The Ontario Securities Commission

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

The Ontario Securities Commission
Cadillac Fairview Tower
Suite 1903, Box 55
20 Queen Street West
Toronto, Ontario
M5H 3S8

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

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Carswell
One Corporate Plaza
2075 Kennedy Road
Toronto, Ontario
M1T 3V4

416-609-3800 or 1-800-387-5164

Contact Centre - Inquiries, Complaints:	Fax: 416-593-8122
Capital Markets Branch:	Fax: 416-593-3651
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One Corporate Plaza
2075 Kennedy Road
Toronto, Ontario
M1T 3V4

Customer Relations
Toronto 1-416-609-3800
Elsewhere in Canada/U.S. 1-800-387-5164
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Notices / News Releases

1.1 Notices

1.1.1 Current Proceedings Before The Ontario Securities Commission

MARCH 26, 2004

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
M5H 3S8

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Robert L. Shirriff, Q.C.	—	RLS
Suresh Thakrar	—	ST
Wendell S. Wigle, Q. C.	—	WSW

SCHEDULED OSC HEARINGS

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

DATE: TBA **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

DATE: TBA **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 Exemption by the Commission and Director – Bourse de Montréal

EXEMPTION FROM RECOGNITION AS A STOCK EXCHANGE UNDER SECTION 21 OF THE *SECURITIES ACT*

EXEMPTION FROM REGISTRATION AS A COMMODITY FUTURES EXCHANGE UNDER SECTION 15 OF THE *COMMODITY FUTURES ACT*

EXEMPTION FROM PART 4 OF OSC RULE 91-502 *TRADES IN RECOGNIZED OPTIONS*

On March 16, 2004, the Commission granted the Bourse de Montréal (the Bourse) an exemption from

- The requirement to be recognized as a stock exchange under section 21 of the *Securities Act* (Ontario); and
- The requirement to be registered as a commodity futures exchange under section 15 of the *Commodity Futures Act* (Ontario).

The Director also granted the Bourse an exemption from Part 4 of OSC Rule 91-502 *Trades in Recognized Options*. The exemption order is published in Chapter 2 of this Bulletin.

The Commission published the Bourse exemption order for comment on December 13, 2002. No comments were received.

1.1.3 Notice of Ministerial Approval - Multilateral Instrument 45-102 Resale of Securities, Form 45-102F1 and Other Consequential Amendments

NOTICE OF MINISTERIAL APPROVAL
MULTILATERAL INSTRUMENT 45-102 *RESALE OF SECURITIES*, FORM 45-102F1
AND OTHER CONSEQUENTIAL AMENDMENTS

On February 16, 2004, the Minister of Finance approved, pursuant to subsection 143.3(3) of the *Securities Act* (Ontario), Multilateral Instrument 45-102 *Resale of Securities* (the Rule) and Form 45-102F1.

The Rule, the Form, and the related companion policy, Companion Policy 45-102CP to Multilateral Instrument 45-102 *Resale of Securities* (the Policy) will come into force in Ontario on **March 30, 2004**.

The Rule, the Form, and the Policy were previously published in the Bulletin on December 19, 2003. The Rule, the Form and the Policy will be published in the April 2, 2004 OSC Bulletin.

Consequential amendments to national and local instruments (Consequential Amendments) were published in the December 19, 2003 OSC Bulletin. The Consequential Amendments appeared as Appendices C and D to the December 19, 2003 Notice. They will also be published in the April 2, 2004 OSC Bulletin, and will come into force on March 30, 2004.

1.1.4 CSA Staff Notice 51-311 Frequently Asked Questions Regarding National Instrument 51-102 Continuous Disclosure Obligations

CANADIAN SECURITIES ADMINISTRATORS STAFF
NOTICE 51-311
FREQUENTLY ASKED QUESTIONS REGARDING
NATIONAL INSTRUMENT 51-102 *CONTINUOUS DISCLOSURE OBLIGATIONS*

Background

On March 30, 2004, National Instrument 51-102 *Continuous Disclosure Obligations* will come into force in each jurisdiction.

Frequently asked questions on NI 51-102

Users of NI 51-102 should first consult NI 51-102 itself, its companion policy, and the instructions to the forms for answers to their questions about NI 51-102. As is often the case with the introduction of a new rule, even after reviewing the instrument, users of NI 51-102 often find they have questions regarding its application and interpretation. To assist those persons and companies that will be using NI 51-102, we have compiled a list of frequently asked questions (FAQs).

This list is not exhaustive, but does represent the types of inquiries we have received.

Some terms we have used in these FAQs are defined in NI 51-102 or in National Instrument 14-101 *Definitions*.

We have divided the FAQs into the following categories:

A. Definitions

B. Financial statements

C. MD&A

D. Annual information forms (AIFs)

E. Business acquisition reports (BAR)

F. Information circulars and proxy solicitations

G. Filing material documents

H. Transition

A. Definitions

A-1 **Q:** I am a scholarship plan. Am I an *investment fund*, and so not subject to NI 51-102?

A: A scholarship plan is an investment fund as defined in NI 51-102. As a result, you are not subject to NI 51-102.

A-2 **Q:** The definition of *non-redeemable investment fund* in NI 51-102 is different than the definition in OSC Rule 14-501. Does the term in NI 51-102 include different issuers than it does in OSC Rule 14-501?

A: No. Even though the wording of the two definitions is different, they are not intended to have different meanings. The definition in NI 51-102 was drafted to clarify that holding companies are generally not non-redeemable investment funds.

A-3 **Q:** I am a large debt issuer, but none of my securities are listed or quoted on a marketplace. Am I still a *venture issuer*?

A: Yes, any issuer without securities listed or quoted on a marketplace is a venture issuer.

A-4 **Q:** I have securities listed on the TSX Venture Exchange (TSXV), and quoted on the Over-the-Counter Bulletin Board in the United States. Am I still a *venture issuer*?

A: You are still a venture issuer. As long as none of the marketplaces on which you are listed or quoted are identified in the definition of *venture issuer*, you are a venture issuer, regardless of how many marketplaces your securities are listed or quoted on.

A-5 **Q:** If I have securities listed on a junior exchange in Europe, am I a *venture issuer*?

A: You are not a venture issuer if you have securities listed or quoted on any exchange outside of Canada and the United States, whether the listing was voluntary or involuntary. Some jurisdictions will be issuing blanket orders so that issuers that trade on the Regulated Unofficial Market of the Frankfurt Stock Exchange will be treated as venture issuers for the purposes of NI 51-102. Some jurisdictions cannot issue blanket orders, so issuers will have to apply for that relief in those jurisdictions.

A-6 **Q:** According to the definition of *venture issuer*, if I am listed on an exchange registered as a "national securities exchange" under section 6 of the 1934 Act, I am not a *venture issuer*. How do I find out what exchanges are registered as national securities exchanges?

A: The SEC publishes the names of the registered national securities exchanges in their annual report every year under the heading "Regulation of Securities Markets - Oversight of Self-Regulatory Organizations". The annual report is available on the SEC's web page at www.sec.gov.

A-7 **Q:** When do I make the determination of whether or not I am a *venture issuer* for the purposes of NI 51-102?

A: The definition of *venture issuer* sets out the times at which you determine if you are a venture issuer for the various requirements in NI 51-102. That time differs depending on the part of NI 51-102 you are applying.

B. Financial statements

B-1 **Q:** My auditors did not review my interim financial statements. As a result, under NI 51-102 my interim financial statements must be accompanied by a notice. What form should this notice take?

A: NI 51-102 does not specify the form of notice that should accompany the financial statements. The notice accompanies, but does not form part of, the financial statements. We expect that the notice will normally be provided on a separate page appearing immediately before the financial statements, in a manner similar to an audit report that accompanies annual financial statements.

B-2 **Q:** Do I have to file a notice indicating that my interim financial statements have not been reviewed by my auditor, if a public accountant that is not my auditor, reviews them?

A: Yes. If your auditor does not review your interim financial statements, you must file the notice, even if a public accountant reviews the statement. Refer to subsection 3.4(3) of Companion Policy NI 51-102CP (NI 51-102CP) for a discussion of what is meant by "review" if your annual financial statements are audited in accordance with Canadian GAAS, or auditing standards other than Canadian GAAS. If your annual financial statements are audited in accordance with Canadian GAAS, the relevant requirements for a review of interim financial statements by the auditor are set out in the Handbook section 7050.

B-3 **Q:** Do I have to file a notice indicating that my interim financial statements have not been reviewed if only the current period, and not the comparative interim period, have been reviewed by my auditor?

A: Yes. The review of the interim financial statements must cover all periods presented in the statements.

B-4 **Q:** When does the annual request form under section 4.6 have to be sent?

A: Once a year – at any time during the year.

B-5 **Q:** If I send my annual financial statements to all my securityholders, do I still have to send a

request form under subsection 4.6(1) in respect of my interim financial statements?

A: No. Subsection 4.6(5) is a complete exemption from having to send an annual request form, if you send your annual financial statements to all your securityholders. You will still have to send a copy of your interim financial statements to any securityholder that requests a copy.

