Common Shares are issued and outstanding. The Common Shares are not listed on any stock exchange or published market.

3. Stanley Mourin, a former director of the Issuer, is the only person who beneficially owns, directly or indirectly, or exercises control or direction over more than 10% of the Common Shares. Mr. Mourin owns 492,201 Common Shares, which represent 19.11% of the outstanding Common Shares. Therefore, Mr. Mourin is a "related party" of the Issuer within the meaning of the Rule.

4. The Issuer is presently inactive as it has divested itself of all of its material assets.

5. The Issuer is contemplating a reverse take-over transaction (the "RTO") with Midlands, a private Ontario corporation that has been exploring its mineral resource properties in Tanzania and Ghana.

6. The authorized capital of Midlands consists of an unlimited number of common shares (the "Midlands Shares"), of which 19,539,399 Midlands Shares are issued and outstanding. Kim Harris, a director of Midlands and the Issuer, and Edward Harris jointly own 54% of the Midlands Shares. Sika Resources Inc. owns 27.7% of the Midlands Shares.

7. The RTO is to be accomplished by an amalgamation (the "Amalgamation") between the Issuer and Midlands under which the shareholders of each of the amalgamating corporations are to exchange their shares for shares of the amalgamated corporation ("Amalco"). The terms of the Amalgamation are as follows:

   (a) holders of the Common Shares (the "Grand Oakes Shareholders") will exchange every 4.5 Common Shares for one common share of Amalco (the "Amalco Shares");

   (b) holders of Midlands Shares (the "Midlands Shareholders") will exchange each Midlands Share for one Amalco Share; and

   (c) Midlands may issue, before the RTO, up to an additional 4,935,601 Midlands Shares to fund the exploration of its properties and for working capital.

8. As part of the RTO, Mr. Mourin agreed, in exchange for consideration of $50,000 in cash, to: (i) transfer his Common Shares to Kim Harris and (ii) transfer to Amalco for cancellation a debt of $59,234 owed by the Issuer to a private corporation controlled by Mr. Mourin (the "Mourin Transaction").

9. As a result of the RTO, Midlands Shareholders will own 97.2% of the Amalco Shares. Kim Harris and Edward Harris will jointly own 52.4% of the Amalco Shares.

10. The Common Shares are subject to a temporary order of the Manager, Corporate Finance Branch (the "Manager") of the Commission dated July 23, 2002 and extended by the order of the Manager dated August 2, 2002 made under section 127 of the Act (collectively referred to as the "Cease Trade Order") directing that trading in the Common Shares cease.

11. On June 27, 2003, pursuant to section 144 of the Act, the Commission ordered that the Cease Trade Order be partially revoked, subject to conditions, solely to permit the Grand Oakes Shareholders to vote on the Amalgamation (the "Partial Revocation Order").

12. The RTO is a "going private transaction" within the meaning of the Rule and the Issuer has to comply with, among other requirements, the Minority Approval Requirement and the Formal Valuation Requirement.

13. The Amalgamation was unanimously approved by the Grand Oakes Shareholders at a special meeting (the "Special Meeting") held on June 30, 2003. However, the Special Meeting was not conducted in compliance with the Rule.

14. If the Issuer had to comply with the Formal Valuation Requirement, it is estimated that the cost of a formal valuation of Midlands' resource properties would be at least $50,000. The Issuer has no funds to pay for a formal valuation; as at February 28, 2003, its liabilities exceeded its assets by $87,212, and it is unable to raise any funds to pay for a formal valuation. In addition, the cost of a formal valuation will be much greater than the value of the Amalco Shares to be issued to Grand Oakes Shareholders under the RTO.

15. The Issuer will send each Grand Oakes Shareholder a new form of proxy (the "New Proxy") permitting them to vote again, with the RTO subject to approval by a majority of the votes cast by Grand Oakes Shareholders other than Mr. Mourin (the "Minority Shareholders") who complete such proxies. The Grand Oakes Shareholders will have 21 days from the date of mailing of the New Proxies to vote on the RTO.

16. The Issuer will, together with the New Proxies, send the Minority Shareholders a disclosure document (the "Disclosure Document") describing the RTO and the Mourin Transaction in sufficient detail to allow the Minority Shareholders to make an informed decision. The Disclosure Document

will inform the Minority Shareholders that revised financial statements and a revised information circular with enhanced disclosure have been filed on SEDAR and are available for download at www.sedar.com. The Disclosure Document will also inform the Minority Shareholders that copies of the revised financial statements and the revised information circular will be sent to them upon request and without charge.

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

IT IS DECIDED pursuant to section 9.1 of the Rule that, in connection with the RTO, the Issuer:

(a) shall not be subject to the Minority Approval Requirement, provided that the RTO is approved by a majority of the votes cast by the Minority Shareholders as described in paragraph 15; and

(b) shall be exempt from the Formal Valuation Requirement, provided that the Issuer complies with the other applicable provisions of the Rule.

October 24, 2003.

“Ralph Shay”

Chapter 3

Reasons: Decisions, Orders and Rulings

There is no material for week ending November 7

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Chapter 4

Cease Trading Orders

4.1.1 Temporary, Extending & Rescinding Cease Trading Orders

Company Name	Date of Temporary Order	Date of Hearing	Date of Extending Order	Date of Lapse/Revoke
Blue Power Energy Corporation	22 Oct 03	03 Nov 03	03 Nov 03	
Hastings & Seymour Development Limited Partnership	24 Oct 03	05 Nov 03	05 Nov 03	
Peat Resources Limited	23 Oct 03	04 Nov 03		06 Nov 03
Polar Innovative Capital Corp.	22 Oct 03	03 Nov 03	03 Nov 03	05 Nov 03

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
National Construction Inc.	25 Jul 03	07 Aug 03	07 Aug 03		
RTICA Corporation	21 Oct 03	03 Nov 03	03 Nov 03		
Saturn (Solutions) Inc.	21 Oct 03	03 Nov 03	03 Nov 03		

4.3.1 Issuer CTO's Revoked

Company Name	Date of Revocation
Digital Rooster.com Ltd.	**03 Nov 03**

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Chapter 5

Rules and Policies

5.1.1 Notice of Proposed Rule, Policy and Forms under the Securities Act – Rule 45-501 Exempt Distributions, Companion Policy 45-501CP Exempt Distributions and Form 45-501F1, Form 45-501F2, Form 45-501F3 and Rescission of Existing Rule 45-501 Exempt Distributions, Companion Policy 45-501CP Exempt Distributions and Form 45-501F1, Form 45-501F2 and Form 45-501F3

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

AND

RESCISSION OF EXISTING RULE 45-501 *EXEMPT DISTRIBUTIONS*,
COMPANION POLICY 45-501CP *EXEMPT DISTRIBUTIONS* AND
FORM 45-501F1, FORM 45-501F2 AND FORM 45-501F3

Notice of Proposed Rule, Companion Policy and Forms

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

The Proposed Rule, the Proposed Forms and the other material required by the Act to be delivered to the Minister of Finance were delivered on October 28, 2003. If the Minister does not reject the Proposed Rule and the Proposed Forms or return them to the Commission for further consideration, the Proposed Rule and the Proposed Forms will come into force on January 12, 2004.

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

The Proposed Rule, the Proposed Forms and the Proposed Policy are collectively referred to as the Proposed Materials. The Proposed Materials will replace the existing Rule 45-501 *Exempt Distributions* (the Current Rule), the existing Forms 45-501F1, 45-501F2 and 45-501F3 and the existing Companion Policy 45-501CP *Exempt Distributions*.

Substance and Purpose of Amendments to Rule and Forms

The Current Rule made significant changes to the exempt market regime in Ontario with the implementation of, among other changes, two new exemptions: the accredited investor exemption and the closely-held issuer exemption. The Commission notes that the amendments in the Proposed Materials are primarily of a technical nature, and are not intended to reflect a policy shift in the rationale for the exempt distributions regime in the Current Rule. The members of the Canadian Securities Administrators (the CSA) are currently considering a proposed approach to harmonizing the various exempt distributions regimes across Canada, and recently published a concept paper entitled *Blueprint for Uniform Securities Laws for Canada*. The amendments in the Proposed Materials are not meant to address the proposals discussed in the concept paper.

Since the Current Rule was implemented in November 2001, the Commission has been monitoring the effectiveness of this rule and noting areas where amendments would be beneficial. These amendments, including issues identified in Staff Notice 45-702 – *Frequently Asked Questions*, were published for comment on April 18, 2003 at (2003) 26 OSCB 2965 (the April 2003 Materials). The Commission received submissions on the April 2003 Materials from four commentators, and has made a number of revisions to the April 2003 Materials in response to these comments. For a summary of these comments and the Commission's responses, please see Schedule "A" to this Notice.

In addition to the amendments made in response to the comments received, the Commission has made a number of additional changes to the April 2003 Materials, including an amendment to paragraph 2.1(1)(a) of the Proposed Rule to clarify the resale requirements applicable to security holders of a closely-held issuer.

Changes that have been made since the publication of the April 2003 Materials are reflected in the blacklines attached as Schedule "B". The Commission is of the view that none of the revisions made to the April 2003 Materials is material. Accordingly, the Proposed Materials are not being published for a further comment period.

If adopted, the Proposed Rule will address some areas that have been the subject of comment from practitioners, will reduce the need for certain exemptive relief applications and will clarify and amend certain provisions. The Proposed Rule and the Proposed Forms have also been amended to reflect the consequential amendments to the Current Rule and the existing Forms due to the coming into force of Ontario Securities Commission Rule 13-502 *Fees* and to include additional information required to assist Commission staff.

Substance and Purpose of Amendments to the Companion Policy

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

Authority for Proposed Rule and Proposed Forms

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

Related Instruments

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

Text of Proposed Materials

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

Rescission of Current Rule 45-501

The coming into force of the Proposed Materials will result in the rescission of the Current Rule, the existing Companion Policy and the existing Forms. The text of the proposed rescission will be as follows:

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

"Forms 45-501F1, 45-501F2 and 45-501F3 are hereby rescinded."

"Companion Policy 45-501CP *Exempt Distributions* is hereby rescinded."

DATED: October 28, 2003.

Schedule "A"

Summary of Comments & Responses

Comment letters were received from the following commenters:

- Comment dated May 13, 2003 from John F. O'Donnell (Shibley Righton LLP)
- Comment dated June 23, 2003 from Richard S. Sutin (Ogilvy Renault)
- Comment dated July 17, 2003 from Eric T. Spink
- Comment dated July 18, 2003 from Dawn V. Scott (Torys LLP)

The Commission would like to thank the commenters for taking the time to provide comments on the April 2003 Materials. The Commission has carefully considered these comments and has provided summaries of the comments and the Commission's responses in the following table.

#	Theme	Comments	Responses
	SUMMARY OF COMMENTS		
1.	Definitions – "accredited investor" – paragraph (r) & (s) (Spink)	Clause (r) of the definition of accredited investor in s. 1.1 of proposed 45-501 should be redrafted to ensure that entities in respect of which the issuer holds a sufficient number of shares to materially affect control fall clearly within the definition. It is common for private or closely held issuers to acquire their own shares. This is clearly addressed in paragraph (s) of the definition, which makes the issuer an accredited investor. For tax or corporate law reasons, an issuer may acquire its own shares through an entity in respect of which the issuer holds a sufficient number of securities to materially affect control. This is addressed in paragraph (r) of the definition, which captures two types of accredited investors. First, it captures any "affiliated entity" of the issuer. This captures entities that are "subsidiaries" of the issuer, including a company of which the issuer (or a subsidiary of the issuer) holds more than 50% of the voting securities. It also captures an entity that holds more than 50% of the voting securities of the issuer. This part of the definition is clear. The second part of paragraph (r) of the definition of accredited investor captures "a person or company that, in relation to the issuer, is a …person or company referred to in paragraph (c) of the definition of distribution in subsection 1(1) of the Act." This clearly captures an entity that owns more than 20% of the issuer's voting securities, but it is not clear whether it captures an entity in which the issuer owns more than 20% of the voting securities. If it excludes such entities, that is an undesirable result. The policy rationale for all of paragraph (r) should be that an entity that holds a sufficient number of securities to materially affect control of the issuer, or an entity in respect of which the issuer holds a sufficient number of securities to materially affect control, should be an accredited investor with respect to securities of that issuer.	We have not amended the proposed rule in response to this comment. In our view, paragraph (r) of the definition of "accredited investor" does not currently include an entity in which the issuer is a "control person" (i.e., a person or company referred to in paragraph (c) of the definition of "distribution" in subsection 1(1) of the Act). We do not believe that it necessarily follows from the language in paragraphs (r) and (s) of the definition of "accredited investor" that an entity in which the issuer is a control person should be an accredited investor of the issuer. In the case of (r), a control person is, by definition, able "to affect materially the control of the issuer". Consequently, the Act presumes that such a person is in a special position vis-à-vis the issuer, and imposes certain restrictions on trading in securities of the issuer. It is not necessarily the case that an entity in which the issuer is a "control person" is in a similar position, and we note that such an entity is not subject to similar restrictions on trading in securities of the issuer. Similarly, we do not necessarily agree that an entity in which the issuer is a "control person" should be treated the same as the issuer itself (paragraph (s)) or a "subsidiary" of the issuer (paragraph (r)). In the former case, the issuer is able "to affect materially the control" of the entity, but does not necessarily control the entity. Several persons may be control persons in relation to a single entity. Generally, only one person will actually control the entity.
2.	Definitions – "accredited investor" – paragraph (v) (Scott)	Paragraph 1.1(v) of Rule 45-501 provides that accredited investors include mutual funds or non-redeemable investments funds that, in Ontario, distribute their securities only to persons or companies that are accredited investors. However, in Ontario such funds may distribute their securities on a prospectus exempt basis both to accredited investors and, pursuant to section 2.12 of Rule 45-501, to	We have not amended the proposed rule in response to this comment. Paragraph (v) is intended to serve a similar function to paragraph (aa). If all of the investors in a fund are accredited investors, then the fund should be an accredited investor.

#	Theme	Comments	Responses
		purchasers making investments of not less than the minimum provided for therein. They may also distribute securities pursuant to exemption orders, for example to permit top-up investments in a fund in circumstances not satisfying the requirements of paragraph 2.12(1)(b) of Rule 45-501. Prior to implementation of Section 2.12 of Rule 45-501, the securities of such funds were sold to Ontario purchasers on a prospectus exempt basis either pursuant to provisions of the *Securities Act* (Ontario) (the "Act") or pursuant to exemption orders, on conditions substantially similar to those set out in section 2.12(1)(b) of Rule 45-501. We do not see a policy rationale for disqualifying funds whose Ontario investors include investors who purchase their securities of the funds pursuant to predecessor prospectus exemptions or exemption orders or who purchase securities or the funds pursuant to the exemptions in Section 2.12 of Rule 45-501 or exemption orders from the definition of accredited investors. Accordingly, we suggest that paragraph 1.1(v) be amended to read: "(v) a mutual fund or non-redeemable investment fund that, in Ontario, distributes its securities only to persons or companies that are accredited investors <u>or pursuant to an exemption orders or pursuant to Section 2.12 (or, prior to the implementation of section 2.12, distributed its securities pursuant to section 72(1)(d) of the Securities Act or its predecessors);</u>"	Although, as the commenter notes, a fund may distribute securities in Ontario to purchasers other than accredited investors, such as purchasers who purchase pursuant to section 2.12 of Rule 45-501 or pursuant to an exemption order, we do not believe that it is appropriate that these purchasers should necessarily be considered as analogous to accredited investors. As noted in section 2.4 of the companion policy, the Commission considers that section 2.12 is a "transitional" exemption that maintains the status quo for pooled funds until such time as the Commission determines the appropriate regulatory regime for pooled funds.
3.	Definitions – "accredited investor" – paragraph (y) (Scott)	We suggest that paragraph (y) of the accredited investor definition be further amended to add references to trust corporations authorized to carry on business under such legislation or comparable legislation of a foreign jurisdiction so that it reads: "(y) an account that is fully managed by a trust corporation registered <u>or authorized to carry on business</u> under the Loan and Trust Corporations Act or under the Trust and Loan Companies Act (Canada), or under comparable legislation in any other jurisdiction <u>or a foreign jurisdiction;</u>" This would make the exemption completely consistent with the equivalent exemption under Multilateral Instrument 45-103.	We have amended the Proposed Rule in response to this comment.
4.	Definitions – "accredited investor" – "offering memorandum" (Sutin)	One commenter has proposed an amendment to the definition of "offering memorandum" (in Rule 14-501) to exclude certain written materials that are delivered to certain classes of "accredited investors":	The proposed amendments to OSC Rule 45-501 are primarily of a technical nature, and are not intended to reflect a policy shift in the rationale for the exempt distributions regime in Current

#	Theme	Comments	Responses
		In many cases, the private investor often has access to full due diligence and, as well, is the recipient of much written documentation, which might include things like a business plan. Because of the broad definition of offering memorandum, the delivery of this information begs the question whether a particular document, such as a business plan, is or is not an offering memorandum. Out of an abundance of caution, most issuers would be generally advised that such document would constitute an offering memorandum and, therefore must not contain a misrepresentation (and therefore must not omit any necessary material fact). Caution would dictate that the issuer and its advisors would look to prospectus form requirements for a checklist of matters that should be included in the offering memorandum and, before you know it, a significant amount of extra work, (with legal and financial cost) has been generated when, in fact, the information in the offering memorandum is all information that the investor would be uncovering itself through its due diligence process. I am suggesting that there be another exception to the definition of offering memorandum for written materials that are delivered to a certain category of sophisticated investors who acknowledge that (i) they have satisfactory access to the records and assets of an investee for due diligence purposes; (ii) they do not require that written materials being delivered to them should constitute an offering memorandum; and (iii) the materials being delivered to them will not constitute an offering memorandum and will therefore not give rise to the statutory liability that attaches to an offering memorandum.	Rule 45-501. We will consider this comment in the context of the proposals to harmonize the various exempt distributions regimes across Canada through a proposed national exemptions instrument.
5.	Paragraph 2.12(1)(c) – Mutual funds and non-redeemable investment funds (Scott)	The effect of subsection 2.12(1)(c) of Rule 45-501 is that the top-up relief provided by that section is only available for funds managed by a portfolio adviser (defined to include portfolio managers registered with the Ontario Securities Commission (the "Commission") or certain brokers or dealers exempt from registration under section 148(1) of the Regulation). Section 2.4 of Companion Policy 45-501 indicates that funds managed by a person or company relying on Part 7 of OSC Rule 35-502 must apply for relief. While we can understand why the Commission might want to require funds managed by advisors not resident in Canada to apply for specific top-up relief, we believe that it would be appropriate for Rule 45-501 to provide the top-up relief to funds managed by portfolio managers or trust corporations resident and registered in another Canadian jurisdiction. Accordingly we suggest that this section be	We have amended the Proposed Rule in response to this comment.

#	Theme	Comments	Responses
		amended to read: "(c) the mutual fund or non-redeemable investment fund is managed by a portfolio adviser or by a portfolio manager resident in a jurisdiction and registered or exempt from registration under securities legislation of that jurisdiction or a trust corporation registered or authorized to carry on business under the Loan and Trust Corporations Act or under the Trust and Loan Companies Act (Canada), or under comparable legislation in any other jurisdiction." This amendment would permit funds managed by Canadian resident portfolio advisers or trust corporations based in other Canadian jurisdictions to have the benefit of the exemption where the securities of the funds are acquired by investors in Ontario, without having to apply for additional relief.	
6.	Section 4.3 – Delivery of Offering Memorandum (Scott)	We believe that Section 4.3 of Rule 45-501 should be amended to permit an offering memorandum to be delivered to the Commission once in respect of all trades to purchasers provided with that offering memorandum. An offering memorandum should only be required to be filed at the time of the report of the first trade which utilized that offering memorandum and refiled only if there has been an amendment to the offering memorandum already filed. The current wording of Section 4.3 of Rule 45-501 seems to require that an offering memorandum be delivered to the Commission "within 10 days of a trade" even though the offering memorandum has already been delivered to the Commission. This interpretation of Section 4.3 is consistent with the relief recently granted to *Olympus United Funds Corporation* (2003) 26 OSCB 2952, which gave relief from a requirement to file an offering memorandum with the Commission after each trade. We believe that a requirement to file and refile an offering memorandum within 10 days of each trade is difficult to understand from a policy perspective if the offering memorandum has already been filed with the Commission, is inconsistent with previous regulatory requirements in Ontario and with industry practice, and is in conflict with other filing requirements applicable to mutual funds and non- redeemable investment funds. … We suggest that Section 4.3 be amended amend to provide that:	We have amended the Proposed Rule in response to this comment.

#	Theme	Comments	Responses
		"...the seller shall deliver to the Commission a copy of the offering memorandum or any amendment to a previously filed offering memorandum on or before 10 days of the date of the trade."	
7.	Form 45-501F1 – Identity of Purchasers (Scott)	Item 5 of Form 45-501 F1 provides that the names and municipalities and jurisdictions of residence of purchasers must be listed on the Form (with more detailed information about the purchasers maintained by the seller and provided to the Commission on request under section 6 of Form 45-501F1). We believe that there are privacy concerns which releasing such information does not address and that its release exposes purchasers in the exempt market as targets for unwarranted solicitations as well as other inappropriate attention. More sophisticated purchasers will be able to avoid this result by making their purchases through vehicles, such as trusts or personal holding companies, which will not result in unintended disclosure of their personal information. We believe that it would be appropriate for Form 45-501F1 to be amended to provide that the name and municipality and jurisdiction of residence of a purchaser not be included in the Form, but is provided as a schedule to the Form and that the Schedule not be available to persons who request copies of a Form 45-501 from the Commission. In this way the confidentiality of personal information will be maintained.	We have not amended the proposed rule in response to this comment. We recognize that there may be legitimate privacy concerns associated with the current form of Form 45-501F1. However, we believe that the amendment proposed by the commenter would represent a significant departure from the principles of transparency underlying the current Form 45-501F1. Consequently, we believe that further consideration is necessary before proceeding with this amendment. We will consider this comment in the context of the proposals to harmonize the various exempt distributions regimes across Canada through a proposed national exemptions instrument.
8.	Paragraph 35(2)(14) and clause 72(1)(m) – Securities issued in consideration of mining claims – Acceptable pooling and escrow agreements (O'Donnell)	This commenter identified a number of practical difficulties with the mining claims exemption regime created by paragraph 35(2)(14) and clause 72(1)(m) of the Act including that: • The OSC has recognized the TSE and CDNX for the purposes of clause 72(1)(m) of the Act but not for paragraph 35(2)(14) (See Recognition Order 21-901 - Stock Exchange Recognition Order). • The OSC has attempted to rectify this problem through OSC Staff Notice 45-701, which advises that staff plans to recommend that paragraph 35(2)14 of the Act be amended to correspond with clause 72(1)(m) and that, in the interim, the Director will not consider any escrow or pooling agreement to be necessary for the purpose of trades made in reliance on paragraph 35(2)14 of the Act provided that the security proposed to	Although the comments do not directly relate to the proposed amendments to OSC Rule 45-501, we would like to take this opportunity to respond to the concerns identified by the commenter. Staff are proceeding to develop an amended recognition order to recognize the TSX and the TSX Venture Exchange for the purposes of both clause 72(1)(m) and paragraph 35(2)14. In the interim, where an issuer finds itself in circumstances similar to the circumstances of the applicant in the Order *In the Matter of Jilbey Enterprises Ltd*, staff will generally be prepared to recommend that comparable relief be granted, and that the fee for the application be waived.

#	Theme	Comments	Responses
		be issued, or the security underlying that security, is listed and posted for trading on the TSE and the issuer has received, where required by the by-laws, rules or policies of the TSE, the consent of the TSE to the issuance of the security. • There is still a disparity in that both the TSE and CDNX are recognized for the purposes of clause 72(1)(m), but only the TSE is recognized for the purpose of paragraph 35(2)14. This apparent difficulty was addressed in the OSC decision *In the Matter of Jilbey Enterprises Ltd.* Dated August 15, 2002, reported at (2002) 25 OSCB 5731. In the application by Jilbey Enterprises Ltd. ("Jilbey"), the issuer (a TSX Venture Exchange listed company) proposed to issue 400,000 common shares, in partial consideration for the assignment of an interest in mining claims, which transaction had been accepted for filing by the TSX Venture Exchange. … The OSC ordered that Jilbey was not subject to the requirement of paragraph 35(2)14 of the Act. The OSC further ordered that the issuer was exempt from the requirement to pay a fee in connection with the application, presumably in light of the obvious technical gap between the respective provisions of the Act and the Recognition Order.	
	Securities issued in consideration of mining claims – Sections 35(2)(14) and 72(1)(m) – Acceptable pooling and escrow agreements (O'Donnell) (Continued)	• There is no updated Recognition Order dealing with the change of names of TSE to TSX and CDNX to TSX Venture Exchange. • Notwithstanding that Rule 45-102 provides specific restricted periods with respect to securities issued under the provisions of clause 72(1)(m), there does not appear to be any formal mechanism to file notice of the issuance of such securities to determine whether the Director would consider any further escrow or pooling agreement necessary in the case of non-TSX listed companies. • It is clear that this unsatisfactory situation results in significant difficulties, expense, concern and ambiguity for non-TSX listed companies. Ontario reporting issuers who are not listed on any exchange but whose trades are required to be reported through the Canadian Listed	We have not amended OSC Rule 45-501 to provide for a formal reporting mechanism along the lines suggested by the commenter. A number of provisions contemplate a consent process similar to that described by paragraph 35(2)14 and clause 72(1)(m), such as the consent of the Director to make certain listing representations (subsection 38(3) of the *Securities Act*); the consent of the Commission to cease to be an offering company (subsection 1(6) of the *Ontario Business Corporations Act*); and the consent of the Commission to continue into another jurisdiction (subsection 4(b) of Ont. Reg 289/00)). Although certain other provisions of the Act provide for a time-limited objection procedure similar to that suggested by the commenter, such as clause 72(1)(h) of the Act, we do not believe that this is appropriate or necessary in the case of the mining claims exemption.

#	Theme	Comments	Responses
		Board, and the now recognized CNQ which is expected to be in operation shortly, have their own unique problems. Even if the recognition orders were amended to recognize the TSX and the TSX Venture Exchange for the purposes of both clause 72(1)(m) and paragraph 35(2)14, other non-listed issuers would still have no obvious reporting mechanism for the transaction and would otherwise be required to make an application on a transaction-by-transaction basis. • I would respectfully submit that Rule 45-501 which deals with exempt transactions could be amended to provide an expedient reporting mechanism to disclose particulars of any proposed issuances of securities for an interest in mining claims. The OSC could be given an appropriate time to respond (say 5 to 10 days), failing which no additional pooling or escrow agreement would be required.	We will consider issues relating to an appropriate approval/objection procedure in relation to securities issued in consideration for mining claims in the context of CSA proposals to develop a national exemptions instrument.

Schedule "B"

Blackline Showing Changes to the April 2003 Materials

~~*Draft: April 15, 2003*~~ONTARIO SECURITIES COMMISSION RULE 45-501
EXEMPT DISTRIBUTIONS

PART 1 DEFINITIONS

1.1 Definitions - In this Rule

"accredited investor" means

(a) a bank listed in Schedule I or II of the Bank Act (Canada), or an authorized foreign bank listed in Schedule III of that Act;

(b) the Business Development Bank incorporated under the Business Development Bank Act (Canada);

(c) a loan corporation or trust corporation registered under the Loan and Trust Corporations Act or under the Trust and Loan Companies Act (Canada), or under comparable legislation in any other jurisdiction;

(d) a co-operative credit society, credit union central, federation of caisses populaires, credit union or league, or regional caisse populaire, or an association under the Cooperative Credit Associations Act (Canada), in each case, located in Canada;

(e) a company licensed to do business as an insurance company in any jurisdiction;

(f) a subsidiary entity of any person or company referred to in paragraph (a), (b), (c), (d) or (e), where the person or company owns all of the voting shares of the subsidiary entity;

(g) a person or company registered under the Act or securities legislation in another jurisdiction as an adviser or dealer, other than a limited market dealer;

(h) the government of Canada or of any jurisdiction, or any crown corporation, instrumentality or agency of a Canadian federal, provincial or territorial government;

(i) any Canadian municipality or any Canadian provincial or territorial capital city;

(j) any national, federal, state, provincial, territorial or municipal government of or in any foreign jurisdiction, or any instrumentality or agency thereof;

(k) a pension fund that is regulated by either the Office of the Superintendent of Financial Institutions (Canada) or a provincial pension commission or similar regulatory authority;

(l) a registered charity under the Income Tax Act (Canada);

(m) an individual who beneficially owns, or who together with a spouse beneficially own, financial assets having an aggregate realizable value that, before taxes but net of any related liabilities, exceeds $1,000,000;

(n) an individual whose net income before taxes exceeded $200,000 in each of the two most recent years or whose net income before taxes combined with that of a spouse exceeded $300,000 in each of those years and who, in either case, has a reasonable expectation of exceeding the same net income level in the current year;

(o) an individual who has been granted registration under the Act or securities legislation in another jurisdiction as a representative of a person or company referred to in paragraph (g), whether or not the individual's registration is still in effect;

(p) a promoter of the issuer or an affiliated entity of a promoter of the issuer;

(q) a spouse, parent, brother, sister, grandparent or child of an officer, director or promoter of the issuer;

(r) a person or company that, in relation to the issuer, is an affiliated entity or a person or company referred to in clause (c) of the definition of distribution in subsection 1(1) of the Act;

(s) an issuer that is acquiring securities of its own issue;

(t) a company, limited liability company, limited partnership, limited liability partnership, trust or estate, other than a mutual fund or non-redeemable investment fund, that had net assets of at least $5,000,000 as reflected in its most recently prepared financial statements;

(u) a person or company that is recognized by the Commission as an accredited investor;

(v) a mutual fund or non-redeemable investment fund that, in Ontario, distributes its securities only to persons or companies that are accredited investors;

(w) a mutual fund or non-redeemable investment fund that, in Ontario, distributes its securities under a prospectus for which a receipt has been granted by the Director or, if it has ceased distribution of its securities, has previously distributed its securities in this manner;

(x) a fully managed account if it is acquiring a security that is not a security of a mutual fund or non-redeemable investment fund;

(y) an account that is fully managed by a trust corporation registered under the Loan and Trust Corporations Act or under the Trust and Loan Companies Act (Canada), or under comparable legislation in any other jurisdiction;

(z) an entity organized outside of Canada that is analogous to any of the entities referred to in paragraphs (a) through (g) and paragraph (k) in form and function; and

(aa) a person or company in respect of which all of the owners of interests, direct or indirect, legal or beneficial, are persons or companies that are accredited investors;

"business assets" means assets owned by a person or company which have been used in connection with a business carried on by that person or company;

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

(a) shares are subject to restrictions on transfer requiring the approval of either the board of directors or the shareholders of the issuer (or the equivalent in a non-corporate issuer) contained in constating documents of the issuer or one or more agreements among the issuer and holders of its shares; and

(b) outstanding securities are beneficially owned, directly or indirectly, by not more than 35 persons or companies, exclusive of

(i) persons or companies that are, or at the time they last acquired securities of the issuer were, accredited investors;

(ii) current or former directors or officers of the issuer or of an affiliated entity of the issuer; and

(iii) current or former employees of the issuer or of an affiliated entity of the issuer, or current or former consultants as defined in ~~Rule 45-503 *Trades to Employees, Executives and Consultants*~~,MI 45-105, who in each case beneficially own only securities of the issuer that were issued as compensation by, or under an incentive plan of, the issuer or an affiliated entity of the issuer;

provided that:

(A) two or more persons who are the joint registered holders of one or more securities of the issuer shall be counted as one beneficial owner of those securities; and

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

"convertible security" means a security of an issuer that is convertible into, or carries the right of the holder to purchase, or of the issuer to cause the purchase of, a security of the same issuer;
"entity" means a company, syndicate, partnership, trust or unincorporated organization;

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

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

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

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

"government incentive security" means

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

(b) a unit or interest in a partnership or joint venture that is issued in order to fund Canadian exploration expense as defined in subsection 66.1(6) of the ITA or Canadian development expense as defined in subsection 66.2(5) of the ITA or Canadian oil and gas property expense as defined in subsection 66.4(5) of the ITA;

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

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

"MI 45-105" means Multilateral Instrument 45-105 *Trades to Employees, Senior Officers, Directors, and Consultants*;

"portfolio adviser" means

(a) a portfolio manager; or

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

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

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

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

"Type 1 trade" means a trade in a security under an exemption from the prospectus requirement in clause 72(1)(a), (b), (c), (d), (l), (m), (p) or (q) of the Act, or section 2.3, 2.12, 2.13, 2.14 or 2.16 of this Rule, or section 2.4, 2.5 or 2.11 of the Previous Rule;

"Type 2 trade" means a trade in a security under an exemption from the prospectus requirement in clause 72(1)(f) (other than a trade to an associated consultant or investor consultant as defined in Rule 45-503 *Trades to Employees, Executives and Consultants* or a trade to an associated consultant or investor relations person as defined in MI 45-105), (h), (i), (j), (k) or (n) of the Act, or section 2.5, 2.8 or 2.15 of this Rule; and

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

1.2 Interpretation

(1) In this Rule a person or company is considered to be an affiliated entity of another person or company if one is a subsidiary entity of the other, or if both are subsidiary entities of the same person or company, or if each of them is controlled by the same person or company.

(2) In this Rule a person or company is considered to be controlled by a person or company if

(a) in the case of a person or company,

(i) voting securities of the first-mentioned person or company carrying more than 50 percent of the votes for the election of directors are held, otherwise than by way of security only, by or for the benefit of the other person or company, and

(ii) the votes carried by the securities are entitled, if exercised, to elect a majority of the directors of the first-mentioned person or company;

(b) in the case of a partnership that does not have directors, other than a limited partnership, the second-mentioned person or company holds more than 50 percent of the interests in the partnership; or

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

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

(a) it is controlled by,

(i) that other, or

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

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

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

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

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

(1) Sections 25 and 53 of the Act do not apply to a trade in a security of ~~a closely-held issuer if(a)~~ an issuer if

(a) in the case of a trade by the issuer, following the trade, the issuer will be a closely-held issuer; or in the case of a trade by a selling security holder, the selling security holder has, upon reasonable inquiry, no grounds to believe that following the trade~~,~~ the issuer will not be a closely-held issuer;

(b) in the case of a trade by the closely-held issuer, following the trade the aggregate proceeds received by the closely-held issuer, and any other issuer engaged in common enterprise with the closely-held issuer, in connection with trades made in reliance upon this exemption will not exceed $3,000,000; and

(c) no selling or promotional expenses are paid or incurred in connection with the trade, except for services performed by a dealer registered under the Act.

(2) If a trade is made under subsection 2.1(1), the seller shall provide an information statement substantially similar to Form 45-501F3 to the purchaser of the security at least four days prior to the date of the trade unless, following the trade, the issuer will have not more than five beneficial holders of its securities.

2.2 Exemption for a Trade in a Variable Insurance Contract

(1) Sections 25 and 53 of the Act do not apply to a trade by a company licensed under the Insurance Act in a variable insurance contract that is

(a) a contract of group insurance;

(b) a whole life insurance contract providing for the payment at maturity of an amount not less than three quarters of the premiums paid up to age 75 for a benefit payable at maturity;

(c) an arrangement for the investment of policy dividends and policy proceeds in a separate and distinct fund to which contributions are made only from policy dividends and policy proceeds; or

(d) a variable life annuity.

(2) For the purposes of subsection (1), "contract", "group insurance", "life insurance" and "policy" have the respective meanings ascribed to them by sections 1 and 171 of the Insurance Act.

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

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

(1) Section 53 of the Act does not apply to a trade that is a control person distribution in a security that was acquired under a formal bid as defined in Part XX of the Act, if

(a) the offeree issuer had been a reporting issuer for at least 12 months at the date of the bid;

(b) subject to subsection (2), the intention to make the trade was disclosed in the take-over bid circular for the take-over bid;

(c) the trade is made within the period commencing on the date of the expiry of the bid and ending 20 days after that date;

(d) a notice of intention and a declaration prepared in accordance with Form 45-102F~~1~~3 are filed by the seller before the trade[~~1~~];

(e) an insider report prepared in accordance with Form 55-102F2 or Form 55-102F6, as applicable, is filed by the seller within three days after the completion of the trade; and

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

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

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

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

~~[1] The reference to Form 45-102F1 in this paragraph reflects a proposed amendment to current Rule 45-501 published previously as a consequence of the proposed repeal and replacement of Multilateral Instrument 45-102 *Resale of Securities* ("MI 45-102") and the related Forms and Companion Policy. Current Rule 45-501 refers to Form 45-102F3.~~

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

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

(b) the exchange issuer has delivered to the Commission information relating to the underlying security that is satisfactory to and accepted by the Commission.

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

(a) an amalgamation, merger, reorganization, arrangement or other statutory procedure;

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

(c) a court-approved reorganization under bankruptcy or insolvency legislation.

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

(a) there is no published market as defined in Part XX of the Act in respect of the security;

(b) the aggregate acquisition cost to the purchaser is not more than $25,000; and

(c) each written notice to the public soliciting offers for the security or giving notice of the intended auction of the security is accompanied by a statement substantially as follows:

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

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

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

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

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

(a) the purchaser purchases as principal;

(b) either (i) the security has an aggregate acquisition cost to the purchaser of not less than $150,000 or (ii) the security is issued by a mutual fund or non-redeemable investment fund in which the purchaser then owns securities having either an aggregate acquisition cost or an aggregate net asset value of not less than $150,000; and

(c) the mutual fund or non-redeemable investment fund is managed by a portfolio adviser or by a portfolio manager resident in a jurisdiction and registered or exempt from registration under securities legislation of that jurisdiction or a trust corporation registered or authorized to carry on business under the Loan and Trust Corporations Act~~.~~ or under the Trust and Loan Companies Act (Canada), or under comparable legislation in any other jurisdiction

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

(a) the purchaser purchases as principal;

(b) the security has an aggregate acquisition cost to the purchaser of not less than $150,000; and

(c) the mutual fund or non-redeemable investment fund is managed by a person or company, not ordinarily resident in Ontario, to whom the adviser registration requirement does not apply pursuant to Part 7 of Rule 35-502 *Non-Resident Advisers*.

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

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

(a) in the aggregate in all jurisdictions, not more than 75 prospective purchasers are solicited resulting in sales to not more than 50 purchasers;

(b) before entering into an agreement of purchase and sale, the prospective purchaser has been supplied with an offering memorandum that includes information

(i) identifying every officer and director of the issuer,

(ii) identifying every promoter of the issuer,

(iii) giving the particulars of the professional qualifications and associations during the five years before the date of the offering memorandum of each officer, director and promoter of the issuer that are relevant to the offering,

(iv) indicating each of the directors that will be devoting his or her full time to the affairs of the issuer, and

(v) describing the right of action referred to in section 130.1 of the Act that is applicable in respect of the offering memorandum;

(c) the prospective purchaser has access to substantially the same information concerning the issuer that a prospectus filed under the Act would provide and

(i) because of net worth and investment experience or because of consultation with or advice from a person or company that is not a promoter of the issuer and that is an adviser or dealer registered under the Act, is able to evaluate the prospective investment on the basis of information about the investment presented to the prospective purchaser by the issuer or selling securityholder, or

(ii) is a senior officer or director of the issuer or of an affiliated entity of the issuer or a spouse or child of any director or senior officer of the issuer or of an affiliated entity of the issuer,

(d) the offer and sale of the security is not accompanied by an advertisement and no selling or promotional expenses have been paid or incurred for the offer and sale, except for professional services or for services performed by a dealer registered under the Act; and

(e) the promoter, if any, has not acted as a promoter of any other issue of securities under this exemption within the calendar year.

(2) For the purpose of determining the number of purchasers or prospective purchasers under paragraph (1)(a), a corporation, partnership, trust or other entity shall be counted as one purchaser or prospective purchaser

unless the entity has been created or is being used primarily for the purpose of purchasing a security of the issuer, in which event each beneficial owner of an equity interest in the entity or each beneficiary of the entity, as the case may be, shall be counted as a separate purchaser or prospective purchaser.

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

2.15 Exemption for a Trade in a Security from an Offeree outside Ontario - Sections 25 and 53 of the Act do not apply to a trade in a security to a person or company pursuant to an offer to acquire made by that person or company that would have been a take-over bid or issuer bid if the offer to acquire was made to a security holder in Ontario.

2.16 Exemption for a Trade in a Security as Consideration for the Purchase of Business Assets with a Prescribed Fair Value - Sections 25 and 53 of the Act do not apply to a trade by an issuer in a security of its own issue as consideration for the purchase of business assets from a person or company, if the fair value of the business assets so purchased is not less than $100,000.

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

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

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

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

3.4 Removal of Registration Exemptions for Market Intermediaries

(1) The exemptions from the registration requirement in sections 2.1, 2.2, 2.3, 2.5, 2.6, 2.7, 2.8, 2.9, 2.12, 2.13, 2.14, 2.15 and 2.16 are not available to a market intermediary.

(2) A limited market dealer may act as a market intermediary in respect of a trade referred to in subsection (1).

PART 4 OFFERING MEMORANDUM

4.1 Application of Statutory Right of Action - The right of action referred to in section 130.1 of the Act shall apply in respect of an offering memorandum delivered to a prospective purchaser in connection with a trade made in reliance upon an exemption from the prospectus requirement in section 2.1, 2.3, 2.12 or 2.13.

4.2 Description of Statutory Right of Action in Offering Memorandum - If the seller delivers an offering memorandum to a prospective purchaser in connection with a trade made in reliance upon an exemption from the prospectus requirement in section 2.1, 2.3, 2.12 or 2.13, the right of action referred to in section 130.1 of the Act shall be described in the offering memorandum.

4.3 Delivery of Offering Memorandum to Commission - If an offering memorandum is provided to a purchaser of securities in respect of a trade made in reliance upon an exemption from the prospectus requirement in section 2.1, 2.3, 2.12 or 2.13, the seller shall deliver to the Commission a copy of the offering memorandum ~~within~~or any amendment to a previously filed offering memorandum on or before 10 days of the date of the trade.

PART 5 DEALER REGISTRATION

5.1 Removal of Exemption unless Dealer Registered for Trade Described in the Exemption - An exemption from the registration requirement or from the prospectus requirement in the Act or the regulations that refers to a registered

dealer is not available for a trade in a security unless the dealer is registered in a category that permits it to act as a dealer for the trade described in the exempting provision.

Part 6 RESTRICTIONS ON RESALE OF SECURITIES DISTRIBUTED UNDER CERTAIN EXEMPTIONS

6.1 Resale of a Security Distributed to a Promoter Under Certain Exemptions - If a security of an issuer is distributed to a promoter of the issuer under an exemption from the prospectus requirement in section 2.1, 2.3, 2.12, 2.13, 2.14, 2.15 or 2.16, the first trade in that security by that promoter is a distribution unless the conditions in subsection (2) or (3) of section 2.8 of MI 45-102 are satisfied.[2]

6.2 Resale of a Security Distributed under Section 2.1 or 2.15 - If a security is distributed under the exemption from the prospectus requirement in section 2.1 or 2.15, the first trade in that security, other than a trade referred to in section 6.1, is subject to section 2.6 of MI 45-102.

6.3 Resale of a Security Distributed under Section 2.3, 2.12, 2.13, 2.14 or 2.16 - If a security is distributed under an exemption from the prospectus requirement in section 2.3, 2.12, 2.13, 2.14 or 2.16, the first trade in that security, other than a trade referred to in section 6.1, is subject to section 2.5 of MI 45-102.

6.4 Resale of a Security Distributed under Clause 72(1)(h) of the Act - If a security is distributed under the exemption from the prospectus requirement in clause 72(1)(h) of the Act, the first trade in that security, other than a trade to which section 6.5 applies, is subject to section 2.6 of MI 45-102.

6.5 Resale of an Underlying Security of a Multiple Convertible Security, Convertible Security or Exchangeable Security Distributed under Certain Exemptions - If an underlying security is distributed under an exemption from the prospectus requirement on conversion or exchange of a multiple convertible security, convertible security or exchangeable security acquired in a Type 1 trade, the first trade in that underlying security is subject to section 2.5 of MI 45-102.

6.6 Resale of a Security Distributed under Section 2.6 or 2.7 - If an underlying security is distributed under an exemption from the prospectus requirement in section 2.6 or 2.7 on a forced conversion or exchange of a multiple convertible security, convertible security or exchangeable security acquired

(a) in a Type 2 trade; ~~or~~

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

(c) under an exemption from the prospectus requirement in Part 2 of MI 45-105;

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

6.7 Resale of a Security Distributed under Section 2.5 or 2.8 - If a security is distributed under an exemption from the prospectus requirement in section 2.5 or 2.8, the first trade in that security is subject to section 2.6 of MI 45-102.