B-6 **Q:** My current auditor does not intend to register with the Canadian Public Accountability Board. As a result, I am changing my auditor in order to comply with National Instrument 52-108 *Auditor Oversight*. Do I have to comply with the change of auditor requirements?

A: Yes, you must comply with the change of auditor requirements, even if the change in your auditor is only to comply with NI 52-108.

C. MD&A

General

C-1 **Q:** Since my MD&A is filed with my financial statements, do my auditors have to review my MD&A before I file it?

A: NI 51-102 does not include a direct requirement for MD&A to be reviewed by an issuer's auditor. However, under CICA Handbook section 7500 *Auditor association with annual reports, interim reports and other public documents*, an auditor is deemed to be associated with MD&A corresponding to annual financial statements on which the auditor has issued an auditor's report. Also, an auditor is deemed to be associated with interim MD&A if the auditor has been engaged to audit or review the corresponding interim financial statements.

If an auditor is deemed to be associated with MD&A, the auditor must perform the procedures specified in section 7500 of the Handbook. The auditor's specific aims when performing those procedures are to: (a) determine whether the financial statements, and when applicable, the report of the auditor, have been accurately reproduced; and (b) consider whether any of the other information in the document raises questions regarding, or appears to be otherwise inconsistent with, the financial statements.

Handbook section 7500 specifies that the auditor should arrange to obtain the MD&A prior to its release and perform the procedures set out in the section. Further, when circumstances prevent the auditor from obtaining the MD&A prior to its release, the auditor should perform the procedures required by Handbook as soon as possible after its release, and consider advising the audit committee of the circumstances.

If the reporting issuer's annual financial statements are audited in accordance with auditing standards other than Canadian GAAS, then the auditor's association with, and the requirement for procedures relating to, annual and interim MD&A would be determined by those other auditing standards.

Form

C-2 **Q:** Do I have to duplicate in my MD&A information already included in the notes to the financial statements?

A: Information specifically required by Form 51-102F1 must be included in the MD&A, and simply cross-referencing to a note in the financial statements would not be sufficient. For example, although the various notes to the financial statements may include information about contractual obligations, Form 51-102F1 requires an issuer that is not a venture issuer to include in the MD&A a summary, in tabular form, of contractual obligations. In this example a cross-reference would not meet the Form 51-102F1 requirement.

Issuers should use their judgment to ensure the MD&A complements and supplements the financial statements. This may include a discussion and analysis, but not a repetition of details disclosed in notes to the financial statements that are not specifically required by Form 51-102F1.

C-3 **Q:** The MD&A form says that, if the first MD&A I file in Form 51-102F1 is an interim MD&A, the interim MD&A must include all the disclosure called for in the annual MD&A. Does that mean that my interim MD&A must include a discussion of my annual financial statements **and** my interim financial statements?

A: No. It means that all the disclosure elements set out in Item 1 of Part 2 of the Form 51-102F1, such as a discussion of critical accounting estimates and changes in accounting policies, must be provided for the first interim MD&A. Except for Item 1.3, the discussion is still focussed on your interim financial statements. As a result, you do not have to provide discussion of a one-year plus three month period – just the three-month interim period. As the disclosure in Item 1.3 does not have to be updated in the interim MD&A, when that disclosure is provided in the interim MD&A, it should still be based on the annual financial statements.

C-4 **Q:** The first MD&A I am filing in Form 51-102F1 is an interim MD&A. However, my annual MD&A from my previous financial year contains many of the same elements of the Form 51-102F1. Can my first interim MD&A just update the information from

my annual MD&A that is consistent with the requirements in Form 51-102F1, and supplement it with the disclosure that is missing?

A: No, the first MD&A you file in Form 51-102F1 must contain **all** the elements set out in Item 1 of Part 2 of Form 51-102F1. This ensures there is a comprehensive platform that will be the basis for future MD&A that you file.

D. Annual information forms (AIFs)

General

D-1 **Q:** Are there situations when a venture issuer may have to file an AIF?

A: Venture issuers do not have to file an AIF under NI 51-102. There are other policies or rules that require the filing of an AIF to benefit from those instruments. For example, to use the short form prospectus system under National Instrument 44-101 *Short Form Prospectus Distributions* (NI 44-101), an issuer must file an AIF, regardless of whether the issuer is a venture issuer or not. Similarly, if a TSXV listed issuer intends to complete a public offering by short form offering document under TSXV Policy 4.6, or an issuer wants to use the offering memorandum for qualifying issuers under Multilateral Instrument 45-103 *Capital Raising Exemptions*, the issuer must file an AIF.

D-2 **Q:** I am required to file an AIF under NI 51-102. I also intend to rely on that AIF for the purposes of NI 44-101. Where do I file the AIF on SEDAR? Do I have to file it twice?

A: All issuers filing an AIF must file it under the filing type “Annual Information Form (NI 51-102)” on SEDAR. If you also intend to rely on that AIF for the purposes of NI 44-101, you do not have to file the AIF twice. Instead, you should file a notice under the filing type “Annual Information Form (NI 44-101)” indicating you are relying on your NI 51-102 AIF as your AIF under NI 44-101, and giving the SEDAR project number the AIF was filed under.

Form

D-3 **Q:** Can I use my information circular in connection with an arrangement or reverse takeover as an alternative form of AIF?

A: No. The acceptable alternative forms of annual information forms are set out in the definition of AIF. They include a Form 10-K, Form 10-KSB or Form 20-F for SEC issuers, as defined in NI 51-102. Information circulars are not acceptable alternative forms of AIFs.

E. Business acquisition reports (BAR)

E-1 **Q:** The optional significance tests in section 8.3(4) are based on financial information relating to my most recently completed interim period. In calculating the optional significance tests, can I use financial information relating to financial statements for a completed interim period that have not yet been approved by my board of directors or audit committee, and have not yet been filed?

A: Yes. However, you run the risk that adjustments to the financial statements from subsequent review by your external auditors, audit committee or board of directors may change the results of the calculation. For example, the acquisition may be a significant acquisition based on the adjusted financial statements, when it initially did not meet the significance thresholds, in which case you may be in default of the BAR requirements.

E-2 **Q:** If I am acquiring a business, there are no financial statements, and confidentiality provisions prevent disclosure of certain information about the business, how do I file a BAR?

A: Paragraph 8.1(4) of NI 51-102CP discusses the term "business" and indicates that whether or not the business previously prepared financial statements, an acquisition may be considered a business and trigger the requirement for financial statements in a BAR. As well, section 8.6 of NI 51-102CP provides guidance on the preparation of divisional and carve-out financial statements. If an issuer is considering the acquisition of a business, it must consider its obligations under NI 51-102 to file a BAR and the issuer must plan its acquisition in a manner that will ensure it can meet those obligations.

E-3 **Q:** If I acquire a business that will be accounted for by the equity method and the acquisition qualifies for the exemption in section 8.6, does my BAR have to name the auditor of the investee and indicate that the auditor of the investee has not consented?

A: Section 8.6 of the NI 51-102 does not require an issuer to name the auditor of the financial information or underlying financial statements or to include the auditor’s report on the financial information or underlying financial statements. As a result, the issuer does not have to disclose the absence of consent from the auditor of the investee.

F. Information circulars and proxy solicitations

F-1 **Q:** If I send out materials on May 1, 2004 for my meeting scheduled for June 15, 2004, do I have to use the new form of information circular?

A: If you have mailed the materials before June 1, 2004, your information circular must include the information prescribed in the old form of information circular. Some jurisdictions, such as Alberta and British Columbia, have issued or will issue blanket orders that permit issuers to use the new form of information circular (Form 51-102F5) between March 30 and June 1, 2004.

G. Filing material documents

G-1 **Q:** Do material documents, such as constating documents or material contracts, dated before March 30, 2004 have to be filed under the new filing requirements? When do they have to be filed?

A: Any constating documents, including articles of incorporation, that are dated before March 30, 2004 do have to be filed under the new filing requirements, as long as they are still effective. The documents must be filed no later than when you first file an AIF under NI 51-102, if you are not a venture issuer. If you are a venture issuer, you must file the document within 120 days of the end of your first financial year beginning on or after January 1, 2004. However, if the making of the document constitutes a material change for the issuer, the document must be filed no later than the time of filing a material change report.

G-2 **Q:** Do the original forms of constating documents or material contracts that have been amended before March 30, 2004 have to be filed under the new filing requirements?

A: Only the current versions of documents have to be filed - that is, the documents, as amended, not the original forms that are no longer applicable.

G-3 **Q:** Will material contracts be public documents?

A: Yes.

H. Transition

Financial statements

H-1 **Q:** My current financial year began July 1, 2003. Do I have to follow the new filing deadlines for my March 31, 2004 third quarter interim statements?

A: No. The new filing deadlines apply to interim periods in financial years **beginning on or after January 1, 2004**. In this case, that is your financial year beginning July 1, 2004. As a result, the new deadlines will first apply to your first quarter ending September 30, 2004.

H-2 **Q:** I am not a venture issuer. Because I still have 140 days to file my 2003 annual financial statements, my first quarter interim financial statements are due a few days before my annual financial statements. What do I do?

A: You do still have 140 days to file your annual financial statements; however, you will want to ensure your annual numbers are finalized before you file your first interim statements. You may wish to file your annual financial statements on or before the deadline for the interim statements.

H-3 **Q:** Do I have to deliver my 2003 annual financial statements to my shareholders?

A: Yes, you must deliver your 2003 annual financial statements in accordance with pre-NI 51-102 continuous disclosure (CD) requirements.

H-4 **Q:** I have filed and delivered my 2003 annual financial statements in accordance with pre-NI 51-102 CD requirements. During this transition year, do I have to send a request form with my proxy materials relating to the interim financial statements I will be filing for my 2004 financial year?

A: You do not have to send a request form until 2005. You will still have to deliver a copy of your interim financial statements for your 2004 financial year to any securityholder that asks for a copy.

H-5 **Q:** How do the financial statement delivery requirements in NI 51-102 interact with National Instrument 54-102 *Interim Financial Statement and Report Exemption* (NI 54-102)?

A: We expect NI 54-102 will be repealed when proposed National Instrument 81-106 *Investment Fund Continuous Disclosure* is implemented. Until then, NI 54-102 will be irrelevant for issuers that are subject to NI 51-102, as the exemption in NI 54-102 from having to send interim financial statements is not necessary given that NI 51-102 only requires issuers to send those statements on request. The request form system established under NI 51-102 effectively replaces the supplemental mailing list system under NI 54-102.

MD&A

H-6 **Q:** I am required under the securities laws in some jurisdictions to file annual MD&A for my financial year that began before January 1, 2004. I am intending to file that MD&A before March 30, 2004. The form of MD&A is based on Form 44-101F2. Instead, I would like to use Form 51-102F1 MD&A for my 2003 annual MD&A, so that, for my first interim MD&A, I can simply provide information that updates my annual MD&A. Can I use the new form of MD&A before March 30, 2004?

A: We believe that the disclosure requirements in Form 51-102F1 meet the current MD&A disclosure

requirements that are based on Form 44-101F2. As a result, an issuer that files MD&A in Form 51-102F1 for financial years beginning before January 1, 2004 will satisfy the current MD&A requirements that are based on Form 44-101F2.

H-7 **Q:** What will happen to the BC Securities Commission's current Quarterly Report in Form 51-901F? Will it be revoked?

A: Yes, after a transition period, the Form 51-901F will be revoked. In the meantime, issuers that file an MD&A in Form 51-102F1 will be exempt from having to file the Quarterly Report.

AIFs

H-8 **Q:** I am a reporting issuer in British Columbia, Alberta, Saskatchewan, Ontario and Québec, listed on the TSXV. Do I still have to file an AIF for my 2003 financial year under the pre-NI 51-102 CD requirements in Saskatchewan, Ontario and Québec?

A: The AIF requirements in NI 51-102 apply to financial years beginning on or after January 1, 2004. As a result, for financial years beginning before then, you must continue to comply with your pre-NI 51-102 CD requirements including any requirement to file an AIF.

H-9 **Q:** I have a December 31, 2003 financial year-end. Can I file my annual information form in the new Form 51-102F2?

A: Effective March 30, 2004, at the earliest, NI 44-101 and the local CD requirements in Saskatchewan, Ontario and Québec will be amended to permit you to use either the new form of AIF (Form 51-102F2), or the old form (Form 44-101F1), for financial years beginning before January 1, 2004. You must use the new Form 51-102F2 for financial years beginning on or after January 1, 2004.

General

H-10 **Q:** Will SEDAR be updated to reflect the new filing requirements in NI 51-102?

A: Yes, SEDAR will be updated by March 30, 2004 to reflect the new filing requirements in NI 51-102. A SEDAR subscriber update will be issued advising filers of the changes.

March 26, 2004.

1.1.5 Notice of Ministerial Approval - National Instrument 52-108 Auditor Oversight, Multilateral Instrument 52-109 Certification of Disclosure in Issuers' Annual and Interim Filings and Multilateral Instrument 52-110 Audit Committees

NOTICE OF MINISTERIAL APPROVAL

NATIONAL INSTRUMENT 52-108 *AUDITOR OVERSIGHT,*
MULTILATERAL INSTRUMENT 52-109
CERTIFICATION OF DISCLOSURE IN ISSUERS' ANNUAL AND INTERIM FILINGS
AND MULTILATERAL INSTRUMENT 52-110
AUDIT COMMITTEES

On March 9, 2004, the Minister responsible for the Ontario Securities Commission approved the following rules pursuant to subsection 143.3(3) of the *Securities Act* (Ontario):

- National Instrument 52-108 *Auditor Oversight*
- Multilateral Instrument 52-109 *Certification of Disclosure in Issuers' Annual and Interim Filings*, Form 52-109F1, Form 52-109FT1, Form 52-109F2 and Form 52-109FT2
- Multilateral Instrument 52-110 *Audit Committees,* Form 52-110F1 and Form 52-110F2

The rules were previously published in the OSC Bulletin on January 16, 2004. **The rules will come into force on March 30, 2004.**

The rules and related material are published in Chapter 5.

1.1.6 Notice of Ministerial Approval - National Instrument 51-102 Continuous Disclosure Obligations, Forms 51-102F1, 51-102F2, 51-102F3, 51-102F4, 51-102F5 and 51-102F6 and OSC Rule 51-801 Implementing National Instrument 51-102 Continuous Disclosure Obligations and National Instrument 71-102 Continuous Disclosure and Other Exemptions Relating to Foreign Issuers and OSC Rule 71-802 Implementing National Instrument 71-102 Continuous Disclosure and Other Exemptions Relating to Foreign Issuers and Related Amendments to and Revocation of Instruments and Ontario Regulations Amending Reg. 1015 of R.R.O. 1990

NOTICE OF MINISTERIAL APPROVAL

NATIONAL INSTRUMENT 51-102 *CONTINUOUS DISCLOSURE OBLIGATIONS*, FORMS 51-102F1, 51-102F2, 51-102F3, 51-102F4, 51-102F5 AND 51-102F6

AND

RULE 51-801 *IMPLEMENTING NATIONAL INSTRUMENT 51-102 CONTINUOUS DISCLOSURE OBLIGATIONS*

AND

NATIONAL INSTRUMENT 71-102 *CONTINUOUS DISCLOSURE AND OTHER EXEMPTIONS RELATING TO FOREIGN ISSUERS*

AND

RULE 71-802 *IMPLEMENTING NATIONAL INSTRUMENT 71-102 CONTINUOUS DISCLOSURE AND OTHER EXEMPTIONS RELATING TO FOREIGN ISSUERS*

AND

RELATED AMENDMENTS TO AND REVOCATION OF INSTRUMENTS

AND

ONTARIO REGULATIONS AMENDING REG. 1015 OF R.R.O. 1990

On February 16, 2004, the Minister of Finance approved, pursuant to subsection 143.3(3) of the *Securities Act* (Ontario), National Instrument 51-102 *Continuous Disclosure Obligations*, Rule 51-801 *Implementing National Instrument 51-102 Continuous Disclosure Obligations,* National Instrument 71-102 *Continuous Disclosure and Other Exemptions Relating to Foreign Issuers* and Rule 71-802 *Implementing National Instrument 71-102 Continuous Disclosure and Other Exemptions Relating to Foreign Issuers* (the Rules) and Forms 51-102F1, 51-102F2, 51-102F3, 51-102F4, 51-102F5 and 51-102F6 (the Forms).

The Rules, the Forms, and the related companion policies, Companion Policy 51-102CP to National Instrument 51-102 and Companion Policy 71-102CP to National Instrument 71-102 (the Policies) will come into force in Ontario on **March 30, 2004**.

The Rules, the Forms, and the Policies were previously published in a supplement to the OSC Bulletin on December 19, 2003. The Rules, the Forms and the Policies will be published in the April 2, 2004 OSC Bulletin.

Related amendments to and revocation of national and local instruments and Commission policies were published in a supplement to the December 19, 2003 OSC Bulletin. They will also be published in the April 2, 2004 OSC Bulletin, and will come into force on March 30, 2004.

On February 25, 2004, the Minister of Finance approved Ontario Regulations amending certain provisions of Regulation 1015 in order to effectively implement the Rules. These Regulations were filed as O. Reg 56/04 and O. Reg 57/04 on March 10, 2004 and are expected to be published in the Ontario Gazette on March 27, 2004.

1.3 News Releases

1.3.1 Notice from the Office if the Secretary, OSC in the Matter of Patrick Fraser Kenyon Pierrepont Lett, Milehouse Investment Management Limited and Pierrepont Trading Inc.

FOR IMMEDIATE RELEASE
March 22, 2004

NOTICE FROM THE OFFICE OF THE SECRETARY, OSC

IN THE MATTER OF
PATRICK FRASER KENYON PIERREPONT LETT,
MILEHOUSE INVESTMENT MANAGEMENT LIMITED
and PIERREPONT TRADING INC.