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

PART 7 FILING REQUIREMENTS

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

7.2 Form 45-501F2

[deleted]

[2] ~~Reference to subsection (3) of section 2.8 of MI 45-102 has been deleted to reflect a proposed amendment to current Rule 45-501 published previously as a consequence of the proposed repeal and replacement of MI 45-102 and the related Forms and Companion Policy.~~

7.3 ~~Fees for Form 45-501F1~~

[deleted]

7.4 ~~Fees for Form 45-501F2~~

[deleted]

7.5 Exempt Trade Reports

(1) Subject to subsections (7) and (8), if a trade is made in reliance upon an exemption from the prospectus requirement in section 2.3, 2.13, 2.14 or 2.16, other than

(a) a trade to a person or company referred to in paragraphs (p) through (s) of the definition of "accredited investor" in section 1.1, or

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

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

(2) **[deleted]**

(3) If a trade is made in reliance upon the conditions in subsection (2) or (3) of section 2.8 of MI 45-102 being satisfied, the seller shall comply with the requirements of subsections (~~3~~4) to (~~6) and subsection (~~8~~7) of that section.[3]

(4) **[deleted]**

(5) **[deleted]**

(6) **[deleted]**

(7) A report is not required under subsection (1) where, by a trade under section 2.3, a person or company referred to in paragraph (a), (b), (c) or (d) of section 1.1 acquires from a customer an evidence of indebtedness of the customer or an equity investment in the customer acquired concurrently with an evidence of indebtedness.

(8) Despite subsection (1), a report in respect of a trade in a security of a mutual fund or non-redeemable investment fund made in reliance upon the exemption from the prospectus requirement in section 2.3 may be filed not later than 30 days after the financial year end of the mutual fund or non-redeemable investment fund.

7.6 Fees for Accredited Investor Application

[deleted]

7.7 Report of a Trade Made under Section 2.12 - If a trade is made in reliance upon an exemption from the prospectus requirement in section 2.12, the issuer shall, not later than thirty days after the financial year end of the issuer in which the trade occurred, file a report, in duplicate, prepared in accordance with Form 45-501F1.

PART 8 TRANSITIONAL PROVISIONS

8.1 Accredited Investor Definition Includes Exempt Purchaser - The definition of "accredited investor" in section 1.1 includes, prior to November 30, 2002, a person or company that is recognized by the Commission as an exempt purchaser.

8.2 Resale of a Security Distributed under Section 2.4, 2.5 or 2.11 of the Previous Rule - If a security was distributed under an exemption from the prospectus requirement in section 2.4, 2.5 or 2.11 of the Previous Rule, the first trade in that security is subject to section 2.5 of MI 45-102.

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[3] ~~Reference to subsection (3) of section 2.8 of MI 45-102 has been deleted to reflect a proposed amendment to current Rule 45-501 published previously as a consequence of the proposed repeal and replacement of MI 45-102 and the related Forms and Companion Policy.~~

8.3 Resale of an Underlying Security of a Multiple Convertible Security, Convertible Security or Exchangeable Security Distributed under Certain Exemptions in the Previous Rule - If an underlying security was distributed on conversion or exchange of a multiple convertible security, convertible security or exchangeable security acquired in a distribution under an exemption from the prospectus requirement in section 2.4, 2.5 or 2.11 of the Previous Rule, the first trade in that underlying security is subject to Section 2.5 of MI 45-102.

8.4 Resale of a Security Distributed to a Promoter under Section 2.3 or 2.15 of the Previous Rule - If a security was distributed to a promoter under an exemption from the prospectus requirement in section 2.3 or 2.15 of the Previous Rule, the first trade in that security is a distribution unless the conditions in subsection (2) or (3) of section 2.8 of MI 45-102 are satisfied.[4]

8.5 Resale of a Security Distributed under Section 2.9 or 2.10 of the Previous Rule - If an underlying security was distributed under an exemption from the prospectus requirement in section 2.9 or 2.10 of the Previous Rule on a forced conversion or exchange of a multiple convertible security, convertible security or exchangeable security acquired by the holder in a Type 2 trade, the first trade in that underlying security is subject to section 2.6 of MI 45-102.

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

PART 9 EXEMPTION

9.1 Exemption - The Director may grant an exemption to Part 7 of this Rule, in whole or in part, subject to such conditions or restrictions as may be imposed in the exemption in response to an application.

PART 10 EFFECTIVE DATE

10.1 Effective Date - This instrument shall come into force on ~~●~~ January 12, 2004

[4] ~~Reference to subsection (3) of section 2.8 of MI 45-102 has been deleted to reflect a proposed amendment to current Rule 45-501 published previously as a consequence of the proposed repeal and replacement of MI 45-102 and the related Forms and Companion Policy.~~

FORM 45-501F1

Securities Act (Ontario)

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

(To be used for reports of trades made in reliance upon
clause 72(1)(b) or (q) of the Act, or Section 2.3, 2.12, 2.13, 2.14 or 2.16 of Rule 45-501)

1. **Full name and address of the seller.**

2. **Full name and address of the issuer of the securities traded.**

3. **Description of the securities traded.**

4. **Date of the trade(s).**

5. **Particulars of the trade(s).**

Name of Purchaser and Municipality and Jurisdiction of Residence	Amount or Number of Securities Purchased	Purchaser Price per unit	Total Purchase Price (Canadian $)	Exemption Relied Upon

6. **The seller has prepared and certified a statement containing the full legal name and the full residential address of each purchaser identified in section 5 and a certified true copy of the list will be provided to the Commission upon request.**

7. **State the name and address of any person acting as agent in connection with trade(s) and the compensation paid or to be paid to such agent.**

8. **Has the seller paid a participation fee for the current financial year in accordance with Rule 13-502?**

9. **State the name (or title) and the telephone number of the person who may be contacted with respect to any questions regarding the contents of this report.**

~~9.~~10. **Certificate of seller or agent of seller.**

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

DATED at

this day of , 20___.

(Name of seller or agent - please print)

(Signature)

(Official capacity - please print)

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

Notice - Collection and Use of Personal Information

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

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

Instructions:

1. In answer to section 7 give the name of the person or company who has been or will be paid remuneration directly related to the trade(s), such as commissions, discounts or other fees or payments of a similar nature. It is not necessary to include payments for services incidental to the trade such as clerical, printing, legal or accounting services.

2. If the space provided for any answer is insufficient, additional sheets may be used and must be cross-referred to the relevant item and properly identified and signed by the person whose signature appears on the report. Note that issuers may file one Form 45-501F1 for a specific transaction that includes the required information for multiple purchasers.

3. If the seller has not paid a participation fee for the current financial year, or if this form is filed late, a fee may be payable under Rule 13-502. Otherwise, no fee is payable to the Commission in connection with the filing of this form. Cheques must be made payable to the Ontario Securities Commission.

~~4.~~ ~~3.~~ Please print or type and file two signed copies with:

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

FORM 45-501F2

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

[deleted]

FORM 45-501F3
FORM OF INFORMATION STATEMENT

Introduction

Ontario securities laws have been relaxed to make it easier for small businesses to raise start-up capital from the public. Some potential investors may view this change in securities laws as an opportunity to "get in on the ground floor" of emerging businesses and to "hit it big" as these small businesses grow into large ones.

Statistically, most small businesses fail within a few years. Small business investments are among the most risky that investors can make. This information statement suggests matters for you to consider in deciding whether to make a small business investment.

Risks and Investment Strategy

A basic principle of investing in a small business is: **NEVER MAKE A SMALL BUSINESS INVESTMENT THAT YOU CANNOT AFFORD TO LOSE IN ITS ENTIRETY**. Never use funds that might be needed for other purposes, such as a post-secondary education, retirement, loan repayment or medical expenses, and never borrow money to make such an investment. Instead use funds that you already have set aside and that otherwise would be used for a consumer purchase, such as a vacation.

Never believe that the investment is not risky. Among other risk factors, small business investments generally are highly illiquid. In particular, until the company goes public there are significant restrictions on the resale of its securities. Even after a small business goes public there may be very little liquidity in its shares. This lack of liquidity means that, if the company takes a turn for the worse or if you suddenly need the funds you have invested in the company, you may not be able to sell your securities.

Also, it is important to realize that, just because the proposed offering of securities is permitted under Ontario securities law does not mean that the particular investment will be successful. Neither the Ontario Securities Commission nor any other government agency evaluates or endorses the merits of investments.

Analyzing the Investment

Although there is no magic formula for making successful investment decisions, certain factors are often considered particularly important by professional venture investors. Some questions to consider are as follows:

1. How long has the company been in business?

2. Is management putting itself in a position where it will be accountable to investors? For example, is management taking salaries or other benefits that are too large in light of the company's stage of development? Will outside investors have any voting power to elect representatives to the board of directors?

3. How much experience does management have in the industry and in operating a small business? How successful were the managers in previous businesses?

4. Do you know enough about the industry to be able to evaluate the company and make a wise investment?

5. Does the company have a realistic business plan? Does it have the resources to successfully market its product or service?

6. How reliable is the financial information, if any, that has been provided to you? Is the information audited?

7. Is the company subject to any lawsuits?

8. What are the restrictions on the resale of the securities?

There are many other questions to be answered, but you should be able to answer these before you consider investing. If you have not been provided with the information you need to answer these and any other questions you may have about the proposed investment, make sure that you obtain the information you need from people authorized to speak on the company=s behalf (*e.g.*, management or the directors) before you advance any funds or sign any commitment to advance funds to the company. It is generally a good idea to meet with management of the company face-to-face.

Making Money on Your Investment

There are two classic methods for making money on an investment in a small business: (1) through resale of the securities in the public securities markets following a public offering; and (2) by receiving cash or marketable securities in a merger or other acquisition of the company.

If the company is the type that is not likely to go public or be acquired within a reasonable time (*i.e.*, a family-owned or closely-held corporation), it may not be a good investment for you irrespective of its prospects for success because of the lack of opportunity to cash in on the investment. Management of a successful private company may receive a return indefinitely through salaries and bonuses but it is unlikely that there will be profits sufficient to pay dividends commensurate with the risk of the investment.

Conclusion

When successful, small businesses enhance the economy and provide jobs for its citizens. They also provide investment opportunities. However, an opportunity to invest must be considered in light of the inherently risky nature of small business investments.

In considering a small business investment, you should proceed with caution and make an informed investment decision based on your circumstances and expectations. Above all, never invest more than you can afford to lose.

~~*Draft: April 15, 2003*~~COMPANION POLICY 45-501CP
TO ONTARIO SECURITIES COMMISSION RULE 45-501
EXEMPT DISTRIBUTIONS

PART 1 PURPOSE AND DEFINITIONS

1.1 Purpose - This policy statement sets forth the views of the Commission as to the manner in which certain provisions of the Act and the rules relating to the exemptions from the prospectus and registration requirements are to be interpreted and applied.

1.2 Definitions - In this Policy, "private placement exemptions" means the prospectus and registration exemptions available for

(a) sales of securities of closely-held issuers under section 2.1 of Rule 45-501; and

(b) sales of securities to accredited investors under section 2.3 of Rule 45-501.

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

2.1 Interaction of Private Placement Exemptions - The Commission recognizes that a seller of securities may, in connection with any distribution of securities, rely concurrently on more than one private placement exemption. The Commission notes that where the seller is paying or incurring selling or promotional expenses in connection with the distribution, other than for the services of a dealer registered under the Act, the seller may not be able to rely on the exemption in section 2.1. The Commission takes the view that expenses incurred in connection with the preparation and delivery of an offering memorandum do not constitute selling or promotional expenses in this context.

2.2 Accredited Investor Exemption

(1) Paragraph (m) of the "accredited investor" definition in section 1.1 of Rule 45-501 refers to an individual who beneficially owns, or who together with a spouse beneficially own, financial assets having an aggregate net realizable value that, before taxes but net of any related liabilities, exceeds $1,000,000. As a general matter, it should not be difficult to determine whether financial assets are beneficially owned by an individual, an individual's spouse, or both, in any particular instance. However, financial assets held in a trust or in other types of investment vehicles for the benefit of an individual may raise questions as to whether the individual beneficially owns the financial assets in the circumstances. The Commission is of the view that the following factors are indicative of beneficial ownership of financial assets:

(a) physical or a constructive possession of evidence of ownership of the financial asset;

(b) entitlement to receipt of any income generated by the financial asset;

(c) risk of loss of the value of the financial asset; and

(d) the ability to dispose of the financial asset or otherwise deal with it as the individual sees fit.

By way of example, securities held in a self-directed RRSP for the sole benefit of an individual would be beneficially owned by that individual. In general, financial assets in a spousal RRSP would also be included for purposes of the threshold test because paragraph (m) takes into account financial assets owned beneficially by a spouse. However, financial assets held in a group RRSP under which the individual would not have the ability to acquire the financial assets and deal with them directly would not meet this beneficial ownership requirement.

(2) The Commission notes that paragraphs (m) and (n) of the "accredited investor" definition are designed to treat spouses as an investing unit such that either spouse may qualify as an accredited investor if both spouses, taken together, beneficially own the requisite amount of financial assets or earn the requisite net income. As well, it is the Commission's view that the financial asset test and the net income test prescribed in paragraphs (m) and (n), respectively, are to be applied only at the time of the trade such that there is no obligation on the seller to monitor the purchaser's continuing qualification as an accredited investor after the completion of the trade. Furthermore, the Commission considers that the references to "years" and "current year" in paragraph (n) mean calendar years or current calendar year, as applicable. Finally, the Commission notes that the monetary thresholds in paragraphs (m) and (n) are intended to create "bright-line" standards. Investors who do not satisfy the monetary thresholds in paragraphs (m) and (n) do not qualify as accredited investors under those paragraphs.

(3) Paragraph (q) of the "accredited investor" definition refers to certain family members of an officer or director of the issuer. The Commission notes that officers and directors of an issuer or its affiliated entities are, in effect, treated as accredited investors under ~~Rule~~Multilateral Instrument 45~~-503~~105 *Trades to Employees, ~~Executives~~Senior Officers, Directors, and Consultants*.

(4) Paragraph (t) of the "accredited investor" definition establishes a net asset threshold of at least $5,000,000 for certain types of entity, as reflected in the entity's "most recently prepared financial statements". The Commission takes the view that these financial statements must be prepared in accordance with applicable generally accepted accounting principles.

2.3 Closely-Held Issuer Exemption

(1) The definition of "closely-held issuer" contains two principal criteria.

Paragraph (a) of the definition requires restrictions on the transfer of its shares to be contained in the issuer's constating documents or in one or more agreements among the issuer and its shareholders. Accordingly, to qualify to use the exemption, the issuer must include share transfer restrictions either in its articles or by-laws, or in one or more agreements with all of its shareholders.

Paragraph (b) of the definition requires the issuer to have 35 or fewer securityholders, exclusive of

- accredited investors,
- current or former directors or officers of the issuer, and
- current or former employees or consultants of the issuer who do not own securities of the issuer other than securities *"issued as compensation by, or under an incentive plan of, the issuer"*.

The Commission confirms that

- current and former directors and officers are excluded regardless of the manner in which they acquired their securities of the issuer, and
- securities issued as an incentive on a "one-off" basis, i.e. not under an incentive plan, are securities issued as compensation by the issuer.

The Commission also notes that the definition does not require the 35 securityholder limit to be included in the articles, by-laws or agreements.

(2) The exemption in section 2.1 relating to securities of closely-held issuers is available to

- a closely-held issuer itself in respect of an issue of its own securities, and
- any holder of a closely-held issuer's securities in respect of a resale of the securities.

A closely-held issuer may issue its own securities in reliance upon the exemption in section 2.1 so long as it is able to meet the criteria for the availability of the exemption in paragraphs (a), (b) and (c) of subsection 2.1(1). In particular, under paragraph (b), a closely-held issuer may no longer use the closely-held issuer exemption once it has received aggregate proceeds of $3,000,000 from trades made in reliance upon the exemption.

A holder of securities of a closely-held issuer may rely upon the exemption in section 2.1 in connection with any resale of the securities if paragraphs (a) and (c) of subsection 2.1(1) are satisfied. Paragraph 2.1(1)(b) does not apply to resales of securities in reliance upon this exemption.

Paragraph (a) of subsection 2.1(1) requires the issuer to continue to be a closely-held issuer after the resale. However, it is noted that the issuer does not cease to be a closely-held issuer solely because it has raised $3,000,000 in aggregate proceeds using the exemption. This is a separate requirement under paragraph (b) of subsection 2.1(1) which, as noted above, does not have to be satisfied to effect an exempt resale.

Paragraph (c) of subsection 2.1(1) requires that *"no selling or promotional expenses are paid or incurred in connection with the trade, except for services performed by a dealer registered under the Act"*. The Commission notes that paragraph (c) is not intended to prohibit legitimate selling or promotional expenses,

such as printing, mailing and other administrative or *de mimimis* expenses incurred in connection with the trade.

(3) The Commission notes that a closely-held issuer will generally be in a position to facilitate the use of the exemption in section 2.1 for the resale of its securities by limiting the number of its security holders through, among other things, use of the share transfer restrictions in its constating documents or in an agreement with its shareholders. Once the issuer no longer meets the closely-held issuer definition, a resale of securities distributed under the exemption in section 2.1 may only be made in reliance upon another exemption or by complying with the applicable provision of Multilateral Instrument 45-102 *Resale of Securities* ("MI 45-102").

~~The Commission recognizes that in certain circumstances it may be difficult for a selling securityholder to confirm that the requirement in paragraph (a) of subsection 2.1(1) has been met. The Commission is of the view that a selling securityholder may rely on the closely-held issuer exemption if the selling securityholder has no reasonable grounds to believe that the requirement in paragraph (a) has not been met in connection with the trade.~~

(4) The Commission notes that the limitation on the use of the closely-held issuer exemption in paragraph (b) of subsection 2.1(1), which refers to aggregate proceeds of $3,000,000, is based on the aggregate of all proceeds received by the issuer at any time from trades made in reliance upon the closely-held issuer exemption since it was introduced in November 2001. Proceeds received by the issuer from trades made in reliance upon other exemptions, including exemptions available prior to the date when the closely-held issuer exemption first became available, are not relevant. In particular, the proceeds realized by the issuer from trades to accredited investors need not be included in determining whether the $3,000,000 threshold would be exceeded in respect of any proposed trade under section 2.1. However, if the issuer has not filed a report on Form 45-501F1 in respect of a trade with an accredited investor where such a filing is required, it will be presumed that the trade was made in reliance upon section 2.1, in which case the proceeds of that trade must be counted for purposes of the aggregate proceeds limit.

(5) The Commission notes that the term "common enterprise" in paragraph (b) of subsection 2.1(1) is intended to operate as an anti-avoidance mechanism to the extent that multiple business entities are organized for the purposes of financing what is essentially a single business enterprise in order to benefit from continued or excessive use of the closely-held issuer exemption. The Commission takes the view that commonality of ownership combined with commonality of business plans will be particularly indicative of a "common enterprise".

(6) The Commission considers that the reference to "the date of the trade" for purposes of the information statement delivery requirement in subsection 2.1(2) means the settlement date or closing date of the trade, as applicable.

(7) The Commission notes that there are steps that an issuer may take to ensure that it qualifies under both the closely-held issuer exemption in Ontario and the private company exemption, which used to exist in Ontario and remains in a similar form in other Canadian jurisdictions. The closely-held issuer exemption broadens the scope of potential investors to include members of the public. Issuers that wish to utilize the full scope of the closely-held issuer exemption would not prohibit invitation to the public in their constating documents. However, such issuers may be precluded from using the private company exemption under securities legislation in other Canadian jurisdictions. Accordingly, issuers that find themselves in this position may wish to consider various alternatives including the following:

1. An issuer that plans to use the closely-held issuer exemption in Ontario and to rely concurrently on the private company exemption in other Canadian jurisdictions may wish to maintain or include in its constating documents a provision prohibiting the issuer from offering its securities to the public. The issuer will thus be able to utilize the private company exemption in other Canadian jurisdictions and will be able to rely on the closely-held issuer exemption in Ontario, albeit only for offerings to investors who are not members of "the public".

2. An issuer that wishes to utilize the full scope of the closely-held issuer exemption in Ontario, i.e., by offering its securities without regard to the concept of "the public", may be precluded from using the private company exemption in other Canadian jurisdictions, and as such, may wish to consider pursuing other exemptions in those jurisdictions.

2.4 "Transitional" Pooled Fund Exemption

(1) Prior to the implementation of Rule 45-501 on November 30, 2001, the Commission granted numerous rulings under subsection 74(1) of the Act providing exemptive relief from the prospectus and registration requirements to pooled fund issuers in respect of, among other things, the sale of additional pooled fund interests to investors that previously purchased pooled fund interests under an exemption. In general, these rulings contained a "sunset" provision stating that the ruling would terminate following the adoption of a rule regarding trades in securities of pooled funds.

Rule 45-501 contains a "transitional" exemption in section 2.12 that exempts the sale of securities of a private pooled fund to an investor acquiring at least $150,000 of such securities and, if the fund's adviser is registered under the Act, the sale of additional securities of the same fund to such an investor. The Commission considers that this transitional pooled fund exemption, together with the accredited investor exemption in section 2.3 of Rule 45-501 which exempts sales of securities to certain types of accredited investors, provide adequate transitional relief from the prospectus and registration requirements for trades in pooled fund interests to investors. OSC Rule 81-501 *Mutual Fund Reinvestment Plans* also continues to apply to securities of pooled funds that are issued to investors under reinvestment plans whereby distributions of income, capital or capital gains to investors are reinvested in additional securities of that pooled fund. Accordingly, the Commission takes the view that the rulings described above expire upon implementation of Rule 45-501. The Commission considers that section 2.12 is a "transitional" exemption that maintains the status quo for pooled funds until such time as the Commission determines the appropriate regulatory regime for pooled funds.

(2) The Commission notes that the term "pooled fund" is not a defined term under Ontario securities law. The term "pooled fund" is usually considered to include non-redeemable investment funds and mutual funds that are not reporting issuers. Non-redeemable investment funds and mutual funds are defined terms. As defined in Rule 14-501 *Definitions*, a "non-redeemable investment fund" means an issuer:

(a) whose primary purpose is to invest money provided by its securityholders;

(b) that does not invest for the purpose of exercising effective control, seeking to exercise effective control, or being actively involved in the management of the issuers in which it invests, other than other mutual funds or non-redeemable investment funds; and

(c) that is not a mutual fund.

As defined in the Act, a "mutual fund" includes an issuer of securities that entitle the holder to receive on demand, or within a specified period after demand, an amount computed by reference to the value of a proportionate interest in the whole or in a part of the net assets, including a separate fund or trust account, of the issuer of the securities.

(3) The Commission notes that section 2.12 of the Rule provides, in subsection 2.12(1), automatic top-up relief for funds managed by a portfolio adviser or a trust corporation but, in subsection 2.12(2), does not provide the same relief with respect to funds managed by a person or company relying on Part 7 of Rule 35-502 *Non-Resident Advisers*. The provision was drafted intentionally this way because the top-up relief referred to in subsection 2.12(1) had become standard relief granted by the Commission. Applications for top-up relief will be considered for exempt advisers on a case-by-case basis.

(4) The Commission notes that certain hedge funds may be eligible to rely on the exemption provided by section 2.12 while others may not be eligible. Section 2.12 applies, subject to certain conditions, to:

(a) mutual funds that are not reporting issuers; and

(b) non-redeemable investment funds that are not reporting issuers.

As noted in subsection (2) above, the term "mutual fund" is defined in the Act and a definition of non-redeemable investment fund appears in Rule 14-501 *Definitions*. Trades in hedge funds that are structured as mutual funds or non-redeemable investment funds and otherwise meet the requirements of section 2.12 may be made in reliance on the exemption in section 2.12.

(5) The Commission notes that the reference to "managed by a portfolio adviser" in paragraph 2.12(1)(c) refers to the functions that are carried out by a manager of a pooled fund and are distinguishable from the narrower portfolio management functions that are carried out by a portfolio manager or sub-adviser to a pooled fund.

The exemption in section 2.12 will not be available for a pooled fund unless the manager of the pooled fund itself is registered as a portfolio adviser.

(6) The Commission notes that section 2.12 provides a prospectus and registration exemption for a trade involving an aggregate acquisition cost to the purchaser of at least $150,000. The Commission takes the view that, so long as the aggregate acquisition cost is $150,000, the exemption in section 2.12 is available despite the fact that the acquisition has taken place, in whole or in part, by way of the assumption of a liability by the purchaser.

(7) The Commission takes the view that, for the purpose of the $150,000 threshold in section 2.12, an individual may combine amounts purchased on his/her own account with amounts purchased by the individual's RRSP.

(8) The Commission notes that a pooled fund may not use the closely-held issuer exemption if it is a mutual fund or a non-redeemable investment fund.

2.5 Trades on an Amalgamation, Arrangement or Specified Statutory Procedure - Clause 72(1)(i) of the Act and section 2.8 of Rule 45-501 provide exemptions for trades in securities in connection with an amalgamation or arrangement or other statutory procedure. The Commission is of the view that the references to statute in these provisions refer to any statute of a jurisdiction or foreign jurisdiction under which the entities involved have been incorporated or created and exist or under which the transaction is taking place.

2.6 Three-Cornered Amalgamations - Certain corporate statutes permit a so-called "three-cornered merger or amalgamation" under which two companies will amalgamate or merge and security holders of the amalgamating or merging entities will receive securities of a third party affiliate of one amalgamating or merging entity. Section 2.8 of Rule 45-501 exempts these trades as the exemption applies to any trade made in connection with an amalgamation or merger.

2.7 Interpretation - The Commission takes the view that the exemptions contained in clauses (b) and (c) of section 2.8 of the Rule do not qualify or restrict the scope of the exemption in clause (a) of that section. The exemptions described in clauses (a), (b) and (c) of section 2.8 are not intended to be mutually exclusive. In some cases, more than one exemption may apply to a trade. For example, the Commission takes the view that a trade in connection with an arrangement under the *Companies' Creditors Arrangement Act* may be made in reliance on the exemptions contained in clause (a) and clause (c). Similarly, a trade in connection with a reorganization may, depending on the circumstances, be exempt both under subclause 72(1)(f)(ii) of the Act and section 2.8 of the Rule.

2.8 Exchangeable Shares — A transaction involving a procedure described in section 2.8 of Rule 45-501 (a section 2.8 transaction) may include an exchangeable share structure to achieve certain tax-planning objectives. For example, in a transaction whereby a non-Canadian company seeks to acquire a Canadian company under a plan of arrangement, an exchangeable share structure may be used to allow the Canadian shareholders of the company to be acquired to receive, in substance, shares of the non-Canadian company while avoiding the adverse tax consequences associated with exchanging shares of a Canadian company for shares of a non-Canadian company. Instead of receiving shares of the non-Canadian company directly, the Canadian shareholders receive shares of a Canadian company which, through various contractual arrangements, have economic terms and voting rights that are essentially identical to the shares of the non-Canadian company, and permit the holder to exchange such shares, at a time of the holder's choosing, for shares of the non-Canadian company.

Historically, the use of an exchangeable share structure in connection with a section 2.8 transaction has raised a question as to whether the exemptions contained in section 2.8 will be available for all trades necessary to complete the transaction. For example, in the case of the acquisition under a plan of arrangement noted above, the use of an exchangeable share structure may result in a delay of several months or even years between the date of the arrangement and the date the shares of the non-Canadian company are distributed to the former shareholders of the acquired company. As a result of this delay, some filers have questioned whether the distribution of the non-Canadian company's shares upon the exercise of the exchangeable shares may still be viewed as being "in connection with" the section 2.8 transaction, and have made application for exemptive relief to address this uncertainty.

The Commission is of the view that the exemption contained in section 2.8 is available for all trades which are necessary to complete an exchangeable share transaction involving a procedure described in section 2.8, even where such trades may occur several months or years after the transaction. In the case of the acquisition noted above, the Commission notes that the investment decision of the shareholders of the acquired company at the time of the arrangement ultimately represented a decision to exchange their shares for shares of the non-Canadian company. The distribution of such shares upon the exercise of the exchangeable shares does not represent a new investment decision but merely represents the completion of that original investment decision. Accordingly, the Commission does not believe that exemptive relief is warranted in these circumstances.

Similarly, the Commission is of the view that the exemptions in clauses 35(1)16 and 35(1)17, paragraphs 72(1)(j) and 72(1)(k), and section 2.15 of Rule 45-501, are available for all trades necessary to complete a takeover bid or an issuer bid that involves an exchangeable share structure (as described above), even where such trades may occur several months or years after the bid.

2.9 Other Exemptions - There are various other exemptions from the prospectus and registration requirements that are available to sellers of securities in prescribed circumstances, including ~~Rule~~Multilateral Instrument 45-~~503~~105 *Trades to Employees, ~~Executives~~Senior Officers, Directors, and Consultants* which exempts sales of securities of an issuer to its employees and executives, among others. The Commission notes, in particular, that certain exemptions previously contained in Rule 45-501 as it read when it was originally adopted in December 1998 are now contained in MI 45-102. Market participants engaged in the purchase and sale of securities under exemptions from the prospectus and registration requirements should read MI 45-102 together with Rule 45-501 to ensure that they have duly considered all regulatory requirements applicable to exempt distributions of securities in Ontario.

2.10 Applications for Accredited Investor Recognition - Paragraph (u) of the "accredited investor" definition in section 1.1 of Rule 45-501 contemplates that a person or company may apply to be recognized by the Commission as an accredited investor. The Commission will consider applications for accredited investor recognition submitted by or on behalf of investors that do not meet any of the other criteria for accredited investor status but that nevertheless have the requisite sophistication or financial resources. The Commission has not adopted any specific criteria for granting accredited investor recognition to applicants as the Commission believes that the "accredited investor" definition generally covers all of the types of investors that do not require the protection of the prospectus and registration requirements under the Act. Accordingly, the Commission expects that applications for accredited investor recognition will be utilized on a very limited basis. If the Commission considers it appropriate in the circumstances, it may grant accredited investor recognition to an investor on terms and conditions, including a requirement that the investor apply annually for renewal of accredited investor recognition.

2.11 Exemption for a Trade in a Security from an Offeree outside Ontario - The exemption from the prospectus and registration requirements in section 2.15 of the Rule has been adopted to extend the prospectus and registration exemptions contained in clause 72(1)(k) and paragraph 35(1)17 of the Act. These exemptions are only available for a trade in securities to a person or company making a "take-over bid" or "issuer bid" as defined in subsection 89(1) of the Act. Both of these definitions require that an offer be made to a person or company who is *in Ontario* or to any security holder of the issuer whose last address as shown on the books of the issuer is *in Ontario*. Therefore, if none of the sellers/offerees is *in Ontario*, these exemptions will not be available. Accordingly, section 2.15 provides for an exemption where there is technically no "take-over bid" or "issuer bid" in Ontario solely because there is no seller in Ontario.

2.12 Exemption for a Trade in a Security as Consideration for the Purchase of Business Assets with a Prescribed Fair Value - The exemption from the prospectus and registration requirements in section 2.16 of the Rule has been adopted to facilitate commercial transactions involving the purchase of "business assets" having a minimum fair value of $100,000 where the purchaser is issuing its own securities as consideration for the purchase. With the introduction of the exemption in section 2.16, an issuer seeking to purchase business assets using its own securities as consideration will have a prospectus exemption even though the seller acquiring the securities is not an accredited investor.

PART 3 CERTIFICATION OF FACTUAL MATTERS

3.1 Seller's Due Diligence - It is the seller's responsibility to ensure that its trades in securities are made in compliance with applicable securities laws. In the case of a seller's reliance upon exemptions from the prospectus and registration requirements, the Commission expects that the seller will exercise reasonable diligence for the purposes of determining the availability of the exemption used in any particular circumstances. The Commission will normally be satisfied that a seller has exercised reasonable diligence in relying upon a particular exemption if the seller has obtained statutory declarations or written certifications from the purchasers, unless the seller has knowledge that any facts set out in the declarations or certifications are incorrect. In circumstances where a seller has recently obtained a statutory declaration or a written certification from a purchaser with whom a further trade is being made on an exempt basis, the seller may continue to rely upon the recently obtained statutory declaration or certification unless the seller has reason to believe that the statutory declaration or certification is no longer valid in the circumstances.

PART 4 OFFERING MEMORANDA

4.1 Use of Offering Memoranda in Connection with Private Placements

(1) Part 4 of Rule 45-501 provides for the application of the statutory right of action referred to in section 130.1 of the Act if an offering memorandum is delivered to a prospective investor in connection with a trade made in reliance upon a prospectus exemption in section 2.1, 2.3, 2.12 or 2.13 of Rule 45-501. In this case, the statutory right of action must be described in the offering memorandum and a copy of the offering memorandum must be delivered to the Commission. With the exception of the government incentive security exemption in section 2.13, there is no obligation to prepare an offering memorandum for use in connection with a trade made in reliance upon the above-noted prospectus exemptions. However, business practice may dictate the preparation of offering material that is delivered voluntarily to purchasers in connection with exempt trades under section 2.1, 2.3, or 2.12. This offering material may constitute an "offering memorandum" as defined in Ontario securities law. The statutory right of rescission or damages applies when the offering memorandum is provided mandatorily in connection with an exempt trade made under section 2.13, or voluntarily in connection with exempt trades made under section 2.1, 2.3 or 2.12, including an exempt trade made under section 2.3 to a government or financial institution that is an accredited investor. However, a document delivered in connection with a sale of securities made otherwise than in reliance upon the above-noted exemptions does not give rise to the statutory right of action or subject the seller to the requirements of Part 4.

(2) With the exception of an offering memorandum that is provided in respect of a trade in government incentive securities made under the exemption in section 2.13, Ontario securities law generally does not prescribe what an offering memorandum should contain.

(3) The Commission cautions against the practice of providing preliminary offering material to certain prospective investors before furnishing a "final" offering memorandum unless the material contains a description of the statutory right of action available to purchasers in situations when the statutory right of action applies and a description is required. The only material prepared in connection with the private placement for delivery to investors, other than a "term sheet" (representing a skeletal outline of the features of an issue without dealing extensively with the business and affairs of the issuer), should consist of an offering memorandum describing the statutory right of action and complying in all other respects with Ontario securities law.

(4) The Commission notes that, subject to *Freedom of Information and Protection of Privacy Act* requests, it is the Commission's policy that offering material delivered to the Commission under section 4.3 of the Rule will not be made available to the public.

PART 5 RESTRICTIONS ON RESALE OF SECURITIES

5.1 **`Incorporation of Multilateral Instrument 45-102 Resale of Securities -** Parts 6 and 8 of the Rule imposes resale restrictions on the first trades in securities distributed under certain exemptions from the prospectus requirements. Different types of resale restrictions are imposed depending upon the nature of the prospectus exemption under which the securities were distributed. In each case, the applicable resale restrictions are incorporated by reference to a specific section of MI 45-102. Sellers of securities are reminded that these resale restrictions need not apply if the seller is able to rely upon another prospectus exemption in the Act or in a Commission rule in respect of the resale of the securities in question.

PART 6 COMMISSION REVIEW

6.1 **Review of Offering Material -** Although sellers of securities who rely upon the private placement exemptions are required to deliver to the Commission copies of offering material that they use in connection with the exempt trades if the offering material constitutes an "offering memorandum" as defined in Ontario securities law, the offering material is not generally reviewed or commented upon by Commission staff.

6.2 **Other Regulatory Approvals -** Given the self-policing nature of exempt distributions and the fact that offering memoranda are not routinely reviewed by Commission staff, the decision relating to the appropriate disclosure in an offering memorandum rests with the issuer, the selling securityholder and their advisors. If Commission staff becomes aware of an offering memorandum that fails to disclose material information relating to the securities that are the subject of the transaction, staff may seek to intervene to effect remedial action.

5.1.2 Ontario Securities Commission Rule 45-501 Exempt Distributions

ONTARIO SECURITIES COMMISSION RULE 45-501
EXEMPT DISTRIBUTIONS

PART 1 DEFINITIONS

1.1 Definitions - In this Rule

"accredited investor" means

(a) a bank listed in Schedule I or II of the Bank Act (Canada), or an authorized foreign bank listed in Schedule III of that Act;

(b) the Business Development Bank incorporated under the Business Development Bank Act (Canada);

(c) a loan corporation or trust corporation registered under the Loan and Trust Corporations Act or under the Trust and Loan Companies Act (Canada), or under comparable legislation in any other jurisdiction;

(d) a co-operative credit society, credit union central, federation of caisses populaires, credit union or league, or regional caisse populaire, or an association under the Cooperative Credit Associations Act (Canada), in each case, located in Canada;

(e) a company licensed to do business as an insurance company in any jurisdiction;

(f) a subsidiary entity of any person or company referred to in paragraph (a), (b), (c), (d) or (e), where the person or company owns all of the voting shares of the subsidiary entity;

(g) a person or company registered under the Act or securities legislation in another jurisdiction as an adviser or dealer, other than a limited market dealer;

(h) the government of Canada or of any jurisdiction, or any crown corporation, instrumentality or agency of a Canadian federal, provincial or territorial government;

(i) any Canadian municipality or any Canadian provincial or territorial capital city;

(j) any national, federal, state, provincial, territorial or municipal government of or in any foreign jurisdiction, or any instrumentality or agency thereof;

(k) a pension fund that is regulated by either the Office of the Superintendent of Financial Institutions (Canada) or a provincial pension commission or similar regulatory authority;

(l) a registered charity under the Income Tax Act (Canada);

(m) an individual who beneficially owns, or who together with a spouse beneficially own, financial assets having an aggregate realizable value that, before taxes but net of any related liabilities, exceeds $1,000,000;

(n) an individual whose net income before taxes exceeded $200,000 in each of the two most recent years or whose net income before taxes combined with that of a spouse exceeded $300,000 in each of those years and who, in either case, has a reasonable expectation of exceeding the same net income level in the current year;

(o) an individual who has been granted registration under the Act or securities legislation in another jurisdiction as a representative of a person or company referred to in paragraph (g), whether or not the individual's registration is still in effect;

(p) a promoter of the issuer or an affiliated entity of a promoter of the issuer;

(q) a spouse, parent, brother, sister, grandparent or child of an officer, director or promoter of the issuer;

(r) a person or company that, in relation to the issuer, is an affiliated entity or a person or company referred to in clause (c) of the definition of distribution in subsection 1(1) of the Act;

(s) an issuer that is acquiring securities of its own issue;

(t) a company, limited liability company, limited partnership, limited liability partnership, trust or estate, other than a mutual fund or non-redeemable investment fund, that had net assets of at least $5,000,000 as reflected in its most recently prepared financial statements;

(u) a person or company that is recognized by the Commission as an accredited investor;

(v) a mutual fund or non-redeemable investment fund that, in Ontario, distributes its securities only to persons or companies that are accredited investors;

(w) a mutual fund or non-redeemable investment fund that, in Ontario, distributes its securities under a prospectus for which a receipt has been granted by the Director or, if it has ceased distribution of its securities, has previously distributed its securities in this manner;

(x) a fully managed account if it is acquiring a security that is not a security of a mutual fund or non-redeemable investment fund;

(y) an account that is fully managed by a trust corporation registered under the Loan and Trust Corporations Act or under the Trust and Loan Companies Act (Canada), or under comparable legislation in any other jurisdiction;

(z) an entity organized outside of Canada that is analogous to any of the entities referred to in paragraphs (a) through (g) and paragraph (k) in form and function; and

(aa) a person or company in respect of which all of the owners of interests, direct or indirect, legal or beneficial, are persons or companies that are accredited investors;

"business assets" means assets owned by a person or company which have been used in connection with a business carried on by that person or company;

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

(a) shares are subject to restrictions on transfer requiring the approval of either the board of directors or the shareholders of the issuer (or the equivalent in a non-corporate issuer) contained in constating documents of the issuer or one or more agreements among the issuer and holders of its shares; and

(b) outstanding securities are beneficially owned, directly or indirectly, by not more than 35 persons or companies, exclusive of

(i) persons or companies that are, or at the time they last acquired securities of the issuer were, accredited investors;

(ii) current or former directors or officers of the issuer or of an affiliated entity of the issuer; and

(iii) current or former employees of the issuer or of an affiliated entity of the issuer, or current or former consultants as defined in MI 45-105, who in each case beneficially own only securities of the issuer that were issued as compensation by, or under an incentive plan of, the issuer or an affiliated entity of the issuer;

provided that:

(A) two or more persons who are the joint registered holders of one or more securities of the issuer shall be counted as one beneficial owner of those securities; and

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

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

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

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

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

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

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

"government incentive security" means

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

(b) a unit or interest in a partnership or joint venture that is issued in order to fund Canadian exploration expense as defined in subsection 66.1(6) of the ITA or Canadian development expense as defined in subsection 66.2(5) of the ITA or Canadian oil and gas property expense as defined in subsection 66.4(5) of the ITA;

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

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

"MI 45-105" means Multilateral Instrument 45-105 *Trades to Employees, Senior Officers, Directors, and Consultants*;
"portfolio adviser" means

(a) a portfolio manager; or

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

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

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

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

"Type 1 trade" means a trade in a security under an exemption from the prospectus requirement in clause 72(1)(a), (b), (c), (d), (l), (m), (p) or (q) of the Act, or section 2.3, 2.12, 2.13, 2.14 or 2.16 of this Rule, or section 2.4, 2.5 or 2.11 of the Previous Rule;

"Type 2 trade" means a trade in a security under an exemption from the prospectus requirement in clause 72(1)(f) (other than a trade to an associated consultant or investor consultant as defined in Rule 45-503 *Trades to Employees, Executives and Consultants* or a trade to an associated consultant or investor relations person as defined in MI 45-105), (h), (i), (j), (k) or (n) of the Act, or section 2.5, 2.8 or 2.15 of this Rule; and

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

1.2 Interpretation

(1) In this Rule a person or company is considered to be an affiliated entity of another person or company if one is a subsidiary entity of the other, or if both are subsidiary entities of the same person or company, or if each of them is controlled by the same person or company.

(2) In this Rule a person or company is considered to be controlled by a person or company if

(a) in the case of a person or company,

(i) voting securities of the first-mentioned person or company carrying more than 50 percent of the votes for the election of directors are held, otherwise than by way of security only, by or for the benefit of the other person or company, and

(ii) the votes carried by the securities are entitled, if exercised, to elect a majority of the directors of the first-mentioned person or company;

(b) in the case of a partnership that does not have directors, other than a limited partnership, the second-mentioned person or company holds more than 50 percent of the interests in the partnership; or

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

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

(a) it is controlled by,

(i) that other, or

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

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

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

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

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

(1) Sections 25 and 53 of the Act do not apply to a trade in a security of an issuer if

(a) in the case of a trade by the issuer, following the trade, the issuer will be a closely-held issuer; or in the case of a trade by a selling security holder, the selling security holder has, upon reasonable inquiry, no grounds to believe that following the trade the issuer will not be a closely-held issuer;

(b) in the case of a trade by the closely-held issuer, following the trade the aggregate proceeds received by the closely-held issuer, and any other issuer engaged in common enterprise with the closely-held issuer, in connection with trades made in reliance upon this exemption will not exceed $3,000,000; and

(c) no selling or promotional expenses are paid or incurred in connection with the trade, except for services performed by a dealer registered under the Act.

(2) If a trade is made under subsection 2.1(1), the seller shall provide an information statement substantially similar to Form 45-501F3 to the purchaser of the security at least four days prior to the date of the trade unless, following the trade, the issuer will have not more than five beneficial holders of its securities.

2.2 Exemption for a Trade in a Variable Insurance Contract

(1) Sections 25 and 53 of the Act do not apply to a trade by a company licensed under the Insurance Act in a variable insurance contract that is

(a) a contract of group insurance;

(b) a whole life insurance contract providing for the payment at maturity of an amount not less than three quarters of the premiums paid up to age 75 for a benefit payable at maturity;

(c) an arrangement for the investment of policy dividends and policy proceeds in a separate and distinct fund to which contributions are made only from policy dividends and policy proceeds; or

(d) a variable life annuity.

(2) For the purposes of subsection (1), "contract", "group insurance", "life insurance" and "policy" have the respective meanings ascribed to them by sections 1 and 171 of the Insurance Act.

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

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

(1) Section 53 of the Act does not apply to a trade that is a control person distribution in a security that was acquired under a formal bid as defined in Part XX of the Act, if

(a) the offeree issuer had been a reporting issuer for at least 12 months at the date of the bid;

(b) subject to subsection (2), the intention to make the trade was disclosed in the take-over bid circular for the take-over bid;

(c) the trade is made within the period commencing on the date of the expiry of the bid and ending 20 days after that date;

(d) a notice of intention and a declaration prepared in accordance with Form 45-102F3 are filed by the seller before the trade;

(e) an insider report prepared in accordance with Form 55-102F2 or Form 55-102F6, as applicable, is filed by the seller within three days after the completion of the trade; and

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

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

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

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

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

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

(b) the exchange issuer has delivered to the Commission information relating to the underlying security that is satisfactory to and accepted by the Commission.

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

(a) an amalgamation, merger, reorganization, arrangement or other statutory procedure;

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

(c) a court-approved reorganization under bankruptcy or insolvency legislation.

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

(a) there is no published market as defined in Part XX of the Act in respect of the security;

(b) the aggregate acquisition cost to the purchaser is not more than $25,000; and

(c) each written notice to the public soliciting offers for the security or giving notice of the intended auction of the security is accompanied by a statement substantially as follows:

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

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

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

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

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

(a) the purchaser purchases as principal;

(b) either (i) the security has an aggregate acquisition cost to the purchaser of not less than $150,000 or (ii) the security is issued by a mutual fund or non-redeemable investment fund in which the purchaser then owns securities having either an aggregate acquisition cost or an aggregate net asset value of not less than $150,000; and

(c) the mutual fund or non-redeemable investment fund is managed by a portfolio adviser or by a portfolio manager resident in a jurisdiction and registered or exempt from registration under securities legislation of that jurisdiction or a trust corporation registered or authorized to carry on business under the Loan and Trust Corporations Act or under the Trust and Loan Companies Act (Canada), or under comparable legislation in any other jurisdiction

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

(a) the purchaser purchases as principal;

(b) the security has an aggregate acquisition cost to the purchaser of not less than $150,000; and

(c) the mutual fund or non-redeemable investment fund is managed by a person or company, not ordinarily resident in Ontario, to whom the adviser registration requirement does not apply pursuant to Part 7 of Rule 35-502 *Non-Resident Advisers*.