TORONTO – The Ontario Securities Commission issued its Reasons in the above matter.

A copy of the Reasons is available at **www.osc.gov.on.ca**

OFFICE OF THE SECRETARY
JOHN P. STEVENSON
SECRETARY

For Media Inquiries: Wendy Dey
Director, Communications
416-593-8120

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

Chapter 2

Decisions, Orders and Rulings

2.1 Decisions

2.1.1 The Buckingham Research Group Incorporated - ss. 6.1(1) of MI 31-102 and s. 6.1 of OSC Rule 13-502

Headnote

International dealer exempted from the electronic funds transfer requirement pursuant to subsection 6.1(1) of Multilateral Instrument 31-102 National Registration Database and activity fee contemplated under section 4.1 of Ontario Securities Commission Rule 13-502 Fees waived in respect of this discretionary relief, subject to certain conditions.

Rules Cited

Multilateral Instrument 31-102 National Registration Database (2003) 26 O.S.C.B. 926, s. 6.1.
Ontario Securities Commission Rule 13-502 Fees (2003) 26 O.S.C.B. 867, ss. 4.1 and 6.1.

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

AND

IN THE MATTER OF
THE BUCKINGHAM RESEARCH GROUP
INCORPORATED

DECISION
(Subsection 6.1(1) of Multilateral Instrument 31-102 *National Registration Database* and section 6.1 of Rule 13-502 *Fees*)

UPON the Director having received the application of The Buckingham Research Group Incorporated (the Applicant) for an order pursuant to subsection 6.1(1) of Multilateral Instrument 31-102 *National Registration Database* (MI 31-102) granting the Applicant relief from the electronic funds transfer requirement contemplated under MI 31-102 and for relief from the activity fee requirement contemplated under section 4.1 of Ontario Securities Commission Rule 13-502 *Fees* (Rule 13-502) in respect of this discretionary relief;

AND UPON considering the application and the recommendation of the staff of the Ontario Securities Commission (the Commission);

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

1. The Applicant is incorporated under the laws of the State of Delaware in the United States of America. The Applicant is not a reporting issuer. The Applicant is registered under the Act as an international dealer. The head office of the Applicant is located in New York, New York.

2. MI 31-102 requires that all registrants in Canada enrol with CDS Inc. (CDS) and use the national registration database (NRD) to complete certain registration filings. As part of the enrolment process, registrants are required to open an account with a member of the Canadian Payments Association from which fees may be paid with respect to NRD by electronic pre-authorized debit (electronic funds transfer or, the EFT Requirement).

3. The Applicant has encountered difficulties in setting up a Canadian based bank account for purposes of fulfilling the EFT Requirement.

4. The Applicant confirms that it is not registered in another category to which the EFT Requirement applies and that Ontario is the only jurisdiction in which it is registered.

5. Staff of the Canadian Securities Administrators has indicated that, with respect to applications from international dealers and international advisers (or applicants in equivalent categories of registration) for relief from the EFT Requirement, it is prepared to recommend waiving the fee normally required to accompany applications for discretionary relief (the Application Fee).

6. For Ontario registrants, the requirement for payment of the Application Fee is set out in section 4.1 of Rule 13-502.

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

IT IS THE DECISION of the Director, pursuant to subsection 6.1(1) of MI 31-102 that the Applicant is granted relief from the EFT Requirement for so long as the Applicant:

A. makes acceptable alternative arrangements with CDS for the payment of NRD fees;

B. pays its participation fee under the Act to the Commission by cheque, draft, money order or other acceptable means at the time of filing its application for annual

renewal, which shall be no later than the first day of December in each year;

C. pays any applicable activity fees, or other fees that the Act requires it to pay to the Commission, by cheque, draft, money order or other acceptable means at the appropriate time; and

D. is not registered in any Jurisdiction in another category to which the EFT Requirement applies;

PROVIDED THAT the Applicant submits a similar application in any other Canadian jurisdiction where it becomes registered as an international dealer or international adviser or in an equivalent registration category;

AND IT IS THE FURTHER DECISION of the Director, pursuant to section 6.1 of Rule 13-502, that the Application Fee will be waived in respect of the application for this Decision.

February 2, 2004.

"David M. Gilkes"

2.1.2 Citigroup Global Markets Limited - ss. 6.1(1) of MI 31-102 and s. 6.1 of OSC Rule 13-502

Headnote

International dealer exempted from the electronic funds transfer requirement pursuant to subsection 6.1(1) of Multilateral Instrument 31-102 National Registration Database and activity fee contemplated under section 4.1 of Ontario Securities Commission Rule 13-502 Fees waived in respect of this discretionary relief, subject to certain conditions.

Rules Cited

Multilateral Instrument 31-102 National Registration Database (2003) 26 O.S.C.B. 926, s. 6.1.
Ontario Securities Commission Rule 13-502 Fees (2003) 26 O.S.C.B. 867, ss. 4.1 and 6.1.

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

AND

IN THE MATTER OF
CITIGROUP GLOBAL MARKETS LIMITED

DECISION
(Subsection 6.1(1) of Multilateral Instrument 31-102 *National Registration Database* and section 6.1 of Rule 13-502 *Fees*)

UPON the Director having received the application of Citigroup Global Markets Limited (the Applicant) for an order pursuant to subsection 6.1(1) of Multilateral Instrument 31-102 *National Registration Database* (MI 31-102) granting the Applicant relief from the electronic funds transfer requirement contemplated under MI 31-102 and for relief from the activity fee requirement contemplated under section 4.1 of Ontario Securities Commission Rule 13-502 *Fees* (Rule 13-502) in respect of this discretionary relief;

AND UPON considering the application and the recommendation of the staff of the Ontario Securities Commission (the Commission);

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

1. The Applicant is incorporated under the laws of England and Wales. The Applicant is not a reporting issuer. The Applicant is registered under the Act as an international dealer. The head office of the Applicant is located in London, England.

2. MI 31-102 requires that all registrants in Canada enrol with CDS Inc. (CDS) and use the national registration database (NRD) to complete certain registration filings. As part of the enrolment process, registrants are required to open an account with a member of the Canadian

Payments Association from which fees may be paid with respect to NRD by electronic pre-authorized debit (electronic funds transfer or, the EFT Requirement).

3. The Applicant has encountered difficulties in setting up a Canadian based bank account for purposes of fulfilling the EFT Requirement.

4. The Applicant confirms that it is not registered in another category to which the EFT Requirement applies and that Ontario is the only jurisdiction in which it is registered.

5. Staff of the Canadian Securities Administrators has indicated that, with respect to applications from international dealers and international advisers (or applicants in equivalent categories of registration) for relief from the EFT Requirement, it is prepared to recommend waiving the fee normally required to accompany applications for discretionary relief (the Application Fee).

6. For Ontario registrants, the requirement for payment of the Application Fee is set out in section 4.1 of Rule 13-502.

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

IT IS THE DECISION of the Director, pursuant to subsection 6.1(1) of MI 31-102 that the Applicant is granted relief from the EFT Requirement for so long as the Applicant:

A. makes acceptable alternative arrangements with CDS for the payment of NRD fees;

B. pays its participation fee under the Act to the Commission by cheque, draft, money order or other acceptable means at the time of filing its application for annual renewal, which shall be no later than the first day of December in each year;

C. pays any applicable activity fees, or other fees that the Act requires it to pay to the Commission, by cheque, draft, money order or other acceptable means at the appropriate time; and

D. is not registered in any Jurisdiction in another category to which the EFT Requirement applies;

PROVIDED THAT the Applicant submits a similar application in any other Canadian jurisdiction where it becomes registered as an international dealer or international adviser or in an equivalent registration category;

AND IT IS THE FURTHER DECISION of the Director, pursuant to section 6.1 of Rule 13-502, that the Application Fee will be waived in respect of the application for this Decision.

February 2, 2004.

“David M. Gilkes”

2.1.3 TN Capital Equities, Ltd. - ss. 6.1(1) of MI 31-102 and s. 6.1 of OSC Rule 13-502

Headnote

International dealer exempted from the electronic funds transfer requirement pursuant to subsection 6.1(1) of Multilateral Instrument 31-102 National Registration Database and activity fee contemplated under section 4.1 of Ontario Securities Commission Rule 13-502 Fees waived in respect of this discretionary relief, subject to certain conditions.

Rules Cited

Multilateral Instrument 31-102 National Registration Database (2003) 26 O.S.C.B. 926, s. 6.1.
Ontario Securities Commission Rule 13-502 Fees (2003) 26 O.S.C.B. 867, ss. 4.1 and 6.1.

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

AND

IN THE MATTER OF
TN CAPITAL EQUITIES, INC.

DECISION
(Subsection 6.1(1) of Multilateral Instrument 31-102 *National Registration Database* and section 6.1 of Rule 13-502 *Fees*)

UPON the Director having received the application of TN Capital Equities, Ltd. (the Applicant) for an order pursuant to subsection 6.1(1) of Multilateral Instrument 31-102 *National Registration Database* (MI 31-102) granting the Applicant relief from the electronic funds transfer requirement contemplated under MI 31-102 and for relief from the activity fee requirement contemplated under section 4.1 of Ontario Securities Commission Rule 13-502 *Fees* (Rule 13-502) in respect of this discretionary relief;

AND UPON considering the application and the recommendation of the staff of the Ontario Securities Commission (the Commission);

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

1. The Applicant is incorporated under the laws of the State of Delaware in the United States of America. The Applicant is not a reporting issuer. The Applicant is registered under the Act as an international dealer. The head office of the Applicant is located in New York, New York.

2. MI 31-102 requires that all registrants in Canada enrol with CDS Inc. (CDS) and use the national registration database (NRD) to complete certain registration filings. As part of the enrolment process, registrants are required to open an account with a member of the Canadian Payments Association from which fees may be paid with respect to NRD by electronic pre-authorized debit (electronic funds transfer or, the EFT Requirement).

3. The Applicant has encountered difficulties in setting up a Canadian based bank account for purposes of fulfilling the EFT Requirement.

4. The Applicant confirms that it is not registered in another category to which the EFT Requirement applies and that Ontario is the only jurisdiction in which it is registered.

5. Staff of the Canadian Securities Administrators has indicated that, with respect to applications from international dealers and international advisers (or applicants in equivalent categories of registration) for relief from the EFT Requirement, it is prepared to recommend waiving the fee normally required to accompany applications for discretionary relief (the Application Fee).

6. For Ontario registrants, the requirement for payment of the Application Fee is set out in section 4.1 of Rule 13-502.

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

IT IS THE DECISION of the Director, pursuant to subsection 6.1(1) of MI 31-102 that the Applicant is granted relief from the EFT Requirement for so long as the Applicant:

A. makes acceptable alternative arrangements with CDS for the payment of NRD fees;

B. pays its participation fee under the Act to the Commission by cheque, draft, money order or other acceptable means at the time of filing its application for annual renewal, which shall be no later than the first day of December in each year;

C. pays any applicable activity fees, or other fees that the Act requires it to pay to the Commission, by cheque, draft, money order or other acceptable means at the appropriate time; and

D. is not registered in any Jurisdiction in another category to which the EFT Requirement applies;

PROVIDED THAT the Applicant submits a similar application in any other Canadian jurisdiction where it becomes registered as an international dealer or international adviser or in an equivalent registration category;

AND IT IS THE FURTHER DECISION of the Director, pursuant to section 6.1 of Rule 13-502, that the Application Fee will be waived in respect of the application for this Decision.

February 5, 2004.

"David M. Gilkes"

2.1.4 The Griswold Company Incorporated - ss. 6.1(1) of MI 31-102 and s. 6.1 of OSC Rule 13-502

Headnote

International dealer exempted from the electronic funds transfer requirement pursuant to subsection 6.1(1) of Multilateral Instrument 31-102 National Registration Database and activity fee contemplated under section 4.1 of Ontario Securities Commission Rule 13-502 Fees waived in respect of this discretionary relief, subject to certain conditions.

Rules Cited

Multilateral Instrument 31-102 National Registration Database (2003) 26 O.S.C.B. 926, s. 6.1.
Ontario Securities Commission Rule 13-502 Fees (2003) 26 O.S.C.B. 867, ss. 4.1 and 6.1.

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

AND

IN THE MATTER OF
THE GRISWOLD COMPANY INCORPORATED

DECISION
(Subsection 6.1(1) of Multilateral Instrument 31-102 *National Registration Database* and section 6.1 of Rule 13-502 *Fees*)

UPON the Director having received the application of The Griswold Company Incorporated (the Applicant) for an order pursuant to subsection 6.1(1) of Multilateral Instrument 31-102 *National Registration Database* (MI 31-102) granting the Applicant relief from the electronic funds transfer requirement contemplated under MI 31-102 and for relief from the activity fee requirement contemplated under section 4.1 of Ontario Securities Commission Rule 13-502 *Fees* (Rule 13-502) in respect of this discretionary relief;

AND UPON considering the application and the recommendation of the staff of the Ontario Securities Commission (the Commission);

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

1. The Applicant is incorporated under the laws of the state of New York in the United States of America. The Applicant is not a reporting issuer. The Applicant is registered under the Act as an international dealer. The head office of the Applicant is located in New York, New York.

2. MI 31-102 requires that all registrants in Canada enrol with CDS Inc. (CDS) and use the national registration database (NRD) to complete certain registration filings. As part of the enrolment

process, registrants are required to open an account with a member of the Canadian Payments Association from which fees may be paid with respect to NRD by electronic pre-authorized debit (electronic funds transfer or, the EFT Requirement).

3. The Applicant has encountered difficulties in setting up a Canadian based bank account for purposes of fulfilling the EFT Requirement.

4. The Applicant confirms that it is not registered in another category to which the EFT Requirement applies and that Ontario is the only jurisdiction in which it is registered.

5. Staff of the Canadian Securities Administrators has indicated that, with respect to applications from international dealers and international advisers (or applicants in equivalent categories of registration) for relief from the EFT Requirement, it is prepared to recommend waiving the fee normally required to accompany applications for discretionary relief (the Application Fee).

6. For Ontario registrants, the requirement for payment of the Application Fee is set out in section 4.1 of Rule 13-502.

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

IT IS THE DECISION of the Director, pursuant to subsection 6.1(1) of MI 31-102 that the Applicant is granted relief from the EFT Requirement for so long as the Applicant:

A. makes acceptable alternative arrangements with CDS for the payment of NRD fees;

B. pays its participation fee under the Act to the Commission by cheque, draft, money order or other acceptable means at the time of filing its application for annual renewal, which shall be no later than the first day of December in each year;

C. pays any applicable activity fees, or other fees that the Act requires it to pay to the Commission, by cheque, draft, money order or other acceptable means at the appropriate time; and

D. is not registered in any Jurisdiction in another category to which the EFT Requirement applies;

PROVIDED THAT the Applicant submits a similar application in any other Canadian jurisdiction where it becomes registered as an international dealer or international adviser or in an equivalent registration category;

AND IT IS THE FURTHER DECISION of the Director, pursuant to section 6.1 of Rule 13-502, that the Application Fee will be waived in respect of the application for this Decision.

February 27, 2004.

“David M. Gilkes”

2.1.5 Insight Investment Management (Global) Limited - ss. 6.1(1) of MI 31-102 and s. 6.1 of OSC Rule 13-502

Headnote

International adviser exempted from the electronic funds transfer requirement pursuant to subsection 6.1(1) of Multilateral Instrument 31-102 National Registration Database and activity fee contemplated under section 4.1 of Ontario Securities Commission Rule 13-502 Fees waived in respect of this discretionary relief, subject to certain conditions.

Rules Cited

Multilateral Instrument 31-102 National Registration Database (2003) 26 O.S.C.B. 926, s. 6.1.
Ontario Securities Commission Rule 13-502 Fees (2003) 26 O.S.C.B. 867, ss. 4.1 and 6.1.

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

AND

IN THE MATTER OF
INSIGHT INVESTMENT MANAGEMENT (GLOBAL) LIMITED

DECISION
(Subsection 6.1(1) of Multilateral Instrument 31-102 *National Registration Database* and section 6.1 of Rule 13-502 *Fees*)

UPON the Director having received the application of Insight Investment Management (Global) Limited (the Applicant) for an order pursuant to subsection 6.1(1) of Multilateral Instrument 31-102 *National Registration Database* (MI 31-102) granting the Applicant relief from the electronic funds transfer requirement contemplated under MI 31-102 and for relief from the activity fee requirement contemplated under section 4.1 of Ontario Securities Commission Rule 13-502 *Fees* (Rule 13-502) in respect of this discretionary relief;

AND UPON considering the application and the recommendation of the staff of the Ontario Securities Commission (the Commission);

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

1. The Applicant is incorporated under the laws of England and Wales. The Applicant is not a reporting issuer. The Applicant is registered under the Act as an international adviser. The head office of the Applicant is located in London, England.

2. MI 31-102 requires that all registrants in Canada enrol with CDS Inc. (CDS) and use the national registration database (NRD) to complete certain registration filings. As part of the enrolment process, registrants are required to open an account with a member of the Canadian Payments Association from which fees may be paid with respect to NRD by electronic pre-authorized debit (electronic funds transfer or, the EFT Requirement).

3. The Applicant has encountered difficulties in setting up a Canadian based bank account for purposes of fulfilling the EFT Requirement.

4. The Applicant confirms that it is not registered in another category to which the EFT Requirement applies and that Ontario is the only jurisdiction in which it is registered.

5. Staff of the Canadian Securities Administrators has indicated that, with respect to applications from international dealers and international advisers (or applicants in equivalent categories of registration) for relief from the EFT Requirement, it is prepared to recommend waiving the fee normally required to accompany applications for discretionary relief (the Application Fee).