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

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

(a) in the aggregate in all jurisdictions, not more than 75 prospective purchasers are solicited resulting in sales to not more than 50 purchasers;

(b) before entering into an agreement of purchase and sale, the prospective purchaser has been supplied with an offering memorandum that includes information

(i) identifying every officer and director of the issuer,

(ii) identifying every promoter of the issuer,

(iii) giving the particulars of the professional qualifications and associations during the five years before the date of the offering memorandum of each officer, director and promoter of the issuer that are relevant to the offering,

(iv) indicating each of the directors that will be devoting his or her full time to the affairs of the issuer, and

(v) describing the right of action referred to in section 130.1 of the Act that is applicable in respect of the offering memorandum;

(c) the prospective purchaser has access to substantially the same information concerning the issuer that a prospectus filed under the Act would provide and

(i) because of net worth and investment experience or because of consultation with or advice from a person or company that is not a promoter of the issuer and that is an adviser or dealer registered under the Act, is able to evaluate the prospective investment on the basis of information about the investment presented to the prospective purchaser by the issuer or selling securityholder, or

(ii) is a senior officer or director of the issuer or of an affiliated entity of the issuer or a spouse or child of any director or senior officer of the issuer or of an affiliated entity of the issuer,

(d) the offer and sale of the security is not accompanied by an advertisement and no selling or promotional expenses have been paid or incurred for the offer and sale, except for professional services or for services performed by a dealer registered under the Act; and

(e) the promoter, if any, has not acted as a promoter of any other issue of securities under this exemption within the calendar year.

(2) For the purpose of determining the number of purchasers or prospective purchasers under paragraph (1)(a), a corporation, partnership, trust or other entity shall be counted as one purchaser or prospective purchaser unless the entity has been created or is being used primarily for the purpose of purchasing a security of the issuer, in which event each beneficial owner of an equity interest in the entity or each beneficiary of the entity, as the case may be, shall be counted as a separate purchaser or prospective purchaser.

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

2.15 Exemption for a Trade in a Security from an Offeree outside Ontario - Sections 25 and 53 of the Act do not apply to a trade in a security to a person or company pursuant to an offer to acquire made by that person or company that would have been a take-over bid or issuer bid if the offer to acquire was made to a security holder in Ontario.

2.16 Exemption for a Trade in a Security as Consideration for the Purchase of Business Assets with a Prescribed Fair Value - Sections 25 and 53 of the Act do not apply to a trade by an issuer in a security of its own issue as consideration for the purchase of business assets from a person or company, if the fair value of the business assets so purchased is not less than $100,000.

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

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

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

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

3.4 Removal of Registration Exemptions for Market Intermediaries

(1) The exemptions from the registration requirement in sections 2.1, 2.2, 2.3, 2.5, 2.6, 2.7, 2.8, 2.9, 2.12, 2.13, 2.14, 2.15 and 2.16 are not available to a market intermediary.

(2) A limited market dealer may act as a market intermediary in respect of a trade referred to in subsection (1).

PART 4 OFFERING MEMORANDUM

4.1 Application of Statutory Right of Action - The right of action referred to in section 130.1 of the Act shall apply in respect of an offering memorandum delivered to a prospective purchaser in connection with a trade made in reliance upon an exemption from the prospectus requirement in section 2.1, 2.3, 2.12 or 2.13.

4.2 Description of Statutory Right of Action in Offering Memorandum - If the seller delivers an offering memorandum to a prospective purchaser in connection with a trade made in reliance upon an exemption from the prospectus requirement in section 2.1, 2.3, 2.12 or 2.13, the right of action referred to in section 130.1 of the Act shall be described in the offering memorandum.

4.3 Delivery of Offering Memorandum to Commission - If an offering memorandum is provided to a purchaser of securities in respect of a trade made in reliance upon an exemption from the prospectus requirement in section 2.1, 2.3, 2.12 or 2.13, the seller shall deliver to the Commission a copy of the offering memorandum or any amendment to a previously filed offering memorandum on or before 10 days of the date of the trade.

PART 5 DEALER REGISTRATION

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

PART 6 RESTRICTIONS ON RESALE OF SECURITIES DISTRIBUTED UNDER CERTAIN EXEMPTIONS

6.1 Resale of a Security Distributed to a Promoter Under Certain Exemptions - If a security of an issuer is distributed to a promoter of the issuer under an exemption from the prospectus requirement in section 2.1, 2.3, 2.12, 2.13, 2.14, 2.15 or 2.16, the first trade in that security by that promoter is a distribution unless the conditions in subsection (2) or (3) of section 2.8 of MI 45-102 are satisfied.

6.2 Resale of a Security Distributed under Section 2.1 or 2.15 - If a security is distributed under the exemption from the prospectus requirement in section 2.1 or 2.15, the first trade in that security, other than a trade referred to in section 6.1, is subject to section 2.6 of MI 45-102.

6.3 Resale of a Security Distributed under Section 2.3, 2.12, 2.13, 2.14 or 2.16 - If a security is distributed under an exemption from the prospectus requirement in section 2.3, 2.12, 2.13, 2.14 or 2.16, the first trade in that security, other than a trade referred to in section 6.1, is subject to section 2.5 of MI 45-102.

6.4 Resale of a Security Distributed under Clause 72(1)(h) of the Act - If a security is distributed under the exemption from the prospectus requirement in clause 72(1)(h) of the Act, the first trade in that security, other than a trade to which section 6.5 applies, is subject to section 2.6 of MI 45-102.

6.5 Resale of an Underlying Security of a Multiple Convertible Security, Convertible Security or Exchangeable Security Distributed under Certain Exemptions - If an underlying security is distributed under an exemption from the prospectus requirement on conversion or exchange of a multiple convertible security, convertible security or exchangeable security acquired in a Type 1 trade, the first trade in that underlying security is subject to section 2.5 of MI 45-102.

6.6 Resale of a Security Distributed under Section 2.6 or 2.7 - If an underlying security is distributed under an exemption from the prospectus requirement in section 2.6 or 2.7 on a forced conversion or exchange of a multiple convertible security, convertible security or exchangeable security acquired

(a) in a Type 2 trade;

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

(c) under an exemption from the prospectus requirement in Part 2 of MI 45-105;

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

6.7 Resale of a Security Distributed under Section 2.5 or 2.8 - If a security is distributed under an exemption from the prospectus requirement in section 2.5 or 2.8, the first trade in that security is subject to section 2.6 of MI 45-102.

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

PART 7 FILING REQUIREMENTS

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

7.2 Form 45-501F2

[deleted]

7.3 [deleted]

7.4 [deleted]

7.5 Exempt Trade Reports

(1) Subject to subsections (7) and (8), if a trade is made in reliance upon an exemption from the prospectus requirement in section 2.3, 2.13, 2.14 or 2.16, other than

(a) a trade to a person or company referred to in paragraphs (p) through (s) of the definition of "accredited investor" in section 1.1, or

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

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

(2) **[deleted]**

(3) If a trade is made in reliance upon the conditions in subsection (2) or (3) of section 2.8 of MI 45-102 being satisfied, the seller shall comply with the requirements of subsections (4) to (7) of that section.

(4) **[deleted]**

(5) **[deleted]**

(6) **[deleted]**

(7) A report is not required under subsection (1) where, by a trade under section 2.3, a person or company referred to in paragraph (a), (b), (c) or (d) of section 1.1 acquires from a customer an evidence of indebtedness of the customer or an equity investment in the customer acquired concurrently with an evidence of indebtedness.

(8) Despite subsection (1), a report in respect of a trade in a security of a mutual fund or non-redeemable investment fund made in reliance upon the exemption from the prospectus requirement in section 2.3 may be filed not later than 30 days after the financial year end of the mutual fund or non-redeemable investment fund.

7.6 Fees for Accredited Investor Application

[deleted]

7.7 Report of a Trade Made under Section 2.12 - If a trade is made in reliance upon an exemption from the prospectus requirement in section 2.12, the issuer shall, not later than thirty days after the financial year end of the issuer in which the trade occurred, file a report, in duplicate, prepared in accordance with Form 45-501F1.

PART 8 TRANSITIONAL PROVISIONS

8.1 Accredited Investor Definition Includes Exempt Purchaser - The definition of "accredited investor" in section 1.1 includes, prior to November 30, 2002, a person or company that is recognized by the Commission as an exempt purchaser.

8.2 Resale of a Security Distributed under Section 2.4, 2.5 or 2.11 of the Previous Rule - If a security was distributed under an exemption from the prospectus requirement in section 2.4, 2.5 or 2.11 of the Previous Rule, the first trade in that security is subject to section 2.5 of MI 45-102.

8.3 Resale of an Underlying Security of a Multiple Convertible Security, Convertible Security or Exchangeable Security Distributed under Certain Exemptions in the Previous Rule - If an underlying security was distributed on conversion or exchange of a multiple convertible security, convertible security or exchangeable security acquired in a distribution under an exemption from the prospectus requirement in section 2.4, 2.5 or 2.11 of the Previous Rule, the first trade in that underlying security is subject to Section 2.5 of MI 45-102.

8.4 Resale of a Security Distributed to a Promoter under Section 2.3 or 2.15 of the Previous Rule - If a security was distributed to a promoter under an exemption from the prospectus requirement in section 2.3 or 2.15 of the Previous Rule, the first trade in that security is a distribution unless the conditions in subsection (2) or (3) of section 2.8 of MI 45-102 are satisfied.

8.5 Resale of a Security Distributed under Section 2.9 or 2.10 of the Previous Rule - If an underlying security was distributed under an exemption from the prospectus requirement in section 2.9 or 2.10 of the Previous Rule on a forced conversion or exchange of a multiple convertible security, convertible security or exchangeable security acquired by the holder in a Type 2 trade, the first trade in that underlying security is subject to section 2.6 of MI 45-102.

8.6 Resale of a Security Distributed under Section 2.7, 2.8 or 2.17 or Subsection 2.18(1) of the Previous Rule - If a security was distributed under an exemption from the prospectus requirement in section 2.7, 2.8 or 2.17 of the Previous

Rule, or in subsection 2.18(1) of the Previous Rule after the issuer had ceased to be a private issuer for purposes of the Securities Act (British Columbia), the first trade in that security is subject to section 2.6 of MI 45-102.

PART 9 EXEMPTION

9.1 Exemption - The Director may grant an exemption to Part 7 of this Rule, in whole or in part, subject to such conditions or restrictions as may be imposed in the exemption in response to an application.

PART 10 EFFECTIVE DATE

10.1 Effective Date - This instrument shall come into force on January 12, 2004.

FORM 45-501F1

Securities Act (Ontario)

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

(To be used for reports of trades made in reliance upon
clause 72(1)(b) or (q) of the Act, or Section 2.3, 2.12, 2.13, 2.14 or 2.16 of Rule 45-501)

1. **Full name and address of the seller.**

2. **Full name and address of the issuer of the securities traded.**

3. **Description of the securities traded.**

4. **Date of the trade(s).**

5. **Particulars of the trade(s).**

Name of Purchaser and Municipality and Jurisdiction of Residence	Amount or Number of Securities Purchased	Purchaser Price per unit	Total Purchase Price (Canadian $)	Exemption Relied Upon

6. **The seller has prepared and certified a statement containing the full legal name and the full residential address of each purchaser identified in section 5 and a certified true copy of the list will be provided to the Commission upon request.**

7. **State the name and address of any person acting as agent in connection with trade(s) and the compensation paid or to be paid to such agent.**

8. **Has the seller paid a participation fee for the current financial year in accordance with Rule 13-502?**

9. **State the name (or title) and the telephone number of the person who may be contacted with respect to any questions regarding the contents of this report.**

10. **Certificate of seller or agent of seller.**

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

DATED at

this day of , 20___.

(Name of seller or agent - please print)

(Signature)

(Official capacity - please print)

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

Notice - Collection and Use of Personal Information

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

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

Instructions

1. In answer to section 7 give the name of the person or company who has been or will be paid remuneration directly related to the trade(s), such as commissions, discounts or other fees or payments of a similar nature. It is not necessary to include payments for services incidental to the trade such as clerical, printing, legal or accounting services.

2. If the space provided for any answer is insufficient, additional sheets may be used and must be cross-referred to the relevant item and properly identified and signed by the person whose signature appears on the report. Note that issuers may file one Form 45-501F1 for a specific transaction that includes the required information for multiple purchasers.

3. If the seller has not paid a participation fee for the current financial year, or if this form is filed late, a fee may be payable under Rule 13-502. Otherwise, no fee is payable to the Commission in connection with the filing of this form. Cheques must be made payable to the Ontario Securities Commission.

4. Please print or type and file two signed copies with:

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

FORM 45-501F2

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

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FORM 45-501F3
FORM OF INFORMATION STATEMENT

Introduction

Ontario securities laws have been relaxed to make it easier for small businesses to raise start-up capital from the public. Some potential investors may view this change in securities laws as an opportunity to "get in on the ground floor" of emerging businesses and to "hit it big" as these small businesses grow into large ones.

Statistically, most small businesses fail within a few years. Small business investments are among the most risky that investors can make. This information statement suggests matters for you to consider in deciding whether to make a small business investment.

Risks and Investment Strategy

A basic principle of investing in a small business is: **NEVER MAKE A SMALL BUSINESS INVESTMENT THAT YOU CANNOT AFFORD TO LOSE IN ITS ENTIRETY**. Never use funds that might be needed for other purposes, such as a post-secondary education, retirement, loan repayment or medical expenses, and never borrow money to make such an investment. Instead use funds that you already have set aside and that otherwise would be used for a consumer purchase, such as a vacation.

Never believe that the investment is not risky. Among other risk factors, small business investments generally are highly illiquid. In particular, until the company goes public there are significant restrictions on the resale of its securities. Even after a small business goes public there may be very little liquidity in its shares. This lack of liquidity means that, if the company takes a turn for the worse or if you suddenly need the funds you have invested in the company, you may not be able to sell your securities.

Also, it is important to realize that, just because the proposed offering of securities is permitted under Ontario securities law does not mean that the particular investment will be successful. Neither the Ontario Securities Commission nor any other government agency evaluates or endorses the merits of investments.

Analyzing the Investment

Although there is no magic formula for making successful investment decisions, certain factors are often considered particularly important by professional venture investors. Some questions to consider are as follows:

1. How long has the company been in business?

2. Is management putting itself in a position where it will be accountable to investors? For example, is management taking salaries or other benefits that are too large in light of the company's stage of development? Will outside investors have any voting power to elect representatives to the board of directors?

3. How much experience does management have in the industry and in operating a small business? How successful were the managers in previous businesses?

4. Do you know enough about the industry to be able to evaluate the company and make a wise investment?

5. Does the company have a realistic business plan? Does it have the resources to successfully market its product or service?

6. How reliable is the financial information, if any, that has been provided to you? Is the information audited?

7. Is the company subject to any lawsuits?

8. What are the restrictions on the resale of the securities?

There are many other questions to be answered, but you should be able to answer these before you consider investing. If you have not been provided with the information you need to answer these and any other questions you may have about the proposed investment, make sure that you obtain the information you need from people authorized to speak on the company=s behalf (*e.g.*, management or the directors) before you advance any funds or sign any commitment to advance funds to the company. It is generally a good idea to meet with management of the company face-to-face.

Making Money on Your Investment

There are two classic methods for making money on an investment in a small business: (1) through resale of the securities in the public securities markets following a public offering; and (2) by receiving cash or marketable securities in a merger or other acquisition of the company.

If the company is the type that is not likely to go public or be acquired within a reasonable time (*i.e.*, a family-owned or closely-held corporation), it may not be a good investment for you irrespective of its prospects for success because of the lack of opportunity to cash in on the investment. Management of a successful private company may receive a return indefinitely through salaries and bonuses but it is unlikely that there will be profits sufficient to pay dividends commensurate with the risk of the investment.

Conclusion

When successful, small businesses enhance the economy and provide jobs for its citizens. They also provide investment opportunities. However, an opportunity to invest must be considered in light of the inherently risky nature of small business investments.

In considering a small business investment, you should proceed with caution and make an informed investment decision based on your circumstances and expectations. Above all, never invest more than you can afford to lose.

COMPANION POLICY 45-501CP
TO ONTARIO SECURITIES COMMISSION RULE 45-501
EXEMPT DISTRIBUTIONS

PART 1 PURPOSE AND DEFINITIONS

1.1 Purpose - This policy statement sets forth the views of the Commission as to the manner in which certain provisions of the Act and the rules relating to the exemptions from the prospectus and registration requirements are to be interpreted and applied.

1.2 Definitions - In this Policy, "private placement exemptions" means the prospectus and registration exemptions available for

sales of securities of closely-held issuers under section 2.1 of Rule 45-501; and

sales of securities to accredited investors under section 2.3 of Rule 45-501.

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

2.1 Interaction of Private Placement Exemptions - The Commission recognizes that a seller of securities may, in connection with any distribution of securities, rely concurrently on more than one private placement exemption. The Commission notes that where the seller is paying or incurring selling or promotional expenses in connection with the distribution, other than for the services of a dealer registered under the Act, the seller may not be able to rely on the exemption in section 2.1. The Commission takes the view that expenses incurred in connection with the preparation and delivery of an offering memorandum do not constitute selling or promotional expenses in this context.

2.2 Accredited Investor Exemption

(1) Paragraph (m) of the "accredited investor" definition in section 1.1 of Rule 45-501 refers to an individual who beneficially owns, or who together with a spouse beneficially own, financial assets having an aggregate net realizable value that, before taxes but net of any related liabilities, exceeds $1,000,000. As a general matter, it should not be difficult to determine whether financial assets are beneficially owned by an individual, an individual's spouse, or both, in any particular instance. However, financial assets held in a trust or in other types of investment vehicles for the benefit of an individual may raise questions as to whether the individual beneficially owns the financial assets in the circumstances. The Commission is of the view that the following factors are indicative of beneficial ownership of financial assets:

(a) physical or a constructive possession of evidence of ownership of the financial asset;

(b) entitlement to receipt of any income generated by the financial asset;

(c) risk of loss of the value of the financial asset; and

(d) the ability to dispose of the financial asset or otherwise deal with it as the individual sees fit.

By way of example, securities held in a self-directed RRSP for the sole benefit of an individual would be beneficially owned by that individual. In general, financial assets in a spousal RRSP would also be included for purposes of the threshold test because paragraph (m) takes into account financial assets owned beneficially by a spouse. However, financial assets held in a group RRSP under which the individual would not have the ability to acquire the financial assets and deal with them directly would not meet this beneficial ownership requirement.

(2) The Commission notes that paragraphs (m) and (n) of the "accredited investor" definition are designed to treat spouses as an investing unit such that either spouse may qualify as an accredited investor if both spouses, taken together, beneficially own the requisite amount of financial assets or earn the requisite net income. As well, it is the Commission's view that the financial asset test and the net income test prescribed in paragraphs (m) and (n), respectively, are to be applied only at the time of the trade such that there is no obligation on the seller to monitor the purchaser's continuing qualification as an accredited investor after the completion of the trade. Furthermore, the Commission considers that the references to "years" and "current year" in paragraph (n) mean calendar years or current calendar year, as applicable. Finally, the Commission notes that the monetary thresholds in paragraphs (m) and (n) are intended to create "bright-line" standards. Investors who do not satisfy the monetary thresholds in paragraphs (m) and (n) do not qualify as accredited investors under those paragraphs.

(3) Paragraph (q) of the "accredited investor" definition refers to certain family members of an officer or director of the issuer. The Commission notes that officers and directors of an issuer or its affiliated entities are, in effect, treated as accredited investors under Multilateral Instrument 45-105 *Trades to Employees, Senior Officers, Directors, and Consultants*.

(4) Paragraph (t) of the "accredited investor" definition establishes a net asset threshold of at least $5,000,000 for certain types of entity, as reflected in the entity's "most recently prepared financial statements". The Commission takes the view that these financial statements must be prepared in accordance with applicable generally accepted accounting principles.

2.3 Closely-Held Issuer Exemption

(1) The definition of "closely-held issuer" contains two principal criteria.

Paragraph (a) of the definition requires restrictions on the transfer of its shares to be contained in the issuer's constating documents or in one or more agreements among the issuer and its shareholders. Accordingly, to qualify to use the exemption, the issuer must include share transfer restrictions either in its articles or by-laws, or in one or more agreements with all of its shareholders.

Paragraph (b) of the definition requires the issuer to have 35 or fewer securityholders, exclusive of

- accredited investors,
- current or former directors or officers of the issuer, and
- current or former employees or consultants of the issuer who do not own securities of the issuer other than securities *"issued as compensation by, or under an incentive plan of, the issuer"*.

The Commission confirms that

current and former directors and officers are excluded regardless of the manner in which they acquired their securities of the issuer, and

- securities issued as an incentive on a "one-off" basis, i.e. not under an incentive plan, are securities issued as compensation by the issuer.
- The Commission also notes that the definition does not require the 35 securityholder limit to be included in the articles, by-laws or agreements.

(2) The exemption in section 2.1 relating to securities of closely-held issuers is available to

- a closely-held issuer itself in respect of an issue of its own securities, and
- any holder of a closely-held issuer's securities in respect of a resale of the securities.

A closely-held issuer may issue its own securities in reliance upon the exemption in section 2.1 so long as it is able to meet the criteria for the availability of the exemption in paragraphs (a), (b) and (c) of subsection 2.1(1). In particular, under paragraph (b), a closely-held issuer may no longer use the closely-held issuer exemption once it has received aggregate proceeds of $3,000,000 from trades made in reliance upon the exemption.

A holder of securities of a closely-held issuer may rely upon the exemption in section 2.1 in connection with any resale of the securities if paragraphs (a) and (c) of subsection 2.1(1) are satisfied. Paragraph 2.1(1)(b) does not apply to resales of securities in reliance upon this exemption.

Paragraph (a) of subsection 2.1(1) requires the issuer to continue to be a closely-held issuer after the resale. However, it is noted that the issuer does not cease to be a closely-held issuer solely because it has raised $3,000,000 in aggregate proceeds using the exemption. This is a separate requirement under paragraph (b) of subsection 2.1(1) which, as noted above, does not have to be satisfied to effect an exempt resale.

Paragraph (c) of subsection 2.1(1) requires that *"no selling or promotional expenses are paid or incurred in connection with the trade, except for services performed by a dealer registered under the Act"*. The Commission notes that paragraph (c) is not intended to prohibit legitimate selling or promotional expenses,

such as printing, mailing and other administrative or *de mimimis* expenses incurred in connection with the trade.

(3) The Commission notes that a closely-held issuer will generally be in a position to facilitate the use of the exemption in section 2.1 for the resale of its securities by limiting the number of its security holders through, among other things, use of the share transfer restrictions in its constating documents or in an agreement with its shareholders. Once the issuer no longer meets the closely-held issuer definition, a resale of securities distributed under the exemption in section 2.1 may only be made in reliance upon another exemption or by complying with the applicable provision of Multilateral Instrument 45-102 *Resale of Securities* ("MI 45-102").

(4) The Commission notes that the limitation on the use of the closely-held issuer exemption in paragraph (b) of subsection 2.1(1), which refers to aggregate proceeds of $3,000,000, is based on the aggregate of all proceeds received by the issuer at any time from trades made in reliance upon the closely-held issuer exemption since it was introduced in November 2001. Proceeds received by the issuer from trades made in reliance upon other exemptions, including exemptions available prior to the date when the closely-held issuer exemption first became available, are not relevant. In particular, the proceeds realized by the issuer from trades to accredited investors need not be included in determining whether the $3,000,000 threshold would be exceeded in respect of any proposed trade under section 2.1. However, if the issuer has not filed a report on Form 45-501F1 in respect of a trade with an accredited investor where such a filing is required, it will be presumed that the trade was made in reliance upon section 2.1, in which case the proceeds of that trade must be counted for purposes of the aggregate proceeds limit.

(5) The Commission notes that the term "common enterprise" in paragraph (b) of subsection 2.1(1) is intended to operate as an anti-avoidance mechanism to the extent that multiple business entities are organized for the purposes of financing what is essentially a single business enterprise in order to benefit from continued or excessive use of the closely-held issuer exemption. The Commission takes the view that commonality of ownership combined with commonality of business plans will be particularly indicative of a "common enterprise".

(6) The Commission considers that the reference to "the date of the trade" for purposes of the information statement delivery requirement in subsection 2.1(2) means the settlement date or closing date of the trade, as applicable.

(7) The Commission notes that there are steps that an issuer may take to ensure that it qualifies under both the closely-held issuer exemption in Ontario and the private company exemption, which used to exist in Ontario and remains in a similar form in other Canadian jurisdictions. The closely-held issuer exemption broadens the scope of potential investors to include members of the public. Issuers that wish to utilize the full scope of the closely-held issuer exemption would not prohibit invitation to the public in their constating documents. However, such issuers may be precluded from using the private company exemption under securities legislation in other Canadian jurisdictions. Accordingly, issuers that find themselves in this position may wish to consider various alternatives including the following:

1. An issuer that plans to use the closely-held issuer exemption in Ontario and to rely concurrently on the private company exemption in other Canadian jurisdictions may wish to maintain or include in its constating documents a provision prohibiting the issuer from offering its securities to the public. The issuer will thus be able to utilize the private company exemption in other Canadian jurisdictions and will be able to rely on the closely-held issuer exemption in Ontario, albeit only for offerings to investors who are not members of "the public".

2. An issuer that wishes to utilize the full scope of the closely-held issuer exemption in Ontario, i.e., by offering its securities without regard to the concept of "the public", may be precluded from using the private company exemption in other Canadian jurisdictions, and as such, may wish to consider pursuing other exemptions in those jurisdictions.

2.4 "Transitional" Pooled Fund Exemption

(1) Prior to the implementation of Rule 45-501 on November 30, 2001, the Commission granted numerous rulings under subsection 74(1) of the Act providing exemptive relief from the prospectus and registration requirements to pooled fund issuers in respect of, among other things, the sale of additional pooled fund interests to investors that previously purchased pooled fund interests under an exemption. In general, these rulings contained a "sunset" provision stating that the ruling would terminate following the adoption of a rule regarding trades in securities of pooled funds.

Rule 45-501 contains a "transitional" exemption in section 2.12 that exempts the sale of securities of a private pooled fund to an investor acquiring at least $150,000 of such securities and, if the fund's adviser is registered under the Act, the sale of additional securities of the same fund to such an investor. The Commission considers that this transitional pooled fund exemption, together with the accredited investor exemption in section 2.3 of Rule 45-501 which exempts sales of securities to certain types of accredited investors, provide adequate transitional relief from the prospectus and registration requirements for trades in pooled fund interests to investors. OSC Rule 81-501 *Mutual Fund Reinvestment Plans* also continues to apply to securities of pooled funds that are issued to investors under reinvestment plans whereby distributions of income, capital or capital gains to investors are reinvested in additional securities of that pooled fund. Accordingly, the Commission takes the view that the rulings described above expire upon implementation of Rule 45-501. The Commission considers that section 2.12 is a "transitional" exemption that maintains the status quo for pooled funds until such time as the Commission determines the appropriate regulatory regime for pooled funds.

(2) The Commission notes that the term "pooled fund" is not a defined term under Ontario securities law. The term "pooled fund" is usually considered to include non-redeemable investment funds and mutual funds that are not reporting issuers. Non-redeemable investment funds and mutual funds are defined terms. As defined in Rule 14-501 *Definitions*, a "non-redeemable investment fund" means an issuer:

(a) whose primary purpose is to invest money provided by its securityholders;

(b) that does not invest for the purpose of exercising effective control, seeking to exercise effective control, or being actively involved in the management of the issuers in which it invests, other than other mutual funds or non-redeemable investment funds; and

(c) that is not a mutual fund.

As defined in the Act, a "mutual fund" includes an issuer of securities that entitle the holder to receive on demand, or within a specified period after demand, an amount computed by reference to the value of a proportionate interest in the whole or in a part of the net assets, including a separate fund or trust account, of the issuer of the securities.

(3) The Commission notes that section 2.12 of the Rule provides, in subsection 2.12(1), automatic top-up relief for funds managed by a portfolio adviser or a trust corporation but, in subsection 2.12(2), does not provide the same relief with respect to funds managed by a person or company relying on Part 7 of Rule 35-502 *Non-Resident Advisers*. The provision was drafted intentionally this way because the top-up relief referred to in subsection 2.12(1) had become standard relief granted by the Commission. Applications for top-up relief will be considered for exempt advisers on a case-by-case basis.

(4) The Commission notes that certain hedge funds may be eligible to rely on the exemption provided by section 2.12 while others may not be eligible. Section 2.12 applies, subject to certain conditions, to:

(a) mutual funds that are not reporting issuers; and

(b) non-redeemable investment funds that are not reporting issuers.

As noted in subsection (2) above, the term "mutual fund" is defined in the Act and a definition of non-redeemable investment fund appears in Rule 14-501 *Definitions*. Trades in hedge funds that are structured as mutual funds or non-redeemable investment funds and otherwise meet the requirements of section 2.12 may be made in reliance on the exemption in section 2.12.

(5) The Commission notes that the reference to "managed by a portfolio adviser" in paragraph 2.12(1)(c) refers to the functions that are carried out by a manager of a pooled fund and are distinguishable from the narrower portfolio management functions that are carried out by a portfolio manager or sub-adviser to a pooled fund. The exemption in section 2.12 will not be available for a pooled fund unless the manager of the pooled fund itself is registered as a portfolio adviser.

(6) The Commission notes that section 2.12 provides a prospectus and registration exemption for a trade involving an aggregate acquisition cost to the purchaser of at least $150,000. The Commission takes the view that, so long as the aggregate acquisition cost is $150,000, the exemption in section 2.12 is available despite the fact that the acquisition has taken place, in whole or in part, by way of the assumption of a liability by the purchaser.

(7) The Commission takes the view that, for the purpose of the $150,000 threshold in section 2.12, an individual may combine amounts purchased on his/her own account with amounts purchased by the individual's RRSP.

(8) The Commission notes that a pooled fund may not use the closely-held issuer exemption if it is a mutual fund or a non-redeemable investment fund.

2.5 Trades on an Amalgamation, Arrangement or Specified Statutory Procedure - Clause 72(1)(i) of the Act and section 2.8 of Rule 45-501 provide exemptions for trades in securities in connection with an amalgamation or arrangement or other statutory procedure. The Commission is of the view that the references to statute in these provisions refer to any statute of a jurisdiction or foreign jurisdiction under which the entities involved have been incorporated or created and exist or under which the transaction is taking place.

2.6 Three-Cornered Amalgamations - Certain corporate statutes permit a so-called "three-cornered merger or amalgamation" under which two companies will amalgamate or merge and security holders of the amalgamating or merging entities will receive securities of a third party affiliate of one amalgamating or merging entity. Section 2.8 of Rule 45-501 exempts these trades as the exemption applies to any trade made in connection with an amalgamation or merger.

2.7 Interpretation - The Commission takes the view that the exemptions contained in clauses (b) and (c) of section 2.8 of the Rule do not qualify or restrict the scope of the exemption in clause (a) of that section. The exemptions described in clauses (a), (b) and (c) of section 2.8 are not intended to be mutually exclusive. In some cases, more than one exemption may apply to a trade. For example, the Commission takes the view that a trade in connection with an arrangement under the *Companies' Creditors Arrangement Act* may be made in reliance on the exemptions contained in clause (a) and clause (c). Similarly, a trade in connection with a reorganization may, depending on the circumstances, be exempt both under subclause 72(1)(f)(ii) of the Act and section 2.8 of the Rule.

2.8 Exchangeable Shares – A transaction involving a procedure described in section 2.8 of Rule 45-501 (a section 2.8 transaction) may include an exchangeable share structure to achieve certain tax-planning objectives. For example, in a transaction whereby a non-Canadian company seeks to acquire a Canadian company under a plan of arrangement, an exchangeable share structure may be used to allow the Canadian shareholders of the company to be acquired to receive, in substance, shares of the non-Canadian company while avoiding the adverse tax consequences associated with exchanging shares of a Canadian company for shares of a non-Canadian company. Instead of receiving shares of the non-Canadian company directly, the Canadian shareholders receive shares of a Canadian company which, through various contractual arrangements, have economic terms and voting rights that are essentially identical to the shares of the non-Canadian company, and permit the holder to exchange such shares, at a time of the holder's choosing, for shares of the non-Canadian company.

Historically, the use of an exchangeable share structure in connection with a section 2.8 transaction has raised a question as to whether the exemptions contained in section 2.8 will be available for all trades necessary to complete the transaction. For example, in the case of the acquisition under a plan of arrangement noted above, the use of an exchangeable share structure may result in a delay of several months or even years between the date of the arrangement and the date the shares of the non-Canadian company are distributed to the former shareholders of the acquired company. As a result of this delay, some filers have questioned whether the distribution of the non-Canadian company's shares upon the exercise of the exchangeable shares may still be viewed as being "in connection with" the section 2.8 transaction, and have made application for exemptive relief to address this uncertainty.

The Commission is of the view that the exemption contained in section 2.8 is available for all trades which are necessary to complete an exchangeable share transaction involving a procedure described in section 2.8, even where such trades may occur several months or years after the transaction. In the case of the acquisition noted above, the Commission notes that the investment decision of the shareholders of the acquired company at the time of the arrangement ultimately represented a decision to exchange their shares for shares of the non-Canadian company. The distribution of such shares upon the exercise of the exchangeable shares does not represent a new investment decision but merely represents the completion of that original investment decision. Accordingly, the Commission does not believe that exemptive relief is warranted in these circumstances.

Similarly, the Commission is of the view that the exemptions in clauses 35(1)16 and 35(1)17, paragraphs 72(1)(j) and 72(1)(k), and section 2.15 of Rule 45-501, are available for all trades necessary to complete a takeover bid or an issuer bid that involves an exchangeable share structure (as described above), even where such trades may occur several months or years after the bid.

2.9 Other Exemptions - There are various other exemptions from the prospectus and registration requirements that are available to sellers of securities in prescribed circumstances, including Multilateral Instrument 45-105 *Trades to Employees, Senior Officers, Directors, and Consultants* which exempts sales of securities of an issuer to its employees

and executives, among others. The Commission notes, in particular, that certain exemptions previously contained in Rule 45-501 as it read when it was originally adopted in December 1998 are now contained in MI 45-102. Market participants engaged in the purchase and sale of securities under exemptions from the prospectus and registration requirements should read MI 45-102 together with Rule 45-501 to ensure that they have duly considered all regulatory requirements applicable to exempt distributions of securities in Ontario.

2.10 Applications for Accredited Investor Recognition - Paragraph (u) of the "accredited investor" definition in section 1.1 of Rule 45-501 contemplates that a person or company may apply to be recognized by the Commission as an accredited investor. The Commission will consider applications for accredited investor recognition submitted by or on behalf of investors that do not meet any of the other criteria for accredited investor status but that nevertheless have the requisite sophistication or financial resources. The Commission has not adopted any specific criteria for granting accredited investor recognition to applicants as the Commission believes that the "accredited investor" definition generally covers all of the types of investors that do not require the protection of the prospectus and registration requirements under the Act. Accordingly, the Commission expects that applications for accredited investor recognition will be utilized on a very limited basis. If the Commission considers it appropriate in the circumstances, it may grant accredited investor recognition to an investor on terms and conditions, including a requirement that the investor apply annually for renewal of accredited investor recognition.

2.11 Exemption for a Trade in a Security from an Offeree outside Ontario - The exemption from the prospectus and registration requirements in section 2.15 of the Rule has been adopted to extend the prospectus and registration exemptions contained in clause 72(1)(k) and paragraph 35(1)17 of the Act. These exemptions are only available for a trade in securities to a person or company making a "take-over bid" or "issuer bid" as defined in subsection 89(1) of the Act. Both of these definitions require that an offer be made to a person or company who is *in Ontario* or to any security holder of the issuer whose last address as shown on the books of the issuer is *in Ontario*. Therefore, if none of the sellers/offerees is *in Ontario*, these exemptions will not be available. Accordingly, section 2.15 provides for an exemption where there is technically no "take-over bid" or "issuer bid" in Ontario solely because there is no seller in Ontario.

2.12 Exemption for a Trade in a Security as Consideration for the Purchase of Business Assets with a Prescribed Fair Value - The exemption from the prospectus and registration requirements in section 2.16 of the Rule has been adopted to facilitate commercial transactions involving the purchase of "business assets" having a minimum fair value of $100,000 where the purchaser is issuing its own securities as consideration for the purchase. With the introduction of the exemption in section 2.16, an issuer seeking to purchase business assets using its own securities as consideration will have a prospectus exemption even though the seller acquiring the securities is not an accredited investor.

PART 3 CERTIFICATION OF FACTUAL MATTERS

3.1 Seller's Due Diligence - It is the seller's responsibility to ensure that its trades in securities are made in compliance with applicable securities laws. In the case of a seller's reliance upon exemptions from the prospectus and registration requirements, the Commission expects that the seller will exercise reasonable diligence for the purposes of determining the availability of the exemption used in any particular circumstances. The Commission will normally be satisfied that a seller has exercised reasonable diligence in relying upon a particular exemption if the seller has obtained statutory declarations or written certifications from the purchasers, unless the seller has knowledge that any facts set out in the declarations or certifications are incorrect. In circumstances where a seller has recently obtained a statutory declaration or a written certification from a purchaser with whom a further trade is being made on an exempt basis, the seller may continue to rely upon the recently obtained statutory declaration or certification unless the seller has reason to believe that the statutory declaration or certification is no longer valid in the circumstances.

PART 4 OFFERING MEMORANDA

4.1 Use of Offering Memoranda in Connection with Private Placements

(1) Part 4 of Rule 45-501 provides for the application of the statutory right of action referred to in section 130.1 of the Act if an offering memorandum is delivered to a prospective investor in connection with a trade made in reliance upon a prospectus exemption in section 2.1, 2.3, 2.12 or 2.13 of Rule 45-501. In this case, the statutory right of action must be described in the offering memorandum and a copy of the offering memorandum must be delivered to the Commission. With the exception of the government incentive security exemption in section 2.13, there is no obligation to prepare an offering memorandum for use in connection with a trade made in reliance upon the above-noted prospectus exemptions. However, business practice may dictate the preparation of offering material that is delivered voluntarily to purchasers in connection with exempt trades under section 2.1, 2.3, or 2.12. This offering material may constitute an "offering memorandum" as defined in Ontario securities law. The statutory right of rescission or damages applies when the offering

memorandum is provided mandatorily in connection with an exempt trade made under section 2.13, or voluntarily in connection with exempt trades made under section 2.1, 2.3 or 2.12, including an exempt trade made under section 2.3 to a government or financial institution that is an accredited investor. However, a document delivered in connection with a sale of securities made otherwise than in reliance upon the above-noted exemptions does not give rise to the statutory right of action or subject the seller to the requirements of Part 4.

(2) With the exception of an offering memorandum that is provided in respect of a trade in government incentive securities made under the exemption in section 2.13, Ontario securities law generally does not prescribe what an offering memorandum should contain.

(3) The Commission cautions against the practice of providing preliminary offering material to certain prospective investors before furnishing a "final" offering memorandum unless the material contains a description of the statutory right of action available to purchasers in situations when the statutory right of action applies and a description is required. The only material prepared in connection with the private placement for delivery to investors, other than a "term sheet" (representing a skeletal outline of the features of an issue without dealing extensively with the business and affairs of the issuer), should consist of an offering memorandum describing the statutory right of action and complying in all other respects with Ontario securities law.

(4) The Commission notes that, subject to *Freedom of Information and Protection of Privacy Act* requests, it is the Commission's policy that offering material delivered to the Commission under section 4.3 of the Rule will not be made available to the public.

PART 5 RESTRICTIONS ON RESALE OF SECURITIES

5.1 Incorporation of Multilateral Instrument 45-102 Resale of Securities - Parts 6 and 8 of the Rule imposes resale restrictions on the first trades in securities distributed under certain exemptions from the prospectus requirements. Different types of resale restrictions are imposed depending upon the nature of the prospectus exemption under which the securities were distributed. In each case, the applicable resale restrictions are incorporated by reference to a specific section of MI 45-102. Sellers of securities are reminded that these resale restrictions need not apply if the seller is able to rely upon another prospectus exemption in the Act or in a Commission rule in respect of the resale of the securities in question.

PART 6 COMMISSION REVIEW

6.1 Review of Offering Material - Although sellers of securities who rely upon the private placement exemptions are required to deliver to the Commission copies of offering material that they use in connection with the exempt trades if the offering material constitutes an "offering memorandum" as defined in Ontario securities law, the offering material is not generally reviewed or commented upon by Commission staff.

6.2 Other Regulatory Approvals - Given the self-policing nature of exempt distributions and the fact that offering memoranda are not routinely reviewed by Commission staff, the decision relating to the appropriate disclosure in an offering memorandum rests with the issuer, the selling securityholder and their advisors. If Commission staff becomes aware of an offering memorandum that fails to disclose material information relating to the securities that are the subject of the transaction, staff may seek to intervene to effect remedial action.

5.1.3 Multilateral Instrument 45-105 Trades to Employees, Senior Officers, Directors, and Consultants and Rule 45-801 Implementing Multilateral Instrument 45-105 Trades to Employees, Senior Officers, Directors, and Consultants

MULTILATERAL INSTRUMENT 45-105 TRADES TO EMPLOYEES, SENIOR OFFICERS, DIRECTORS, AND CONSULTANTS (THE "INSTURMENT")

– AND –

RULE 45-801 IMPLEMENTING MULTILATERAL INSTRUMENT 45-105 TRADES TO EMPLOYEES, SENIOR OFFICERS, DIRECTORS, AND CONSULTANTS (THE "IMPLEMENTING RULE")

1.1 Amendments to Part 2 of the Instrument– Part 2 of the Instrument is amended by

(a) in subsection 2.2(1), deleting paragraph (b) and substituting the following

"(b) permitted assign of a person or company referred to in paragraph (a)"

and by deleting the words "a trustee, custodian, or administrator acting on behalf of an employee, senior officer, director, or consultant of the issuer or affiliated entity of the issuer" as they appear at the end of that subsection and substituting the following

" a permitted assign of the employee, senior officer, director, or consultant."

(b) in subsection 2.4(1), adding immediately after the words "trade of a security that was acquired" the following

"on the secondary market in accordance with a plan or"

(c) in section 2.4, deleting subsection (2) and (3) and substituting the following:

"(2) The dealer registration requirement does not apply to a trade by a trustee, custodian, or administrator acting on behalf of, or for the benefit of, employees, senior officers, directors, or consultants of the issuer or an affiliated entity of the issuer, in a security of the issuer's own issue, to

(a) an employee, senior officer, director or consultant of the issuer or an affiliated entity of the issuer, or

(b) a permitted assign of a person or company referred to in paragraph (a),

if the security was acquired from

(c) an employee, senior officer, director, or consultant of the issuer or an affiliated entity of the issuer, or

(d) the permitted assign of a person referred to in paragraph (c).

(3) The prospectus requirement does not apply to a distribution in the circumstances described in subsections (1) and (2).

(4) For the purposes of the exemptions referred to in subsection (1), (2) and (3), all references to employees, senior officer, director, or consultant include a former employee, senior officer, director, or consultant."

1.2 Amendment to Part 3 of the Instrument – Part 3 of the Instrument is amended by, in section 3.2, adding the words "under Part 2 or" immediately before the words "by a person or company described in subsection 2.1(1)".

1.3 Amendment to Implementing Rule – The Implementing Rule is amended by, in section 1.3, deleting the words "section 9.1 of Rule 45-501" and substituting the following:

"section 3.1 of Multilateral Instrument 45-105."