6. For Ontario registrants, the requirement for payment of the Application Fee is set out in section 4.1 of Rule 13-502.

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

IT IS THE DECISION of the Director, pursuant to subsection 6.1(1) of MI 31-102 that the Applicant is granted relief from the EFT Requirement for so long as the Applicant:

A. makes acceptable alternative arrangements with CDS for the payment of NRD fees;

B. pays its participation fee under the Act to the Commission by cheque, draft, money order or other acceptable means at the time of filing its application for annual renewal, which shall be no later than the first day of December in each year;

C. pays any applicable activity fees, or other fees that the Act requires it to pay to the Commission, by cheque, draft, money order or other acceptable means at the appropriate time; and

D. is not registered in any Jurisdiction in another category to which the EFT Requirement applies;

PROVIDED THAT the Applicant submits a similar application in any other Canadian jurisdiction where it becomes registered as an international dealer or

international adviser or in an equivalent registration category;

AND IT IS THE FURTHER DECISION of the Director, pursuant to section 6.1 of Rule 13-502, that the Application Fee will be waived in respect of the application for this Decision.

March 9, 2004.

"David M. Gilkes"

2.1.6 RBC Dominion Securities Inc. - MRRS Decision

Headnote

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

Applicable Ontario Statutory Provisions

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

IN THE MATTER OF
THE SECURITIES LEGISLATION OF
BRITISH COLUMBIA, ALBERTA, SASKATCHEWAN,
MANITOBA, ONTARIO, QUÉBEC, 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
RBC DOMINION SECURITIES INC.
AND DIVERSIFIED PREFERRED SHARE TRUST

MRRS DECISION DOCUMENT

WHEREAS the local securities regulatory authority or regulator (the "Decision Maker") in each of British Columbia, Alberta, Saskatchewan, Manitoba, Ontario, Québec, Nova Scotia and Newfoundland and Labrador (the "Jurisdictions") has received an application (the "Application") from RBC Dominion Securities Inc. (the "Administrator") on behalf of Diversified Preferred Share Trust (the "Trust" and, collectively with the Administrator, the "Filer") for a decision under the securities legislation of the Jurisdictions (the "Legislation") that the requirements contained in the Legislation to deliver comparative audited annual financial statements (the "Annual Financial Statements") and from the requirement to prepare, file and deliver an annual report, where applicable, to holders of units of the Trust (the "Unitholders") shall not apply to the Trust in connection with the Trust's financial year ended on December 31, 2003 (the "2003 Financial Year").

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

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

1. The Trust is a closed-end investment trust established under the laws of the Province of Ontario pursuant to a declaration of trust dated October 16, 2003, as amended and restated on November 25, 2003. The address of the principal office of the Administrator is P.O. Box 50, 200 Bay Street, Royal Bank Plaza, 4th Floor, South Tower, Toronto, Ontario M5J 2W7.

2. The financial year-end of the Trust is December 31, with its first financial year-end having occurred on December 31, 2003.

3. The Trust filed a final prospectus dated November 25, 2003 (the "Prospectus") with the securities regulatory authorities in each of the provinces and territories in Canada pursuant to which a distribution of 5,600,000 units of the Trust (the "Units") was completed on December 12, 2003 (the "Offering").

4. The Trust issued an additional 225,000 Units to the public pursuant to the agents' partial exercise of the over-allotment option in connection with the Offering on January 8, 2004.

5. The authorized capital of the Trust consists of an unlimited number of Units, of which 5,825,000 Units are issued and outstanding, with the attributes described in the Prospectus.

6. The Trust is not a mutual fund and does not intend to hold annual meetings for the Unitholders, as described in the Prospectus.

7. The principal undertaking of the Trust is the investment in an equally weighted diversified portfolio of preferred shares and preferred securities (the "Portfolio Securities") of Canadian issuers that have been rated Pfd-1, Pfd-2 or Pfd-3 by Dominion Bond Rating Service Limited, are listed on the Toronto Stock Exchange and have an aggregate redemption value of Cdn.$100 million or greater. Portfolio Securities will only be disposed of or acquired in limited circumstances, as described in the Prospectus.

8. The Prospectus included an audited statement of financial position of the Trust as at November 25, 2003 and an unaudited *pro forma* statement of financial position prepared on the basis of the completion of the sale and issue of Units in the Offering. As such, the financial position of the Trust as at December 12, 2003 was substantially reflected in the *pro forma* financial statements contained in the Prospectus.

9. The Trust is a passive investment vehicle designed to provide Unitholders with the opportunity to receive quarterly cash distributions and the benefits of a low management expense ratio. Unitholders will be entitled to receive distributions if and when declared by the trustees of the Trust. The trustees generally intend to declare and pay quarterly distributions substantially equal to the amount by which dividends and distributions received by the Trust from the Portfolio Securities exceed the estimated expenses and taxes payable by the Trust, as described in the Prospectus.

10. The Trust did not declare a distribution in the 2003 Financial Year and does not intend to declare a distribution until March 31, 2004, as described in the Prospectus.

11. The benefit to be derived by Unitholders from receiving the Annual Financial Statements for the 2003 Financial Year would be minimal in view of the short period from the date of the Prospectus to the Trust's financial year-end and given the passive nature of the business carried on by the Trust.

12. The expense to the Trust in printing and delivering the Annual Financial Statements to the Unitholders for the 2003 Financial Year and in preparing, filing and delivering to its Unitholders an annual report where applicable for the fiscal year ended December 31, 2003 would not be justified in view of the minimal benefit to be derived by the Unitholders from receiving the Annual Financial Statements;

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 pursuant to the Legislation is that the Trust is exempt from the requirements to deliver to its Unitholders the Annual Financial Statements for the 2003 Financial Year and is exempt from the requirement to prepare, file and deliver an annual report, where applicable, to its Unitholders for the period ended December 31, 2003, provided that once such Annual Financial Statements have been filed by the Trust, the Trust sends a copy of such Annual Financial Statements to any Unitholder of the Trust who so requests.

March 16, 2004.

“Paul Moore” “Suresh Thakrar”

2.1.7 MDS Inc. and Hemosol Inc. - MRRS Decision

Headnote

MRRS – Relief granted from the requirements to include historical financial information in an information circular regarding a significant probable acquisition.

Applicable Ontario Statutory Provisions

Business Corporation Act (Ontario) – section 112, 113 and 182.

Applicable Ontario Rule

OSC Rule 54-501 Prospectus Disclosure.
OSC Rule 41-501 General Prospectus Requirements.
NI 44-101 Short Form Prospectus Distributions, Parts 4 and 5.

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

AND

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

AND

IN THE MATTER OF
HEMOSOL INC. AND MDS INC.

MRRS DECISION DOCUMENT

WHEREAS the local securities regulatory authority or regulator (the "Decision Maker") in each of British Columbia, Alberta, Saskatchewan, Ontario, Québec and Newfoundland and Labrador (the "Jurisdictions") has received an application from MDS Inc. ("MDS") and Hemosol Inc. ("Hemosol"), for a decision under the securities legislation of the Jurisdictions (the "Legislation") and in addition in Ontario, for an order under the *Business Corporations Act* (Ontario) (the "OBCA"), that MDS and Hemosol be exempt from the requirement of the Legislation and the OBCA to include certain historical financial information with respect to the Ontario Labs Business (as defined below) and certain pro forma financial information concerning Hemosol in an information circular to be prepared in connection with a special meeting of the shareholders of Hemosol in connection with a restructuring (the "Transaction") of Hemosol to be effected by way of an arrangement (the "Arrangement") under section 182 of the OBCA involving Hemosol, the securityholders of Hemosol and MDS.

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 Quebec Commission Notice 14-101.

AND WHEREAS MDS and Hemosol have represented to the Decision Makers that:

1. MDS is a corporation existing under the *Canada Business Corporations Act*. The registered and principal office of MDS is located at 100 International Blvd., Toronto, Ontario M9W 6J6. MDS has a financial year-end of October 31.

2. MDS is an international health and life sciences company engaged in a broad range of activities and operates in three business segments:

   (a) the Life Sciences Segment, which includes three divisions that involve (i) the design, development and manufacture of analytical instruments, (ii) pharmaceutical research services and (iii) the production of isotopes;

   (b) the Health Segment, which includes two divisions that involve (i) the provision of clinical laboratory testing and related services in Canada and managing hospital laboratories and directing business improvement and change processes at hospitals in the United States through joint venture partnerships (the "Diagnostics Division") and (ii) distribution services for medical products in Canada; and

   (c) the Proteomics Segment, which includes the discovery and development of new medicines for the treatment of disease.

3. Within the Diagnostics Division in Canada, MDS provides clinical laboratory testing and related services for physicians and non-hospital health care institutions in all provinces of Canada west of the Maritimes, with the vast majority of these services being provided in the provinces of British Columbia, Alberta and Ontario. Approximately 50% of this clinical laboratory services business is carried on in the province of Ontario (the "Ontario Labs Business"). For the fiscal year ended October 31, 2003, MDS had annual revenues from the Diagnostics Division of $532 million and from the Canadian operations carried on within the Diagnostics Division of $398 million. As part of the Transaction, MDS will indirectly transfer to Hemosol certain material operating assets that form the essential part of the Ontario Labs Business.

4. As at January 30, 2004:

   (a) MDS held 6,549,897 Hemosol Common Shares (as defined below), either directly or through a wholly-owned subsidiary, representing approximately 12% of the outstanding Hemosol Common Shares.

   (b) MDS held 6,000,000 warrants to purchase Hemosol Common Shares ("Hemosol Warrants") on certain terms and conditions. MDS also has the right to acquire an additional 4,000,000 Hemosol Warrants to be issued on certain terms and conditions on the extension of Hemosol's existing bank loan (the "Loan") for which MDS has given a guarantee.

   (c) MDS held approximately 47% of the equity interest in MDS Capital Corp. (the balance of the equity interest is owned by institutional investors and management). MDS Capital Corp. and/or its affiliates provide management services to two entities which held an aggregate of 812,246 Hemosol Common Shares. The Hemosol Common Shares held by such entities are voted by such entities through authorized signing officers.

5. Of the 10 directors on the board of directors of Hemosol (the "Hemosol Board"), four are related to MDS by virtue of being directors, officers or employees of MDS or affiliates thereof.

6. MDS is a reporting issuer in the Province of Ontario and in each of the other provinces of Canada and to the best of its knowledge is not in default of its continuous disclosure obligations in the Jurisdictions.

7. The common shares of MDS are listed and posted for trading on the Toronto Stock Exchange (the "TSX") and the New York Stock Exchange.

8. Hemosol is a corporation existing under the OBCA. The registered and principal office of Hemosol is located at 2585 Meadowpine Blvd., Mississauga, Ontario L5N 8H9. Hemosol has a financial year-end of December 31.

9. Hemosol is a biopharmaceutical company focused on the development and manufacturing of biologics, particularly blood-related proteins. Hemosol has a broad range of novel therapeutic products in development, including Hemolink, an oxygen therapeutic designed to improve oxygen delivery via the circulatory system. Hemosol is also developing additional oxygen therapeutics, a hemoglobin-based drug delivery platform to treat diseases such as hepatitis C and cancers of the liver, and a cell therapy program initially directed to the treatment of cancer. Hemosol intends to leverage its expertise in manufacturing blood proteins and its Meadowpine manufacturing facility to seek strategic growth opportunities.

10. Hemosol has no revenues as its products are in development and have not yet been marketed commercially. Hemosol's ability to continue as a going concern is dependent on its ability to secure financing or to generate revenues in order to be able to continue its development activities. Hemosol is currently exploring the use of its Meadowpine facility to manufacture biologic products for third parties as a way to generate revenues to fund development activities.

11. The authorized capital of Hemosol consists of an unlimited number of common shares ("Hemosol Common Shares"), an unlimited number of special shares issuable in series and 51,786 Series D special shares. As at January 30, 2004, 55,945,584 Hemosol Common Shares and no special shares were issued and outstanding.

12. Hemosol is a reporting issuer in the Province of Ontario and in each of the other provinces of Canada and to the best of its knowledge is not in default of its continuous disclosure obligations in the Jurisdictions.

13. The Hemosol Common Shares are listed and posted for trading on the TSX and the Nasdaq National Market.

14. On February 11, 2004, Hemosol and MDS executed an arrangement agreement (the "Arrangement Agreement") providing for the Transaction.

15. The essence of the Transaction consists of MDS transferring a new business to Hemosol to allow Hemosol to utilize its existing tax losses (the "Tax Losses"), New Hemosol (as defined below) acquiring the existing business of Hemosol (the "Blood Products Business") and a cash payment of $16 million to New Hemosol from the MDS transferred business.

16. The Transaction will provide New Hemosol (as defined below) with financing that is vital to the continued development of the Blood Products Business and will improve the financial position of the Blood Products Business.

17. The steps in the Transaction must be as set out in an advance income tax ruling dated September 23, 2003, as amended by a supplementary tax ruling dated February 5, 2004, granted by Canada Customs and Revenue Agency to MDS in respect of the Transaction (the "Tax Ruling") in order for MDS to rely on the Tax Ruling.

18. In order for Hemosol to utilize the Tax Losses, MDS will in effect transfer its Ontario Labs Business to a new limited partnership (the "Labs Partnership") in which Hemosol will have a 99.99% interest. MDS will own 99.56% of the equity in Hemosol, with the remaining equity interest of 0.44% being held by the existing shareholders of Hemosol other than MDS or its subsidiaries (the "Public Shareholders"). MDS will not acquire voting control of Hemosol.

19. The existing Blood Products Business of Hemosol will also in effect be transferred to a new limited partnership (the "Blood Products Partnership"), which will be owned upon completion of the Arrangement as to 93% by a newly incorporated corporation under the OBCA ("New Hemosol") and as to 7% by Hemosol. New Hemosol will be the general partner of the Blood Products Partnership and will control the Blood Products Business. The share ownership of New Hemosol will mirror Hemosol's existing share ownership - that is, approximately 12% will be owned by MDS or its subsidiaries and approximately 88% will be owned by the Public Shareholders (based on current shareholdings). New Hemosol will also receive the $16 million value attributed to the Tax Losses.

20. The result of the restructuring necessary to effect the Transaction is that Public Shareholders will have (i) a continuing equity interest in 93% of the Blood Products Business, the current business carried on by Hemosol (through their ownership of New Hemosol shares) and (ii) a 0.44% equity interest in the Labs Partnership transferred by MDS to Hemosol (through their ownership of a new class of shares of Hemosol).

21. The steps involved in completing the Transaction are as follows:

    (a) MDS created a newly incorporated wholly-owned subsidiary ("MDS Sub") and subscribed for one common share for nominal consideration and transferred the employees of the Ontario Labs Business (other than certain employees with national responsibilities) from MDS to MDS Sub.

    (b) MDS and MDS Sub will form the Labs Partnership under the *Limited Partnerships Act* (Ontario) with MDS Sub acquiring a 0.01% general partnership interest in consideration for cash and MDS acquiring a 99.99% limited partnership interest in consideration for the transfer by MDS to the Labs Partnership of certain of the material operating assets of the Ontario Labs Business (collectively, the "Transferred Labs Assets") including substantially all of the leases of the licensed specimen collection and laboratory locations (the "Licensed Locations") of the Ontario Labs Business. For certain Licensed Locations, MDS will enter into licensing or other arrangements with the Labs Partnership.

    (c) The Labs Partnership will obtain new licenses from the Ministry of Health (Ontario), which are currently held by MDS, to operate the business at the Licensed Locations. These licenses are a fundamental requirement of the business as they enable the provision of the clinical laboratory services and are the mechanism through which fees for these services are allocated by the Ministry of Health (Ontario).

    (d) MDS will not be transferring certain assets of the Ontario Labs Business to the Labs Partnership, including accounts receivable and certain other assets not directly related to the conducting of clinical laboratory tests (collectively, the "Excluded Labs Assets").

    (e) MDS will provide certain services to the Labs Partnership.

    (f) Hemosol and New Hemosol will form the Blood Products Partnership under the *Limited Partnerships Act* (Ontario) with New Hemosol as the general partner and Hemosol as the limited partner. New Hemosol will acquire a 0.01% partnership interest in consideration for cash and Hemosol will acquire a 99.99% partnership interest in consideration for the transfer by Hemosol to the Blood Products Partnership of the Blood Products Business. The Blood Products Partnership will assume all liabilities of Hemosol. Hemosol's scientists and production and administrative employees will be transferred to the Blood Products Partnership and Hemosol management will be transferred to New Hemosol. The Blood Products Partnership will agree to provide all of its assets as collateral to the lender under the Loan which will be assumed by the Blood Products Partnership.

    (g) The existing stock options of Hemosol held by Hemosol employees will be cancelled. Subject to approval of the TSX, New Hemosol will adopt a stock option plan and issue options to acquire New Hemosol Common Shares to the holders of certain of such cancelled Hemosol options with an exercise price designed to maintain economic

equivalence with the cancelled Hemosol stock options accounting for the fact that such options will not provide for any right to acquire Hemosol Class A Common Shares in addition to New Hemosol Common Shares.

(h) MDS will surrender an aggregate of 2,500,000 of the 10,000,000 Hemosol Warrants that it currently holds or which may be issued to MDS in certain circumstances. The balance of the 7,500,000 Hemosol Warrants that it holds or which may be issued to it will be exchanged as part of the Arrangement by similar warrants or rights to purchase up to 7,500,000 New Hemosol common shares.

(i) New Hemosol will assume the obligations of Hemosol under other convertible securities of Hemosol as if such convertible securities were a right to acquire New Hemosol Shares (other than an adjustment to the exercise price to maintain economic equivalence accounting for the fact that such convertible securities of New Hemosol will not provide any right to acquire Hemosol Class A Common Shares in addition to New Hemosol Common Shares).

(j) The articles of Hemosol will be amended to create three new classes of shares:

(i) another class of voting common shares in addition to the Hemosol Common Shares ("Hemosol Class A Common Shares") entitled to one vote per share;

(ii) non-voting shares ("Hemosol Class B Non-Voting Shares"); and

(iii) non-voting redeemable preferred shares ("Hemosol Class C Preferred Shares").