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Chapter 7

Insider Reporting

This chapter is available in the print version of the OSC Bulletin, as well as as in Carswell's internet service 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
21-Oct-2003	Peter Paul Charitable Foundation	Active Control Technology Inc. - Common Shares	7,500.00	75,000.00
15-Oct-2003	Michael Sereny	Acuity Pooled Canadian Small Cap Fund - Trust Units	150,000.00	8,145.00
15-Oct-2003	Adair Gilmour	Acuity Pooled Conservative Asset Allocation - Trust Units	150,000.00	10,126.00
17-Oct-2003	Mary Lebler	Acuity Pooled Core Canadian Equity Fund - Trust Units	50,000.00	3,260.00
17-Oct-2003 to 22-Oct-2003	5 Purchasers	Acuity Pooled High Income Fund - Trust Units	541,600.00	32,499.00
20-Oct-2003	Delta One Northern Rivers Fund;Northern Rivers Innovation Fund LP	AltaRex Corp. - Units	153,000.00	450,000.00
21-Oct-2003	22 Purchasers	American Natural Energy Corporation - Convertible Debentures	3,505,000.00	22.00
23-Oct-2003	Ward Ferry Management Ltd.	Astro All Asia Networks pls - Shares	107,910.53	100,000.00
16-Oct-2003	12 Purchasers	Atlas Energy Ltd. - Common Shares	7,947,675.00	2,065,500.00
31-Dec-2001 to 31-Mar-2003	Northwater Capital Management Inc. and Ontario Teachers Pension Plan	Bear Stearns Asset Backed Securities Overseas, Ltd. - Shares	41,902,000.00	30,400.00
16-Oct-2003	12 Purchasers	Bioteq Environmental Technologies Inc. - Units	873,049.00	1,247,213.00
21-Oct-2003	Royal Bank of Montreal;Royal Bank of Canada	Boise Cascade Corporation - Notes	350,000.00	2.00

21-Oct-2003	Bank of Montreal	Boise Cascade Corporation - Notes	250,000.00	25,000.00
07-Oct-2003	Haywood Securities Inc. Common Shares	Breakwater Resources Ltd. -	380,000.00	1,000,000.00
30-Sep-2003	Edgestone Capital Equity Fund II Nominee;Inc.	BreconRidge Manufacturing Solutions. Corporation - Preferred Shares	5,000,000.00	11,111,111.00
31-Dec-2002 to 06-Jan-2003	20 Purchasers	Caledonia Mining Corporation - Units	2,750,000.00	11,520,000.00
16-Oct-2003	John Robinson	CardioComm Solutions Inc. - Units	150,000.00	1,071,428.00
22-Oct-2003	Susan K. Paker & Wayne Steffen	CareVest First Mortgage Investment Corporation - Preferred Shares	212,000.00	212,000.00
23-Oct-2003	Manufacturers Life Insurance;Trimark Investment Mgmt. Inc.	Carter's - Common Shares	193,800.00	10,200.00
09-Oct-2003	3 Purchasers	Clear Energy Inc. - Flow-Through Shares	2,423,600.00	584,000.00
23-Oct-2003	48 Purchasers	Coronation Minerals Inc. - Units	1,299,000.00	5,096,000.00
23-Oct-2003	29 Purchasers	Diaz Resources Ltd. - Common Shares	1,710,043.00	4,170,838.00
02-Oct-2003	Beaux Properties International Inc.	DNA Genotek Inc. - Convertible Debentures	150,000.00	1.00
06-Oct-2003	3 Purchasers	Dynamic Fuel Systems Inc. - Common Shares	28,704.00	3,377.00
28-Aug-2003	Summer World Trade Inc. and Perry Baumann	Dynamic Fuel Systems Inc. - Common Shares	69,855.00	12,701.00
26-Aug-2003	4 Purchasers	Dynamic Fuel Systems Inc. - Common Shares	100,996.00	16,438.00
02-Aug-2003	Paul E. McLaughlin	Dynamic Fuel Systems Inc. - Common Shares	999.00	1,333.00
24-May-2003	Marion Marshall and Trevor Cunningham	Dynamic Fuel Systems Inc. - Common Shares	22,282.00	29,709.00
24-Oct-2003	Trevor Cunningham	Dynamic Fuel Systems Inc. - Common Shares	5,100.00	6,800.00
08-Feb-2003	Mark Wernet	Dynamic Fuel Systems Inc. - Common Shares	12,978.00	17,305.00
17-Jan-2003	Bram Luscombe	Dynamic Fuel Systems Inc. - Common Shares	15,000.00	20,000.00
20-Nov-2002	Mohammed Haniff and Marion Marshall	Dynamic Fuel Systems Inc. - Common Shares	3,124.00	4,166.00

17-Mar-2003	Trevor Cunningham and Paul Walker	Dynamic Fuel Systems Inc. - Common Shares	5,850.00	7,800.00
18-Dec-2002	David Bryson	Dynamic Fuel Systems Inc. - Common Shares	19,950.00	26,500.00
08-Apr-2002	4 Purchasers	Dynamic Fuel Systems Inc. - Common Shares	20,654.00	27,539.00
23-Jul-2003	16 Purchasers	Dynamic Fuel Systems Inc. - Common Shares	406,367.00	73,885.00
21-Jul-2003	Trevor Cunningham and J. C. Skitch	Dynamic Fuel Systems Inc. - Common Shares	8,995.00	3,598.00
27-Jun-2003	Paul Shorten and Mireille Cummings	Dynamic Fuel Systems Inc. - Common Shares	30,000.00	15,000.00
16-May-2003	Brian Campbell and Charles Almasy	Dynamic Fuel Systems Inc. - Common Shares	7,500.00	3,000.00
18-Jul-2003	6 Purchasers	Dynamic Fuel Systems Inc. - Common Shares	40,350.00	53,800.00
21-Apr-2003	5 Purchasers	Dynamic Fuel Systems Inc. - Common Shares	126,500.00	122,000.00
11-Oct-2003	5 Purchasers	Dynamic Fuel Systems Inc. - Units	543,967.00	725,290.00
24-Oct-2003	32 Purchasers	Eastmain Resources Inc. - Units	2,682,500.00	60,700,000.00
14-Oct-2003	5 Purchasers	Energy Exploration Technologies - Shares	80,400.00	150,000.00
24-Oct-2003	Pure Energy Inc.	Energy Visions Inc. - Common Shares	1,000,000.00	3,000,000.00
24-Oct-2003	Rabih Holdings Ltd.	Energy Visions Inc. - Warrants	1,000,000.00	600,000.00
20-Oct-2003	1219410 Ontario Limited	Excalibur Limited Partnership - Limited Partnership Units	1,308,600.00	5.00
10-Oct-2003	Jay A. Lefton and David Malach	Extreme Energy Corporation - Common Shares	25,000.00	50,000.00
21-Oct-2003	G. Mark Curry	Gold Giant Ventures Inc. - Units	100,000.00	666,667.00
24-Oct-2003	Northfield Capital Corporation and Don M. Ross	Goldeye Explorations Limited - Common Share Purchase Warrant	250.00	125,000.00
24-Oct-2003	Northfield Capital Corporation and Don M. Ross	Goldeye Explorations Limited - Common Shares	49,750.00	250,000.00
16-Sep-2003	24 Purchasers	Houston Lake Mining Inc. - Units	200,000.00	500,000.00
14-Oct-2003	Cinram International Inc.	HSBC US Dollar Liquidity Fund - Units	6,616,500.00	5,012,500.00

03-Oct-2003 to 10-Oct-2003	Cinram International Inc.	HSBC US Dollar Liquidity Fund - Units	11,922,600.00	9,085,303.00
22-Oct-2003	5 Purchasers	HydraLogic Systems Inc. - Units	125,000.00	250,000.00
24-Oct-2003 to 03-Nov-2003	5 Purchasers	IMAGIN Diagnostics, Inc. - Common Shares	46,000.00	46,000.00
21-Oct-2003	3 Purchasers	International Kirkland Minerals Inc. - Units	100,000.00	2,000,000.00
23-Sep-2003	14 Purchasers	International Wayside Gold Mines Ltd. - Units	585,000.00	585.00
25-Aug-2003	31 Purchasers	Inviro Medical Inc. - Common Shares	90,360.00	75,300.00
15-Oct-2003	Isabel Meharry	Kingwest Avenue Portfolio - Units	75,000.00	3,762.00
28-Oct-2003	3 Purchasers	Lateegra Resources Corp. - Flow-Through Shares	75,000.00	150,000.00
29-Oct-2003	4 Purchasers	Laurence Development LP - Limited Partnership Units	4,650,000.00	4,650,000.00
10-Oct-2003	Canadian Broadcasting Corp.	Lombard Odier Darier Hentsch Euro Choice II (Jersey) L.P. - Limited Partnership Interest	10,000,000.00	1.00
21-Oct-2003	19 Purchasers	Lyrtech Inc. - Special Warrants	1,275,000.00	5,100,000.00
28-Oct-2003	9 Purchasers	Maple Minerals Inc. - Units	375,000.00	1,500,000.00
31-Oct-2002 to 30-Sep-2003	17 Purchasers	Marquest Balanced Fund #750 - Units	430,032.00	45,385.00
31-Oct-2002 to 30-Sep-2003	14 Purchasers	Marquest Canadian Equity Fund #650 - Units	1,217,072.00	145,759.00
31-Oct-2002 to 30-Sep-2003	13 Purchasers	Marquest Canadian Equity Growth Fund #501 - Units	951,098.00	128,164.00
02-Jul-2003 to 30-Sep-2003	4 Purchasers	Marquest Canadian Equity Large Cap Fund #701 - Units	130,175.00	12,367.00
30-Nov-2002 to 30-Sep-2003	4 Purchasers	Marquest Dividend Income Fund #850 - Units	277,500.00	26,317.00
31-Oct-2002 to 30-Sep-2003	9 Purchasers	Marquest US Equity Growth Fund #301US - Units	1,238,075.00	107,966.00
24-Oct-2003	50 Purchasers	Medbroadcast Corporation - Special Warrants	5,379,239.00	47,646,052.00

21-Oct-2003	Shepherd Investments	Metallic Ventures Inc. - Warrants	661,700.00	325,000.00
23-Oct-2003	5 Purchasers	Milagro Energy Inc. - Common Shares	1,813,500.00	1,425,000.00
24-Oct-2003	11 Purchasers	Mint Inc. - Special Warrants	335,000.00	670,000.00
17-Oct-2003	Scotia Cassels Investment Counsel Ltd.	Molson Inc. - Notes	45,000,000.00	45,000,000.00
07-Oct-2003	Diplomat Freight Services Ltd.	Mondial Aviation Corp. - Common Shares	100,000.00	386.00
22-Sep-2003	N/A	Normiska Corporation - Convertible Debentures	150,000.00	1.00
03-Oct-2003	12 Purchasers	Noront Resources Ltd. - Units	934,000.00	4,670,000.00
23-Oct-2003	Susmatt Corp.	Northam Real Estate Investment Fund VI, L.P. - Limited Partnership Units	2,000,000.00	2,000.00
10-Sep-2003	Harold Levin	Novawest Resources Inc. - Units	14,400.00	30,000.00
21-Oct-2003	4 Purchasers	OntZinc Corporation - Units	230,000.00	2,300,000.00
27-Oct-2003	3 Purchasers	Paramount Resources Ltd. - Notes	5,895,900.00	4,500.00
10-Oct-2003	4 Purchasers	Passion Media Inc. - Units	165,000.00	1,100,000.00
02-Jul-2003	Mark Shoom	Perle Systems Limited - Common Shares	6,300,000.00	2,898,073.00
08-Oct-2003	Twila Holdings Inc.	PHS Network Inc. - Common Shares	10,000.00	40,000.00
17-Oct-2003	Canadian Science and Technology Growth Fund Inc.	Praeda Management Systems Inc. - Common Shares	1,350,699.00	3,658.00
17-Oct-2003	Canadian Science and Technology Growth Fund Inc.	Praeda Management Systems Inc. - Preferred Shares	1,440,000.00	28,800.00
20-Oct-2003	Dundee Securities Corp.	Quaterra Resources Inc. - Units	15,000.00	100,000.00
02-Oct-2003	9 Purchasers	Savanna Energy Services Corp. - Common Shares	5,865,475.00	969,500.00
17-Oct-2003	13 Purchasers	Sentra Resources Corporation - Flow-Through Shares	6,300,000.00	1,800,000.00
30-Sep-2003	George E. Patton	Strategic Metals Ltd. - Units	50,000.00	250,000.00
12-Sep-2003	3 Purchasers	Symbium Corporation - Convertible Debentures	89,400.00	3.00
23-Oct-2003	14 Purchasers	Teranet Inc. - Bonds	365,000,000.00	14.00
08-Oct-2003	7 Purchasers	Videotron Ltee - Notes	4,888,950.00	7.00
29-Oct-2003	3 Purchasers	Waseco Resources Inc. - Shares	135,000.00	135,000.00

03-Oct-2003	19 Purchasers	Weda Bay Minerals Inc. - Common Shares	420,000.00	3,000,000.00
24-Oct-2003	Public Sector Pension Investment Board	Westpen Properties Ltd. - Common Shares	40,984,733.00	9,569,165.00
24-Oct-2003	Public Sector Pension Investment Board	Westpen Properties Ltd. - Common Shares	4,836,735.62	1,201,369.00
24-Oct-2003	Public Sector Pension Investment Board	Westpen Properties Ltd. - Common Shares	24,178,528.83	6,005,566.00
24-Oct-2003	N/A	White Knight Resources Ltd. - Units	480,000.00	1,200,000.00
29-Oct-2003	Computershare Trust Company	Windsor Auto Trust - Notes	164,894,888.00	1.00

RESALE OF SECURITIES - (FORM 45-501F2)

Transaction Date	Seller	Security	Total Selling Price	Number of Securities
15-Oct-2003 to 21-Oct-2003	United Reef Limited	AXMIN Inc. – Common Shares	84,923.00	100,000.00
10-Sep-2003	NBC Team Ltd.	NBC TEAM LTD. - Common Shares	1,499,999.00	4,285,714.00
30-Oct-2003	LH Enterprises Company Inc.	Redcorp Ventures Ltd. - Common Shares	41,750.00	125,000.00

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
Amaranth L.L.C.	Counsel Corporation - Common Shares	5,599,280.00
Glen R. Estill	EMJ Data Systems Ltd. - Common Shares	2,667.00
Tom Drivas	Romios Gold Resources Inc. - Common Shares	500,000.00
Roger Sholanki	Sea Green Capital Corp. - Common Shares	8,003,500.00
John F. Driscoll	Sentry Select Capital Corp. - Common Shares	5,865,385.00
John F. Driscoll	Sentry Select Capital Corp. - Preferred Shares	29,154,185.00
A-Shear Holdings Inc.	Teknion Corporation - Shares	34,800.00

REPORTS MADE UNDER SUBSECTION 2.7(1) OF MULTILATERAL INSTRUMENT 45-102 RESALE OF SECURITIES WITH RESPECT TO AN ISSUER THAT HAS CEASED TO BE A PRIVATE COMPANY OR PRIVATE ISSUER - FORM 45-102F1

Issuer	Date the Company Ceased to be a Private Company or Private Issuer
Pan African Mining Corp.	8/15/03

Chapter 11

IPOs, New Issues and Secondary Financings

Issuer Name:
Acetex Corporation
Principal Regulator - British Columbia
Type and Date:
Preliminary Short Form Prospectus dated October 31, 2003
Mutual Reliance Review System Receipt dated October 31, 2003
Offering Price and Description:
US$75,000,000.00 - 10.78% Senior Unsecured Notes due 2009
Underwriter(s) or Distributor(s):
-
Promoter(s):
-
Project #585018

Issuer Name:
Algonquin Power Venture Fund Inc.
Type and Date:
Preliminary Prospectus dated October 30, 2003
Receipted on October 31, 2003
Offering Price and Description:
Class A Shares - Price: $10.00 per Share
Underwriter(s) or Distributor(s):
-
Promoter(s):
-
Project #584425

Issuer Name:
ARC Energy Trust
Principal Regulator - Alberta
Type and Date:
Preliminary Short Form Prospectus dated November 3, 2003
Mutual Reliance Review System Receipt dated November 3, 2003
Offering Price and Description:
$147,400,000.00 - 11,000,000 Trust Units Price: $13.40 per Trust Unit
Underwriter(s) or Distributor(s):
RBC Dominion Securities Inc.
BMO Nesbitt Burns Inc.
CIBC World Markets Inc.
Scotia Capital Inc.
National Bank Financial Inc.
TD Securities Inc.
FirstEnergy Capital Corp.
Canaccord Capital Corporation
Desjardins Securities Inc.
Dundee Securities Corporation
Raymond James Ltd.
Promoter(s):
-
Project #585419

Issuer Name:
Clarington Corporation
Principal Regulator - Ontario
Type and Date:
Preliminary Prospectus dated October 29, 2003
Mutual Reliance Review System Receipt dated October 30, 2003
Offering Price and Description:
$ * - 5,020,222 Common Shares Price: $ * per Common Share
Underwriter(s) or Distributor(s):
Scotia Capital Inc.
RBC Dominion Securities Inc.
BMO Nesbitt Burns Inc.
CIBC World Markets Inc.
National Bank Financial Inc.
TD Securities Inc.
Promoter(s):
-
Project #584254

Issuer Name:
Cominar Real Estate Investment Trust
Principal Regulator - Quebec
Type and Date:
Preliminary Short Form Prospectus dated October 29, 2003
Mutual Reliance Review System Receipt dated October 29, 2003
Offering Price and Description:
$60,720,000.00 - 4,400,000 Units Price: $13.80 per Unit
Underwriter(s) or Distributor(s):
National Bank Financial Inc.
Scotia Capital Inc.
BMO Nesbitt Burns Inc.
Canaccord Capital Corp.
CIBC World Markets Inc.
Desjardins Securities Inc.
Promoter(s):
-
Project #583886

Issuer Name:
Cyclical Split NT Corp.
Principal Regulator - Ontario
Type and Date:
Amended and Restated Preliminary Prospectus dated October 31, 2003
Mutual Reliance Review System Receipt dated November 4, 2003
Offering Price and Description:
$ * $ *
* Preferred Shares * Capital Shares
Prices: $ * per Preferred Share and $ * per Capital Share
Underwriter(s) or Distributor(s):
BMO Nesbitt Burns Inc.
Scotia Capital Inc.
CIBC World Markets Inc.
National Bank Financial Inc.
RBC Dominion Securities Inc.
TD Securities Inc.
Canaccord Capital Corporation
Desjardins Securities Inc.
Dundee Securities Corporation
HSBC Securities (Canada) Inc.
Promoter(s):
BMO Nesbitt Burns Inc.
Project #583203

Issuer Name:
Desert Sun Mining Corp.
Principal Regulator - Ontario
Type and Date:
Preliminary Short Form Prospectus dated November 3, 2003
Mutual Reliance Review System Receipt dated November 3, 2003
Offering Price and Description:
$15,000,001.00 - 8,823,530 Units Price: $1.70 per Unit
Underwriter(s) or Distributor(s):
Sprott Securities Inc.
Griffiths McBurney & Partners
CIBC World Markets Inc.
Promoter(s):
-
Project #585284

Issuer Name:
easyhome Ltd.
Principal Regulator - Ontario
Type and Date:
Preliminary Prospectus dated October 31, 2003
Mutual Reliance Review System Receipt dated October 31, 2003
Offering Price and Description:
$ * - * Common Shares Price: $ * per Share
Underwriter(s) or Distributor(s):
Raymond James Ltd.
First Associates Investments Inc.
Jennings Capital Inc.
Promoter(s):
-
Project #584799

Issuer Name:
High Yield & Mortgage Plus Trust
Principal Regulator - Ontario
Type and Date:
Preliminary Prospectus dated November 3, 2003
Mutual Reliance Review System Receipt dated November 4, 2003
Offering Price and Description:
$ * (Maximum) - * Units Price: $25.00 per Unit Minimum Purchase: 100 Unit
Underwriter(s) or Distributor(s):
CIBC World Markets Inc.
TD Securities Inc.
Promoter(s):
Skylon Capital Corp.
Project #585572

Issuer Name:
Metallica Resources Inc.
Principal Regulator - Ontario
Type and Date:
Preliminary Prospectus dated October 30, 2003
Mutual Reliance Review System Receipt dated October 31, 2003
Offering Price and Description:
$ * - * Units Price: $ * per Unit
Underwriter(s) or Distributor(s):
Canaccord Capital Corporation
Griffiths McBurney & Partners
Orion Securities Inc.
Westwind Partners Inc.
Promoter(s):
-
Project #584709

Issuer Name:
Preferred Securities Income Fund
Principal Regulator - Ontario
Type and Date:
Preliminary Prospectus dated October 31, 2003
Mutual Reliance Review System Receipt dated November 4, 2003
Offering Price and Description:
$ * (Maximum) - * Units Price : $25.00 per Unit Minimum Purchase: 100 Units
Underwriter(s) or Distributor(s):
CIBC World Markets Inc.
TD Securities Inc.
RBC Dominion Securities Inc.
BMO Nesbitt Burns Inc.
National Bank Financial Inc.
Scotia Capital Inc.
Canaccord Capital Corporation
Desjardins Securities Inc.
Dundee Securities Corporation
First Associates Investments Inc.
HSBC Securities (Canada) Inc.
Raymond James Ltd.
Promoter(s):
First Asset Funds Inc.
Project #585618

Issuer Name:
RoyNat Canadian Diversified Fund Inc.
Principal Regulator - Ontario
Type and Date:
Preliminary Prospectus dated October 31, 2003
Mutual Reliance Review System Receipt dated November 3, 2003
Offering Price and Description:
CLASS A SHARES - Initial Offering Price: $10 Per Class A Share Continuous Offering Price: Net Asset Value Per Share Minimum Initial Subscriptions: $1,200 Minimum Subsequent Investments: $50
Underwriter(s) or Distributor(s):
-
Promoter(s):
CLac B.E.S.T. Sponsor Inc.
6154417 Canada Inc.
6154409 Canada Inc.
Project #585229

Issuer Name:
Sierra Wireless, Inc.
Principal Regulator - British Columbia
Type and Date:
Preliminary Short Form Prospectus dated November 4, 2003
Mutual Reliance Review System Receipt dated November 4, 2003
Offering Price and Description:
US$ * - 4,000,000 Common Shares Price: US$ * per Common Share
Underwriter(s) or Distributor(s):
CIBC World Markets Inc.
Promoter(s):
-
Project #585535

Issuer Name:
SouthernEra Resources Limited
Principal Regulator - Ontario
Type and Date:
Preliminary Short Form Prospectus dated October 31, 2003
Mutual Reliance Review System Receipt dated October 31, 2003
Offering Price and Description:
$64,000,000.00 - 10,000,000 Units Price: $6.40 per Unit
Underwriter(s) or Distributor(s):
RBC Dominion Securities Inc.
BMO Nesbitt Burns Inc.
CIBC World Markets Inc.
Griffiths McBurney & Partners
Sprott Securities Inc.
Promoter(s):
-
Project #584851

Issuer Name:
Terra Firma Emerging Companies Fund 2004 Inc.
Type and Date:
Preliminary Prospectus dated October 31, 2003
Receipted on November 3, 2003
Offering Price and Description:
Class A Shares, Series I;
Class A Shares, Series II; and
Class A Shares, Series III
Offering Price: $10 per Class A Share
Minimum Subscription: $1,000
Underwriter(s) or Distributor(s):
-
Promoter(s):
IPM Funds Inc.
Project #585116

Issuer Name:
Terra Firma Income Fund 2004 Inc.
Terra Firma Equity Fund 2004 Inc.
Type and Date:
Preliminary Prospectus dated October 31, 2003
Receipted on November 3, 2003
Offering Price and Description:
Class A Shares, Series I;
Class A Shares, Series II; and
Class A Shares, Series III
Offering Price: $10 per Class A Share
Minimum Subscription: $1,000
Underwriter(s) or Distributor(s):
-
Promoter(s):
IPM Funds Inc.
Project #585355

Issuer Name:
Torstar Corporation
Principal Regulator - Ontario
Type and Date:
Preliminary Shelf Prospectus dated October 31, 2003
Mutual Reliance Review System Receipt dated October 31, 2003
Offering Price and Description:
$500,000,000.00 - Medium Term Notes (unsecured)
Underwriter(s) or Distributor(s):
BMO Nesbitt Burns Inc.
Scotia Capital Inc.
RBC Dominion Securities Inc.
National Bank Financial Inc.
TD Securities Inc.
CIBC World Markets Inc.
Promoter(s):
-
Project #584748

Issuer Name:
Tremont Hedge Fund Index Linked Trust
Principal Regulator - Ontario
Type and Date:
Preliminary Prospectus dated October 27, 2003
Mutual Reliance Review System Receipt dated October 30, 2003
Offering Price and Description:
$ * (Maximum) - * Units Price: $10.00 per Unit Minimum Purchase: 500 Units
Underwriter(s) or Distributor(s):
TD Securities Inc.
CIBC World Markets Inc.
BMO Nesbitt Burns Inc.
National Bank Financial Inc.
Scotia Capital Inc.
HSBC Securities (Canada) Inc.
Raymond James Ltd.
Dundee Securities Corporation
Desjardins Securities Inc.
Canaccord Capital Corporation
First Associates Investments Inc.
Promoter(s):
Tremont Capital Management, Corp.
Project #584036

Issuer Name:
Trinidad Energy Services Income Trust
Principal Regulator - Alberta
Type and Date:
Preliminary Short Form Prospectus dated November 3, 2003
Mutual Reliance Review System Receipt dated November 4, 2003
Offering Price and Description:
$25,000,005.00 - 5,050,506 Trust Units Price: $4.95 per Trust Unit
Underwriter(s) or Distributor(s):
Raymond James Ltd.
CIBC World Markets Inc.
TD Securities Inc.
Haywood Securities Inc.
First Associates Investments Inc.
Promoter(s):
Trinidad Drilling Ltd.
Project #585475

Issuer Name:
Wells Fargo Financial Canada Corporation
Principal Regulator - Ontario
Type and Date:
Preliminary Short Form Shelf Prospectus dated October 31, 2003
Mutual Reliance Review System Receipt dated November 3, 2003
Offering Price and Description:
$1,500,000,000.00 - Medium Term Notes (unsecured) Unconditionally guaranteed as to payment of principal, premium (if any) and interest by
Wells Fargo & Company
Underwriter(s) or Distributor(s):
CIBC World Markets Inc.
RBC Dominion Securities Inc.
BMO Nesbitt Burns Inc.
Promoter(s):
-
Project #584833

Issuer Name:
Workbrain Corporation
Principal Regulator - Ontario
Type and Date:
Preliminary Prospectus dated November 4, 2003
Mutual Reliance Review System Receipt dated November 4, 2003
Offering Price and Description:
$ * - * Common Shares Price: $ * per Common Share
Underwriter(s) or Distributor(s):
RBC Dominion Securities Inc.
CIBC World Markets Inc.
National Bank Financial Inc.
Griffiths McBurney & Partners
Sprott Securities Inc.
Promoter(s):
-
Project #585626

Issuer Name:
BMO Harris Canadian Money Market Portfolio
BMO Harris Bond Income Portfolio
BMO Harris Canadian Total Return Bond Portfolio
BMO Harris Canadian Corporate Bond Portfolio
BMO Harris Diversified Trust Portfolio
BMO Harris Canadian Dividend Income Portfolio
BMO Harris Canadian Income Equity Portfolio
BMO Harris Canadian Conservative Equity Portfolio
BMO Harris Canadian Growth Equity Portfolio
BMO Harris Canadian Special Growth Portfolio
BMO Harris U.S. Equity Portfolio
BMO Harris U.S. Growth Portfolio
BMO Harris International Equity Portfolio
Principal Regulator - Ontario
Type and Date:
Final Simplified Prospectus dated November 3, 2003
Mutual Reliance Review System Receipt dated November 4, 2003
Offering Price and Description:
Mutual Fund @ Net Asset Value
Underwriter(s) or Distributor(s):
BMO Investments Inc.
BMO Investments Inc.
BMO Investmens Inc.
BMO Invesments Inc.
Promoter(s):
BMO Trust Company
Project #577739

Issuer Name:
BMO Nesbitt Burns Canadian Stock Selection Fund
BMO Nesbitt Burns U.S. Stock Selection Fund
BMO Nesbitt Burns Bond Fund
BMO Nesbitt Burns RRSP Stock Selection Fund
BMO Nesbitt Burns Balanced Fund
Principal Regulator - Ontario
Type and Date:
Final Simplified Prospectus dated November 3, 2003
Mutual Reliance Review System Receipt dated November 4, 2003
Offering Price and Description:
Mutual Fund @ Net Asset Value
Underwriter(s) or Distributor(s):
BMO Nesbitt Burns Inc.
BMO Nesbitt Burns Inc.
Promoter(s):
BMO Nesbitt Burns Inc.
Project #577337

Issuer Name:
Brascan SoundVest Diversified Income Fund
Principal Regulator - Ontario
Type and Date:
Final Prospectus dated October 30, 2003
Mutual Reliance Review System Receipt dated October 30, 2003
Offering Price and Description:
Maximum $100,00,000 (10,000,000 units @ $10 per Unit)
Underwriter(s) or Distributor(s):
RBC Dominion Securities Inc.
CIBC World Markets Inc.
BMO Nesbits Burns Inc.
National Bank Financial Inc.
Scotia Capital Inc.
TD Securities Inc.
HSBC Securities (Canada) Inc.
Canaccord Capital Corporation
Desjardins Securities Inc.
Dundee Securities Corporation
Raymond James Ltd.
First Associates Investments Inc.
Trilon Securities Corporation
Promoter(s):
Brascan Diversified Income Management Ltd.
Project #576515

Issuer Name:
Canadian National Railway Company
Principal Regulator - Quebec
Type and Date:
Final Short Form Shelf Prospectus dated October 29, 2003
Mutual Reliance Review System Receipt dated October 29, 2003
Offering Price and Description:
US$1,000,000,000.00 - Debt Securities
Underwriter(s) or Distributor(s):
-
Promoter(s):
-
Project #581879

Issuer Name:
Capital Alliance Ventures Inc.
Type and Date:
Final Prospectus dated October 28, 2003
Receipted on October 31, 2003
Offering Price and Description:
Class A Shares
Underwriter(s) or Distributor(s):
-
Promoter(s):
-
Project #575318

Issuer Name:
Capital International - Global Equity
Capital International - International Equity
Capital International - U.S. Equity
Capital International - Global Small Cap
Capital International - U.S. Small Cap
Capital International - Global Discovery
Principal Regulator - Ontario
Type and Date:
Final Simplified Prospectus dated October 28, 2003
Mutual Reliance Review System Receipt dated October 31, 2003
Offering Price and Description:
Class A, D, F, H and I Units
Underwriter(s) or Distributor(s):
-
Promoter(s):
Capital International Asset Management (Canada), Inc.
Project #577324

Issuer Name:
Chartwell Seniors Housing Real Estate Investment Trust
Principal Regulator - Ontario
Type and Date:
Final Prospectus dated October 31, 2003
Mutual Reliance Review System Receipt dated October 31, 2003
Offering Price and Description:
$210,000,000.00 - 21,000,000 Units @$10.00 per Unit
Underwriter(s) or Distributor(s):
RBC Dominion Securities Inc.
BMO Nesbitt Burns Inc.
TD Securities Inc.
Scotia Capital Inc.
National Bank Financial Inc.
Canaccord Capital Corporation
Desjardins Securities Inc.
Raymond James Ltd.
Promoter(s):
Chartwell Care Corporation
Project #578008

Issuer Name:
Creststreet 2003 (II) Limited Partnership
Principal Regulator - Ontario
Type and Date:
Final Prospectus dated October 29, 2003
Mutual Reliance Review System Receipt dated October 30, 2003
Offering Price and Description:
Limited Partnership Units
Underwriter(s) or Distributor(s):
Scotia Capital Inc.
BMO Nesbitt Burns Inc.
CIBC World Markets Inc.
TD Securities Inc.
National Bank Financial Inc.
HSBC Securities (Canada) Inc.
Canaccord Capital Corporation
Raymond James Ltd.
Wellington West Capital Inc.
Promoter(s):
Creststreet 2003 (II) Management Limited
Creststreet Asset Management Limited
Project #578049

Issuer Name:
Croft Enhanced Income Fund
Principal Regulator - Ontario
Type and Date:
Final Simplified Prospectus dated October 20, 2003
Mutual Reliance Review System Receipt dated October 30, 2003
Offering Price and Description:
Retail Class Units @ Net Asset Value
Underwriter(s) or Distributor(s):
-
Promoter(s):
R N Croft Financial Group Inc.
Project #572716

Issuer Name:
Croft Enhanced Income Fund
Croft Select Securities Fund
Principal Regulator - Ontario
Type and Date:
Final Simplified Prospectus dated October 20, 2003
Mutual Reliance Review System Receipt dated October 30, 2003
Offering Price and Description:
Class A Units @ Net Asset Value
Underwriter(s) or Distributor(s):
-
Promoter(s):
R N Croft Financial Group Inc.
Project #572671

Issuer Name:
Dundee Real Estate Investment Trust
Principal Regulator - Ontario
Type and Date:
Final Prospectus dated October 29, 2003
Mutual Reliance Review System Receipt dated October 29, 2003
Offering Price and Description:
$51,290,923.00 - 2,363,637 REIT Units, Series A @$21.70 per Unit
Underwriter(s) or Distributor(s):
TD Securities Inc.
Scotia Capital Inc.
BMO Nesbitt Burns Inc.
Dundee Securities Corporation
National Bank Financial Inc.
Promoter(s):
Dundee Realty Corporation
Project #575874

Issuer Name:
EnerVest FTS Limited Partnership 2003
Principal Regulator - Alberta
Type and Date:
Final Prospectus dated October 30, 2003
Mutual Reliance Review System Receipt dated October 30, 2003
Offering Price and Description:
-
Underwriter(s) or Distributor(s):
Griffiths McBurney & Partners
Wolverton Securities Ltd.
Promoter(s):
EverVest 2003 General Partner Corp.
EnerVest Resource Management Ltd.
Project #575260

Issuer Name:
Fidelity Diversified Income & Growth Fund
(formerly Fidelity Diversified Income Fund)
Principal Regulator - Ontario
Type and Date:
Amendment #1 dated October 29, 2003 to the Final Simplified Prospectus and Annual Information Form dated October 15, 2003
Mutual Reliance Review System Receipt dated November 3, 2003
Offering Price and Description:
Series A, F, O and T Units
Underwriter(s) or Distributor(s):
Fidelity Investments Canada Limited
Fidelity Investments Canada Limited
Promoter(s):
Fidelity Investments Canada Limited
Project #565650

Issuer Name:
Financial 15 Split Corp.
Principal Regulator - Ontario
Type and Date:
Final Prospectus dated October 29, 2003
Mutual Reliance Review System Receipt dated October 30, 2003
Offering Price and Description:
$400,000,000.00 - (Maximum) 16,000,000 Preferred Shares and 16,000,000 Class A Shares
Underwriter(s) or Distributor(s):
CIBC World Markets Inc.
BMO Nesbitt Burns Inc.
RBC Dominion Securities Inc.
TD Securities Inc.
Bieber Securities Inc.
Canaccord Capital Corp.
Desjardins Securities Inc.
Dundee Securities Corporation
First Associates Investments Inc.
Promoter(s):
Quadravest Capital Management Inc.
Project #577284

Issuer Name:
GE Capital Canada Funding Company
Principal Regulator - Ontario
Type and Date:
Final Short Form Shelf Prospectus dated October 28, 2003
Mutual Reliance Review System Receipt dated October 29, 2003
Offering Price and Description:
Cdn. $6,000,000,000.00 - Medium Term Notes (unsecured) Unconditionally guaranteed as to principal, premium (if any), interest and certain other amounts by GENERAL ELECTRIC CAPITAL CORPORATION
Underwriter(s) or Distributor(s):
RBC Dominion Securities Inc.
TD Securities Inc.
BMO Nesbitt Burns Inc.
CIBC World Markets Inc.
Scotia Capital Inc.
Promoter(s):
General Electric Capital Corporation
Project #580152

Issuer Name:
INDEXPLUS 2 INCOME FUND
Principal Regulator - Ontario
Type and Date:
Final Prospectus dated October 30, 2003
Mutual Reliance Review System Receipt dated October 31, 2003
Offering Price and Description:
-
Underwriter(s) or Distributor(s):
CIBC World Markets Inc.
RBC Dominion Securities Inc.
TD Securities Inc.
BMO Nesbitt Burns Inc.
National Bank Financial Inc.
Scotia Capital Inc.
HSBC Securities (Canada) Inc.
Canaccord Capital Corporation
Desjardins Securities Inc.
Dundee Securities Corporation
First Associates Investments Inc.
Middlefield Securities Inc.
Raymond James Ltd.
Wellington West Capital Inc.
Acadian Securities Incorporated
Research Capital Corporation
Promoter(s):
Middlefield Group Limited
Middlefield Indexplus 2 Management Limited
Project #575637

Issuer Name:
Ivanhoe Energy Inc.
Principal Regulator - British Columbia
Type and Date:
Final Short Form Shelf Prospectus dated October 30, 2003
Mutual Reliance Review System Receipt dated October 30, 2003
Offering Price and Description:
U.S.$100,000,000.00 - Common Shares Preferred Shares Warrants Debt Securities
Underwriter(s) or Distributor(s):
-
Promoter(s):
-
Project #580364

Issuer Name:
Keystone AGF Bond Fund
Keystone AIM Trimark Canadian Equity Fund
Keystone AIM Trimark Global Equity Fund
Keystone AIM Trimark U.S. Companies Fund
Keystone Elliott & Page High Income Fund
Mackenzie Universal Global Future Capital Class
Keystone Premier Euro Elite 100 Capital Class
Keystone Premier Global Elite 100 Capital Class
Principal Regulator - Ontario
Type and Date:
Amended and Restated Simplified Prospectuses and Annual Information Forms dated October 17, 2003 to the Final Simplified Prospectuses and Annual Information Forms dated May 26, 2003
Mutual Reliance Review System Receipt dated October 29, 2003
Offering Price and Description:
Mutual Fund Net Asset Value
Underwriter(s) or Distributor(s):
-
Promoter(s):
Mackenzie Financial Corporation
Project #524778

Issuer Name:
Newmont Mining Corporation
Principal Regulator - Ontario
Type and Date:
Final MJDS Prospectus dated October 31, 2003
Mutual Reliance Review System Receipt dated November 4, 2003
Offering Price and Description:
U.S. $1,000,000,000.00 -
We may offer by this prospectus the following securities for sale:
1) Common Stock
2) Preferred Stock
3) Warrants to purchase Common Stock
4) Senior Debt Securities guaranteed by our subsidiary, Newmont USA Limited
5) Subordinated Debt Securities guaranteed by our subsidiary, Newmont USA Limited
6) Warrants to purchase Debt Securities
Underwriter(s) or Distributor(s):
-
Promoter(s):
-
Project #461809

Issuer Name:
Priszm Canadian Income Fund
Principal Regulator - Ontario
Type and Date:
Final Prospectus dated October 31, 2003
Mutual Reliance Review System Receipt dated October 31, 2003
Offering Price and Description:
$150,000,000.00 - 15,000,000 Units @$10.00 per Unit
Underwriter(s) or Distributor(s):
CIBC World Markets Inc.
RBC Dominion Securities Inc.
BMO Nesbitt Burns Inc.
National Bank Financial Inc.
TD Securities Inc.
Promoter(s):
priszm brandz LP
Project #576549

Issuer Name:
Progress Energy Ltd.
Principal Regulator - Alberta
Type and Date:
Final Short Form Prospectus dated October 27, 2003
Mutual Reliance Review System Receipt dated October 29, 2003
Offering Price and Description:
$21,000,000.00 - 2,000,000 Common Shares @$10.50 per Common Share
Underwriter(s) or Distributor(s):
FirstEnergy Capital Corp.
BMO Nesbitt Burns Inc.
CIBC World Markets Inc.
Peters & Co. Limited
First Associates Investments Inc.
Griffiths McBurney & Partners
Orion Securities Inc.
Sprott Securities Inc.
Tristone Capital Inc.
Promoter(s):
-
Project #581591

Issuer Name:
RBC Canadian Growth Fund
Principal Regulator - Ontario
Type and Date:
Amendment #1 dated October 28, 2003 to the Final Simplified Prospectus and Annual Information Form dated July 15, 2003
Mutual Reliance Review System Receipt dated November 4, 2003
Offering Price and Description:
Series A and F Units
Underwriter(s) or Distributor(s):
Royal Mutual Funds Inc.
RBC Dominion Securities Inc.
RBC Asset Management Inc.
RBC Asset Management Inc.
Promoter(s):
RBC Funds Inc.
Project #551038

Issuer Name:
Scotia Money Market Fund
Scotia CanAm U.S. $ Money Market Fund
Scotia Canadian Income Fund
Scotia Canadian Corporate Bond Fund
Scotia Canadian Balanced Fund
Scotia Canadian Dividend Fund
Scotia Canadian Blue Chip Fund
Scotia Canadian Small Cap Fund
Scotia American Growth Fund
Principal Regulator - Ontario
Type and Date:
Final Simplified Prospectuses dated October 30, 2003
Mutual Reliance Review System Receipt dated November 3, 2003
Offering Price and Description:
Scotia Private Client Units
Underwriter(s) or Distributor(s):
Scotia Securities Inc.
Promoter(s):
The Bank of Nova Scotia
Project #578501

Issuer Name:
Scotia T-Bill Fund
Scotia Premium T-Bill Fund
Scotia Money Market Fund
Scotia CanAm U.S. $ Money Market Fund
Scotia Canadian Bond Index Fund
Scotia Mortgage Income Fund
Scotia Canadian Income Fund
Scotia CanAm U.S. $ Income Fund
Scotia CanGlobal Income Fund
Scotia Canadian Balanced Fund
Scotia Total Return Fund
Scotia Selected Income & Modest Growth Fund
Scotia Selected Balanced Income & Growth Fund
Scotia Selected Conservative Growth Fund
Scotia Selected Conservative Growth RSP Fund
Scotia Selected Aggressive Growth Fund
Scotia Selected Aggressive Growth RSP Fund
Scotia Partners Income & Modest Growth Portfolio
Scotia Partners Balanced Income & Growth Portfolio
Scotia Partners Conservative Growth Portfolio
Scotia Partners Aggressive Growth Portfolio
Scotia Canadian Stock Index Fund
Scotia Canadian Dividend Fund
Scotia Canadian Blue Chip Fund
Scotia Canadian Growth Fund
Scotia Canadian Small Cap Fund
Scotia Resource Fund
Scotia American Stock Index Fund
Scotia American Growth Fund
Scotia CanAm Stock Index Fund
Scotia Nasdaq Index Fund
Scotia Young Investors Fund
Scotia International Stock Index Fund
Scotia Global Growth Fund
Scotia European Growth Fund
Scotia Pacific Rim Growth Fund
Scotia Latin American Growth Fund
Capital U.S. Large Companies Fund
Capital U.S. Large Companies RSP Fund
Capital U.S. Small Companies Fund
Capital U.S. Small Companies RSP Fund
Capital International Large Companies Fund
Capital International Large Companies RSP Fund
Capital Global Discovery Fund
Capital Global Discovery RSP Fund
Capital Global Small Companies Fund
Capital Global Small Companies RSP Fund
Principal Regulator - Ontario
Type and Date:
Final Simplified Prospectus and Annual Information Form dated October 30, 2003
Mutual Reliance Review System Receipt dated November 4, 2003
Offering Price and Description:
Class A, F and I Units
Underwriter(s) or Distributor(s):
Scotia Securities Inc.
Scotia Securites Inc.
Promoter(s):
-
Project #578528

Issuer Name:
Select 50 S-1 Income Trust II
Principal Regulator - Ontario
Type and Date:
Final Prospectus dated October 30, 2003
Mutual Reliance Review System Receipt dated October 30, 2003
Offering Price and Description:
Maximum: $175,000,000 (17,500,000 Units @ $10 Per Unit)
Minimum: $50,000,000 (5,000,000 Units @ $10 Per Unit)
Underwriter(s) or Distributor(s):
National Bank Financial Inc.
CIBC World Markets Inc.
RBC Dominion Securities Inc.
Scotia Capital Inc.
BMO Nesbitt Burns Inc.
TD Securities Inc.
Canaccord Capital Corporation
Desjardins Securities Inc.
Dundee Securities Corporation
First Associates Investments Inc.
HSBC Securities (Canada) Inc.
Raymond James Ltd.
Promoter(s):
Sentry Select Capital Corp.
Project #576407

Issuer Name:
Shatheena Capital Corp.
Principal Regulator - Ontario
Type and Date:
Final CPC Prospectus dated October 24, 2003
Mutual Reliance Review System Receipt dated October 30, 2003
Offering Price and Description:
$300,000.00 - 1,500,000 Common Shares Price: $0.20 per Common Share
Underwriter(s) or Distributor(s):
First Associates Investments Inc.
Promoter(s):
Anthony J. Cohen
Project #573941

Issuer Name:
TD Canadian Money Market Fund
TD Short Term Bond Fund
TD Canadian Bond Fund
TD Real Return Bond Fund
TD Global RSP Bond Fund
TD High Yield Income Fund
TD Income Advantage Portfolio
TD Monthly Income Fund
TD Balanced Income Fund
TD Balanced Growth Fund
TD Dividend Income Fund
TD Dividend Growth Fund
TD Canadian Blue Chip Equity Fund
TD Canadian Equity Fund
TD Canadian Value Fund
TD Canadian Small-Cap Equity Fund
TD U.S. Blue Chip Equity Fund
TD U.S. Blue Chip Equity RSP Fund
TD U.S. Large-Cap Value Fund
TD U.S. Mid-Cap Growth Fund
TD U.S. Small-Cap Equity Fund
TD Global Select Fund
TD Global Select RSP Fund
TD International Equity Fund
TD International Growth Fund
TD Emerging Markets Fund
TD Emerging Markets RSP Fund
TD Resource Fund
TD Entertainment & Communications Fund
TD Entertainment & Communications RSP Fund
TD Science & Technology Fund)
TD Science & Technology RSP Fund
TD Health Sciences Fund
TD Health Sciences RSP Fund
TD Canadian Government Bond Index Fund
TD Canadian Bond Index Fund
TD Canadian Index Fund
TD Dow Jones Industrial Average Index Fund
TD U.S. Index Fund
TD U.S. RSP Index Fund
TD Nasdaq RSP Index Fund
TD International Index Fund
TD International RSP Index Fund
TD European Index Fund
TD Japanese Index Fund
Principal Regulator - Ontario
Type and Date:
Final Simplified Prospectuses dated October 30, 2003
Mutual Reliance Review System Receipt dated November 3, 2003
Offering Price and Description:
Advisor Series and F Series Units
Underwriter(s) or Distributor(s):
TD Investment Services Inc.
Promoter(s):
TD Asset Management Inc.
Project #576933

Issuer Name:
VentureLink Diversified Income Fund Inc.
Type and Date:
Amendment #1 dated October 28, 2003 to the Final Prospectus dated November 29, 2002
Receipted on November 3, 2003
Offering Price and Description:
Class A Shares, Series I and Class A Shares, Series II)

Underwriter(s) or Distributor(s):
Skylon Funds Management Inc.
Promoter(s):
CFPA Sponsor Inc.
Skylon Funds Management Inc.
Project #485281

Issuer Name:
VentureLink Fund Inc.
Type and Date:
Amendment #1 dated October 28, 2003 to the Final Long Form Prospectus dated January 20, 2003
Receipted on November 3, 2003
Offering Price and Description:
(Class A Shares, Series I and Class A Shares, Series II)
Underwriter(s) or Distributor(s):
-
Promoter(s):
VentureLink Partners Inc.
CFPA Sponsor Inc.
Project #501210

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Chapter 12

Registrations

12.1.1 Registrants

Type	Company	Category of Registration	Effective Date
New Registration	Robson Capital Management Inc. Attention: Jeffrey Shaul 350 Lonsdale Road Suite 105 Toronto ON M5P 1R6	Investment Counsel & Portfolio Manager	Oct 29/03
New Registration	Richardson Partners Financial Limited Attention: Michael Sharpe 2650 – One Lombard Place Winnipeg MB R3B 0X3	Investment Dealer	Oct 31/03
New Registration	Georgeson Shareholder Communications Canada Inc. Attention: Roy Shanks 66 Wellington Street West, Suite 5210 Toronto-Dominion Centre, TD Tower Toronto ON M5K 1J3	Limited Market Dealer	Nov 04/03
New Registration	First Financial Securities Inc. Attention: Robert Hein 432-10th St Courtenay BC V9N 1A0	Investment Dealer	Nov 05/03
Change of Category (Categories)	Investia Financial Services Inc.	From: Mutual Fund Dealer To: Mutual Fund Dealer Limited Market Dealer	Nov 03/03

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Chapter 13

SRO Notices and Disciplinary Proceedings

13.1.1 IDA Discipline Penalties Imposed on Bradley Arthur Gilmour – Violations of Regulation 1300.1 (a), 1300.1(c) and By-Law 19.6

Contact:
Ken Kelertas
Enforcement Counsel
(416) 943-5781

BULLETIN # 3203
October 29, 2003

DISCIPLINE

DISCIPLINE PENALTIES IMPOSED ON BRADLEY ARTHUR GILMOUR – VIOLATIONS OF REGULATION 1300.1 (a), 1300.1(c) AND BY-LAW 19.6

Person Disciplined

The Ontario District Council of the Investment Dealers Association of Canada (the "Association") has imposed discipline penalties on Bradley Arthur Gilmour, at the relevant time a Registered Representative with Essex Capital Management ("Essex"), a former Member of the Association.

By-laws, Regulations, Policies Violated

By written endorsement dated October 21, 2003, the Ontario District Council found Mr. Gilmour to have:

(a) Failed to use due diligence to learn the essential facts relative to every order accepted, contrary to Regulation 1300.1(a);

(b) Failed to use due diligence to ensure that recommendations made for a client account were appropriate for the clients and in keeping with the client's investment objectives, contrary to Regulation 1300.1(c); and

(c) Attempted to conceal information during the course of an investigation by the Association, and misled Association Staff with respect to facts reasonably required for the purposes of its investigation, contrary to Association By-law 19.6.

Penalty Assessed

The discipline penalties assessed against Mr. Gilmour were:

- A fine in the amount of $25,000 for violation of Regulation 1300.1(a);
- A fine in the amount of $20,000 for violation of Regulation 1300.1(c);
- A fine in the amount of $25,000 for violation of By-law 19.6;
- The costs of the Association investigation and prosecution of this matter fixed at $20,000; and
- A 10-year suspension from serving as an employee of a Member firm in any capacity.

Summary of Facts

Mr. Gilmour was first registered as a Registered Representative on August 6, 1997. At all material times, Mr. Gilmour was employed by Essex Capital Management ("Essex"). Prior to joining Essex's predecessor company, Nelbar Mutual Group Inc. in February 1993, Mr. Gilmour had been employed in the securities industry since 1987, primarily as a salesperson.

Essex Capital Management shared office space with Nelbar Financial Corporation. Nelbar Financial had only one product – the corporate investment certificate (the CIC). The CICs were high interest bearing certificates callable on 30 days notice. The CICs were sold by some of the RRs employed by Essex, including Mr. Gilmour. The CICs were used to facilitate a scheme whereby the interest paid and the redemption by purchasers were funded by subsequent CIC investors in what amounted to a "Ponzi" scheme. There was no evidence to suggest that the CICs were legitimate investment

products. The principals of Essex Capital Management and Nelbar Financial were disciplined by the Association in June 2001 for their part in the design and administration of the "Ponzi" scheme (*see* Association Bulletin 2858). The Association had previously suspended the membership of Essex Capital Management in March 1999 after the Financial Services Commission of Ontario froze the assets of Essex and Nelbar.

The complainants were a middle aged married couple. They were unsophisticated investors. Mr. Gilmour became their investment advisor in February 1994. The complainants' prior investment experience had been limited to investments in guaranteed investment certificates (GICs), and in conservative mutual funds for their RRSP accounts. In July 1995, Mr. Gilmour recommended that the complainants purchase Nelbar Financial CICs. Mr. Gilmour told the complainants the CICs were secure, had no risk, and were a safe guaranteed investment. Between July 1995 and September 1998, the complainants invested approximately $100,000 in Nelbar CICs.

Mr. Gilmour did not advise the complainants as to the true nature of the CICs. In fact, he did not perform any significant research into the CICs. Mr. Gilmour assumed that the CEO of Nelbar and Essex, Nelson Allen, had performed all due diligence with respect to the CICs. He also assumed that the CICs were secured dollar for dollar with assets that could be liquidated within five business days. However, Mr. Gilmour made no independent inquiries to determine how the CICs were secured. During interviews with Association Staff, Mr. Gilmour indicated that it was his understanding that the high rates of return offered by Nelbar were generated by Nelbar providing bridge financing to individuals or corporations at high rate of return. However, Mr. Gilmour did not know what companies or which individuals were being financed by Nelbar and made no inquiries in this regard. Although it was Mr. Gilmour's understanding that the Ontario Securities Commission had approved the CICs for sale, he never saw an offering memorandum. Mr. Gilmour represented to the complainants that the CICs were an alternative to bank-issued GICs, However, the rate differences were glaring, in that the annual rates offered for the CICs varied from between 8% and 24%, and the comparable GIC 1 year rate being offered by the major banks during the material time ranged between 2.75% and 5.38%. Other red flags that should have alerted Mr. Gilmour to the dubious nature of the Nelbar CICs included:

(a) The CICs were not guaranteed, were not RRSP eligible, and there was no evidence to suggest that they were actually secured by the issuer;

(b) Essex did not produce trade confirmations for the CIC transactions. Furthermore, Nelbar Financial produced its own certificates for the CICs, and it did not use a transfer agent;

(c) No tax receipts were issued to clients for the CIC accounts by Nelbar Financial or Essex; and

(d) Neither Essex nor Nelbar issued T4 slips to Mr. Gilmour for the commissions he earned from selling the CICs to the complainants and other clients of Essex.

Ultimately it was found by the Ontario District Council that Mr. Gilmour knew or ought to have known that the Nelbar CICs were an unsuitable investment for his clients, and that Mr. Gilmour had failed to use due diligence to learn the essential facts relative to the Nelbar CICs.

It was also found that Mr. Gilmour had attempted to withhold or conceal information during the course of the Association's investigation into his activities. During an interview by Staff, Mr. Gilmour was questioned about the commissions he earned while employed by Essex. These questions were material to determining Mr. Gilmour's level of involvement in the sale of the Nelbar CICs. At the time of his interview, Mr. Gilmour made certain representations with respect to the amount of commission that he earned. As neither Essex nor Nelbar issued T4 slips to Mr. Gilmour for the commission earned to the sale of the CICs, Mr. Gilmour advised staff that he reported the commission he earned from the CICs to Revenue Canada (or the Canadian Customs and Revenue Agency) as "other income". Upon a subsequent review of Mr. Gilmour's income tax returns and Notices of Assessment from CCRA for the years 1994 to 1999, Association Staff found that Mr. Gilmour did not claim any income under the category of "other income". Staff confronted Mr. Gilmour with this inconsistency and invited him to respond. Mr. Gilmour then wrote back to the Association and stated that it was now his position that the T4s issued by Essex also included all commissions earned from the sale of Nelbar CICs. Mr. Gilmour went on to say that the percentage of his overall income that was generated from the sale of CICs was a very small portion of his overall income and was not considered part of his core business. Subsequent to the receipt of Mr. Gilmour's letter, Staff obtained commission reports from the carrying broker for Essex, and commission summaries prepared by the Canadian Investor

Protection Fund. This evidence indicated that Mr. Gilmour had earned considerably more from the sale from the CICs then he had originally disclosed to the Association. As well, the former acting Chief Financial Officer of Essex was interviewed and he categorically disputed Mr. Gilmour's claim that his T-4s from Essex included commissions paid by Nelbar. Based on this evidence, the Ontario District Council found that Mr. Gilmour had concealed or attempted to conceal key information relating to his earnings from the sale of the Nelbar CICs, and hence misled the Association with respect to facts reasonably required for the purposes of its investigation.

Upon being served with the Notice of Hearing and Particulars, Mr. Gilmour did not provide a Reply pursuant to Association By-laws. Furthermore, Mr. Gilmour did not appear at the disciplinary hearing held before the Ontario District Council on October 21, 2003. Upon receiving both oral and written submissions from counsel for the Association, the Ontario District Council accepted the facts and conclusions as set out in the Notice of Hearing as proven pursuant to the Association By-law 20.16, and imposed the penalties set out above.

Mr. Gilmour has not been registered in any capacity with a Member firm since August 2001.

Kenneth A. Nason
Association Secretary

13.1.2 Investment Dealers Association of Canada – By-law No. 20 – Association Hearing Processes

INVESTMENT DEALERS ASSOCIATION OF CANADA
BY-LAW NO. 20 – ASSOCIATION HEARING PROCESSES

I OVERVIEW

A -- Current Rules

By-law 20 is the primary rule for the IDA hearing processes. A substantial overhaul of By-law 20 is necessary to better comply with principles of administrative fairness and to consolidate and streamline the IDA hearing processes.

B -- The Issue

By-law 20 is dated and needs to be modernized to reflect administrative law principles and to ensure processes that will permit the IDA to meet its member regulation mandate.

C -- Objective

The proposed changes seek to rationalize all IDA hearing processes within one By-law, modernize the existing hearing processes and ensure that the Association can meet its regulatory mandate while balancing the needs of efficiency and still respecting fairness and the rules of natural justice. This is especially important in light of the increased scrutiny of the IDA discipline process

D -- Effect of Proposed Rules

The proposed rules will update the process applicants must follow when applying for Membership approval, exemptions from proficiency requirements and introducing/carrying broker arrangements. The new process has been streamlined and made more effective. The gaps in the current processes for exemption requests have been rectified through the creation of clear rules.

The process for imposition and review of early warning level 2 prohibitions has been amended. A three-person Hearing Panel will hear the review. This alleviates the ambiguity in the former rule.

A revised expedited hearing process broadens the ability of the Association to react to emergency situations and provides a broader range of remedies. This will allow for a graduated approach rather than simply imposing a suspension. The revised By-law will ensure a reasonable standard that balances the interests of both the public and the respondent, and ensures the respondent a clear and timely right of review.

The new appeal process establishes an Appeal Panel that has the necessary mix of skills and competencies to ensure fairness. The new hearing and review processes better achieve the principles of efficiency, transparency, fairness and protection of the public.

II DETAILED ANALYSIS

A -- Present Rules, Relevant History and Proposed Policy

The specific issues regarding the current rules and the solutions proposed to address such issues are outlined below.

PROPOSED AMENDMENTS TO BY-LAW 20

1. HEARING PANEL COMPOSITION, SELECTION & AUTHORITY

QUORUM AND SIZE OF DISTRICT COUNCIL (PART 5 & 6 BY-LAW 20)

Issue – Potential For Deadlock

By-law 20 provides for a quorum of two persons for approval hearings, discipline hearings and settlement hearings, thereby resulting in a potential for deadlock.

Proposed Solution - Quorum of Three

A Hearing Panel of three persons, one public member and two industry members, will be required for approval hearings, early warning hearings, expedited hearings, settlement hearings and disciplinary hearings. (By-law 20.13)

The exception to the general quorum rule is that in limited circumstances where a hearing has already commenced, the matter may be completed with only two panel members (public chair and industry representative). The public chair has the discretion to determine whether, or not it is in the public interest to proceed in the absence of one of the industry members. (By-law 20.17)

Issue - Lack of Fixed Number of Panel Members

By-law 20 does not set a cap for the number of panel members presiding over a hearing. It simply provides that there can be any number of Panel members in which case a third of the Hearing Panel should be comprised of public members. (By-law 20.13)

Proposed Solution - Fixed Number Of Panel Members

The Panel will be a fixed panel of three members.

MINIMUM REQUIREMENTS RE PUBLIC AND INDUSTRY MEMBERS (PART 5 BY-LAW 20)

Issue - Number of Public Members and Industry Members Appointed to Roster

The number of public members appointed to the Roster is in the discretion of the District Council. There is no requirement for a minimum number of former judges who have special skills and knowledge in the conduct of contested public hearings. The present By-law also fails to ensure that there is a sufficient pool to draw from whenever a panel must be constituted.

Proposed Solution - Minimum Number of Hearing Committee Members & Former Judges

A requirement for the appointment of a minimum number of public and industry members to the Hearing Committee has been added to ensure there is a sufficient pool of individuals of various classes of persons required. The number of mandatory public members, former judges and industry members has been established for the different Districts to minimize the possibility that there is a lack of resources to conduct hearings.

The requirement for a minimum number of former judges will enhance the quality and composition of Hearing Panels. The panelists will bring different skills and expertise to the Hearing Panel and when taken as a whole will enhance our process. The industry panel members will bring an understanding of the merits of the dispute and represent the self in self-regulation. The legal expertise the public chair brings will enhance the efficiency and fairness of IDA hearings, and balance the industry knowledge of the member component.

Former judges will also bring a special skill set to disciplinary hearings, pre-conference hearings and in particular the appeal process. Judges have training and experience in managing contested public hearings efficiently, and in making rulings on technical evidentiary matters. This is experience that practicing lawyers do not have. Former judges also lend credibility to the IDA Hearing Process.

SELECTION OF PANEL MEMBERS (PART 6 BY-LAW 20)

Issue - Appointment Of Panel Members By The Chair of The District Council

The Chair of the District Council appoints the Hearing Panel members to conduct hearings and may, from time to time, delegate to the Vice-Chair or to any public member of the District Council the authority to appoint such members. The Chair of the District Council deals with IDA matters other than disciplinary matters and may not be the appropriate person for selection of Hearing Panels and the appointment of public members.

Proposed Solution - Selection of Panel By Hearing Coordinator

A National Hearing Coordinator has been established for the selection of panel members. A “top-down” approach will be adopted for the selection of Hearing Panel members with persons that have conflicts of interest related to a particular hearing being eliminated from participating on a Hearing Panel. (By-law 20.14)

Issue - District Council Appoints Panel Members To Roster

The District Council as a whole appoints panel members.

Proposed Solution - Creation of a Nominating Committee

The creation of a nominating committee will serve to better outline responsibilities for appointment of panel members to the Hearing Committee and will promote greater scrutiny of potential candidates (ie. due to the two level process: nomination by committee and ultimate approval by the District Council.) (By-law 20.8)

Issue - No Conflicts Of Interest Section

There is no conflicts of interest section currently in the existing By-law 20.

Proposed Solution - Inclusion of Conflicts of Interests Section

A conflicts of interest section has been added which precludes Hearing Committee members from serving on Hearing Panels if he/she:

i) is an officer, partner, director or employee of Member that is the subject of the hearing;

ii) is an officer, partner, director or employee of Member where approved person is the subject of the hearing;

iii) has such other relationship with a Member that may give rise to a reasonable apprehension of bias.

This provision serves to protect the independence of Hearing Panels. (By-law 20.15)

REMOVAL OF HEARING COMMITTEE MEMBERS (PART 5 BY-LAW 20)

Issue -Removal at Discretion of District Council

By-law 11 allows the District Council to remove panel members from the Roster at its' discretion. Such a broad discretion jeopardizes the independence of panel members.

Proposed Solution - Removal of Hearing Committee Members

The reasons for removal of panel members from the Roster have been specified. This will the potential for allegations of improper interference with a quasi-judicial panel.

Hearing Committee members may be removed if they are unable to perform the essential duties of his or her position.

Hearing Committee Members shall be removed if:

i) they cease to meet the eligibility criteria for appointment as either an industry or public member; or

ii) a public member becomes employed or provides services to a Member; or

iii) a public member represents parties to a By-law 20 hearing.

These circumstances are believed to warrant mandatory removal. (By-law 20.12)

GENERAL AUTHORITY OF PANELS (PART 2 BY-LAW 20)

Issue - Lack of Empowering Section Re Panel Powers

The existing By-law 20 does not contain a general empowering provision for the authority of Hearing Panels.

Proposed Solution - Inclusion of General Authority of Panels Section

A section dealing with the general authority of panels has been developed to provide for the: i) ability to hold hearings and make decisions; ii) ability to admit evidence inadmissible by law; and iii) ability to require presentation of evidence or testimony under oath or affirmation. (By-law 20.2)

Issue - Lack of Authority for Panel to Provide for a Custom Penalty

By-law 20 does not have a catch-all penalty provision as found in the rules of most regulators.

Proposed Solution - Inclusion of Catch-All Provision

A catch-all provision has been included within the Hearing Panel's powers to allow it to impose any other penalty determined to be appropriate under the circumstances. This allows the Hearing Panel to provide reasonable remedies that circumstances might well dictate. (Hearing Panel Powers Throughout By-law 20).

2. DECISION MAKING AND EFFECTIVENESS OF DECISIONS

WRITTEN DECISIONS (PART 3 BY-LAW 20)

Issue - No Rule

There is no rule requiring all decisions to be in writing.

Proposed Solution - Written Decisions

All decisions of a decision-maker will have to be in writing. This will assist in achieving better reasoning and consistency in decisions and to ensure that there is a record available to both parties. (By-law 20.3)

TERRITORIAL APPLICATION OF DECISIONS (PART 3 BY-LAW 20)

Issue - Limitation of Application of Decisions in Other Jurisdictions

By-law 20.39 provides that a decision suspending or terminating a Members' rights only has effect in the District where such District Council has jurisdiction.

By-law 20.39 also provides that the decision is effective in the District where the District Council has jurisdiction, unless and until otherwise ordered by the Board of Directors.

Proposed Solution -Extension of Application of Decisions to Other Jurisdictions

All decisions will have effect in all jurisdictions, unless law limits such extension or application. (By-law 20.4)

3. EXEMPTIONS REQUESTS

EXEMPTIONS – PROFICIENCY REQUIREMENTS (PART 8 BY-LAW 20)

Issue - Lack of Rules Re Composition For Hearings

The existing By-law 20 provisions do not provide any guidance regarding the composition of the panel involved in exemption request hearings. The By-law simply states "District Council."

Proposed Solution - District Council Panel

A District Council Panel comprised of three industry members will preside over proficiency exemption request hearings. A three-person panel of the District Council is believed to be appropriately equipped to deal with a review of an exemption request application and to deal with the nature of the exemption request. (By-law 20.13)

EXEMPTIONS – INTRODUCING/CARRYING BROKER ARRANGEMENTS (PART 8 – BY-LAW 20)

Issue - Lack of Review From Initial Decision

By-law 35 does not provide for any review process regarding the initial decision of a District Council.

Proposed Solution - Review Process

The initial decision of the District Council will be reviewable by a three-member panel of the District Council. None of the individuals on the review panel will have participated in the initial decision. This will ensure that the hearing and review process for exemptions from introducing/carrying broker arrangements is consistent with proficiency exemptions and will allow an opportunity to correct any errors regarding decision-making internally. (By-law 20.26)

4. EARLY WARNING REVIEW HEARINGS

PROBLEMS RE EARLY WARNING REVIEW HEARINGS (PART 8 BY-LAW 20)

Issue - Initial Decision

Pursuant to By-law 30.6, the initial decision regarding the imposition of early warning level 2 prohibitions, is made by the Vice-President Financial Compliance.

Proposed Solution - Initial Decision

The initial decision will be made by the Senior Vice-President Member Regulation, or his or her designate. The designate will likely be the Vice-President Financial Compliance. The change provides for consistency throughout By-law 20 and the rest of the IDA Rulebook. (By-law 20.28)

Issue - Decision-maker Upon Review

By-law 30.6 provides that a Member may request a review by members of the applicable District Council without any further specification. The provision is ambiguous as there is no indication whether the entire District Council presides over the review or how many District Council members preside over the review. This can result in inefficiency in the decision-making process. The present situation also fails to ensure that the panel has legal representation, even though the decision may affect the legal rights of a Member.

Proposed Solution - Decision-maker Upon Review

The decision-maker upon the review should be a Hearing Panel constituted pursuant to By-law 20 and consisting of one public member (ie. legally trained) and two industry members. (By-law 20.13)

Issue - Timing of Hearing

The hearing must be held within the short time period of seven days of request for the review.

Proposed Solution - Timing of Hearing

The proposed amendments provide that the period during which the hearing must be held is within twenty-one days after request of review, unless otherwise agreed by the parties. The reason for extending the period is to ensure sufficient time for a hearing panel to be constituted and to allow both parties a reasonable opportunity to retain and instruct counsel and to ensure efficient use of the review. (By-law 20.29)

5. ENFORCEMENT HEARINGS

INITIATION OF DISCIPLINARY HEARINGS (PART 10 BY-LAW 20)

Issue - No General Empowerment Provision

The existing By-law 20 does not currently contain an empowerment provision. A principle of administrative law is that a panel has only those powers that are explicitly provided to it.

Proposed Solution - General Empowerment Provision

A general empowerment provision has been created to allow the Association to hold hearings and to eliminate the gap that presently exists. (By-law 20.30)

POWERS OF COMPULSION (PART 10 BY-LAW 20)

Issue - No Powers of Compulsion

The existing By-law 20 does not contain any powers of compulsion.

Proposed Solution - Creation of Powers of Compulsion

Powers of compulsion have been created to compel the production of documents and giving of evidence by Members, Approved Persons and Association Staff. If a Hearing Panel requires attendance by employees of Members who are not Approved

Persons, the Member must direct such persons to attend the hearing. This amendment will improve the ability of Hearing Panels to arrive at just conclusions by ensuring a greater range of information is potentially at their disposal. (By-law 20.31)

FINES

Issue - Maximum Amount Of Fine (Part 1 of Maximum Fine Formula)

The first part of the formula sets a maximum fine of $1,000,000 per offence for both individuals and Member Firms. The maximum fine for individuals and Members should not be the same given that $1,000,000 per offence for a Member Firm is less of a general deterrent than for individuals.

Proposed Solution - Increase Maximum Amount Of Fine

The maximum fine imposable upon a registrant should remain at $1,000,000 per offence. The maximum fine imposable upon a Member Firm should be increased to $5,000,000 per offence. This is consistent with the increased penalties under securities acts and recognition that the ability to pay is vastly different as between an individual and a firm. (By-law 20.34)

Issue - Maximum Amount Of Fine (Part 2 of the Formula)

The second part of the formula is based on a calculation of "three times the pecuniary benefit which accrued to the Member." The provision seeks to divest ill-gotten gains through calculation of a fine based on "disgorgement".

Proposed Solution - Improve Formula

The wording of the formula will be changed to "three times the profit or loss avoided" so as to ensure that the objective of the formula is met in that "loss avoided" is captured by the formula. The proposed wording is consistent with the wording in the Ontario Securities Act. (By-laws 20.33, 20.34)

6. SETTLEMENT PROCESS

SETTLEMENT MODEL (PART 10 BY-LAW 20)

Issues - Power of District Council Re Settlement

By-law 20 allows the District Council to amend the Settlement Agreement by: i) imposing a lesser penalty or terms less onerous to the respondent than in the Settlement Agreement; and ii) imposing a penalty or terms more onerous than in the Settlement Agreement only with Respondent consent.

The current settlement model favours the Respondent and does not reflect the need to balance the interests of the public and the Respondent. It also gives the perception that the Association favours its members in a settlement determination.

Proposed Solution - Accept / Reject Model

The accept or reject model whereby the Hearing Panel could either accept or reject the settlement agreement is proposed. If a settlement is rejected, the parties have the option to enter into a subsequent settlement agreement before a different Hearing Panel or go to a hearing.

A new panel will be constituted to review the subsequent settlement agreement. This will eliminate any perception of bias. This is the same manner in which the OSC and NASD proceed. (By-laws 20.35 to 20.40)

INSTITUTIONAL BIAS RE APPROVALS OF SETTLEMENTS (PART 10 BY-LAW 20)

Issues - Recommendation of Certain Individuals Re Settlement Agreement

By-law 20 requires the recommendation of the President, an Executive Vice-President, a Vice-President or any other officer or employees of the Association designated by the Board of Directors and the Regional Director. This requirement creates the perception of institutional bias.

Proposed Solution - Removal of Requirement For Recommendation of Certain Individuals

Recommendations concerning settlement agreements are best dealt with as an internal administrative matter.

7. EXPEDITED HEARINGS (FORMERLY SUSPENSION SCENARIOS)

COMPOSITION OF HEARING PANEL FOR EXPEDITED HEARINGS (PART 10 BY-LAW 20)

Issues - Lack of Rules Re Decision-maker For Suspensions

The current provision regarding all instances of "Suspension Under Certain Circumstances" states that the "District Council" will preside over a suspension hearing. This provision is ambiguous as to who or how many persons are required for a valid decision.

The decision-maker for suspensions "where there is a likelihood of financial loss to the public" is the Chair or Vice-Chair of the District Council. Given the severity of this type of action the decision should be made by a three person panel and not a single individual.

Proposed Solution - Hearing Panel For All Expedited Hearings

The decision-maker for all expedited hearings will be a Hearing Panel comprised of one public member and two industry members. Suspensions for unpaid fines will become automatic and will not require the constituting of a specific hearing for that purpose. (By-law 20.13)

REVIEWS – EXPEDITED HEARINGS (PART 10 BY-LAW 20)

Issues - Lack of Rules Re Reviews From Suspensions

By-law 20 states that there is no appeal from a "suspension/cancellation of registration or membership by a securities commission or stock exchange" and provides for explicit review for the third type of suspension "likelihood of financial loss to the public", in which case the IDA bears the onus of making an application for review within fifteen days of the decision. By-law 20 provides no guidance with respect to the remaining suspension scenarios.

Proposed Solution - Rules Re Reviews From Suspensions

All expedited hearings should be reviewed by a Hearing Panel. Automatic suspension will be imposed for failure to comply with conditions or fines imposed. The suspension will not be lifted in case of a failure to pay fines until payment is received. The Respondent will bear the onus of applying for review of the *ex-parte* decision within a specific period. This will serve to shift the burden of the application from the IDA to the Member who is directly affected and avoid a review where the subject is not interested in having the matter reviewed. (By-law 20.47)

Issue - Lack of Rule Re Effectiveness of The Decision Pending Review

It is not clear whether a review of a suspension by the District Council Chair operates to stay the decision.

Proposed Solution - Decision Effective Pending Review

The change to By-law 20 will alleviate any ambiguity and ensure that, given the overriding public interest, that the initial decision will remain effective until such time as a review provides otherwise. (By-law 20.47)

INDIVIDUALS – EXPEDITED HEARINGS (PART 10 BY-LAW 20)

Issue - Limited Suspensions Of Individual Registrants

The By-law 20 currently allows immediate suspension of individuals only in the case of unpaid fines.

Proposed Solution - Expansion Of Suspensions Of Individual Registrants

The situations in which individuals can be subject to expedited proceedings have been broadened to include situations where the individual:

- is subject of a suspension or cancellation of registration or approval under any securities or commodities statute;
- fails to cooperate (risk of imminent harm test);
- faces certain serious criminal charges and it would place the public at risk to permit the subject to remain active;

- is non-compliant with conditions.
- has outstanding unpaid fines. (By-law 20.43)

MEMBER FIRMS – EXPEDITED HEARINGS (PART 10 BY-LAW 20)

Issue - Limited Suspensions Of Member Firms

The By-law is silent as to who can provide the "information" to the District Council Chair. The By-law provides that the Chair or Vice-Chair of the District Council may make the decision "in consultation with the Board" without any specification as to the nature or scope of such "consultation". There should be no requirement for Board approval. The existing process is very informal and unclear and should be changed to ensure due process and fairness given the seriousness of summary suspension.

Proposed Solution - Expansion of Suspensions Of Member Firms

The situations in which Member Firms can be subject to expedited proceedings have been expanded and will now include the following:

- bankruptcy;
- suspension or cancellation of registration of members as a dealer in securities or commodities;
- suspension by a recognized stock exchange, securities commission, securities regulatory authority, SRO, or any recognized trading or quotation system;
- failure to cooperate;
- certain criminal charges;
- non-compliance with conditions;
- unpaid fines; and
- financial or operating difficulty (existing By-law 20.33)
    - expanded to situations where there is risk of harm or loss to other Members or the IDA.
    - extended beyond "financial loss" concerns to encompass situations of operating difficulty and internal control problems.
    - the test has been changed from "likelihood of financial loss to the public" to the "Member cannot be permitted to continue to operate without risk of imminent harm to the public, other Members or the Association." This test was modeled after the corresponding NASD provision. (By-law 20.42)

POWERS – EXPEDITED PROCEEDINGS (PART 10 BY-LAW 20)

Issue - Limited Powers Of Hearing Panels Under Suspension Sections

The District Council does not have the power to impose conditions on the suspension for likelihood of financial loss to the public.

Proposed Solution - Powers Of Hearing Panels – Expedited Hearings

A broader and more appropriate range of powers has been granted to the Hearing Panel in expedited matters. This will ensure appropriate remedies that reflect the public need to be protected in exceptional circumstances. (By-law 20.45)

Issue - Appointment of Monitor

The IDA may suspend firms for certain violations, such as, capital adequacy and systemic operational failures. However, it does not have standing to apply for a trustee or receiver pursuant to the Bankruptcy and Insolvency Act. The result is that there is a gap in dealing with the financial control of a suspended securities firm.

The process once a self-regulatory organization suspends a firm, is directed by securities commissions, customer compensation bodies or through a Monitor arrangement that requires negotiation with the suspended Member firm. Currently, in cases where the firm has been suspended, but it is unclear whether the firm is legally insolvent, CIPF might not apply to the court for a receiver. In those cases, it is essential to appoint a Monitor in order to protect a firm's assets pending further regulatory action. The appointment of a Monitor and the terms and conditions under which the Monitor shall report to the IDA should not be a matter of negotiation with the firm.

Proposed Solution - Creation Of Power To Impose a Monitor

The Hearing Panel has been given the power to appoint a Monitor where criteria set out in Part 10 of By-law 20 is met. (By-law 20.46)

8. APPEALS / REVIEWS

DECISION-MAKER (PART 11 BY-LAW 20)

Issue - Who Should Hear Appeals?

The IDA Board currently hears appeals from discipline panels. The issue is whether the IDA Board is the appropriate body to preside over the appeal.

There is no rule as to the composition of the nine board members that form a quorum for appeal. There is no rule providing that a certain percentage of the quorum be comprised of public members. The lack of a public member or requirement for an independent board member to preside over the appeal raises concerns of institutional bias and independence. The fact that nine members are required for the quorum, and therefore to hear the appeal, also raises practical difficulties in the scheduling of hearings.

Proposed Solution - Appeal Panels

The Appeal Panel will be comprised of:

- one public member of the Board of Directors;
- one industry member of the Board of Directors; and
- one public member of a Hearing Committee of a District; provided that where a former judge is a member of a Hearing Committee of the Association a former judge shall hold this position.

To elevate the decision to an appeal level, the composition of the Appeal Panel should be distinct from that of the initial Hearing Panel. The same composition for both types of panels with individuals selected from the same Hearing Committees who often sit on panels together may potentially result in undue deference being shown to the decisions of peers.

Where possible the amended By-law 20 seeks to preserve the intent behind the initial By-law 20. It is clear that the intent was to have the IDA Board of Directors preside over appeal hearings due to their position at the apex of the Association. In principle, this makes sense and is the structure followed by many other self-regulators. The proposed Appeal Panel model seeks to preserve this intent while improving the composition of the Appeal Panel to overcome the problems identified above.

The requirement for a former judge on the Appeal Panel will buttress the weight of IDA appeal decisions and lead to greater deference of such decisions upon external review. Greater consistency and accountability of appeal decisions will also likely result. The addition of the skills and knowledge of a former judge will also ensure that these matters are dealt with quickly and efficiently. Reviews and appeals are often weighted in favour of errors of law and again, having greater legal knowledge is a key consideration for the suggested composition of the Appeal Panel. (By-law 20.51)

EFFECTIVENESS OF DECISION PENDING APPEAL APPLICATION (PART 11)

Issue - Lack Of Rule - Status Of Decision Pending Appeal

There is no rule in the existing By-law 20 as to the status of decisions pending appeals.

Proposed Solution - Appeal Should Operate As Stay Of Decision

An appeal from a decision shall operate as a stay from the decision, unless ordered otherwise by the Appeal Panel. If the decision or order of the Hearing Panel suspends, or revokes registration of an approved person or Member, strict supervision will be imposed until release of the appeal decision.

It was recognized that one of the dangers of the rule may be that Respondents will routinely file for appeal to have a stay of the decision, however, that risk must be balanced against the other considerations outlined. It should be noted that the NYSE and NASD follow the same principle of having an appeal operate as stay. (By-law 20.53)

An appeal from an expedited review hearings shall not operate as a stay from the decision. (By-law 20.47)

9. PUBLIC NATURE OF HEARINGS (PART 12 BY-LAW 20)

Issue - Adequacy Of Current Rule

The current rule provides that only disciplinary hearings pursuant to By-law 20 are open to the public. The failure to specify any other type of hearings including, approval hearings, exemption request hearings and settlement hearings, results in a system whereby all hearings other than those held pursuant to By-law 20.11 are not open to the public. Membership approval hearings are currently public pursuant to the existing By-law 2.

Proposed Solution - General Rule Public

The general rule will be that the following hearings will be public:

- settlement hearings; (after acceptance of the settlement agreement so as to preserve the principle of confidentiality of settlement negotiations.);
- disciplinary hearings;
- expedited review hearings; and
- enforcement appeal hearings. (By-law 20.55)

Membership approval hearings will no longer be public. (By-law 2)

CONSEQUENTIAL AMENDMENTS TO IDA BY-LAWS AND POLICIES

BY-LAW 2

A review of IDA hearing processes has identified the need to consolidate hearing procedures within one By-law. As a result, the Membership approval process has been incorporated within By-law 20 which also deals with approvals for individuals. Proposed amendments to the Membership approval process also serve to streamline the Membership approval process to ensure a more effective and fair process.

Problems Associated With Existing Membership Approval Process

Initial Decision

Presently, the District Council makes the initial decision to approve, approve with conditions or refuse Membership approval. However, By-law 2.9 (c) and (d) use the term “proposal” as opposed to decision. It is unclear whether the determination of the District Council is a decision or a recommendation. An analysis of the nature of the determination reveals that it more closely resembles a recommendation as the District Council decision does not become effective until the Board of Directors makes a determination.

Review by Hearing Panel of the District Council

Where the Membership application is approved subject to conditions or refused, the applicant may apply for a hearing within 10 days of notification of the District Council decision. The Hearing is presided over by a panel as constituted by By-law 20 and no member of the District Council that initially participated in a decision may participate on the Hearing Panel. A problem with the existing process is, that if the District Council decision is merely a proposal, a review of that decision may not be necessary.

Further, a review by a Hearing Panel of the District Council decision serves no real purpose as there are two other routes by which an applicant may be heard. If an application for review is not made within 10 days of notification of the District Council Decision, the applicant may apply for review of the District Council decision by the Board within 21 days of receiving notice of the District Council decision. This creates an unduly complex and illogical approval and review process. Where an applicant seeks review of the District Council decision by a Hearing Panel, the applicant may further apply for review of the Hearing Panel decision by the Board. Even where no review is sought by the applicant, the applicant has a right to be heard by the Board of Directors through a hearing process whereby the appeal provisions of By-law 20 apply. A clear and logical review process must be adopted.

Review by the Board of Hearing Panel Decisions

At present, the Board of Directors may review a Hearing Panel decision where an application is made within 21 days of receiving notice of the District Council decision. This hearing by the Board of Directors must be conducted in accordance with the appeal provisions of By-law 20. The stage at which the review by the Board is available and the type of review by the Board must be re-thought in light of the problems outlined above.

Approval of Membership Applications by the Board

The Board of Directors, by resolution passed by affirmative vote of a majority of all members of the Board, makes a determination regarding the membership application. The Board may approve the application, approve the application subject to terms and conditions, refuse the application or make any other decision it considers proper. Any review, consideration or determination by the Board of Directors in respect of an application for Membership shall be conducted in accordance with the By-law 20 appeal provisions. The problem with this process is that any review, consideration or determination by the Board of Directors should not be conducted in accordance with the By-law 20 appeal provisions. A determination by the Board of Directors should only be made in accordance with hearing type rules where it allows the applicant to be heard.

Proposed Amendments to Membership Approval Process

It was determined that the Membership approval and review process should be re-structured in light of all of the issues and problems surrounding the existing Membership approval process.

The proposed process has essentially three stages:

1) a recommendation by the District Council;

2) a decision by the Executive Committee of the Board of Directors; and

3) a review of a decision refusing Membership or imposing terms and conditions on Membership before a Board Panel (1 public board member, 1 public board member and 1 public board member).

The proposed process serves to alleviate the cumbersome and inconsistent process that currently exists while retaining the intent of the existing process.

BY-LAW 35 and BY-LAW 30

A review of IDA hearing processes has identified the need to consolidate hearing procedures within one By-Law. As a result, amendments have been made to By-laws 35 and 30 so as to incorporate the hearing processes for introducing/carrying broker arrangements and early warning level 2 prohibitions, respectively. The changes regarding these two types of processes are outlined above in the section of this Board Paper dealing with proposed amendments to By-law 20.

BY-LAWS 4, 11, 33, 28 and POLICY 6

The proposed amendments to By-laws 4,11,33,28 and Policy 6 have been made so as to ensure consistency with By-law 20.

B -- Issues and Alternatives Considered

Discussion papers were prepared regarding all major substantive issues regarding the By-law 20 review. The Discussion papers served to identify problems with the existing processes, analyze rules of other SROs and propose solutions to improve the IDA hearing processes. These Discussion Papers were prepared for discussion internally at all levels of the IDA to ensure that well-considered decisions were made regarding the issues.

C -- Comparison with Similar Provisions

A thorough comparison of comparable rules and By-laws of both foreign and domestic regulators and SROs was conducted. While rules of other bodies were examined, the proposed rules have been tailored and adapted to the IDA context.

D -- Systems Impact of Rule

The amendments to By-law 20 do not have any impact on systems.

E -- Best Interests of the Capital Markets

The Board has determined that the public interest Rule is not detrimental to the best interests of the capital markets.

F -- Public Interest Objective

The proposal is designed to promote the protection of investors and ensure greater compliance with Ontario securities laws by strengthening the enforcement process and developing a more efficient and fair hearing process for disciplinary actions, registration and Membership approvals, exemption requests and early warning prohibitions.

The proposal will also serve to promote public confidence and public understanding of the goals and activities of the IDA.

The proposal does not permit unfair discrimination among customers, issuers, brokers, dealers, members or others. It does not impose any burden on competition that is not necessary or appropriate in furtherance of the above purposes. The By-law changes do not present any special costs of compliance to either members or the public.

III COMMENTARY

A -- Filing in Other Jurisdictions

These proposed amendments will be filed for approval in Alberta, British Columbia and Ontario and will be filed for information in Nova Scotia and Saskatchewan.

B -- Effectiveness

A thorough assessment of the effectiveness of the proposed rules in addressing the issues was undertaken.

C -- Process

An extensive internal and external consultation process has been undertaken in the development of the Revised By-law 20, as outlined below.

Internal Consultation Process

A Work Exercise was held January 2002. Senior representatives of each IDA Department, and Regional Directors from across the country, attended and participated in the Work-Exercise. Meetings of Enforcement Counsel were also held in 2002 to discuss By-law 20. A Consultation Document outlining proposed substantive changes to By-law 20 was distributed to the Enforcement Department, the Vice-Presidents of all IDA Departments and to all Regional Directors. All drafts of By-law 20 were distributed to the Enforcement Department, Vice-Presidents of all IDA Departments and all other relevant Association Staff on an ongoing basis throughout the drafting process. Consultation was done on an ongoing basis with the Regulatory Policy, Sales Compliance, Registrations and Financial Compliance departments of the IDA with respect to issues and hearing processes that pertain to those departments.

External Consultation Process

Fred Kaufman was mandated to provide a review of the Enforcement Process in July 2000. A Consultation Document outlining proposed substantive changes to By-law 20 was provided to all District Councils November 2002 and to the Compliance and Legal Section December 2002. Presentations were provided to each District Council and to the Compliance and Legal Section in November and December 2002. All drafts of By-law 20 were distributed to all District Council members and Compliance and Legal Section Members for comment on an ongoing basis throughout the drafting process.

IV SOURCES

The following sources were referred to when developing the revised By-law 20:

- IDA By-laws, Rules, Regulations and Policies;
- Securities Acts of Canadian securities commissions;
- NASD By-laws and Rules;
- NYSE By-laws and Rules;
- SEC By-laws and Rules;
- Rules of other Canadian and US regulators and self-regulatory organizations.

V OSC REQUIREMENT TO PUBLISH FOR COMMENT

The IDA is required to publish for comment the accompanying Policy so that the issue referred to above may be considered by OSC staff.

The Association has determined that the entry into force of the proposed Policy would be in the public interest. Comments are sought on the proposed Policy. Comments should be made in writing. One copy of each comment letter should be delivered within 30 days of the publication of this notice, addressed to the attention of Belle Kaura, Investment Dealers Association of Canada, Suite 1600, 121 King Street West, Toronto, Ontario, M5H 3T9 and one copy addressed to the attention of the Manager of Market Regulation, Ontario Securities Commission, 20 Queen Street West, 19th Floor, Box 55, Toronto, Ontario, M5H 3S8.

Questions may be referred to:
Belle Kaura
Enforcement Policy Counsel
Enforcement Department
Investment Dealers Association of Canada
(416) 943-5878
bkaura@ida.ca

INVESTMENT DEALERS ASSOCIATION OF CANADA

PROPOSED AMENDMENTS TO BY-LAWS 20, 2, 4, 11, 28, 30, 33, 35 and POLICY 6

THE BOARD OF DIRECTORS of the Investment Dealers Association hereby makes the following amendments to the By-laws, Regulations, forms and Policies of the Association:

BY-LAW 20

1. By-law 20 is repealed and replaced in its entirety by the proposed By-law 20.

BY-LAW 2

2. By-law 2.1 is amended by adding the following words immediately preceding the words “Board of Directors”:

“Executive Committee of the”, and by

adding the following words immediately following the word “discretion”:

“and pursuant to By-law 20”.

3. By-law 2.4 has been amended by renumbering paragraph two as:

“By-law 2.5”, and by

replacing the words “prescribed form” with the following words:

“application for Membership”, and by

replacing the word “also” with the following word:

“by”, and by

de-capitalizing the following word which preceded the words “for Membership”:

“application”, and by

replacing the words “which is not so signed by a proposer and seconder shall be eligible for consideration by a District Council and approval by the Board of Directors but the absence of a proposer or seconder may be considered by such Council or the Board, as the case may be, in exercising their respective powers in respect of the application” with the following words:

“without a proposer and seconder can be considered by the District Council and approved by the Executive Committee of the Board of Directors but they can take into consideration the absence of a proposer and seconder in exercising their respective powers regarding the application”, and by

renumbering paragraph three as:

“By-law 2.6”, and by

adding the following words immediately prior to the word “$2,000”:

“non-refundable deposit of”, and by

replacing the words “deposit on account of Entrance Fee which shall not be refundable if the application is not approved by the Board of Directors as the case may be” with the following words:

“on account of the Entrance Fee”, and by

renumbering paragraph four as:

“By-law 2.7”, and by

replacing the words “In addition, if in connection with the review or consideration of any application for Membership” with the following word:

“If”.

4. By-law 2.5 has been renumbered to:

“By-law 2.8”.

5. By-law 2.6 has been renumbered to:

“By-law 2.9”, and by

deleting the following words preceding the word “lodge”:

“by the secretary”, and by

adding a comma after the following word “lodge”, and by

adding a comma after the following words “with the secretary”, and by

replacing the word “an”, which follows the word “secretary” and precedes the word “objection”, with the following word:

“a”, and by

adding the following word preceding the words “objection in writing the admission of the applicant”:

“written”, and by

deleting the following words preceding the words “to the admission of the applicant”:

“in writing”, and by

replacing the words “and in such event the objection shall be forwarded to the applicable District Council with the application for Membership pursuant to By-law 2.9” with the following words:

“The objection shall be forwarded to the application District Council for consideration along with the Membership application”.

6. By-law 2.7 has been renumbered to:

“By-law 2.10”.

7. A provision has been added immediately following “By-law 2.7” and is numbered as:

“By-law 2.11”, and reads as follows:

“2.11 Notwithstanding the provisions of By-law 2.7, if an applicant qualifies for exemption from payment of the Entrance Fee pursuant to By-law 3, the applicable District Council may waive any of the conditions relating to an application for Membership that it considers appropriate in the circumstances of the particular case.”

8. A provision has been added immediately preceding “By-Law 2.7A” and is numbered as:

“By-law 2.12”, and reads as follows:

“2.12 Notwithstanding the provisions of By-law 2.7, if an applicant for Membership is a related company of a Member which confirms its intention to continue its Membership in the Association, the Vice-President, Financial Compliance and the District Association Auditors may determine, in their discretion, what financial information is required.”

9. By-law 2.7A has been renumbered to:

“By-law 2.13”.

10. By-law 2.8 has been renumbered to:

"By-law 2.14", and amended by

deleting the following word immediately following the word "shall":

"so:, and by

deleting the following word immediately following the word "forthwith":

"thereafter".

11. By-law 2.9 has been renumbered to:

"By-law 2.15", and

has been repealed and replaced by the following:

"2.15. The Membership approval process as set out in By-law 20 shall apply once:

(a) the Secretary has notified Members pursuant to By-law 2.6 and the fifteen day period referred to therein has expired;

(b) the applicable District Council receives the Membership application from the Secretary;

(c) the applicable District Council receives the notification from the District Association Auditors pursuant to By-law 2. 8; and

(d) a period of six months or such lesser period as the District Council may in any particular case determine has expired."

12. By-law 2.9A has been repealed.

13. By-law 2.9B has been repealed.

14. By-law 2.9C has been repealed.

15. By-law 2.9D has been repealed.

16. By-law 2.9E has been repealed.

17. By-law 2.9F has been repealed.

18. By-law 2.9G has been repealed.

19. By-law 2.10 has been renumbered to:

"By-law 2.16", and has been amended by

replacing the words "If and when the application is approved by the applicable District Council, the Secretary" with the following words:

" The Secretary" , and by

Deleting the following words following the words "shall compute the":

"amount of the", and by

replacing the words "to be paid by the applicant" with the following words:

"payable by the applicant", and by

adding the following words following the words "pursuant to By-law 3.2":

"and provide such computation to the Board of Directors".

20. By-law 2.11 has been repealed.

21. By-law 2.12 has been repealed.

22. By-law 2.13 has been renumbered to:

"By-law 2.17", and has been amended by

adding the following words immediately at the beginning of "By-law 2.13":

"The applicant shall become a Member if and when:", and by

deleting the following words:

"if and when", and by

capitalizing the following word the precedes the words "application has been approved by the Board of Directors":

"The", and by adding a semi-colon after the words "application has been approved by the Board of Directors", and by

deleting the following word that precedes the words "the applicant has been duly licenced":

"and", and by

replacing the words ", and upon payment of the balance of the Entrance Fee and Annual Fee, the applicant shall become and be a Member" with the following words:

"; and the Entrance Fee and Annual fee has been paid in full", and by

restructuring the paragraph for greater clarity as follows:

"2.17. The applicant shall become a Member if and when:

(a) The application has been approved by the Board of Directors;

(b) the applicant has been duly licensed or registered to carry on business as a securities dealer under the applicable law of the province or provinces or territories in which the applicant carries on or proposes to carry on business; and

(c) the Entrance Fee and Annual fee has been paid in full."

23. By-law 2.14 has been repealed.

24. By-law 2.15 has been repealed.

25. By-law 2.16 has been renumbered to:

"By-law 2.18".

26. By-law 2.17 has been renumbered to:

"By-law 2.19".

BY-LAW 4

27. By-law 4.9(b) is amended by adding the following words immediately following the word "Association":

"pursuant to By-law 20".

BY-LAW 11

28. By-law 11.1A has been renumbered to:

"By-law 11.2", and amended by:

adding a comma after the following words "Each District Council shall", and by:

adding a comma after the following words "Annual Meeting", and by:

adding the following after the following words "appoint a roster of":

"Hearing Committee members, pursuant to By-law 20, who have been nominated for appointment by the Nominating Committee of the District Council in accordance with Part 5 of By-law 20. Public members and retired industry members who are part of a Hearing Committee shall be eligible to vote only at meetings which are hearings pursuant to By-law 20."

29. By-law 11.1B has been repealed.

30. By-law 11.2 has been renumbered to:

"By-law 11.3".

31. By-law 11.3 has been renumbered to:

"By-law 11.4".

32. By-law 11.4 has been renumbered to:

"By-law 11.5".

33. By-law 11.5 has been renumbered to:

"By-law 11.6".

34. By-law 11.5A has been renumbered to:

"By-law 11.6A".

35. By-law 11.6 has been renumbered to:

"By-law 11.7".

36. By-law 11.7 has been renumbered to:

By-law 11.8".

37. By-law 11.8 has been renumbered to:

"By-law 11.9".

38. By-law 11.9 has been renumbered to:

"By-law 11.10".

39. By-law 11.9A has been renumbered to:

"By-law 11.10A".

40. By-law 11.10 has been renumbered to:

"By-law 11.11".

41. By-law 11.11 has been renumbered to:

"By-law 11.12".

42. By-law 11.12 has been renumbered to:

"By-law 11.13".

43. By-law 11.13 has been renumbered to:

"By-law 11.14", and amended by:

adding the flowing subsection:

"(a) Nomination of Hearing Committee Members, and", and by

adding the following subsection:

"(h) Exemption Requests"

44. By-law 11.14 has been renumbered to:

"By-law 11.15".

45. By-law 11.15 has been renumbered to:

"By-law 11.16".

46. By-law 11.16 has been renumbered to:

"By-law 11.17".

47. By-law 11.17 has been renumbered to:

"By-law 11.18".

48. By-law 11.18 has been renumbered to:

"By-law 11.19".

BY-LAW 28

49. By-law 28.4(d) is amended by replacing the words "District Council" with the following words:

"District Council Panel, Hearing Panel or Appeal Panel".

50. By-law 28.4(d)(ii) is amended by replacing "11.1A" with the following:

"20.9".

BY-LAW 33

51. By-law 33 is amended by replacing the word "or" with a comma.

52. By-law 33 is amended by adding the following words immediately following the words "District Council":

", Hearing Panel, Board Panel or Appeal Panel".

53. By-law 33 is amended by replacing the following word "given", which immediately precedes the word "jurisdiction", with the following word:

"with."

54. By-law 33 is amended by removing the following wording:

"under its enabling jurisdiction."

55. By-law 33 is amended by replacing the following word "secretary" with the following words:

"National Hearing Coordinator".

BY-LAW 35

56. By-law 35.1(h) was repealed and replaced by the following:

"A Member may apply for an exemption from the requirements of By-law 35 in accordance with By-law 20.25."

57. By-law 35.6 is amended by adding the following words immediately preceding the words "applicable District Council":

"pursuant to By-law 20.25."

POLICY 6

58. Part I, Section B is amended by adding the following words immediately preceding the words "may from time to time":

", pursuant to By-law 20.24", and by

deleting the following words preceding the words "exempt any person":

"from time to time".

59. Part II, Section C is amended by adding the following words immediately preceding the words "may grant an exemption":

", pursuant to By-law 20.24".

PASSED AND ENACTED BY THE Board of Directors this 9th day of October 2003, to be effective on a date to be determined by Association staff.

PROPOSED AMENDED BY-LAW NO. 20

AND

COROLLARY AMENDMENTS TO BY-LAW NOS. 2, 4, 11, 28, 3, 33 AND 35 AND POLICY NO. 6
BY- LAW 20

ASSOCIATION HEARING PROCESSES

PART 1 - DEFINITIONS

20.1 In this By-law:

"Applicant" means:

an individual or Firm that applies for approval or membership pursuant to Part 7 of this By-law or the Approved Person or Member that applies for an exemption pursuant to Part 8 of this By-law.

"Business days" means:

a day other than Saturday, Sunday or any officially recognized Federal statutory holiday or any officially recognized Provincial statutory holiday in the applicable District. In calculating the number of business days, the days on which the events happen are excluded.

"Calendar days" means:

all days in a calendar year. In calculating the number of calendar days, the days on which the events happen are excluded.

"Decision" means:

a determination, including reasons, arrived at after consideration of facts and/or law by a Decision-maker pursuant to this By-law. Decision includes rulings and orders.

"Decision-maker" means:

the person or body making the decision under the respective provision of By-law 20. The Decision-maker can be: Association Staff (20.18 Part 7 By-law 20, 20.24 Part 8 By-law 20); the District Council or a sub-committee of the District Council (20.18 and 20.20 Part 7 By-law 20, 20.24 and 20.25 Part 8 By-law 20); the Executive Committee of the Board of Directors; (20.21 Part 7 By-law 20), a Board Panel; (20.22 Part 7 By-law 20), a District Council Panel; (20.26 Part 8 By-law 20), a Hearing Panel; (20.13 Part 6 By-law 20); and an Appeal Panel; (20.51 Part 11 By-law 20).

"Disciplinary Hearing" *means:*

A hearing held by a Hearing Panel, under By-law 20.33 or By-law 20.34, that is not a settlement hearing, to determine whether the imposition of penalties against an Approved Person or Member is warranted for any of the reasons set out in By-law 20.33(1) or By-law 10.34(1).

"Former Judge" *means:*

an individual who has served as a judge in any provincial or federal court in Canada or an individual who is or has been qualified to practice law and has served as an adjudicator on an administrative tribunal in Canada.

"Monitor" means:

a Monitor appointed pursuant to By-law 20.46 to monitor the company's business and financial affairs and to act in furtherance of powers granted by a Hearing Panel.

"Release of Decision" means:

when a decision made under this By-law is made available to the Respondent, Applicant, Approved Person or Member pursuant to the IDA Rules of Practice and Procedure.

"Respondent" means:

an Approved Person or Member who is the subject of a disciplinary hearing, settlement hearing, expedited hearing, or appeal hearing under By-law 20.

"Settlement Agreement" means:

an agreement reached by the Association and the Respondent whereby the parties agree to disciplinary charges, facts and penalty.

PART 2 – GENERAL AUTHORITY OF PANELS

20.2 Exercise Of Authority

(1) A Hearing Panel, District Council Panel, Board Panel or Appeal Panel may make any determination, hold any hearing and make any decision, order, interim order or any terms required to implement such order, required or permitted under By-law 20 or under the IDA Rules of Practice and Procedure.

(2) A Hearing Panel, District Council Panel, Board Panel, or Appeal Panel, may, in its discretion, admit any evidence, information, testimony, document, affidavit or thing, whether or not given or proven under oath or affirmation and whether or not inadmissible by any statute or law.

(3) A Hearing Panel, District Council Panel, Board Panel, or Appeal Panel may require presentation of evidence or testimony under oath or affirmation.

PART 3 – DECISION-MAKING AND EFFECTIVENESS OF DECISIONS

20.3 Decision-making

(1) For any decision made pursuant to By-law 20 where the Decision-maker consists of more than one individual, any action affirmed by a majority of persons that make up the Decision-maker, shall constitute the decision of the Decision-maker.

(2) Where a Hearing Panel is comprised of only two members pursuant to By-law 20.16, any action affirmed by both members shall constitute the decision of the Hearing Panel. Where an agreement is not reached, the matter shall be deemed dismissed as against the Respondent.

(3) All decisions of a Decision-maker pursuant to By-law 20, including dissent decisions, shall be in writing and shall contain reasons for the decision.

(4) Dissent decisions may be issued by a member of a Board Panel, District Council Panel, Hearing Panel, or Appeal Panel.

20.4 Territorial Application of Decisions

(1) Any decision made under this By-law shall have effect in all of the Districts, unless otherwise ordered by the Decision-maker or unless such extension or application of the decision is limited by law.

20.5 Effective Date of Decision

(1) Any decision made pursuant to By-law 20 shall become effective on the date that the decision is made, unless it provides otherwise.

(2) Notwithstanding subsection (1), a decision made pursuant to By-law 20.28 shall become effective as prescribed in By-law 20.29(3).

20.6 Effective Date of Penalties

(1) Suspensions, bars, expulsions, restrictions or other conditions or terms imposed on approval or Membership commence as of the effective date of the decision, unless otherwise determined by the Decision-maker.

(2) Any fine imposed on a Respondent shall be payable immediately when the decision becomes effective unless otherwise agreed by the parties.

PART 4 - CONTINUING JURISDICTION

20.7 Former Members and Approved Persons

(1) For the purposes of By-law 19 and By-law 20, any Member and any Approved Person shall remain subject to the jurisdiction of the Association for a period of five years from the date on which such Member or Approved Person ceased to be a Member or an Approved Person of the Association, subject to subsection 2.

(2) An enforcement hearing under Part 10 of this By-law may be brought against a former Approved Person who re-applies for approval under Part 7 of this By-law, notwithstanding expiry of the time period set out in subsection (1).

(3) An Approved Person whose approval is suspended or revoked or a Member who is expelled from membership or whose rights or privileges are suspended or terminated shall remain liable to the Association for all amounts owing to the Association.

PART 5 - HEARING COMMITTEE

20.8 Nominating Committee – Appointment of Hearing Committee Members

(1) Each District Council shall establish a Nominating Committee. The Nominating Committee shall be composed of the Chair of the District Council, the Vice-Chair of the District Council and one other member of the District Council as appointed by the District Council.

(2) The Nominating Committee shall nominate individuals to be members of the Hearing Committee of the respective District, in accordance with By-laws 20.9 to 20.12, and present these nominations for approval by the respective District Council.

(3) The District Council must approve the appointment of members to the Hearing Committee by vote pursuant to By-law 11.

20.9 Appointment of Industry Members to Hearing Committees

(1) The Nominating Committee shall nominate persons for appointment as industry members of the Hearing Committee.

(2) The Nominating Committee shall consider for nomination as an industry member of the Hearing Committee any District Council member, other than a member of the Nominating Committee, or any other persons who are:

(a) resident in the District; and

(b) an officer, partner, director or employee of a Member; or

(c) a retired officer, partner, director or employee of a Member.

(3) The Nominating Committee shall review the suitability, fitness and qualifications of each person nominated as an industry member to the Hearing Committee.

(4) The District Councils of Alberta, Ontario, the Pacific and Quebec shall each appoint a minimum of seven industry members to their respective Hearing Committees.

(5) The District Councils of Manitoba, New Brunswick, Newfoundland, Nova Scotia, Prince Edward Island and Saskatchewan shall each appoint a minimum of four industry members to their respective Hearing Committees.

20.10 Appointment of Public Members to Hearing Committees

(1) The Nominating Committee shall nominate public members of the Hearing Committee.

(2) The Nominating Committee shall consider for nomination as a public member only those persons who are:

(a) resident in the District; and

(b) or have been qualified to practice law in any Canadian jurisdiction.

(3) No person shall be eligible to be appointed as a public member or be permitted to continue to serve his or her term of appointment as a public member if he or she represents any parties to hearings under By-law 20 during the course of his or her appointment to a Hearing Committee.

(4) The Nominating Committee shall review the suitability, fitness and qualifications of each person nominated as a public member of the Hearing Committee.

(5) The District Councils of Alberta, Ontario, the Pacific and Quebec shall each appoint a minimum of three public members, one of which shall be a former judge, to their respective Hearing Committees.

(6) The District Councils of Manitoba, New Brunswick, Nova Scotia and Saskatchewan shall each appoint a minimum of two public members, one of which shall be a former judge, to their respective Hearing Committees.

(7) The District Councils of Newfoundland and Prince Edward Island shall each appoint a minimum of one public member to sit on their respective Hearing Committees, between the Hearing Committees of these two Districts, there shall be one former judge.

20.11 Chair of Hearing Committee

(1) The Nominating Committee of each District shall nominate a public member to serve as Chair of the Hearing Committee.

(2) The District Council must approve the appointment of a Chair of the Hearing Committee by a vote pursuant to By-law 11.

(3) The Chair of the Hearing Committee shall play an advisory role with respect to any legal, administrative or procedural issues raised by Hearing Committee Members or any issues regarding selection of Hearing Panel members raised by the National Hearing Coordinator.

20.12 Term of Appointment To Hearing Committee

(1) Each person appointed to a Hearing Committee shall serve for a term of one year from the date of his or her appointment.

(2) If a Hearing Committee member is seized with a hearing at the expiration of the one-year term, the term of that member shall be automatically extended until completion of the hearing.

(3) Upon expiration of the one-year term, members of the Hearing Committee may be re-appointed by District Council to serve on the Hearing Committee, pursuant to By-law 20.8.

(4) The District Council may remove Hearing Committee members from the Hearing Committee roster if the Hearing Committee member fails or is unable to perform the essential duties of his or her position.

(5) The District Council shall remove Hearing Committee members from the Hearing Committee roster if the Hearing Committee member:

(a) ceases to meet the applicable criteria prescribed by By-law 20.9 (2) for industry members and by By-law 20.10 (2) for public members; or

(b) is a public member who engages in the type of relationship or conduct prohibited by By-law 20.10(3).

PART 6 - DECISION-MAKERS

20.13 Hearing Panel Composition and Quorum

(1) Any hearing pursuant to:

(a) By-law 20.19 (approval review hearings);

(b) By-law 20.29 (early warning level 2 review hearings);

(c) By law 20.33 and By-law 20.34 (disciplinary hearings);

(d) By-law 20.36 (settlement hearings);

(e) By-law 20.45 and By-law 20.47 (expedited hearings);

(f) By-law 20.47 (expedited review hearings);

shall be heard by a Hearing Panel comprised of two industry members and one public member appointed to the Hearing Committee of the applicable District, subject to subsection (2).

(2) Hearing Committee members may serve on Hearing Panels in other Districts where both Chairs of the respective Hearing Committees consent.

20.14 Selection of Hearing Committee Members for Hearings

(1) The National Hearing Coordinator shall be responsible for selection of members of Hearing Panels, District Council Panels, Board Panels and Appeal Panels, pursuant to By-law 20, and any other duties as prescribed by the IDA Rules of Practice and Procedure of Hearings.

20.15 Conflicts of Interest

(1) A member of a District Council, the Board of Directors, or a Hearing Committee shall not be a member of a Decision-maker with respect to a matter under By-law 20 if he or she:

(a) is an officer, partner, director, employee or an associate of, or is providing services to, the Member, affiliate of the Member or related company of the Member, that is the Applicant or Respondent under By-law 20;

(b) is an officer, partner, director, employee or an associate of a Member, affiliate of the Member or related company of, or is providing services to the Member, where an Approved Person, who is the Applicant or Respondent under By-law 20, is employed;

(c) represents any parties to hearings under By-law 20 during the course of his or her appointment to a Hearing Committee; or

(d) has or had such other relationship to the Approved Person, Member, affiliate of the Member or related company of the Member, or matter as may give rise to a reasonable apprehension of bias.

20.16 Chair of Hearing Panel

(1) A public member of a Hearing Committee shall be appointed to be the Chair of any Hearing Panel.

(2) The Chair of the Hearing Panel shall be responsible for:

(a) conduct of a hearing in consultation with industry members of a Hearing Panel; and

(b) drafting of decisions in consultation with industry members of a Hearing Panel.

20.17 Continuation of a Hearing With Two Hearing Panel Members

(1) A hearing under By-law 20 shall not continue where the Chair of a Hearing Panel is unable to continue to be a member of the Hearing Panel.

(2) If an industry member is unable to continue to be a member of a Hearing Panel presiding over an enforcement hearing, the Chair of the Hearing Panel may decide, in his or her discretion, whether or not to proceed with the hearing.

(3) If the Chair of the Hearing Panel is unable to continue to be a member of a Hearing Panel, pursuant to subsection (1), or the Chair of the Hearing Panel decides not to proceed with the hearing, pursuant to subsection (2), a new Hearing Panel shall be constituted to preside over the hearing.

PART 7 - INDIVIDUAL AND MEMBERSHIP APPROVALS

APPROVAL APPLICATIONS

20.18 Powers of District Council

(1) The District Council shall have the power, which it may delegate to a Sub-Committee of the District Council comprised of three industry members and established pursuant to By-law 11, or to Association Staff, to:

(a) approve an application for approval as, or the transfer of a:

(i) sales manager, branch manager, assistant or co-branch manager, pursuant to By-law 4,

(ii) partner, director or officer, pursuant to By-law 7,

(iii) registered representative or investment representative, pursuant to By-law 18,

(iv) trader, pursuant to Regulation 500, or

(v) portfolio manager, futures contracts portfolio manager and associate portfolio manager pursuant to Regulation 1300.

(2) The District Council shall have the power, which it may delegate to a Sub-Committee of the District Council, pursuant to subsection (1), to:

(a) approve an application for approval or transfer referred to in By-law 20.18(1)(a) subject to such conditions as may be considered just and appropriate;

(b) refuse an application for approval or transfer referred to in By-law 20.18(1)(a), if in its opinion:

(i) the Applicant does not meet any requirements prescribed by IDA By-laws, Regulations, Rulings of Policies;

(ii) the By-laws, Regulations, Rulings and Policies of the Association will not be complied with by the Applicant;

(iii) the Applicant is not qualified for approval by reason of integrity, solvency, training or experience; or

(iv) such approval is otherwise not in the public interest.

20.19 Review Hearings

(1) Association Staff or the Applicant may request a review of an approval decision by a Hearing Panel within ten business days after release of the decision.

(2) If a review is not requested within ten business days after release of the decision, the approval decision becomes final.

(3) No member of a District Council who has participated in a decision to refuse an application or impose conditions on an application, pursuant to By-law 20.18, shall participate on the Hearing Panel.

(4) A review hearing held under this Part shall be held in accordance with the IDA Rules of Practice and Procedure of Hearings.

(5) The Hearing Panel may:

(a) affirm the decision;

(b) quash the decision;

(c) vary or remove any terms and conditions imposed on approval;

(d) limit the ability to re-apply for approval for such period of time as it determines just and appropriate; and

(e) make any decision that could have been made by the District Council pursuant to By-law 20.18.

(6) No appeal shall be available from the decision of the Hearing Panel.

MEMBERSHIP APPLICATIONS

20.20 Recommendation of District Council

(1) The District Council, or a sub-committee of the District Council established pursuant to By-law 11, shall make a recommendation to the Executive Committee of the Board of Directors to:

(a) approve an application for Membership made pursuant to By-law 2;

(b) approve the application subject to such terms and conditions as may be considered just and appropriate; or

(c) refuse the Application if, in the opinion of the District Council:

(i) the Applicant does not meet any requirements prescribed by IDA By-laws, Regulations, Rulings of Policies;

(ii) the By-laws, Regulations, Rulings and Policies of the Association will not be complied with by the Applicant;

(iii) the Applicant is not qualified for approval by reason of integrity, solvency, or experience; or

(iv) such approval is otherwise not in the public interest.

20.21 Powers of the Executive Committee of the Board of Directors

(1) The Executive Committee of the Board of Directors shall have the power to:

(a) approve an application for Membership made pursuant to By-law 2;

(b) approve the application subject to such terms and conditions as may be considered just and appropriate;

(c) refuse the application if, in its opinion:

(i) the By-laws, Regulations, Rulings and Policies of the Association will not be complied with by the Applicant;

(ii) the Applicant is not qualified for approval by reason of integrity, solvency, or experience; or

(iii) such approval is otherwise not in the public interest.

20.22 Review Hearings

(1) Association Staff or the Applicant may request a review of a membership approval decision by a Board Panel within thirty business days after release of the decision.

(2) If a review is not requested within thirty business days after release of the decision, the membership approval decision becomes final.

(3) The review hearing shall be presided over by a panel of the Board of Directors comprised of one independent member of the Board of Directors and two industry members of the Board of Directors, and where the Applicant is a Quebec firm, at least one of the members of the Board Panel shall be resident in Quebec. No member of the Executive Committee of the Board of Directors who participated in the making of the membership approval decision shall be a member of the Board Panel.

(4) A review hearing held under this Part shall be held in accordance with the IDA Rules of Practice and Procedure.

(5) The Board Panel may:

(a) affirm the decision;

(b) quash the decision;

(c) vary or remove any terms and conditions imposed on Membership;

(d) limit the ability to re-apply for approval for such period of time as it determines just and appropriate; and

(e) make any decision that could have been made by the Executive Committee pursuant to By-law 20.21.

(6) At any hearing presided over by a Board Panel pursuant to By-law 20, any action affirmed by a majority of the Board Panel shall constitute the decision of the Hearing Panel.

(7) All decisions by a Board Panel shall be in writing and shall contain a statement of the reasons for the decision. A member of a Board Panel may dissent with separate reasons.

(8) No appeal shall be available from the decision of the Board Panel.

20.23 District Council Powers – Exemption for Payment of Entrance Fee

Notwithstanding By-law 20.20, By-law 20.21 and By-law 20.22, if an Applicant is exempted from payment of the Entrance Fee pursuant to By-law 3.4 and has met all Membership application conditions pursuant to By-law 2, except any conditions the District Council has waived in the circumstances, the District Council may approve the application for Membership without referral to the Executive Committee of the Board of Directors for final decision.

PART 8 - EXEMPTION REQUEST APPLICATIONS

PROFICIENCY EXEMPTIONS

20.24 Powers of District Councils

(1) Persons may apply for a proficiency exemption pursuant to Policy 6.

(2) The District Council, or a sub-committee of the District Council established pursuant to By-law 11, shall have the power, to:

(a) exempt any person or class of persons from proficiency requirements, pursuant to paragraph B of Policy 6 - Part I Proficiency Requirements on such terms and conditions, if any, as it may determine;

(b) exempt any person from writing or re-writing any required course or examination , pursuant to paragraph C of Policy 6 - Part II Course and Examination Exemptions, on such terms and conditions, if any, as it may determine; or

(c) exempt any person from the Continuing Education Program requirements, pursuant to Section A.3 of Policy 6 – Part III The Continuing Education Program, on such terms and conditions, if any, as it may determine.

(3) The District Council, or sub-committee of the District Council, may delegate the power to approve or refuse proficiency exemptions to Association Staff.

INTRODUCING CARRYING BROKER ARRANGEMENT EXEMPTIONS

20.25 Powers of District Councils

(1) Members may apply for an exemption from the introducing carrying broker arrangement requirements pursuant to By-law 35.

(2) The District Council, or a sub-committee of the District Council, established pursuant to By-law 11, shall have the power to:

(a) exempt any Member from any of the requirements of By-law 35 on such terms and conditions, if any, as it determines to be just and appropriate; and

(b) exempt any arrangements between a Member and a Member's foreign affiliate, pursuant to By-law 35.6, from the requirements of By-law 35 on such terms and conditions, if any, as it determines to be just and appropriate.

(3) The Member shall comply with any rules applicable to introducing carrying broker arrangement exemption applications prescribed by the IDA Rules of Practice and Procedure.

(4) The Member shall be provided with notice of the decision where the exemption is granted and the decision with reasons where the exemption is refused or granted subject to conditions.

EXEMPTION REQUEST REVIEWS

20.26 Review Hearings

(1) The Applicant or Association Staff may apply for a review of the District Council decisions pursuant to By-law 20.24 or By-law 20.25 within ten business days after release of the decision.

(2) If the Applicant does not request a review within the time period prescribed in subsection (1), the District Council decision to refuse the exemption request application or approve the exemption request application subject to terms and conditions, shall become final.

(3) If Association Staff requests a review within the time period prescribed in subsection (1), the request for review shall operate as a stay from the District Council decision.

(4) A review of a District Council decision shall be heard by a District Council Panel comprised of three members of the District Council. No member of a District Council who participated in the District Council decision shall sit on the District Council Panel.

(5) The District Council Panel may:

(a) affirm the decision;

(b) quash the decision;

(c) vary or remove any terms and conditions imposed on an Applicant; and

(d) make any decision that could have been made by the District Council pursuant to By-law 20.24 and By-law 20.25.

(6) All decisions by a District Council Panel shall be in writing and shall contain a statement of the reasons for the decision. A member of a District Council Panel may dissent with separate reasons.

(7) No appeal shall be available from the decision of the District Council Panel.

20.27 Costs

(1) The District Council Panel may order against the Applicant any costs associated with the exemption request review hearing determined to be appropriate and reasonable.

(2) Costs shall not be assessed where the District Council Panel grants the exemption request.

PART 9 - EARLY WARNING REVIEW PROCEEDINGS

20.28 Imposition of Prohibitions - Early Warning Level 2

(1) The Senior Vice-President Member Regulation, or his or her delegate may, in his or her discretion, order that a Member designated as being in Early Warning Level 2, pursuant to By-law 30, be prohibited from:

(a) opening any new branch offices;

(b) hiring any new registered representative, or investment representative;

(c) opening any new customer accounts; or

(d) changing, in any material respect, the inventory positions of the Member.

(2) Written notice of an order made under subsection (1) shall be provided to the Member.

20.29 Review of Early Warning Level 2 Prohibitions

(1) The Member may request a review of a By-law 20.28 order by a Hearing Panel within three business days after release of the decision.

(2) If a request for review is made, the hearing shall be held as soon as reasonably possible and no later than twenty-one calendar days after the request for review, unless otherwise agreed by the parties.

(3) If a Member does not request a review within the time period prescribed in subsection (1), the By-law 20.29 order becomes final.

(4) A Hearing Panel may:

(a) affirm the order;

(b) quash the order; or

(c) vary or remove any prohibitions imposed on the Member; and

(d) make any decision that could have been made by the Senior Vice-President Member Regulation, or his or her designate pursuant to By-law 20.28.

(5) No appeal shall be available from the decision of the Hearing Panel.

PART 10 – ENFORCEMENT HEARINGS

INITIATION OF DISCIPLINARY HEARINGS

20.30

(1) The Association may hold hearings, as set out under this By-law, in order to ensure compliance with and enforcement of Association By-laws, Regulations, Rulings and Policies and federal or provincial statutes, regulations, rulings or policies relating to trading or advising in respect of securities.

(2) The categories of enforcement hearings under By-law 20 are: disciplinary hearings; settlement hearings and expedited hearings. Enforcement hearings shall be conducted in accordance with this By-law and the IDA Rules of Practice and Procedure.

POWERS OF COMPULSION

20.31 Members, Approved Persons and Association Staff

(1) Every Member, Approved Person and or Association Staff member shall:

(a) attend and give evidence respecting any matter relevant to hearings pursuant to By-law 20.33, By-law 20.34 or By-law 20.42 upon receipt of notice from the National Hearing Coordinator or his or her designate or order of a Hearing Panel; and

(b) produce for inspection and provide copies of any books, records, accounts and documents that are in the possession or control of the Member or Approved Person, to a Hearing Panel upon receipt of notice from the National Hearing Coordinator or order of the Hearing Panel.

(2) Failure to comply with subsections 1(a) or (b) constitutes a contravention of Association By-laws and may result in disciplinary action under By-law 20.33 or By-law 20.34.

20.32 Partners, Directors, Officers and Employees of Members

(1) Where a Hearing Panel requires the attendance before it of any partner, director, officer or employee of a Member, who is not an Approved Person, the Member shall direct such employee to attend and to give information or make such production of documents as can be required of a person referred to in By-law 20.31.

(2) Failure by the Member to comply with subsection (1) constitutes a contravention of Association By-laws and may result in disciplinary action under By-law 20.34.

PENALTIES

20.33 Approved Persons

(1) Upon conclusion of a disciplinary hearing, a Hearing Panel may impose the penalties set out at 20.33(2) if, in the opinion of the Hearing Panel, the Approved Person:

(a) failed to comply with or carry out the provisions of any federal or provincial statute, regulation, ruling or policy relating to trading or advising in respect of securities or commodities;

(b) failed to comply with the provisions of any By-law, Regulation, Ruling or Policy of the Association; or

(c) failed to carry out an agreement or undertaking with the Association;

(2) Pursuant to subsection (1), a Hearing Panel may impose any one or more of the following penalties upon the Approved Person:

(a) a reprimand;

(b) a fine not exceeding the greater of:

(i) $1,000,000 per contravention; or

(ii) an amount equal to three times the profit made or loss avoided by such Approved Person by reason of the contravention.

(c) suspension of approval for any period of time and upon any conditions or terms;

(d) terms and conditions of continued approval;

(e) prohibition of approval in any capacity for any period of time;

(f) termination of the rights and privileges of approval;

(g) revocation of approval;

(h) a permanent bar from approval with the Association; or

(i) any other fit remedy or penalty.

20.34 Members

(1) Upon conclusion of a disciplinary hearing, a Hearing Panel may impose the penalties set out at By-law 20.34(2) if, in the opinion of the Hearing Panel, the Member:

(a) failed to comply with or carry out the provisions of any federal or provincial statute, regulation, ruling or policy relating to trading or advising in respect of securities or commodities;

(b) failed to comply with the provisions of any By-law, Regulation, Ruling or Policy of the Association;

(c) failed to carry out an agreement or undertaking with the Association; or

(d) failed to meet liabilities to another Member or to the public.

(2) Pursuant to subsection (1), a Hearing Panel may impose any one or more of the following penalties upon the Member:

(a) a reprimand;

(b) a fine not exceeding the greater of:

(i) $5,000,000 per contravention; or

(ii) an amount equal to three times the profit made or loss avoided by the Member by reason of the contravention;

(c) suspension of the rights and privileges of the Member (and such suspension may include a direction to the Member to cease dealing with the public) for any period of time and upon any conditions or terms;

(d) terms and conditions of continued Membership;

(e) termination of the rights and privileges of Membership;

(f) expulsion of the Member from membership in the Association; or

(g) any other fit remedy or penalty.

SETTLEMENT HEARINGS

20.35 Negotiation of Settlement Agreements

(1) Association Staff may negotiate a Settlement Agreement with any Approved Person or Member.

(2) The parties to a Settlement Agreement may agree to the imposition of any of the penalties prescribed by By-law 20.33 or By-law 20.34.

(3) Settlement discussions may occur at any time until the conclusion of a settlement hearing or a disciplinary hearing.

(4) All negotiations of a Settlement Agreement are conducted on a without prejudice basis to the Association and all other persons involved in the negotiations and cannot be used as evidence or referred to in any proceedings.

20.36 Hearing Panel Powers

(1) Upon conclusion of a settlement hearing, the Hearing Panel may only:

(a) accept the Settlement Agreement; or

(b) reject the Settlement Agreement.

(2) Settlement Agreements shall become effective and binding upon Association Staff and an Approved Person or Member upon acceptance by a Hearing Panel. An Approved Person or Member shall be deemed to have been penalized pursuant to By-law 20.33 or By-law 20.34 upon acceptance of a Settlement Agreement by a Hearing Panel.

20.37 Acceptance Of Settlement Agreement

(1) The decision of a Hearing Panel accepting a Settlement Agreement shall constitute final disciplinary action of the Association and no appeal shall be available from the decision.

20.38 Rejection of Settlement Agreement – Proceeding to a Subsequent Settlement Hearing

(1) If a Settlement Agreement is rejected by a Hearing Panel, the parties may agree to enter into another Settlement Agreement.

(2) No member of the Hearing Panel that presided over the initial settlement hearing shall sit on the Hearing Panel presiding over the subsequent settlement hearing.

(3) The reasons for rejecting a Settlement Agreement shall not be made public upon rejection of the initial settlement hearing, but shall be made available to a Hearing Panel presiding over the subsequent settlement hearing.

20.39 Rejection of Settlement Agreement – Proceeding to A Disciplinary Hearing

(1) If a Settlement Agreement or a subsequent Settlement Agreement is rejected by a Hearing Panel, the Association may proceed to a disciplinary hearing based on the same or related disciplinary charges pursuant to By-law 20.33 or By-law 20.34.

(2) No member of the Hearing Panel that presided over the settlement hearing or subsequent settlement hearing shall sit on a Hearing Panel constituted for a disciplinary hearing on the same or related disciplinary charges.

20.40 Rejection of Settlement Agreement

(1) There shall be no appeal from a decision of a Hearing Panel rejecting a Settlement Agreement.

EXPEDITED HEARINGS

20.41 Expedited Hearings

(1) Expedited hearings are held upon application by Association Staff and without notice to the Respondent in the circumstances prescribed in By-law 20.42 and By-law 20.43.

20.42 Types of Expedited Hearings- Members

(1) A Hearing Panel may impose any of the penalties prescribed by By-law 20.45 upon a Member in any of the following circumstances:

Bankruptcy

(a) a Member makes a general assignment for the benefit of its creditors, makes an authorized assignment or a proposal to its creditors; is declared bankrupt, or a winding-up order is made in respect of a Member or a receiver or other officer with similar powers is appointed in respect of all or any part of the undertaking and property of the Member.

Suspension or Cancellation of Registration or Membership

(b) the registration of a Member as a dealer in securities or commodities under any statute respecting trading or advising in respect of securities or commodities has lapsed or is suspended or cancelled;

(c) a recognized stock exchange, securities commission, securities regulatory authority, self-regulatory organization or any recognized trading or quotation system suspends the Membership or privileges of a Member;

Financial or Operating Difficulty

(d) where a Member is in such financial or operating difficulty that the Hearing Panel determines the Member cannot be permitted to continue to operate without risk of imminent harm to the public, other Members or the Association;

Failure to Cooperate – Association Examinations or Investigations

(e) where a Member fails to cooperate with Association examinations or investigations pursuant to By-law 19 and the Hearing Panel determines that the Member cannot be permitted to continue to operate without risk of imminent harm to the public, other Members or the Association;

Criminal Charges

(f) where a Member has been charged with a criminal offence relating to theft, fraud, misappropriation of funds or securities, forgery, money laundering, market manipulation, insider trading, misrepresentation or unauthorized trading, and such criminal charge likely brings the capital markets into disrepute.

Non-Compliance With Conditions

(g) where a Member fails to comply with terms or conditions imposed pursuant to By-law 20.33, By-law 20.34 or By-law 20.38 or By-law 20.29.

20.43 Types of Expedited Hearings - Approved Persons

(1) A Hearing Panel may impose any of the penalties set out in By-law 20.45 upon an Approved Person in any of the following circumstances:

Suspension or Cancellation of Registration or Approval

(a) the registration or approval of an Approved Person under any statute respecting trading or advising in respect of securities or commodities has lapsed, is suspended or cancelled;

(b) a recognized stock exchange, securities commission, securities regulatory authority, self-regulatory organization or recognized trading or quotation system suspends an Approved Person;

Failure to Cooperate – Association Examinations and Investigations

(c) failure to cooperate with Association examinations and investigations pursuant to By-law 19 and the Hearing Panel determines that the Approved Person cannot be permitted to continue to be an Approved Person without risk of imminent harm to the public, other Members or the Association;

Criminal Charges

(d) where an Approved Person has been charged with a criminal offence relating to theft, fraud, misappropriation of funds or securities, forgery, money laundering, market manipulation, insider trading, misrepresentation or unauthorized trading, and such criminal charge likely brings the capital markets into disrepute.

Non-Compliance With Conditions

(e) where an Approved Person fails to comply with terms or conditions imposed pursuant to By-law 20.33, By-law 20.34, or By-law 20.38.

20.44 Non-payment of Fines or Costs

(1) In the event that a fine or costs imposed by a Hearing Panel are not paid within the prescribed time, the Senior Vice-President Member Regulation, or his or her designate may summarily, without further notice, suspend a Member or Approved Person, until such fine or costs are paid.

20.45 Powers Of Hearing Panel

(1) A Hearing Panel has the power to impose any of the following penalties upon a Respondent who is an Approved Person or Member in the circumstances prescribed in By-law 20.42 and By-law 20.43:

(a) suspension of approval or Membership;

(b) imposition of terms or conditions on a suspension of approval or Membership;

(c) imposition of terms or conditions on continued approval or Membership;

(d) direction to immediately cease dealing with the public;

(e) an order with terms and conditions to facilitate the orderly transfer of client accounts from a Member suspended under this By-law;

(f) termination of the rights and privileges of approval or Membership;

(g) expulsion of an Approved Person or Member from the Association; or

(h) imposition of a Monitor pursuant to By-law 20.46.

20.46 Powers Of Hearing Panel To Impose A Monitor

(1) A Hearing Panel may order the imposition of a Monitor, on such terms and conditions as it deems just and appropriate, where it is in the interest of the public, and the Hearing Panel determines that:

(a) the Member is at financial risk and may become insolvent;

(b) client accounts are at risk of financial loss due to a Member's financial condition, inadequate internal controls or deficient operating procedures;

(c) the Member has failed to maintain regulatory capital requirements as prescribed by Association By-laws, Rules, Regulations or Policies or any federal or provincial statute, Regulation, Ruling or Policy relating to trading or advising in respect of securities or commodities; or

(d) the securities firm has been suspended by the Association or other regulatory or self-regulatory organization for failure to meet regulatory capital requirements.

(2) A Monitor appointed pursuant to subsection (1) shall monitor the Member's business and financial affairs in accordance with the terms and conditions specified by the Hearing Panel.

(3) A Hearing Panel may assign any of the following terms and conditions to the Monitor, for such period of time as the Hearing Panel determines is just and appropriate in the circumstances:

(a) to enter and re-enter the Member's premises and to remain on site to conduct day-to-day monitoring of all of the Member's business activities, including but not limited to, monitoring and review of accounts receivable, accounts payable, client accounts, margin, client free credits, the Member's banking, any books or records of the Member, trading conducted by or on behalf of the Member for its' own account or the account of its' clients, payment of any debts or the creation of new debt and any reconciliation required to be completed by the Member;

(b) to make copies of information and to provide copies of such information to Association Staff or any other agency the Hearing Panel determines appropriate;

(c) to provide ongoing reporting of the Monitor's findings or observations to Association Staff or any other agency the Hearing Panel determines appropriate;

(d) to monitor compliance by the Member with any terms or conditions which have been imposed on the Member by the Association or any other regulator, including but not limited to, compliance with early warning terms and conditions;

(e) to verify and assist with the preparation of any regulatory filings, including but not limited to, the calculation of risk adjusted capital;

(f) to conduct or have conducted an appraisal of the Member's net worth or valuation of any part of the Member's assets;

(g) to assist the staff of the Member to facilitate the orderly transfer of client accounts;

(h) to pre-authorize any issuance of cheques or payments made by or on behalf of the Member or distribution of any of the Member's assets; or

(i) any other such terms or conditions that the Hearing Panel determines is just and appropriate to assign to the Monitor.

(4) The expenses related to a Monitor appointed pursuant to By-law 20.46 shall be borne by the Member.

20.47 Review Hearing

(1) The Respondent may file a written request for review of any decision made pursuant to By-law 20.45 within thirty calendar days after release of the decision of the Hearing Panel.

(2) If a request for review is made, pursuant to subsection (1), a hearing shall be held as soon as reasonably possible and no later than twenty-one calendar days after filing of the written request for review unless otherwise agreed by the parties.

(3) No member of a Hearing Panel who presided over a hearing held pursuant to By-law 20.45 shall sit on a Hearing Panel constituted for review of that decision.

(4) If a Respondent does not request a review within the time period prescribed in subsection (1), the Hearing Panel decision shall become final.

(5) Unless the Hearing Panel orders otherwise, a request for a review shall not operate as a stay from a decision made pursuant to By-law 20.45, notwithstanding By-law 20.51.

(6) The review decision of a Hearing Panel may be appealed by either party pursuant to By-law 20.51.

20.48 Powers of The Hearing Panel - Review Hearing

(1) The Hearing Panel presiding over the review hearing may:

(a) affirm any decision;

(b) quash any decision;

(c) vary any decision or penalty; and

(d) make any decision that could have been made by a Hearing Panel pursuant to By-law 20.45.

ASSESSMENT OF COSTS

20.49 Assessment of Costs

(1) In addition to imposing any of the penalties set out in By-law 20.33, By-law 20.34 or By-law 20.45, the Hearing Panel may assess and order any Association Staff Association Staff investigation and prosecution costs determined to be appropriate and reasonable in the circumstances.

(2) Costs shall not be assessed where the Hearing Panel has not made a finding against the Respondent based on any of the grounds set out at By-law 20.33(1) or By-law 20.34(1) or where an expedited decision is quashed upon review pursuant to By-law 20.48(1).

PART 11 - APPEALS OF DISCIPLINARY AND EXPEDITED REVIEW DECISIONS

20.50 Right of Appeal

(1) The Association and a Respondent may appeal a disciplinary decision made by a Hearing Panel to an Appeal Panel.

(2) A Respondent may appeal an expedited review hearing decision made by a Hearing Panel to an Appeal Panel.

(3) An appeal may be made on questions of law or fact or both.

20.51 Composition of Appeal Panel

(1) The Appeal Panel shall be comprised of:

(a) one independent member of the Board of Directors;

(b) one industry member of the Board of Directors; and

(c) one former judge, who is a public member of a Hearing Committee of the District in which the disciplinary hearing or expedited review hearing was heard, or a former judge who is a public member of a Hearing Committee of a District, other than that in which the hearing or expedited review hearing was heard, if the two chairs of the respective Hearing Committees consent.

20.52 Appeal Process

(1) An application for appeal to the Appeal Panel must be made within thirty calendar days after release of the decision of the Hearing Panel.

(2) An application for appeal shall state the basis for such appeal pursuant to the IDA Rules of Practice and Procedure.

20.53 Effect of Appeal Application

(1) An appeal to the Appeal Panel from a decision of a Hearing Panel shall operate as a stay from the decision, unless ordered otherwise by the Appeal Panel.

(2) Notwithstanding subsection (1), an appeal to the Appeal Panel from an expedited review hearing decision shall not operate as a stay from the decision, unless ordered otherwise by the Appeal Panel.

(3) If the decision or order of the Hearing Panel suspends, expels or revokes registration of an Approved Person or Member, the Approved Person or Member shall be subject to strict supervision until release of the appeal decision.

20.54 Powers of Appeal Panel

(1) A hearing held under this Part shall be an appeal on the record, but the Appeal Panel may receive new or additional evidence as it considers just.

(2) The Appeal Panel may:

(a) affirm any decision;

(b) quash any decision;

(c) vary any decision or penalty;

(d) make any decision that could have been made by a Hearing Panel pursuant to By-law 20.33, By-law 20.34 and By-law 20.45.

(e) extend or limit the decision's application and effect to any Districts of the Association;

(f) order a new hearing; or

(g) make any order or decision that is considered just.

PART 12 - PUBLIC HEARINGS AND DOCUMENTS

20.55 Public Hearings

(1) The following types of hearings shall be open to the public subject to subsection (2):

(a) settlement hearings, after a Settlement Agreement has been accepted by Hearing Panel, pursuant to By-law 20.36;

(b) disciplinary hearings pursuant to By-law 20.33 and By-law 20.34;

(c) expedited review hearings pursuant to By-law 20.47; and

(d) enforcement appeal hearings pursuant to By-law 20.50.

(2) The hearings prescribed in subsection (1) shall be held in the absence of the public where the Hearing Panel or Appeal Panel is of the opinion that the desirability of avoiding disclosure, of intimate financial, personal or other matters, in the interests of any person affected or in the public interest outweighs the desirability of adhering to the principle that hearings be public.

PART 13 - RULE MAKING POWERS

20.56 Rule-making Powers of the Member Regulation Oversight Committee

(1) The Member Regulation Oversight Committee of the Association may enact, amend, repeal and re-enact, Rules of Practice and Procedure related to By-law 20.

PART 14 - TRANSITIONAL PROVISIONS

20.57 Transitional Provisions

(1) Subject to subsection (2), any provision of any By-law, Rule, Regulation, Ruling or Policy of the Association in effect immediately prior to the coming into effect of these Rules shall remain in full force and effect until such By-law, Rule, Regulation, Ruling or Policy, has been repealed.

(2) In the event of a conflict between this By-law and the provisions of any By-law, Rule, Regulation, Ruling or Policy of the Association that remains in effect after this By-law comes into effect, the provisions of this By-law shall prevail.

COROLLARY AMENDMENTS TO BY-LAW NO. 2

MEMBERSHIP

2.1. The Executive Committee of the Board of Directors shall, in its discretion and pursuant to By-law 20, decide upon all applications for Membership but shall not consider or approve any application unless and until it has been considered by the applicable District Council.

2.2. Any individual, firm or corporation shall be eligible to apply for Membership if:

(a) In the case of an individual, the applicant is a resident of Canada; in the case of a firm, it is formed under the laws of one of the provinces or territories of Canada and, in the case of a corporation, it is incorporated under the laws of Canada or one of its provinces;

(b) The applicant carries on, or proposes to carry on, business in Canada as a securities dealer to an extent acceptable to the applicable District Council and is registered or licensed in each jurisdiction in Canada where the nature of its business requires such registration or licensing, and is in compliance with such legislation and the requirements of any securities commission having jurisdiction over the applicant; and

(c) The applicant and its directors, officers, partners, investors and employees, and its holding companies, affiliates and related companies (if any), would comply with the By-laws and Regulations and Rulings and Policies and Forms of the Association that would apply to them if the applicant were a Member.

2.3. For the purposes of this By-law, the business of an individual, firm or corporation having a head office or principal place of business outside of Canada but carrying on business at one or more branch offices in Canada or through a subsidiary in Canada means only the portion of the business relating to operations in Canada.

2.4. An application for Membership shall be in such form and executed in such manner as the Board of Directors may prescribe and shall contain or be accompanied by such information and material as the By-laws, the Board of Directors and the applicable District Council may require.

2.5 The application for Membership~~prescribed form~~ shall be signed by the applicant and ~~also~~ by a proposer and seconder who are partners or directors of Members but not members of the Board of Directors. An a~~A~~pplication for Membership without a proposer and seconder can be considered by the District Council and approved by the Executive Committee of the Board of Directors but they can take into consideration the absence of a proposer and seconder in exercising their respective powers regarding the application.~~whichwhich is not so signed by a proposer and seconder shall be eligible for consideration by a District Council and approval by the Board of Directors but the absence of a proposer or seconder may be considered by such Council or the Board, as the case may be, in exercising their respective powers in respect of the application.~~

2.6 An application for Membership shall be accompanied by a non-refundable deposit of $2,000 on account of the Entrance Fee.
~~deposit on account of the Entrance Fee which shall not be refundable if the application is not approved by the Board of Directors as the case may be.~~

2.7 ~~In addition, if in connection with the review or consideration of any application for Membership~~If ~~,~~ a District Council or the Board of Directors is of the opinion that the nature of the applicant's business, its financial condition, the conduct of its business, the completeness of the application, the basis on which the application was made or any staff review in respect of the application in accordance with the By-laws of the Association has required, or can reasonably be expected to require, excessive attention, time and resources of the Association, such District Council or the Board of Directors may require the applicant to reimburse the Association for its costs and expenses which are reasonably attributable to such excessive attention, time and resources or provide an undertaking or security in respect of such reimbursement.

If an applicant is to be required to make such reimbursement of costs and expenses, the Association shall provide to the applicant a breakdown and explanation of such costs and expenses in sufficient detail to permit the applicant to understand the basis on which the costs and expenses are to be calculated.

2.8~~5~~. An application for Membership with any accompanying material shall be submitted to the Secretary, who shall make a preliminary review of the same and either:

(a) If such review discloses substantial compliance with the requirements of the By-laws and Regulations, transmit a copy to the Chair of the applicable District Council; or

(b) If such review discloses any substantial non-compliance with the requirements of the By-laws and Regulations, notify the applicant as to the nature of such non-compliance and request that the application for Membership be amended in accordance with the notification of the Secretary and refiled or be withdrawn. If the applicant declines so to amend the application for Membership or to withdraw the same, the Secretary shall forward the same to the Chair of the applicable District Council together with any accompanying material and a copy of the notification to the applicant.

2.9~~86.~~ The Secretary shall notify all Members of the receipt of the application for Membership. Any Member may within fifteen days from the date of the mailing of such notification ~~by the Secretary~~ lodge, with the Secretary, a written~~n~~ objection ~~in writing~~ to the admission of the applicant. The objection shall be forwarded to the application District Council for consideration along with the Membership application.~~and in such event the objection shall be forwarded to the applicable District Council with the application for Membership pursuant to By-law 2.9.~~

2.10~~97~~ The Secretary shall request the applicant to submit to the applicable District Association Auditors:

(a) Financial statements of the applicant as of a date not more than 90 days prior to the date of application for Membership (or as of such other date as the applicable District Association Auditors may require), prepared in accordance with Form 1 and audited by an auditor acceptable to the applicable District Council;

(b) Interim unaudited monthly financial statements, prepared in accordance with Form 1, for the period following the date of the audited financial statement submitted under subparagraph (a) up to the most recent month prior to the date of the Membership application;

(c) An additional report by the applicant's auditor to the effect that, based on his examination of the affairs of the applicant, the applicant keeps a proper system of books and records;

(d) Such additional financial information, if any, relating to the applicant as the applicable District Association Auditors may in their discretion request.

2.11~~0~~ Notwithstanding the provisions of By-law 2.7, if an applicant qualifies for exemption from payment of the Entrance Fee pursuant to By-law 3, the applicable District Council may waive any of the conditions relating to an application for Membership that it considers appropriate in the circumstances of the particular case.

2.12~~1~~ Notwithstanding the provisions of By-law 2.7, if an applicant for Membership is a related company of a Member which confirms its intention to continue its Membership in the Association, the Vice-President, Financial Compliance and the District Association Auditors may determine, in their discretion, what financial information is required.

2.13~~27A~~. Notwithstanding the provisions of clause (a) of By-law 2.7, if an applicant is a member of The Canadian Venture Exchange, The Toronto Stock Exchange or The Montreal Exchange, such applicant may, in lieu of the financial statements referred to in said clause (a), submit to the applicable District Association Auditors its latest audited Form 1 together with

(a) A copy of the last monthly financial report filed by such applicant with the relevant stock exchange, and

(b) A "comfort" letter from the recognized stock exchange having primary audit jurisdiction over the applicant relating to the applicant's standing with such exchange in compliance, disciplinary and regulatory matters and in a form which is satisfactory to the applicable District Association Auditors.

If such applicant wishes to transfer to the audit jurisdiction of the Association the applicant shall submit to the applicable District Association Auditors audited financial statements as of a date not more than 90 days prior to the date of application for transfer.

2.14~~38~~. If and when the District Association Auditors have received the financial statements and report referred to in By-law 2.7 or Form 1, report and "comfort" letter referred to in By-law 2.7A, as the case may be, and are satisfied with respect to all relevant matters, then such District Association Auditors shall notify the Secretary who shall forthwith ~~thereafter~~ notify the applicable District Council.

2.15~~09~~. The Membership approval process as set out in By-law 20 shall apply once:

(a) the Secretary has notified Members pursuant to By-law 2.6 and the fifteen day period referred to therein has expired;

(b) the applicable District Council receives the Membership application from the Secretary;

~~(a)~~ (c) the applicable District Council receives the notification from the District Association Auditors pursuant to By-law 2.8;~~Upon notification of the Members by the Secretary pursuant to By-law 2.6 and the expiration~~ and~~of the fifteen-day period referred to therein and upon receipt of the application for Membership from the Secretary and the notification from the District Association Auditors pursuant to By-law 2.8, the applicable District Council may;~~

(d) a period of six months or such lesser period as the District Council may in any particular case determine has expired.

~~(a) At the expiration of a period of six months or such lesser period as the Council may in any particular case may determine, approve the application, notwithstanding any objection thereto that has been made by any Member;~~

~~(b) Approve the application subject to such terms and conditions as may be considered appropriate by the District Council if, in the opinion of the District Council, such terms and conditions are necessary in order to ensure that the By-laws, Regulations, Rulings and Policies will be complied with by the applicant; and~~

~~(c) Refuse the application if, in the opinion of the District Council, having regard to such factors as it may consider relevant including, without limitation, the past or present conduct, business or condition of the applicant;~~

~~(i) It is not satisfied that the By-laws, Regulations, Rulings and Policies will be complied with by the applicant;~~

~~(ii) The applicant is not qualified by reason of integrity, solvency, training or experience; or~~

~~(iii) Such approval is otherwise not in the public interest.~~

~~2.9A. If a District Council proposes to approve an application subject to terms and conditions pursuant to By-law 2.9(b) or to refuse an application pursuant to By-law 2.9(c):~~

~~(a) The applicant shall be provided with a statement of the grounds upon which the District Council proposes to approve the application subject to terms and conditions or to refuse an application, and the particulars of those grounds;~~

~~(b) The applicant shall be provided with a summary of the facts and evidence which are to be considered by the District Council; and~~

~~(c) The District Council shall permit the applicant to appear before it on reasonable notice, and with counsel or other representative, to call evidence and cross-examine witnesses in order to show cause why the application should not be subject to terms and conditions or should not be refused. A hearing held pursuant to this By-law 2.9A shall be open to the public except where the District Council determines that all or any part of the hearing should be held in camera in accordance with the principles set out in By-law 20.20.~~

~~2.9B. The applicable District Council shall have the power to vary or remove any such terms and conditions as may have been imposed on an applicant for Membership that may be considered appropriate by the District Council, if such terms and conditions are or are no longer, as the case may be, necessary to ensure that the By-laws, Regulations, Rulings and Policies will be complied with by the applicant. In the event that the District Council proposes to vary terms and conditions in a manner which would be more burdensome to the applicant, the provisions of By-laws 2.9A through 2.9G, inclusive, shall apply in the same manner as if the District Council was exercising its powers thereunder in regard to the applicant.~~

~~2.9C. If within 10 days of being notified of a proposal to approve an application subject to terms and conditions or to refuse an application, the applicant fails to request a hearing, the District Council may approve the application subject to the proposed terms and conditions or refuse the application. If the applicant requests a hearing, the District Council may, after permitting the parties to be heard, exercise any of its powers in accordance with By-law 2.9A.~~

~~2.9D. For a meeting of a District Council which is to be a hearing pursuant to this By-law 2, the appointment of members of the District Council for the hearing and the establishment of a quorum shall be in accordance with By-law 20.1. No member of a District Council who has participated in a decision to propose the imposition of terms and conditions on an applicant or the refusal of an application shall subsequently participate in a hearing pursuant to By-law 2.9A regarding that application.~~

~~2.9E. If, pursuant to the provisions of By-law 2.9A, a District Council approves an application subject to terms and condition or refuses to approve an application, the District Council may order that the applicant may not apply for removal or variation of terms and conditions or reapply for approval, for such periods as the District Council provides.~~

~~2.9F. Any decision of a District Council at a hearing held pursuant to By-law 2.9A shall be in writing and shall contain a concise statement of the reasons for the decision. Notice of a decision shall be delivered to the Secretary who shall then promptly give notice to the applicant. A copy of the decision shall accompany the notice.~~

~~2.9G. Any decision of a District Council pursuant to By-law 2.9A to either refuse to approve an application for Membership or to approve an application for Membership with terms and conditions attached, shall only have effect in the District where such District Council has jurisdiction unless and until otherwise ordered by the Board of Directors. In the event of such a decision by the District Council, the Board of Directors shall, upon application of either the Association or the applicant, made within 21 days of receiving notice of the decision of the District Council, review the said decision and either (a) confirm the decision.~~

~~its application to that District, (b) confirm the decision of the District Council and extend its application and effect to all Districts of the Association, or (c) make such other decision as the Board of Directors considers proper.~~

~~The Board of Directors shall not, pursuant to this By-law 2.9G,~~

~~(i) Confirm any decision of a District Council in its application to the District in which such District Council has jurisdiction; or~~

~~(ii) Extend the application and effect of the decision to another District Council of a District; or~~

~~(iii) Make any other decision as the Board of Directors considers proper if the securities commission having jurisdiction in such District directs that such decision shall not be confirmed, extended or made in respect of the District where it has jurisdiction, as the case may be.~~

~~Any review by the Board of Directors of a decision of a District Council pursuant to this By-law 2.9G shall be conducted in accordance with and subject to the provisions of By-laws 20.41, 20.42 and 20.43 and the By-laws referred to therein, all of which shall apply mutatis mutandis.~~

2.1~~6~~0. The Secretary ~~If and when the application is approved by the applicable District Council, the Secretary~~ shall compute the ~~amount of the~~ Annual Fee payable by the applicant ~~to be paid by the applicant~~ pursuant to By-law 3.2 and provide such computation to the Board of Directors~~.~~

~~2.11. Subject to the provisions of By-law 2.12, the Secretary shall submit to the next succeeding meeting of the Board of Directors each application which has been approved by the applicable District Council, together with the amount of the Annual Fee to be paid by the applicant.~~

~~2.12. Subject to the provisions of this By-law 2.12, the Board of Directors, shall thereupon consider the application at such meeting at which its decision as to admission of the applicant and the Annual Fee payable by it shall be expressed by resolution passed by the affirmative vote of at least a majority of all of the members of the Board of Directors. The Board of Directors shall have the power to confirm the decision of the District Council, to exercise any of the powers that a District Council may exercise under By-law 2.9 or to make any other decision as the Board of Directors considers proper. Any review, consideration or determination by the Board of Directors in respect of an application for Membership shall be conducted in accordance with and subject to the provisions of By-laws 20.41, 20.42 and 20.43 and the By-laws referred to therein, all of which shall apply mutatis mutandis.~~

2.1~~7~~1~~3~~. The applicant shall become a Member if and when:

(a) ~~If and when t~~The application has been approved by the Board of Directors;

(b) ~~and~~ the applicant has been duly licensed or registered to carry on business as a securities dealer under the applicable law of the province or provinces or territories in which the applicant carries on or proposes to carry on business; and

(c) ~~,~~ the Entrance Fee and Annual fee has been paid in full. ~~and upon payment of the balance of the Entrance Fee and Annual Fee, the applicant shall become and be a Member.~~

~~2.14. Notwithstanding the foregoing, if an applicant qualifies for exemption from payment of the Entrance Fee and if the applicable District Council approves of such exemption and gives its approval to the application for Membership, the~~

~~applicant shall be admitted to Membership without reference to the Board of Directors for final decision if all other conditions relating to an application for Membership have been duly complied with except such conditions, if any, as such applicable District Council may deem appropriate to be waived under the circumstances of any particular case.~~

~~2.15. Notwithstanding the provisions of By-laws 2.6, 2.9, 2.11, 2.12, and 2.13 wherever an applicant for Membership is a related company of a Member which confirms its intention to continue its Membership in the Association, the applicable District Council, after receipt of such financial information as the Vice-President, Financial Compliance and the District Association Auditors may require, shall either approve or disapprove the application and notify the Secretary of their decision. The Secretary shall thereupon notify by writing each member of the Board of Directors and the Board of Directors may, in its discretion, forthwith approve the application by instrument in writing signed by a majority of the members thereof.~~

2.18~~26~~. The Secretary shall keep a register of the names and business addresses of all Members and of their respective Annual Fees. The Annual Fees of Members shall not be made public by the Association.

2.19~~37.~~ The Secretary shall furnish to the securities commissions of all the provinces of Canada a list of Members and from time to time as changes occur in the Membership shall communicate such changes to such commissions.

COROLLARY AMENDMENTS TO BY-LAW NO. 4

BRANCH OFFICE MEMBERS, BRANCH OFFICES AND SUB-BRANCH OFFICES

4.9. No person shall act as a sales manager, branch manager, assistant or co-branch manager unless the person:

(a) Has satisfied the applicable proficiency requirements outlined in Part I of Policy No. 6; and

(b) Has been approved by the Association pursuant to By-law 20.

COROLLARY AMENDMENTS TO BY-LAW NO. 11

DISTRICT COUNCILS AND MEETINGS

District Councils and Meetings

11.2~~1A.~~ Each District Council shall, at its first meeting after the Annual Meeting, appoint a roster of Hearing Committee members, pursuant to By-law 20, who have been nominated for appointment by the Nominating Committee of the District Council in accordance with Part 5 of By-law 20. Public members and retired industry members who are part of a Hearing Committee shall be eligible to vote only at meetings which are hearings pursuant to By-law 20.~~individuals (herein called "public members") who shall be eligible only to vote at meetings which are hearings held by the District Council pursuant to By-law 20. Only persons who are resident in the District, who are legally trained and who are, or have been, qualified as legal practitioners shall be eligible for selection as public members. No person shall be eligible to be elected or remain a public member if he or she is or becomes during his or her term of office a Member, a partner, director, officer or employee of a Member or associate or affiliate or related company of a Member, an employee of the Association, a member of the District Council, or any associate thereof. The number of public members appointed to the roster shall be in the discretion of the District Council, and individuals may be added to or deleted from such roster from time to time in accordance with the requirements of the District Council.~~

~~11.1B Each District Council may, at its first meeting after the Annual Meeting, appoint a roster of retired industry members who shall be eligible only to vote at, meetings which are hearings, held by the District Council pursuant to By-law 20. Only persons who are resident in the District, who have retired in good standing as a partner, director, officer or employee of a Member and who were qualified to be appointed to District Council prior to retirement, shall be eligible for selection as retired industry members. The number of retired industry members appointed to the roster shall be at the discretion of the District Council, and individuals may be added to or deleted from such roster from time to time in accordance with the requirements of the District Council.~~

11.3~~2~~. Each of the Ontario, Pacific and Quebec District Councils shall include, in addition to the members referred to in By-law 11.1, a member of the Financial Administrators Section of the Association as a voting member of such District Council.

11.4~~3~~. The Chair of a Group Committee in a District shall be ex-officio a member of the District Council and either with or without voting power, as may be determined at the annual meeting of Members of the District.

11.5~~4~~. Each District Council may make and from time to time amend or repeal such Regulations, not inconsistent with the Constitution or By-laws or Regulations of the Board of Directors, as it deems advisable for the organization and management of the affairs of such District. Regulations made by a District Council shall be effective and remain in force unless and until amended or repealed and all such Regulations for the time being in force shall be binding upon all Members of the District.

11.6~~5~~. Each District Council shall meet at least once in each calendar month unless the Chair otherwise determines and shall report to the Association forthwith after each meeting in respect of any matters brought up at such meeting affecting the interests of the Association and shall from time to time report on all matters affecting the interests of the Association within its District. The Association shall submit all such reports to the Board of Directors.

11.6~~5~~A. If all the members present at or participating in the meeting consent, a meeting of a District Council may be held by means of such telephone, electronic or other communication facilities as permit all persons participating in the meeting to communicate with each other simultaneously and a member of a District Council participating in such a meeting by such means is deemed for the purposes of the By-laws and Regulations to be present at that meeting.

11.7~~6~~. Each District Council shall at its first meeting after the Annual Meeting select, in accordance with By-law 16.3, a panel of Members' Auditors for the ensuing year.

11.8~~7~~. The Chair or any two members of a District Council may call a special meeting of such Council at any time.

11.9~~8~~. A voting member of a District Council may by written proxy appoint a person to attend and vote as his or her representative at any meeting of such Council. No person shall be entitled to so act as a representative unless he or she is a member of the District Council or is a partner, director, officer or employee of a Member.

11.10~~9~~. Three members of a District Council present in person shall form a quorum at any meeting thereof and any action taken by a majority of those members of the Council present at any meeting of the Council at which a quorum is present shall constitute the action of the Council.

11.109A. A resolution consented to in writing by 80% of the members of the District Council shall be as effective as if passed at a duly constituted meeting of the District Council. The consent in writing of a member of the District Council may be given by telex, telegram or other similar means of written communication.

11.110. Unless otherwise provided in the By-laws, a District Council shall not act for or in the name of the Association and shall not have any power to bind the Association except as may be authorized by resolution of the Board of Directors.

District Meetings

11.121. A meeting of the Members of any District may be called by the District Council and shall be called by such Council on the requisition in writing of seven Members of such District. Notice of the time and place of any such meeting shall be given to the Members of the District. Two Members of the District entitled to vote, present personally or by a partner, director or officer shall be a quorum for any meeting of the Members of the District.

11.132. Voting at any meeting of the Members of a District may be carried out in the same manner as provided for voting at meetings of the Association. Instruments of proxy for such purpose shall be lodged with the Chair of the District Council not later than 10:00 a.m. of the day of the meeting or of any adjournment thereof, and unless so lodged no proxy shall be used or acted upon.

District Standing and Sub-Committees

11.143. Each District Council may appoint the following Standing Committees for its respective District to deal with the following matters:

(a) Nomination of Hearing Committee Members;

(ba) Education;

(cb) Provincial Government Legislation;

(dc) Municipal Administration and Finance;

(ed) Tax Policy;

(fe) Public Information and Speakers' Panel;

(gf) Stock Exchange Liaison; and

(h) Exemption Requests.

And may combine any two, but not more, of such Standing Committees into one Committee, in which case the Committee shall bear a suitable name indicating that it is a Joint Standing Committee.

11.154. Each Standing Committee, including a Joint Standing Committee, shall consist of not less than three members, including one of the members of the District Council who shall be the Chair of such Standing Committee. The number of members of any Standing Committee which shall constitute a quorum at any meeting thereof shall be determined by the District Council.

11.165. The Chair of each District Standing Committee shall be appointed by the incoming District Council immediately after the latter has been elected, and the members of each such District Standing Committee shall be appointed as soon as practicable thereafter. The Chair of each District Standing Committee shall report to the Association at least three weeks before the Annual Meeting the names of the members of the Committee of which he or she is Chair.

11.176. Each District Council may also appoint such other Sub-Committees and for such other purposes within its District as it may in its discretion decide.

11.187. With the concurrence of the Board of Directors any District Council may authorize a Group Committee for any city or region within its respective District. A Group Committee shall bear the name of the city or region for which it is authorized coupled with the word "Group". Each such Group Committee and the Chair thereof shall be elected by the local Members in the city or region concerned.

11.198. The life of any Standing Committee or other District Sub-Committee shall not extend beyond the term of office of the District Council by which it is appointed or authorized.

COROLLARY AMENDMENTS TO BY-LAW NO. 28

DISCRETIONARY FUND

28.4. Payments from the Discretionary Fund may be made at such times and in such amounts as the Board of Directors shall authorize for all or any of the following purposes, namely:

(a) To fulfill all of the obligations of the Association to the Canadian Investor Protection Fund or under any guarantee given by the Association to a third party with respect to moneys payable by the Canadian Investor Protection Fund to such third party;

(b) In the event of the insolvency or other inability of any Member to meet its financial obligations to the public (and whether or not claims against such Member have been considered by the persons administering the Canadian Investor Protection Fund), to compensate in whole or in part such creditors of any such Member as the Board of Directors in its discretion may determine;

(c) Invest in the securities of, or provide financial assistance in such form and on such terms and conditions as the Board of Directors in its discretion may determine to, The Canadian Depository for Securities Limited;

(d) To pay the fees, expenses or other remuneration of the following members of a District Council Panel, Hearing Panel or Appeal Panel~~District Council~~:

(i) Members who have retired in good standing as employees of Members; and

(ii) Public members appointed pursuant to By-law 20.9~~11.1A.~~.

(e) To make payments for special non-recurring projects that (1) benefit the public and/or (2) generally benefit Canadian Capital Markets, as determined by the Board of Directors or Executive Committee.

COROLLARY AMENDMENTS TO BY-LAW NO. 30

EARLY WARNING SYSTEM

~~30.6 The Vice President, Financial Compliance may, in his or her sole discretion, propose that a Member which is designated as being in the early warning category level 2 be prohibited from opening any new branch offices, hiring any new registered representative or investment representative, opening any new customer accounts or changing in any material respect the inventory positions of the Member. If the Vice-President, Financial Compliance proposes any such prohibitions pursuant to this By-law, he or she shall give written notice to the Member, and the Member may request in writing within 3 business days of receipt of notice that the proposal be reviewed by members of the applicable District Council. If no request for review is made, the prohibitions shall apply as of such date designated by the Vice-President, Financial Compliance occurring on or after the expiration of the said 3 business days. In the event that such a request is made, the Chair or the Vice-Chair of the applicable District Council shall designate at least two members of the District Council to review the order and to confirm, amend, or revoke the proposal of the Vice President, Financial Compliance within 7 business days of the request for review, or such longer time as may be agreed by the Member. The Member and the Vice President, Financial Compliance shall be permitted to make representations in such review in person (including by their respective staff, agents or counsel) or in writing. Pending the expiration of the said 3 business days notice by the Vice President, Financial Compliance and the result of the review, if applicable, the prohibitions shall not apply, but on becoming effective shall continue until the Member is so designated as not being in an early warning category Level 2.~~

30.6 The Senior Vice President, Member Regulation, or his or her delegate may impose prohibitions upon a Member who is designated, ~~pursuant to By-law 30,~~ as being in Early Warning Category Level 2 pursuant to Part ~~9~~7 of By-law 20.

30.7 The Senior Vice President Member Regulation, or his or her delegate, ~~Vice-President, Financial Compliance~~ shall promptly advise any other participating institution of the Canadian Investor Protection Fund of which a Member is also a member of the fact that the Member has been designated as being in early warning category level 2, the reasons for such designation and any sanctions or restrictions that have been imposed upon the Member pursuant to Part 9 By-law 20 ~~By-law 30.6~~ or By-law 19.

COROLLARY AMENDMENTS TO BY-LAW NO. 33

REVIEW BY SECURITIES COMMISSIONS

33.1. Any Member or other person directly affected by a decision of the Board of Directors, ~~or~~ a District Council, Hearing Panel, Board Panel or Appeal Panel (other than a decision in respect of which the time for review or appeal under the By-laws has elapsed) in respect of which no further review or appeal is provided in the By-laws may request any securities commission with ~~given~~ jurisdiction in the matter ~~under its enabling legislation~~ to review such decision and notice in writing of such appeal shall be given forthwith to the National Hearing Coordinator.~~Secretary.~~

COROLLARY AMENDMENTS TO BY-LAW NO. 35

INTRODUCING BROKER/CARRYING BROKER ARRANGEMENTS

35.1. General

(a) For the purposes of this By-law 35:

(i) "Carrying Broker" means the Member or member of a self-regulatory organization that is a participating institution in the Canadian Investor Protection Fund that carries client accounts, which at a minimum includes the clearing and settlement of trades, the maintenance of books and records of client transactions and the custody of some or all client funds and securities;

(ii) "Introducing Broker" means the Member or member of a self-regulatory organization that is a participating institution in the Canadian Investor Protection Fund that introduces client accounts to the carrying broker;

(iii) "Canadian Financial Institution" means a Schedule I or Schedule II Bank pursuant to the Bank Act (Canada), an insurance company governed by federal or provincial insurance legislation and a loan or trust company governed by federal or provincial loan and trust company legislation.

(b) A Member may, with the approval of the applicable District Council and if otherwise in compliance with the terms of this By-law and any requirements of the regulatory authority in the jurisdiction of the introducing broker, carry accounts of clients introduced to it by:

(i) Another Member; or

(ii) A member of a self-regulatory organization that is a participating institution in the Canadian Investor Protection Fund.

(c) A Member shall not introduce accounts to any person other than:

(i) Another Member; or

(ii) A member of a self-regulatory organization that is a participating institution in the Canadian Investor Protection Fund.

(d) For the purposes of this By-law 35, arrangements whereby employees of a Member's affiliated Canadian financial institution handle securities clearance and settlement, maintain records and perform operational functions on behalf of the Member shall not be considered to be introducing/carrying arrangements for the purposes of this By-law 35, provided that pursuant to the arrangement, the employees of the Member's affiliated Canadian financial institution handle custodial functions on a segregated basis in accordance with the segregation provisions of the By-law.

(e) Except as otherwise provided herein, an introducing broker may introduce clients to only one carrying broker. An introducing broker that introduces clients to a carrying broker shall enter into a written contract with the carrying broker to which it introduces clients defining, to an extent determined from time to time by the Association the rights and obligations between them.

(i) Members who enter into an introducing broker/carrying broker arrangement must enter into a written contract in a form prescribed from time to time by the Association and each such introducing broker/carrying broker arrangement shall come into effect only after it is approved by the Senior Vice-President, Member Regulation;

(ii) An introducing broker that is party to an Introducing Type 1 or Type 2 Arrangement cannot enter into more than one introducing broker/carrying broker arrangement other than one additional introducing broker/carrying broker arrangement exclusively for trading in futures contracts and options;

(iii) An introducing broker that is party to an Introducing Type 1 or Type 2 Arrangement shall not fully service any part of its securities-related activities, other than fully servicing trading in futures contracts and options;

(iv) An introducing broker that is party to an Introducing Type 1 Arrangement shall carry out trade settlement and custody of securities related to its principal trading through the facilities of the carrying broker; and

(v) An introducing broker that is party to an Introducing Type 3 or Type 4 Arrangement may enter into more than one introducing broker/carrying broker arrangement and may also fully service part of its securities-related activities.

(f) Each introducing or carrying broker that is a party to an introducing broker/carrying broker arrangement and that is not a Member, and each of such introducing or carrying brokers' partners, directors, officers, shareholders and employees, shall comply with all By-laws, Regulations, Rulings, Policies and Forms of the Association.

(g) Each introducing broker/carrying broker arrangement must be classified as an Introducing Type 1, Type 2, Type 3 or Type 4 Arrangement and must meet the requirements for such arrangement as set out in this By-law 35.

(h) A Member may apply for an exemption from the requirements of By-law 35 in accordance with By-law 20.25. ~~The District Council, may, in its discretion, exempt a Member from any of the requirements of this By-law 35.~~

35.6. Exemption for Arrangements Between a Member and a Foreign Affiliate

Notwithstanding the provisions of this By-law 35, on the application of a Member pursuant to By-law 20.25,~~,~~ the applicable District Council~~the applicable District Council~~ may exempt any arrangements between a Member and a Member's foreign affiliate pursuant to which the Member carries accounts of the foreign affiliate or its clients from the requirements of this By-law 35 (other than By-law 35.6) provided that the arrangements meet the following criteria:

(a) Exemption Applicable to Affiliates of the Member

The exemption in this By-law 35.6 shall apply only to arrangements between a Member and a foreign affiliate of the Member. The Member shall provide the Exchange with evidence satisfactory to the Exchange of such relationship and of the details of the arrangement between them.

(b) Disclosure of Relationship to Clients of Foreign Affiliate

The Member shall ensure that the foreign affiliate, at least annually, provides written disclosure, in a form satisfactory to the Association, to each of the foreign affiliate's clients whose accounts are being carried by the Member, outlining the relationship between the Member and the Member's foreign affiliate and the relationship between the Member and the client of the foreign affiliate, and outlining any limitations on coverage of such client accounts by the Canadian Investor Protection Fund.

(c) Approval by the Requisite Authority in the Foreign Affiliate's Jurisdiction

The exemption provided in this By-law 35.6 shall only be granted by the applicable District Council upon receipt by the Association of written approval from the regulatory authority in the foreign affiliate's jurisdiction acknowledging and approving the arrangement between the Member and the Member's foreign affiliate.

(d) Responsibility for Compliance with Association Requirements

Foreign affiliates of a Member that have an arrangement with the Member as set out in this By-law 35.6, are not required to comply with the requirements of the By-laws, Regulations, Rulings, Policies and Forms of the Association solely as a result of such an arrangement.

(e) Reporting of Balances

In calculating its risk adjusted capital required under By-law 17.1 and Form 1, the Member shall report one balance owing to or from its foreign affiliate in relation to the accounts of the clients which the Member is carrying on behalf of its foreign affiliate on its Form 1 or Monthly Financial Report.

(f) Segregation of Securities

The Member shall be responsible for segregating all securities which it holds for clients of its foreign affiliate in accordance with the segregation requirements of the By-laws and Regulations.

(g) Insurance

The Member shall include all accounts introduced to it by its foreign affiliate in its calculation of the asset measurement for minimum Financial Institution Bond coverage for Clauses (A) through (E) under Regulation 400.2.

COROLLARY AMENDMENTS TO POLICY NO. 6

PROFICIENCY AND EDUCATION:

PART I – PROFICIENCY REQUIREMENTS

B. GENERAL EXEMPTION

Notwithstanding this Part I, the applicable District Council, pursuant to By-law 20.24, may ~~from time to time~~ exempt any person or class of persons from the proficiency requirements on such terms and conditions, if any, as the applicable District Council may see fit.

PROFICIENCY AND EDUCATION:

PART II – COURSE AND EXAMINATION EXEMPTIONS

C. DISCRETIONARY EXEMPTIONS

The applicable District Council, pursuant to By-law 20.24, may grant an exemption from the requirement to rewrite or write any required course or examination, in whole or in part, subject to such conditions or restrictions as may be imposed in the exemption, if the applicant demonstrates adequate experience and/or successful completion of industry courses or examinations that the applicable District Council, in its opinion, determines is an acceptable alternative to the required proficiency.

INVESTMENT DEALERS ASSOCIATION OF CANADA

RULES OF PRACTICE AND PROCEDURE

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RULES OF PRACTICE AND PROCEDURE

PART A: GENERAL MATTERS

RULE 1: INTERPRETATION AND APPLICATION

1.1 Application

(1) Part A of the Rules applies to all proceedings brought pursuant to By-law 20.

(2) Part B of the Rules applies to enforcement proceedings brought pursuant to By-law 20, Part 10.

(3) Part C of the Rules applies to appeals from decisions of Hearing Panels in disciplinary hearings and expedited hearing, brought pursuant to By-law 20.50.

(4) Part D of the Rules applies to approval and exemption request review hearings brought pursuant to By-law 20, Parts 7 and 8.

(5) Part E of the Rules applies to early warning proceedings brought pursuant to By-law 20, Part 9.

1.2 General Principle

These Rules shall be interpreted and applied to secure the quickest and least expensive determination of every proceeding consistent with the requirements of a fair hearing.

1.3 Definitions

In these Rules:

"Appeal Panel" means a panel presiding over an appeal as set out in By-law 20.50.

"Appellant" means a party bringing an appeal.

"Association" means the Investment Dealers Association of Canada.

"Board Panel" means a Panel presiding over a membership approval review hearing as set out in By-law 20.22(3).

"Chair" means a public member of the Hearing Panel.

"commencing document," means Notice of Hearing, Notice of Application, Notice of Motion, Notice of Request for Review and Notice of Appeal.

"District Council Panel" means a panel presiding over an exemption request review hearing as set out in By-law 20.26(4).

"document" means any information recorded or stored by means of any device including audiotape, videotape, chart or graph.

"Hearing" means any hearing conducted pursuant to By-law 20.

"Hearing Committee" means public and industry members of a District Council of the Association or other individuals, as prescribed by Part 5 of By-law 20, appointed for the purpose of selection to Panels, except Board Panels.

"Hearing Panel" means a Panel presiding over individual approval review hearings, early warning level 2 review hearings, disciplinary hearings, settlement hearings, expedited hearings and expedited review hearings as set out in By-law 20.13.

"holiday" shall include:

(i) any Saturday or Sunday;

(ii) any federal statutory holiday;

(iii) any Provincial Civic holiday (applicable to the jurisdiction of the matter in consideration);

(iv) any special holiday proclaimed by the Governor General or the Lieutenant Governor.

"Member" means a member firm of the Association.

"National Hearing Coordinator" means the individual responsible for the administration of all proceedings including being responsible for the selection of the Panels, the scheduling of hearings, and custody and control of documents.

"Panel" means a Hearing Panel, District Council Panel, Board Panel or Appeal Panel.

"party" means the Association, Respondent, Requesting Party, Responding Party or Appellant.

"Presiding Officer" means a public member of the Hearing Committee appointed to hear a motion or pre-hearing conference.

"proceedings" means all steps in enforcement, registration, appeal or early warning matters, from the issuance of the commencing document to the final disposition of the matter.

"Requesting Party" means a party requesting any review hearing pursuant to By-law 20.

"Respondent" means an approved individual or Member named in a Notice of Hearing, Settlement Agreement, Notice of Application or a party named in the Notice of Appeal against whom the appeal is brought.

"Responding Party" means a party responding to a Request for Review or a Notice of Motion.

"Rules" means the Association Rules of Practice and Procedure

1.4 Interpretation of Rules

(1) For the purpose of these Rules:

(a) any term in the singular includes the plural and any term in the plural includes the singular, if such use would be appropriate; and

(b) any use of the masculine or feminine shall be interpreted as non-gender specific.

1.5 Procedural Power of the Panel

(1) A Panel may:

(a) exercise any power under these Rules;

(b) issue general or specific procedural directions; and

(c) waive any procedural requirement upon the request of one or both parties.

(2) A Panel may hear any evidence it considers relevant to the matter before it and is not bound by the technical legal rules of evidence.

1.6 Irregularity of Form

(1) No document, hearing, or decision in a proceeding is invalid only because of a defect or irregularity in form.

RULE 2: TIME

2.1 Computation of Time

(1) In the computation of time under these Rules:

(a) if a period of less than 7 days is prescribed, holidays are not counted;

(b) if the time for doing an act under these Rules expires on a holiday, the act may be done on the next day that is not a holiday.

2.2 Extension or Abridgment of Time

(1) Any time period prescribed by these Rules may be extended or abridged as follows:

(a) on consent of the parties before the expiration of a prescribed time period; or

(b) upon order of the Panel before or after the expiration of a prescribed time period, on such terms and conditions as the Panel considers appropriate.

RULE 3: APPEARANCE AND REPRESENTATION

3.1 Representation before a Panel

In any proceeding before a Panel, a party may appear on her own behalf or may be represented by counsel or agent.

3.2 Change in Representation

A party may change representation by serving and filing written notice pursuant to Rule 5.

3.3 Withdrawal by Counsel or Agent

(1) Counsel or agent for a party may withdraw as counsel or agent by serving and filing written notice pursuant to Rule 5 and by serving notice on the subject party.

(2) Where counsel or agent for a party seeks to withdraw as counsel or agent less than 30 days prior to the matter being heard by a Panel, leave must be obtained on motion brought pursuant to Rule 8.

(3) Where leave is granted and a party appoints new counsel or an agent, the party shall then comply with Rule 3.2.

RULE 4: NATIONAL HEARING CO-ORDINATOR

4.1 Role of National Hearing Coordinator

The National Hearing Coordinator shall, pursuant to By-law 20.14, administer all proceedings brought in accordance with these Rules.

4.2 Parties to follow Practice Direction

The parties shall communicate and file documents with the National Hearing Coordinator or her designate in accordance with these Rules and the Notes and Practice Direction contained in Schedule “A”.

RULE 5: SERVICE AND FILING

5.1 Parties to be Served

Any document required to be served under these Rules shall be served on every adverse party to the proceeding.

5.2 Manner of Service – Notice of Hearing

(1) A Notice of Hearing shall be served by one of the following methods:

(a) by personal service on the Respondent;

(b) by delivering a copy of the Notice of Hearing by registered mail to the Respondent’s last known address as recorded in the Association’s Registration file; or

(c) where a Respondent is represented by counsel, by delivering a copy of the Notice of Hearing to the Respondent’s counsel with the consent of counsel.

5.3 Manner of Service – Other Documents

Where these Rules require a document other than a Notice of Hearing to be served, it may be served by mail, courier, facsimile, or by any other means effective to deliver a copy of the document.

5.4 Effective Date of Service

(1) Service of a document is deemed effective:

(a) if served personally, on the same day of service;

(b) if sent by mail, on the fifth day after the day of mailing;

(c) if sent by facsimile, on the same day as the transmission unless received after 4 p.m., in which case the document will be deemed to have been served on the next day that is not a holiday; or

(d) if sent by courier, on the second day after the day on which the document was given to the courier.

5.5 Proof of Service

The Hearing Panel may accept proof of service of a document by a sworn statement of the person who served the document.

5.6 Filing

A document required to be filed under these Rules shall be filed by delivering four (4) copies to the National Hearing Coordinator or her designate by personal delivery, mail, courier, or facsimile.

5.7 Required Information – Service and Filing

(1) A party serving or filing a document shall include the following information:

(a) the name of the proceeding to which the document relates;

(b) the party's name, address, telephone number and facsimile number, unless the party has counsel or an agent;

(c) if the party has counsel or an agent, the name, address, telephone number and fax number of the counsel or agent; and

(d) the name of the party, counsel or agent to be served with the document.

PART B: ENFORCEMENT PROCEEDINGS

I. Disciplinary Proceedings

RULE 6: COMMENCEMENT OF PROCEEDINGS

6.1 Notice of Hearing

Discipline proceedings pursuant to By-law 20.30 shall be commenced by the issuance of a Notice of Hearing.

6.2 Designation of Track

When issuing a Notice of Hearing, the Association shall designate the discipline proceeding as on a Standard Track or Complex Track, considering the factors set out in Rule 6.3.

6.3 Factors to Consider Regarding Track Designation

(1) In designating a discipline proceeding as on the Standard Track or Complex Track, the Association shall consider:

(a) the complexity of the factual and legal issues;

(b) the anticipated number of documents to be introduced at the hearing;

(c) the anticipated number of witnesses at the hearing;

(d) the likelihood of expert evidence at the hearing;

(e) the anticipated duration of the hearing; and

(f) any other factors that the Association considers relevant to the procedural or substantive complexity of the proceeding.

6.4 Service of Notice of Hearing

(1) For a discipline proceeding designated on the Standard Track, the Association shall serve a Notice of Hearing at least 45 days prior to the date of the hearing.

(2) For a discipline proceeding designated on the Complex Track, the Association shall serve a Notice of Hearing at least 10 days before a first appearance before a Hearing Panel for purposes of setting a date for the hearing and considering any other scheduling matters.

6.5 Contents of Notice of Hearing

(1) A Notice of Hearing shall state:

(a) the purpose of the hearing;

(b) the designation of the proceeding as on the Standard Track or Complex Track;

(c) the date, time and location of the hearing or a first appearance to set a date for a hearing;

(d) the alleged violations of Association By-laws, Regulations, Policies and any applicable statute or regulations thereof;

(e) the facts in support of the alleged violations;

(f) that, the Respondent shall provide a Response to the Notice of Hearing in accordance with Rule 7;

(g) that, if the Respondent does not provide a Response in accordance with Rule 7, the Hearing Panel may proceed without the Respondent's participation and the Respondent will not be entitled to any further notice of the hearing;

(h) the type and range of penalties that may be imposed by the Hearing Panel; and

(i) any other information the Association may consider advisable.

RULE 7: RESPONSE TO NOTICE OF HEARING

7.1 Service of Response

(1) For a discipline proceeding designated on the Standard Track, the Respondent shall serve a Response within 20 days from the effective date of service of the Notice of Hearing.

(2) For a discipline proceeding designated on the Complex Track, the Respondent shall serve a Response within 30 days from the effective date of service of the Notice of Hearing.

7.2 Failure to Serve Response

(1) If a Respondent served with a Notice of Hearing fails to serve a Response in accordance with Rule 7.1,

(a) the Association may proceed with the hearing of the matter as set out in the Notice of Hearing without further notice to and in the absence of the Respondent; and

(b) the Hearing Panel may, accept as proven the facts and violations alleged by the Association in the Notice of Hearing, and may impose penalties and costs pursuant to By-laws 20.33, 20.34 and 20.49.

7.3 Contents of Response

(1) A Response shall state:

(a) the facts alleged in the Notice of Hearing which the Respondent admits;

(b) the facts alleged in the Notice of Hearing which the Respondent denies and the grounds for denial; and

(c) all other facts relied upon by the Respondent.

7.4 Deficient Response

(1) Where the Respondent fails:

(a) specifically deny a fact; or

(b) provide grounds for denial of a fact,

the Hearing Panel may accept as proven any facts alleged by the Association in the Notice of Hearing.

RULE 8: MOTIONS

8.1 Notice of Motion

Motions shall be commenced by a Notice of Motion.

8.2 Timing of Motion

A motion may be brought at any time prior to or after the commencement of a proceeding.

8.3 Motions – To Whom to be Made

(1) A motion shall be heard by a Presiding Officer prior to the commencement of the proceeding and shall be heard by the Hearing Panel after the commencement of the proceeding.

(2) A Presiding Officer shall not be a member of the Hearing Panel presiding over the subsequent hearing of the proceeding unless all parties consent in writing.

8.4 Motion Hearing Date

Prior to serving the Notice of Motion, the party bringing the motion shall obtain a date from the National Hearing Coordinator.

8.5 Contents of Notice of Motion

(1) The Notice of Motion shall state:

(a) the date of the motion;

(b) whether the motion is to be heard by a Presiding Officer or the Hearing Panel;

(c) the specific relief sought;

(d) the grounds for the relief sought, including reference to any Association By-laws, Regulations, Policies and Rules, and statutory provisions; and

(e) the list of evidence to be relied upon.

8.6 Motion Record

(1) A Motion Record shall contain:

(a) the notice of motion; and

(b) copies of the evidence to be relied upon.

8.7 Service and Filing of Motion Record

(1) Subject to Rule 8.7(2), a Motion Record shall be served and filed at least 14 days prior to the date of the motion.

(2) When a motion is brought to determine an issue arising during the hearing, the period of notice shall be at the direction of the Hearing Panel.

8.8 Response to Notice of Motion

The Responding Party may serve and file a Responding Record, as least 7 days prior to the date of the motion, subject to Rule 8.7 (2).

8.9 Contents of Responding Record

(1) The Responding Record shall contain:

(a) a statement of the reasons the relief ought not to be granted; and

(b) copies of additional evidence or other materials to be relied upon.

8.10 Public Domain

(1) All motions shall be open to the public unless the Presiding Officer or Hearing Panel orders the exclusion of the public.

(2) An order excluding the public shall only be made when the Presiding Officer or Hearing Panel is of the view that serious harm or injustice to any person justifies a departure from the general principle that motions shall be open to the public.

RULE 9: PRE-HEARING CONFERENCES

9.1 Initiation of Pre-Hearing Conference

(1) At any time prior to the date of a hearing, a party may request a pre-hearing conference by serving and filing a Request for a Pre-hearing Conference.

(2) A Request for a Pre-hearing Conference shall include the party's proposal as to the form of the pre-hearing conference pursuant to Rule 9.3.

(3) If an adverse party objects to the proposed form of the pre-hearing conference, the adverse party shall advise all parties and the National Hearing Coordinator of the objection within 48 hours from the effective date of service of the Request for a Pre-hearing Conference.

(4) No subsequent pre-hearing conference shall take place unless by consent of the parties.

9.2 Presiding Officer

(1) A pre-hearing conference shall be held before a Presiding Officer.

(2) A Presiding Officer shall not be a member of the Hearing Panel presiding over the subsequent hearing of the same proceeding unless all parties consent in writing.

9.3 Form of Pre-hearing Conference

(1) A pre-hearing conference may be held in person or by telephone.

(2) If the parties are unable to agree to the form of the pre-hearing conference, the pre-hearing conference shall be held in person.

9.4 Pre-hearing Conference Date

Notice of the date, time, location (if applicable) and the form of the pre-hearing conference will be provided to the parties by the National Hearing Coordinator.

9.5 Issues to be Considered

(1) The Presiding Officer may consider any issue that may assist in the just and expeditious disposition of the proceeding including the following:

(a) settlement of the proceeding;

(b) simplification or clarification of any issues;

(c) disclosure of documents;

(d) agreed statements of fact;

(e) admissibility of evidence;

(f) identification and scheduling of motions;

(g) identification and scheduling of anticipated steps in the proceeding; and

(h) any other procedural or substantive matters.

9.6 Orders at Pre-hearing Conference

(1) The Presiding Officer may make such order with respect to the conduct of the proceeding, as she deems appropriate.

(2) Any orders made by the Presiding Officer shall be in writing and binding on all parties.

(3) The Presiding Officer shall provide the order to the National Hearing Coordinator who shall then distribute copies of the order to the parties.

9.7 Inaccessible to the Public

A pre-hearing conference shall be held in the absence of the public.

9.8 No Communication to Hearing Panel

Communications made at a pre-hearing conference shall not be disclosed to the Hearing Panel presiding over the hearing of the proceeding except those communications that are disclosed in an order made pursuant to Rule 9.6.

RULE 10: EXCHANGE OF DOCUMENTS

10.1 Obligation to Provide Documents and Other Items – Association

(1) The Association shall, as soon as practicable after service of the Notice of Hearing, and in any case no later than 14 days in a Standard Track proceeding and 60 days in a Complex Track proceeding, prior to the date of the hearing:

(a) serve upon the Respondent:

(i) copies of all documents; and

(ii) a list of items, other than documents intended to be relied upon at the hearing; and

(b) make available for inspection to the Respondent all items referred to in subsection (a) (ii).

10.2 Obligation to Provide Additional Documents and Other Items – Respondent

(1) The Respondent shall, as soon as practicable after service of the Notice of Hearing, and in any case no later than 14 days in a Standard Track proceeding and 60 days in a Complex Track proceeding, prior to the date of the hearing:

(a) serve upon the Association:

(i) copies of documents; and

(ii) a list of items, other than documents, not provided by the Association, that are intended to be relied upon at the hearing; and

(b) make available for inspection to the Association items referred to in subsection (a) (ii).

10.3 Failure to Exchange Documents

If a party fails to provide a document or item pursuant to Rules 10.1 or 10.2, the party may not refer to or tender as evidence at the hearing, the document or item without leave of the Hearing Panel and on such terms as the Hearing Panel considers appropriate.

10.4 Association Duty to Disclose

Nothing in this Rule 10 derogates from the Association's obligation to make disclosure as is required by law.

RULE 11: WITNESS LISTS AND STATEMENTS

11.1 Provision of Witness List and Statements

(1) Subject to Rule 12, a party to a proceeding shall serve:

(a) a list of the witnesses the party intends to call at the hearing; and

(b) in respect of each witness named on the list, either:

(i) a witness statement signed by the witness;

(ii) a transcript of a recorded statement made by the witness (other than a Respondent); or

(iii) if no signed witness statement or transcript referred to in subsection (i) and (ii) is available, a summary of the evidence that the witness is expected to give at the hearing.

(2) The Association shall comply with the requirements of Rule 11.1(1), at least 10 days in a Standard Track proceeding and at least 45 days in a Complex Track proceeding, prior to the date of the hearing.

(3) The Respondent shall comply with the requirements of Rule 11.1(1), at least 7 days in a Standard Track proceeding and at least 40 days in a Complex Track proceeding, prior to the date of the hearing.

11.2 Contents of Witness Statements

(1) A witness statement, transcript of a recorded statement or summary of anticipated evidence as required by Rule 11.1(1) shall contain:

(a) the substance of the anticipated evidence of the witness;

(b) a reference to documents that the witness will refer to; and

(c) the name and address of the witness, or in the alternative, the name of a person through whom the witness can be contacted.

11.3 Failure to Provide Witness List or Statement

If a party fails to comply with Rule 11.1, the party may not call the witness at the hearing without leave of the Hearing Panel and on such terms as the Hearing Panel considers appropriate.

11.4 Incomplete Witness Statement

A party may not call a witness to testify to matters not disclosed pursuant to Rule 11.2 without leave of the Hearing Panel and on such terms as the Hearing Panel considers appropriate.

RULE 12: EXPERT WITNESS

12.1 Expert Report

A party that intends to call an expert witness shall serve a written expert report signed by the expert at least 60 days prior to the date of the hearing.

12.2 Expert Report in Response

A party who intends to call an expert witness to respond to the expert witness of another party shall serve a written expert report at least 20 days prior to the date of the hearing.

12.3 Contents of Expert Report

(1) An expert report shall contain:

(a) the name, address and qualifications of the expert; and

(b) the substance of the opinion of the expert.

12.4 Failure to Provide Expert's Report

A party that fails to comply with Rules 12.1, 12.2 or 12.3 may not refer to or tender as evidence the expert's report without leave of the Hearing Panel and on such terms as the Hearing Panel considers appropriate.

12.5 Abridgement of Time in Standard Track Proceeding

In a Standard Track proceeding, a party may seek leave to abridge the time requirements as set out in Rules 12.1 and 12.2.

RULE 13: CONDUCT OF DISCIPLINARY HEARINGS

13.1 Rights of Respondent

(1) A Respondent is entitled at the hearing:

(a) to attend and be heard in person;

(b) to be represented by counsel or an agent, as set out in Rule 3;

(c) to call and examine witnesses;

(d) to conduct cross-examination of witnesses; and

(e) to make submissions.

13.2 Order of Presentation

(1) The order of presentation at a hearing shall be as follows:

(a) the Association may make an opening address and shall then call evidence;

(b) at the conclusion of the Association's evidence, the Respondent may make an opening address and shall then call evidence;

(c) at the conclusion of the Respondent's evidence, the Association may call reply evidence;

(d) subject to paragraph (e), upon the conclusion of the evidence, the Respondent shall make a closing address, followed by the closing address of the Association; and

(e) if the Respondent calls no evidence, the Association shall make a closing address, followed by the closing address of the Respondent.

(2) Where there are two or more Respondents separately represented, the order of presentation shall be as directed by the Hearing Panel.

(3) Where a Respondent is represented by counsel or an agent, the right to address the Hearing Panel shall be exercised by the counsel or agent.

13.3 Evidence by Witnesses

(1) Subject to Rule 13.4, witnesses at a hearing shall provide oral testimony under oath or solemn affirmation.

(2) The Chair of the Hearing Panel shall exercise reasonable control over the scope and manner of questioning of a witness to protect the witness from undue harassment or embarrassment and may disallow a question put to a witness that is vexatious or irrelevant to any matter at issue in the hearing.

13.4 Evidence by Sworn Statement

The Hearing Panel may allow the evidence of a witness or proof of a particular fact or document to be given by sworn statement, unless an adverse party reasonably requires the attendance of the witness at the hearing for cross-examination.

13.5 Where Respondent Fails to Attend Disciplinary Hearing

(1) Where a Respondent, having been served with a Notice of Hearing, fails to attend a disciplinary hearing, the Hearing Panel may proceed in the absence of the Respondent and may accept as proven the facts and violations alleged by the Association in the Notice of Hearing.

(2) Upon making a finding of the violations as alleged in the Notice of Hearing, the Hearing Panel may immediately hear submissions of the Association regarding an appropriate penalty and may impose such penalty, as it deems appropriate, pursuant to By-law 20.33 and 20.34.

II. Settlement Proceedings

RULE 14: SETTLEMENT AGREEMENTS

14.1 Contents of Settlement Agreements

(1) A Settlement Agreement pursuant to By-law 20.35 shall be in writing, signed by or on behalf of the parties and contain:

(a) a statement of the violations admitted to by the Respondent with reference to specific By-laws, Regulations, or Policies of the Association, or any applicable statutory provisions;

(b) a statement of the relevant facts;

(c) a statement of the penalties and costs to be imposed upon the Respondent;

(d) a statement that the Respondent waives all rights to any further hearing, appeal and review;

(e) a statement that the Settlement Agreement is conditional upon the acceptance of the Hearing Panel; and

(f) such other matters not inconsistent with subsections (a) to (e).

RULE 15: SETTLEMENT HEARINGS

15.1 Settlement Hearing Date

(1) Upon the entering into of a Settlement Agreement, the Association shall request a date for the settlement hearing from the National Hearing Coordinator.

(2) The National Hearing Coordinator shall give written notice of the settlement hearing date to all parties.

15.2 Settlement Hearing Materials

The Association shall serve and file a copy of the Settlement Agreement and any supporting materials as soon as practicable and in any case not later than 2 days prior to the date of the settlement hearing.

15.3 Facts not to be disclosed

(1) Unless the parties consent, facts not contained in the Settlement Agreement cannot be referred to or disclosed to the Hearing Panel.

(2) If a Respondent is not present at the settlement hearing, the Association may disclose additional relevant facts, at the request of the Hearing Panel.

III. Expedited Proceedings

RULE 16: EXPEDITED HEARINGS

16.1 Notice of Application

An expedited proceeding pursuant to By-law 20.41, shall be commenced by the issuance of a Notice of Application.

16.2 Contents of Notice of Application

(1) A Notice of Application shall:

(a) state the specific relief sought;

(b) state the grounds for the relief sought including reference to any Association By-laws, Regulations, Policies and Rules, and statutory provisions; and

(c) list the evidence to be relied upon.

16.3 Expedited Hearing Date

Prior to the issuance of the Notice of Application, the Association shall obtain from the National Hearing Coordinator a date, time and location for the expedited hearing.

16.4 Evidence Relied Upon

(1) Evidence relied upon for the application may be provided by sworn statement.

(2) The Hearing Panel may require the deponent of the sworn statement to attend and provide oral evidence at the hearing.

16.5 Service Not Required

The Notice of Application is not required to be served on the Respondent.

16.6 Application Record

(1) An Application Record shall contain:

(a) the Notice of Application; and

(b) copies of the evidence to be relied upon,

and shall be filed as soon as practicable.

16.7 Order

(1) Where the Hearing Panel makes an order at the conclusion of an expedited hearing, the Association shall forthwith:

(a) file a copy of the order and reasons; and

(b) serve a copy of the order and reasons of the Hearing Panel and Application Record.

(2) At the time of serving the order, the Association shall advise the Respondent in writing of the right to request a review pursuant to By-law 20.47.

RULE 17: APPOINTMENT OF MONITOR

17.1 Notice of Application

An application for the appointment of a Monitor pursuant to By-law 20.46 shall be commenced by the issuance of a Notice of Application.

17.2 Application Procedure

An application for the appointment of a Monitor shall follow the procedure set out in Rule 16.

17.3 Factors to Consider in Appointment of Monitor

(1) In exercising its discretion under By-law 20.46 to appoint a Monitor, a Hearing Panel shall consider:

(a) the harm or potential harm to the investing public;

(b) the financial solvency of the Member;

(c) the adequacy of internal controls and operating procedures;

(d) the Member's ability to maintain regulatory capital requirements;

(e) any previous suspension of the Member for failing to meet regulatory capital requirements;

(f) the costs to the Member associated with the appointment of the Monitor; and

(g) any other relevant factors.

17.4 Eligible Monitors and Costs

(1) In exercising its discretion under By-law 20.46, a Hearing Panel shall:

(a) appoint a Monitor on such terms as it considers appropriate;

(b) appoint a Monitor from the roster of eligible Monitors set out in Schedule "B"; and

(c) fix the costs of the appointment of the Monitor in accordance with the fee schedule set out in Tariff "A".

RULE 18: EXPEDITED REVIEW HEARINGS

18.1 Notice of Request for Review

(1) A request for a review of an expedited hearing pursuant to By-law 20.47 shall be commenced by a Notice of Request for Review.

(2) The Requesting Party shall serve and file a Notice of Request for Review within 30 days from the effective date of service of the order made at the hearing.

18.2 Contents of Notice of Request for Review

(1) A Notice of Request for Review shall:

(a) state the specific relief sought;

(b) state the grounds for the relief sought, including reference to any Association By-laws, Regulations, Policies, and Rules, and statutory provisions; and

(c) list the evidence to be relied upon.

18.3 Review Hearing Date

(1) Notice of the date, time and location of the review hearing will be provided to the parties by the National Hearing Coordinator.

(2) The review hearing date shall be within 21 days after the filing of the Notice of Request for Review, as required by By-law 20.47(2).

18.4 Review Record

(1) The Requesting Party shall serve and file a Review Record at least 10 days prior to the date of the review hearing.

(2) The Review Record shall contain:

(a) the Notice of Request for Review;

(b) the Notice of Application filed in respect of the expedited hearing;

(c) the order and reasons made at the expedited hearing; and

(d) copies of the evidence to be relied upon.

18.5 Reply

(1) The Association may serve and file a Reply at least 2 days prior to the date of the review hearing.

(2) The Reply shall be restricted to statements and documents responding to new issues raised by the Respondent in the Review Hearing Record.

RULE 19: CONDUCT OF EXPEDITED REVIEW HEARING

19.1 Rights of Parties

(1) A party is entitled at the hearing:

(a) to attend and be heard in person;

(b) to be represented by counsel or agent;

(c) to introduce evidence; and

(d) to make submissions relevant to the issues in the review hearing.

19.2 Order of Presentation

(1) The order of presentation shall be as follows:

(a) the Requesting Party shall present evidence and make submissions;

(b) the Responding Party shall then present evidence and make submissions;

(c) the Requesting Party may then reply to the submissions of the Responding Party.

(2) Where a party is represented by counsel or agent, the right to address the Hearing Panel shall be exercised by the counsel or agent.

PART C: APPEALS

RULE 20: COMMENCEMENT OF APPEAL

20.1 Notice of Appeal

(1) An appeal shall be commenced by a Notice of Appeal.

(2) The Appellant shall serve and file a Notice of Appeal within 30 days from the effective date of service of the decision under appeal, as required by By-law 20.52(1).

20.2 Contents of Notice of Appeal

(1) The Notice of Appeal shall state:

(a) the relief sought; and

(b) the grounds for the appeal.

20.3 Appeal Date

Notice of the date, time and location of the appeal will be provided by the National Hearing Coordinator within 21 days of the filing of the Notice of Appeal.

RULE 21: SUPPORTING MATERIALS

21.1 Appeal Record – Disciplinary Hearing

(1) The Appellant shall serve and file an Appeal Record within 90 days from the date of filing of the Notice of Appeal.

(2) The Appeal Record shall contain:

(a) the Notice of Appeal;

(b) all materials in respect of the original proceeding and relevant to the appeal, including:

(i) the Notice of Hearing;

(ii) the Response;

(iii) the decision and reasons;

(iv) any other order or decision;

(v) exhibits;

(vi) transcripts of the oral evidence; and

(vii) other excerpts from the transcript of the record.

(3) The parties to the appeal may consent to the omission of any materials required by Rule 21.1(2).

21.2 Appeal Record – Review of Expedited Hearing

(1) The Appellant shall serve and file an Appeal Record within 90 days from the date of filing of the Notice of Appeal.

(2) The Appeal Record shall contain:

(a) the Notice of Appeal;

(b) all materials in respect of the original proceeding and relevant to the appeal, including:

(i) Notice of Application;

(ii) Notice of Request for Review;

(iii) Review Record;

(iv) Reply;

(v) decision and reasons that is the subject of the appeal;

(vi) any orders;

(vii) exhibits;

(viii) transcripts of oral testimony; and

(ix) other excerpts from transcript of the record.

(3) The parties to the appeal may consent to the omission of any materials required by Rule 21.2(2).

21.3 New Evidence

(1) A party shall not introduce new evidence without leave of the Appeal Panel.

(2) An Appeal Panel may allow the introduction of new evidence at the appeal upon any terms it considers appropriate.

(3) A party who intends to seek leave to introduce new evidence at the appeal shall immediately and, in any case not later than 60 days prior to the date of the appeal serve a sworn statement of the proposed new evidence including copies of any documents.

(4) The proposed new evidence shall not be filed prior to the date of the appeal.

21.4 Factum

(1) The parties to an appeal shall prepare a factum which shall contain:

(a) a statement of the issues to be argued;

(b) the facts and law relied upon; and

(c) the relief sought.

(2) Facta shall be served and filed as follows:

(a) for the Appellant, at least 30 days from the date of the appeal; and

(b) for the Respondent, at least 15 days from the date of the appeal.

(3) The Appellant may serve and file a supplementary factum in response to new issues raised in a Respondent's factum at least 7 days prior to the date of the appeal.

PART D: APPROVAL & EXEMPTION REQUEST REVIEWS

RULE 22: APPROVALS - INDIVIDUALS

22.1 Request for Review

(1) A request for review pursuant to By-law 20.19 shall be commenced by a Notice of Request for Review.

(2) A Notice of Request for Review shall be served and filed within 10 days after release of the approval decision, as required by By-law 20.19(1) .

22.2 Contents of Notice of Request for Review

(1) A Notice of Request for Review shall:

(a) state the specific relief sought;

(b) state the grounds for the relief sought; and

(c) list the evidence to be relied upon.

22.3 Review Hearing Date

(1) Notice of the date, time and location of the review hearing will be provided to the parties by the National Hearing Coordinator.

(2) The review hearing date shall not be later than 21 days after the filing of the Notice of Request for Review.

22.4 Review Record

(1) The Requesting Party shall serve and file a Review Record at least 10 days prior to the date of the review hearing.

(2) A Review Record shall contain:

(a) the Notice of Request for Review;

(b) the decision under review; and

(c) copies of the evidence to be relied upon.

22.5 Reply

The Responding Party may serve and file a Reply at least 5 days prior to the date of the review hearing.

22.6 Contents of Reply

(1) A Reply shall:

(a) state the grounds upon which the relief ought not to be granted; and

(b) list the evidence to be relied upon.

22.7 Reply Record

(1) A Reply Record shall contain copies of any evidence the Responding Party intends to rely upon.

(2) The Responding Party shall serve and file the Reply Record at least 5 days prior to the date of the review hearing.

RULE 23: APPROVALS - MEMBERS

23.1 Request for Review

(1) A request for review pursuant to By-law 20.22 shall be commenced by a Notice of Request for Review.
(2) A Notice of Request for Review shall be served and filed within 30 days after release of the approval decision, as required by By-law 20.22(2).

23.2 Contents of Notice of Request for Review

(1) A Notice of Request for Review shall:

(a) state the specific relief sought;

(b) state the grounds for the relief sought; and

(c) list the evidence to be relied upon.

23.3 Review Hearing Date

(1) Notice of the date, time and location of the review hearing will be provided to the parties by the National Hearing Coordinator.

(2) The review hearing date shall not be later than 90 days after the filing of the Notice of Request for Review.

23.4 Review Record

(1) The Requesting Party shall serve and file a Review Record not less than 30 days prior to the date of the review hearing.

(2) A Review Record shall contain:
(a) the Notice of Request for Review;

(b) the decision under review; and

(c) copies of the evidence to be relied upon.

23.5 Reply

The Responding Party may serve and file a Reply at least 14 days prior to the date of the review hearing.

23.6 Contents of Reply

(1) A Reply shall:

(a) state the grounds upon which the relief ought not to be granted; and

(b) list the evidence to be relied upon.

23.7 Reply Record

(1) A Reply Record shall contain copies of any evidence the Responding Party intends to rely upon.

(2) The Responding Party shall serve and file the Reply Record at least 7 days prior to the date of the review hearing.

RULE 24: EXEMPTION REVIEW HEARINGS

24.1 Request for Review

(1) A request for review pursuant to By-law 20.26 shall be commenced by a Notice of Request for Review.

(2) A Notice of Request for Review shall be served and filed within 10 days after release of the decision, as required by By-law 20.26(1).

24.2 Contents of Notice of Request for Review

(1) A Notice of Request for Review shall:

(a) state the specific relief sought;

(b) state the grounds for the relief sought; and

(c) list the evidence to be relied upon.

24.3 Review Hearing Date

(1) Notice of the date, time and location of the review hearing will be provided to the parties by the National Hearing Coordinator.

(2) The review hearing date shall not be later than 21 days after the filing of the Notice of Request for Review.

24.4 Review Record

(1) The Requesting Party shall serve and file a Review Record at least 10 days prior to the date of the review hearing.

(2) A Review Record shall contain:

(a) the Notice of Request for Review;

(b) the decision under review; and

(c) copies of the evidence to be relied upon.

24.5 Reply

The Responding Party may serve and file a Reply at least 5 days prior to the date of the review hearing.

24.6 Contents of Reply

(1) A Reply shall:

(a) state the grounds upon which the relief ought not to be granted; and

(b) list the evidence to be relied upon.

24.7 Reply Record

(1) A Reply Record shall contain copies of any evidence the Responding Party intends to rely upon.

(2) The Responding Party shall serve and file the Reply Record at least 5 days prior to the date of the review hearing.

RULE 25: CONDUCT OF APPROVAL AND EXEMPTION REQUEST REVIEW HEARINGS

25.1 Application

This Rule shall apply to all review hearings referred in Rules 22 to 24 in this Part D.

25.2 Rights of Parties

(1) A party is entitled at the hearing:

(a) to attend and be heard in person;

(b) to be represented by counsel or agent;

(c) to introduce evidence; and

(d) to make submissions relevant to the issues in the review hearing.

25.3 Order of Presentation

(1) The order of presentation shall be as follows:

(a) the Requesting Party shall present evidence and make submissions;

(b) the Responding Party shall then present evidence and make submissions;

(c) the Requesting Party may then reply to the submissions of the Responding Party.

(2) Where a party is represented by counsel or agent, the right to address the Hearing Panel shall be exercised by the counsel or agent.

25.4 Form of Evidence

Evidence shall be in the form of a sworn statement or documentation unless an adverse party reasonably requires the attendance of a witness for cross-examination.

PART E: EARLY WARNING PROCEEDINGS

RULE 26: COMMENCEMENT OF PROCEEDINGS

26.1 Request for Review

(1) A request for review pursuant to By-law 20.29(1) shall be commenced by a Notice of Request for Review.

(2) A Notice of Request for Review shall be served and filed within 3 days after the Member was served with the early warning order, as required by By-law 20.29(1)

26.2 Contents of Notice of Request for Review

(1) A Notice of Request for Review shall:

(a) state the specific relief sought;

(b) state the grounds for the relief sought; and

(c) list the evidence to be relied upon.

26.3 Review Hearing Date

(1) Notice of the date, time and location of the review hearing will be provided to the parties by the National Hearing Coordinator.

(2) The review hearing date shall not be later than 21 days after the filing of the Notice of Request for Review, as required by By-law 20.29(2).

RULE 27: SUPPORTING MATERIALS

27.1 Review Record

(1) The Requesting Party shall serve and file a Review Record at least 10 days prior to the date of the review hearing.

(2) A Review Record shall contain:

(a) the Notice of Request for Review;

(b) the early warning order;

(c) copies of the evidence to be relied upon.

27.2 Reply

The Responding Party may serve and file a Reply, at least 5 days prior to the date of the review hearing.

27.3 Contents of Reply

(1) A Reply shall:

(a) state the grounds upon which the relief ought not be granted; and

(b) list the evidence to be relied upon.

27.4 Reply Record

(1) A Reply Record shall contain copies of any evidence the Association intends to rely upon.

(2) The Responding Party shall serve and file the Reply Record at least 5 days prior to the date of the review hearing.

RULE 28: CONDUCT OF EARLY WARNING REVIEW HEARINGS

28.1 Rights of Parties

(1) A party is entitled at the hearing:

(a) to attend and be heard in person;

(b) to be represented by counsel or agent;

(c) to introduce evidence; and

(d) to make submissions relevant to the issues in the review hearing.

28.2 Order of Presentation

(1) The order of presentation shall be as follows:

(a) the Requesting Party shall present evidence and make submissions; and

(b) the Responding Party shall then present evidence and make submissions;

(c) the Requesting Party may then reply to the submissions of the Responding Party.

(2) Where a party is represented by counsel or agent, the right to address the Hearing Panel shall be exercised by the counsel or agent.

28.3 Form of Evidence

Evidence shall be in the form of a sworn statement or documentation unless an adverse party reasonably requires the attendance of a witness for cross-examination.

SCHEDULE "A"

Notes & Practice Direction Re: National Hearing Coordinator

A. Duties

(i) Administration of Proceedings

The National Hearing Coordinator is responsible for the administration of all proceedings brought pursuant to By-law 20, which includes the following:

(a) the selection of Panel Members;

(b) the scheduling and arrangement of pre-hearing conferences, motions, hearings and appeals;

(c) the care, custody and distribution to panel members of all documents required to be filed pursuant to the Rules of Practice and Procedure;

(d) the maintenance of the hearing record including original exhibits;

(e) distribution of written panel decisions to all parties to the proceeding; and

(f) any other administrative duties reasonably necessary for the efficient operation of a proceeding.

(ii) Liaison as between Panel and Parties

The National Hearing Coordinator shall also act as a liaison between the panel members and parties to the proceeding. Any party who wishes to communicate to the Panel must do so through the National Hearing Coordinator and copy the other parties to the proceeding.

B. Scheduling of hearings, appeals and other related matters

(i) Requesting a Date

The Rules of Practice and Procedure require a party to obtain a date from the National Hearing Coordinator for the following matters:

(1) Disciplinary Hearings (request by the Association only)

(2) Settlement Hearing (request by the Association only)

(3) Expedited Hearings (request by the Association only)

(4) Motions (any party)

Scheduling of all other matters (i.e. pre-hearing conferences, review hearings and appeals) will be initiated by the National Hearing Coordinator once she receives the relevant Request or Notice (i.e. Request for Pre-hearing Conference or Notice of Request for Review or Notice of Appeal).

Disciplinary, Settlement and Expedited Hearings

The Association must request dates for a disciplinary, settlement or expedited hearing by completing the Hearing Request Form, attached as Appendix A to these notes.

Motions

A party bringing a motion must request a date for a motion by completing the Motion Request Form, attached as Appendix B to these Notes.

(ii) Selection of Panel or Presiding Officer

In selecting panel members or a Presiding Officer, the National Hearing Coordinator will perform the following steps:

1. Perform a conflict check to ensure panel members or Presiding Officers are completely independent and without bias.

2. Contact those potential panel members or Presiding Officers to determine availability.

3. Confirm final appointment of panel members or Presiding Officers by providing written confirmation to selected panel members or Presiding Officers.

(iii) Notice and Confirmation to Parties

Once a date has been obtained, the National Hearing Coordinator will provide written notice and confirmation of the date to all parties to the proceeding via mail, email or facsimile in the form attached as Appendix C to these notes.

C. Filing of Documents

(i) Request for Pre-hearing Conference

A Request for a Pre-Hearing Conference shall be filed by sending the Request to:

121 King Street West, Suite 1600
Toronto, Ontario

Fax (416) 646-7271
Attention: Sonia Neves, National Hearing Coordinator

(ii) Notice of Request for Review

A Notice of Request for Review for any review hearing brought pursuant to By-law 20, shall be filed by sending the Notice to:

121 King Street West, Suite 1600
Toronto, Ontario

Fax (416) 646-7271
Attention: Sonia Neves, National Hearing Coordinator

(iii) Notice of Appeal

A Notice of Appeal shall be filed by sending the Notice to:

121 King Street West, Suite 1600
Toronto, Ontario

Fax (416) 646-7271
Attention: Sonia Neves, National Hearing Coordinator

(iv) All other Documents

All documents except for those mentioned in above items (i)-(iii), required to be filed pursuant to the Rules of Practice and Procedure shall be filed by sending them to the following address:

For matters in the Pacific (British Columbia) Region:

XXX
Attention:

For matters in the Prairie Region:

XXX
Attention:

For matters in the Ontario or Atlantic Regions:

121 King Street West, Suite 1600
Toronto, Ontario

Attention: Sonia Neves, National Hearing Coordinator

For matters in the Quebec Region:

XXXX
Attention:

The National Hearing Coordinator or her designate will be responsible for distributing the filed documents to the appropriate panel members or Presiding Officer, as the case may be.

APPENDIX - A

Hearing Request Form

{TO BE DEVELOPED BY NATIONAL HEARING COORDINATOR}

APPENDIX - B

Motion Request Form

{TO BE DEVELOPED BY NATIONAL HEARING COORDINATOR}

APPENDIX - C

Notice of Confirmation

{TO BE DEVELOPED BY NATIONAL HEARING COORDINATOR}

SCHEDULE "B"

Eligible Monitors

The following firms are eligible to be appointed as Monitors in accordance with By-law 20.46 and Rule 17:

{TO BE DETERMINED IN CONSULTATION WITH STAKEHOLDERS AND INSERTED INTO RULES OF PRACTICE}

TARIFF "A"

Fee Schedule Re: Appointment of Monitor

The fee schedule permitted to be charged for the Appointment of a Monitor pursuant to By-law 20.46 and Rule 17 shall:

{TO BE DETERMINED IN CONSULTATION WITH STAKEHOLDERS AND INSERTED INTO RULES OF PRACTICE}

13.1.3 RS Sets Hearing Date in the Matter of John Andrew Scott to Consider a Settlement Agreement

NOTICE TO PUBLIC

Subject: **Market Regulation Services Inc. sets hearing date *In the Matter of John Andrew Scott to* consider a Settlement Agreement.**

Market Regulation Services Inc. ("RS") will hold a Hearing before a Panel of the Hearing Committee (the "Hearing Panel") of RS on November 13, 2003, commencing at 11:00 a.m., or as soon thereafter as the Hearing can be held, at the offices of RS, 145 King Street West, 9th floor, Toronto, Ontario. The Hearing is open to the public.

The purpose of the hearing is to consider a Settlement Agreement entered into between RS and John Andrew Scott ("Scott").

It is alleged that Scott breached Section 11.26 of the General By-law of the Toronto Stock Exchange ("the Exchange") and Rule 4-202 of the Rules of the Exchange relating to manipulative and deceptive trading.

The Hearing Panel may accept or reject an Offer of Settlement pursuant to Part 3.4 of Policy 10.8 of the Universal Market Integrity Rules governing the practice and procedure of hearings. In the event the Settlement Agreement is accepted, the matter becomes final and there can be no appeal of the matter. In the event the Settlement Agreement is rejected, RS may proceed with a hearing of the matter before a differently constituted Hearing Panel.

The terms of the settlement, if accepted and approved by the Hearing Panel, and the disposition of this matter by the Hearing Panel will be published by RS as a Disciplinary Notice.

Reference:

Jane P. Ratchford
Chief Counsel
Investigations and Enforcement
Market Regulation Services Inc.

Telephone: 416-646-7229

13.1.4 Summary of Public Comments Respecting Proposed Amendments to MFDA Rule 2.3.1 (Power of Attorney) and Response of the MFDA

SUMMARY OF PUBLIC COMMENTS RESPECTING PROPOSED AMENDMENTS TO MFDA RULE 2.3.1 (POWER OF ATTORNEY) AND RESPONSE OF THE MFDA

On July 11, 2003, the Ontario Securities Commission published for public comment a proposed amendment to MFDA Rule 2.3.1 - Power of Attorney (the "**Proposed Amendment**"). The MFDA proposal was published in Volume 28, Issue 26 of the Ontario Securities Commission Bulletin, dated July 11, 2003.

The public comment period expired on August 11, 2003.

Two submissions were received during the public comment period:

1. Royal Mutual Funds Inc.

2. TWC Financial Corp.

Copies of comment submissions may be viewed at the offices of the MFDA, 121 King Street West, Suite 1600, Toronto, Ontario by contacting Laurie Gillett, Corporate Secretary and Membership Services Manager, (416) 943-5827.

The following is a summary of the comments received, together with the MFDA's responses.

1. General Comment

One commentator expressed support for the Proposed Amendment as drafted, which would permit Approved Persons to accept a general power of attorney or similar authorization from immediate family members (spouse, parent or child) subject to certain compliance controls.

2. Trade Executed by another Approved Person

The other commentator expressed support for the Proposed Amendment but questioned the benefit of having the trade executed by an Approved Person other than the Approved Person holding the general power of attorney. The commentator noted that this proposed compliance control seems to imply that all trades are executed or placed by an Approved Person when in fact the execution of a trade is most likely an administrative function and is performed by non-registered staff mainly at head office after receiving any required approvals. This commentator was of the view that once the branch manager has approved a trade pursuant to a

power of attorney, it should take the normal process for trade execution by the dealer.

MFDA Response

The compliance control which requires that trades pursuant to a power be executed by an Approved Person other than the Approved Person holding the general power of attorney was designed to avoid the potential for conflict of interest that may arise where an Approved Person acts under a general power of attorney. The control is intended to require that the client account be assigned to or serviced by an Approved Person other than the Approved Person holding the power of attorney and is meant to be broader than trade execution. Thus, for example, the representative code on the account would not be the representative code of the Approved Person holding the power of attorney. Accordingly, the wording of the compliance control has been clarified to reflect that an Approved Person other than the Approved Person holding the general power of attorney must be the Approved Person of record on the account.

This compliance control has been incorporated into Rule 2.3.1(b) as a minimum standard. Attached is a black-lined version of the amendments to Rule 2.3.1 indicating the changes from the previously published version.

MUTUAL FUND DEALERS ASSOCIATION OF CANADA

POWER OF ATTORNEY/LIMITED TRADING AUTHORIZATION (RULE 2.3.1)

Rule 2.3.1 will be amended as follows:

Rule 2.3.1 Power of Attorney/Limited Trading Authorization

(a) **Prohibition**. No Member or Approved Person shall accept or act upon a general power of attorney or other similar authorization from a client in favour of the Member or Approved Person.

(b) **Exception**. Notwithstanding the provisions of paragraph (a), an Approved Person may accept or act upon a general power of attorney or similar authorization from a client in favour of the Approved Person where such client is a spouse, parent or child of the Approved Person and provided ~~the conditions prescribed by the Corporation are met~~ that:

(i) an Approved Person other than the Approved Person holding the general power of attorney must be the Approved Person of record on the account; and

(ii) such other conditions as prescribed by the Corporation are met.

Chapter 25

Other Information

25.1 Approvals

25.1.1 Jeffrey D. Stacey & Associates Ltd. - cl. 213(3)(b) of the LTCA

Headnote

Subsection 213(3)(b) of the Loan and Trust Corporations Act. Application by Manager to act as trustee of pooled funds to be created in future.

Statutes Cited

Loan and Trust Corporations Act, R.S.O. 1990, c. L.25, as am., ss. 213(3)(b).

October 24, 2003

Torys, LLP

Attention: Andre Poles

Dear Sirs/Mesdames:

Re: **Jeffrey D. Stacey & Associates Ltd. (the "Applicant") Application for Approval of Trustee Application # 734/03**

Further to an application (the "Application") dated October 9, 2003 filed on behalf of the Applicant and based on the facts set out in the Application, pursuant to the authority conferred on the Ontario Securities Commission (the "Commission") in clause 213(3)(b) of the *Loan and Trust Corporations Act, 1987* (Ontario), the Commission approves the proposal that the Applicant act as the trustee of funds to be managed by the Applicant which are not currently offered under a prospectus or simplified prospectus and annual information form.
Yours truly,

"Paul K. Bates" "Wendell S. Wigle"

25.2.1 Securities

RELEASE FROM ESCROW

COMPANY NAME	DATE	NO. AND TYPE OF SHARES	ADDITIONAL INFORMATION
YSV Venture Inc	October 28, 2003	3,118,803 common shares	for purposes of cancellation

25.3 Consents

25.3.1 Canada West Capital Inc. - ss. 4(b) of O. Reg. 289/00

Headnote

Consent given to an offering corporation under the OBCA to continue under the CBCA.

Statutes Cited

Business Corporations Act, R.S.O. 1990, c. B.16, as am., s. 181.
Securities Act, R.S.O. 1990, c. S.5, as am.

Regulations Cited

Regulation made under the Business Corporations Act, R.R.O. 1990, Reg. 289/00, as am., s. 4(b).

**IN THE MATTER OF
THE REGULATIONS MADE UNDER
THE BUSINESS CORPORATIONS ACT (ONTARIO),
R.S.O. 1990
c. B.16, AS AMENDED (the OBCA) AND
R.R.O. 1990, REGULATION 289/00, AS AMENDED (the Regulation)**

AND

**IN THE MATTER OF
CANADA WEST CAPITAL INC.**

**CONSENT
(Subsection 4(b) of the Regulation)**

UPON the application of Canada West Capital Inc. (the **Applicant**) to the Ontario Securities Commission (the **Commission**) requesting the consent of the Commission to continue into another jurisdiction pursuant to subsection 4(b) of the Regulation;

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

AND UPON the Applicant having represented to the Commission that:

1. the Applicant proposes to make an application (the **Application for Continuance**) to the Director under the OBCA pursuant to section 181 of the OBCA for authorization to continue under the *Canada Business Corporations Act,* R.S.C. 1985, c. C-44 (the **CBCA**);

2. the Applicant is an offering corporation under the provisions of the OBCA and a reporting issuer within the meaning of the *Securities Act* (Ontario) (the **Act**);

3. pursuant to clause 4(b) of the Regulation, where the corporation is an offering corporation, the Application for Continuance must be accompanied by the consent of the Commission;

4. the Applicant is a corporation existing under the OBCA by virtue of its incorporation thereunder on June 14, 1988;

5. the authorized capital of the Applicant consists of an unlimited number of common shares, of which approximately 2,615,823 are outstanding;

6. the Applicant's issued and outstanding common shares are currently listed for trading on the NEX board of the TSX Venture Exchange;

7. the Applicant is not in default of any requirements of the Act or the regulations or rules promulgated thereunder;

8. the Applicant is not a party to any proceeding or to the best of its knowledge, information or belief, any pending proceeding under the Act;

9. the Applicant currently intends to continue to be a reporting issuer under the Act;

10. the Applicant's continuance under the provisions of the CBCA was approved at an annual and special meeting of shareholders of the Applicant held on October 10, 2003;

11. the continuance is proposed to be made in order for the Applicant to conduct its business affairs in accordance with the provisions of the CBCA; and

12. the material rights, duties and obligations of a corporation existing under the CBCA are substantially similar to those of a corporation governed by the OBCA.

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

THE COMMISSION HEREBY CONSENTS to the continuance of the Applicant as a corporation under the CBCA.

October 31, 2003.

"Paul Moore" "Suresh Thakra"

25.3.2 WebEngine Corporation - ss. 4(b) of O. Reg. 289/00

Headnote

Consent given to an offering corporation under the OBCA to continue under the CBCA.

Statutes Cited

Business Corporations Act, R.S.O. 1990, c. B.16, as am., s. 181.
Securities Act, R.S.O. 1990, c. S.5, as am.

Regulations Cited

Regulation made under the Business Corporations Act, R.R.O. 1990, Reg. 289/00, as am., s. 4(b).

IN THE MATTER OF
ONT. REG. 289/00 (The Regulation)
MADE UNDER THE BUSINESS CORPORATION ACT, R.S.O. 1990 C. B.16

AND

IN THE MATTER OF
WEBENGINE CORPORATION

CONSENT
(Subsection 4(b) of the Regulation)

UPON the application of WebEngine Corporation (**WebEngine**) to the Ontario Securities Commission (the **Commission**) requesting a consent from the Commission for WebEngine to continue in another jurisdiction pursuant to subsection 4(b) of the Regulation;

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

AND UPON WebEngine having represented to the Commission that:

1. WebEngine is proposing to submit an application to the Director under the *Business Corporations Act* (Ontario) (the OBCA) pursuant to section 181 of the OBCA (the Application for Continuance) for authorization to continue as a corporation under the *Canada Business Corporations Act* (the CBCA).

2. Pursuant to subsection 4(b) of the Regulation, where a corporation is an offering corporation, the Application for Continuance must by accompanied by a consent from the Commission.

3. WebEngine was incorporated under the provisions of the OBCA on March 4, 1983. The head office of WebEngine is located at 133 Richmond Street West, Suite 403, Toronto, Ontario.

4. The authorized share capital of WebEngine is comprised of an unlimited number of common shares, of which 27,729,429 were issued and outstanding as of October 15, 2003.

5. WebEngine is an offering corporation under the OBCA and is a reporting issuer under the *Securities Act*, R.S.O. 1990, c. S.5, as amended (the Act). WebEngine is also a reporting issuer under the securities legislation of each of the provinces of British Columbia and Alberta. WebEngine intends to remain a reporting issuer in Ontario and in the other jurisdictions where it is a reporting issuer.

6. The common shares of WebEngine are listed for trading on the TSX Venture Exchange and such shares have been halted at the request of WebEngine, pending the TSX Venture Exchange's receipt and review of documentation regarding WebEngine's acquisition transaction and closing of same.

7. WebEngine is not in default under any provision of the Act or the regulations of the Act, nor under the securities legislation of any other jurisdiction where it is a reporting issuer.

8. WebEngine is not a party to any proceeding nor, to the best of its knowledge, information and belief, any pending proceeding under the Act.

9. The Application for Continuance of WebEngine is to be approved by the shareholders of WebEngine by special resolution at the Annual and Special Meeting of shareholders (the Meeting) to be held on November 13, 2003. WebEngine will not submit the Application for Continuance to the Director under the OBCA unless shareholder approval is obtained at the Meeting.

10. Pursuant to the Section 185 of the OBCA, all shareholders of record as of the record date for the Meeting are entitled to dissent rights with respect to the Application for Continuance (the Dissent Rights).

11. The management information circular dated October 15, 2003 (the Circular) provided to all shareholders in connection with the Meeting, advised the holders of common shares of WebEngine of their Dissent Rights.

12. The principal reason for the Application for Continuance is that WebEngine believes that continuance under the CBCA will provide WebEngine with greater flexibility and recognition in carrying on business both within and outside of Canada. Due to the international nature of WebEngine's proposed business, as more particularly described in the Circular, management believes that having federal company status will bring greater prestige to WebEngine thereby advancing its international efforts, and management further believes that it is in the

interests of WebEngine to be able to elect or appoint directors and to conduct its affairs in accordance with the provisions of the CBCA.

13. The material rights, duties and obligations of a corporation governed by the CBCA are substantially similar to those of a corporation governed by the OBCA.

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

THE COMMISSION HEREBY CONSENTS to the continuance of WebEngine as a corporation under the CBCA.

October 31, 2003.

"Paul M. Moore" "Suresh Thakrar"

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