(k) The articles of Hemosol will be amended to provide that (i) the business of Hemosol will be restricted to holding the limited partnership interests in the Blood Products Partnership and the Labs Partnership, to performing its obligations under the Arrangement, and to certain incidental corporate powers and (ii) Hemosol's available cash, after providing for the redemption of Hemosol Class C Preferred Shares, will be distributed to the holders of the Hemosol Class A Common Shares and the Hemosol Class B Non-Voting Shares.

(l) Shareholders of Hemosol (including MDS and its subsidiaries) will exchange their Hemosol Common Shares with Hemosol on the basis of one Hemosol Class A Common Share and one Hemosol Class C Preferred Share for each Hemosol Common Share. Hemosol will cancel all Hemosol Common Shares acquired as a result of such exchange and the authorized capital will be limited to the three classes of shares described in paragraph (j) above.

(m) Shareholders of Hemosol (including MDS and its subsidiaries) will exchange their Hemosol Class C Preferred Shares with New Hemosol on the basis of one common share of New Hemosol ("New Hemosol Common Shares") for each Hemosol Class C Preferred Share.

(n) Hemosol will redeem all of the Hemosol Class C Preferred Shares held by New Hemosol on the effective date of the Arrangement in exchange for the transfer by Hemosol to New Hemosol of a 91.12% partnership interest in the Blood Products Partnership, $16 million in cash and the assumption by New Hemosol of Hemosol's obligations under its convertible securities. Hemosol will borrow such $16 million from the Labs Partnership.

(o) New Hemosol will invest $15 million of the cash proceeds of the redemption of Hemosol Class C Preferred Shares in the Blood Products Partnership in exchange for additional partnership units of the Blood Products Partnership, such that New Hemosol's former 91.13% general partnership interest will increase to 93% and Hemosol's former 8.87% limited partnership interest will decrease to 7%.

(p) $1 million of the cash proceeds of the redemption of Hemosol Class C Preferred Shares will be held in escrow for one year and may be released to Hemosol in respect of losses suffered by Hemosol relating to pre-closing liabilities. At the end of the escrow period, the balance of the escrowed funds will be released to New Hemosol, provided that certain amounts may be retained pending settlement of any claims made by Hemosol.

(q) MDS will transfer its 99.99% limited partnership interest in the Labs

Partnership (the "Labs Limited Partnership Interest") to Hemosol in consideration for the issuance by Hemosol to MDS of additional Hemosol Class A Common Shares (such that on completion of the Arrangement MDS will hold approximately 47.5% of the outstanding Hemosol Class A Common Shares) and such number of Hemosol Class B Non-Voting Shares that will result in MDS holding approximately 99.56% of the equity of Hemosol (through a combination of Hemosol Class A Common Shares and Hemosol Class B Non-Voting Shares) and the Public Shareholders holding 0.44% of the equity of Hemosol (through Hemosol Class A Common Shares).

22. It is intended that New Hemosol will apply to list the New Hemosol Common Shares on the Toronto Stock Exchange and, subject to obtaining confirmation from the Securities and Exchange Commission with regard to certain U.S. securities matters, will apply to transfer Hemosol's current listing on the Nasdaq Stock Market. The Hemosol Class A Common Shares will not be listed on any U.S. exchange or quoted on an inter-dealer quotation system of a registered national securities association in the United States. The Hemosol Class A Common Shares will not be listed on any stock exchange in Canada, but Hemosol intends to remain a reporting issuer in the Province of Ontario and in each of the other provinces of Canada.

23. In connection with the Arrangement, Hemosol will prepare and mail to all Hemosol shareholders and warrantholders a notice of special meeting, letter of transmittal and proxy and a management information circular describing the Transaction and attaching, among other things, the fairness opinion of KPMG Corporate Finance Inc. ("KPMG") (collectively, the "Meeting Materials"). Prior to distributing the Meeting Materials, Hemosol will seek an interim order from the Court:

    (a) approving the calling of and providing for procedural matters in connection with the special meeting of Hemosol shareholders and warrantholders (the "Meeting") to consider and pass a special resolution to approve the Arrangement; and

    (b) requiring that the vote to pass the aforesaid resolution at the Meeting be the affirmative vote of at least (i) two-thirds of the votes cast at the Meeting by shareholders and warrantholders and (ii) a majority of the votes cast at the Meeting by shareholders excluding the votes cast by MDS and other persons whose votes cannot be included for the purposes of minority approval (as such term is defined in subsection 1.1(1) of OSC Rule 61-501).

24. Subject to the approval of the Arrangement at the Meeting, Hemosol will apply to the Court for a final order approving the Arrangement and other procedural matters. Assuming the aforesaid final order is granted and the other conditions to closing in the Arrangement Agreement are satisfied or waived, Hemosol will file Articles of Arrangement with the Director under the OBCA to give effect to the Arrangement.

25. On September 17, 2003, the Hemosol Board formed an independent committee (the "Independent Committee") composed of three directors who are not related to MDS to evaluate any transaction with MDS involving the Tax Losses and, if required, to oversee the negotiation of the definitive terms of such transaction and to make a recommendation to the Hemosol Board as to whether such transaction is in the best interests of Hemosol.

26. The Independent Committee engaged KPMG to provide financial advisory services to the Independent Committee and to provide an opinion to the Hemosol Board as to the fairness of the Proposed Transaction, from a financial point of view, to the shareholders of Hemosol excluding MDS and its affiliates and associates.

27. Hemosol is required to include in the Circular the disclosure that would be required in a prospectus as if the Circular were a prospectus of each of Hemosol and New Hemosol, with necessary modifications, as Hemosol Class A Common Shares, Hemosol Class C Preferred Shares and Newco Common Shares are being distributed to Public Shareholders in connection with the Transaction.

28. The disclosure required to be included in the Circular concerning an issuer whose securities are being distributed includes the financial statements and other disclosure, if any, of a business acquired or to be acquired by the issuer prescribed by the applicable prospectus rules.

29. The form of information circular in the Jurisdictions provides that the substance of the Transaction should be briefly described in the Circular in sufficient detail to permit shareholders to form a reasoned judgement concerning the matter and reference should be made to a prospectus form or issuer bid form for guidance as to what is material.

30. Items 31 and 32 of section 30 of the Regulations under the OBCA provide that the substance of the Transaction should be described in the Circular in sufficient detail to permit shareholders to form a reasoned judgement concerning the matter and

reference should be made to a prospectus form or other appropriate form under the Act, including requirements with respect to financial statements, for guidance as to what is material.

31. The proposed acquisition by Hemosol from MDS of the Labs Limited Partnership Interest (the "Acquisition"), which is effectively an indirect acquisition of the Transferred Labs Assets by Hemosol, constitutes a "significant probable acquisition" by Hemosol as defined in subsection 2.4(2) of Rule 41-501 or subsection 1.4(2) of NI 44-101 as the significance tests provided in subsection 2.2(2) of Rule 41-501 or subsection 1.2(2) of NI 44-101 are satisfied at a level of greater than 100%.

32. Absent an exemption, the Circular must include the following financial information concerning the Ontario Labs Business and Hemosol as a result of the Acquisition (collectively, the "Historical Financial Information"):

(a) audited statements of income, retained earnings and cash flows for the Ontario Labs Business for each of the three most recently completed financial years ended more than 90 days before the date of the Circular;

(b) unaudited statements of income, retained earnings and cash flows for the Ontario Labs Business for the most recently completed interim period that ended more than 60 days before the date of the Circular (the "Interim Period") and the comparable period in the preceding financial year;

(c) audited balance sheet for the Ontario Labs Business as at the end of the two most recently completed financial years ended more than 90 days before the date of the Circular;

(d) unaudited balance sheet for the Ontario Labs Business as at the end of the Interim Period; and

(e) the following pro forma financial statements:

(i) a pro forma balance sheet of Hemosol as at the date of Hemosol's most recent balance sheet included in the Circular to give effect to the Acquisition as if it had taken place as at the date of the pro forma balance sheet;

(ii) a pro forma income statement of Hemosol to give effect to the Acquisition for each of:

(A) the most recently completed financial year for which audited financial statements of Hemosol are included in the Circular; and

(B) the most recently completed interim period for which financial statements of Hemosol are included in the Circular,

in each case, as if the acquisition had taken place at the beginning of such financial year; and

(iii) pro forma earnings per share based on the foregoing pro forma financial statements.

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

AND WHEREAS each Decision Maker 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 MDS and Hemosol are exempt from the requirement to include the Historical Financial Information in the Circular, provided that the Circular:

(a) includes a summary of the revenues and operating income generated by the Ontario Labs Business for the financial years ending October 31, 2003, 2002 and 2001, which has been derived from financial records of MDS that were used to prepare the audited consolidated financial statements of MDS for such periods;

(b) includes a balance sheet as at October 31, 2003 to reflect the Transferred Labs Assets (all of the disclosure required in paragraphs (a) and (b) will be referred to as the "Summary Financial Information");

(c) describes Hemosol's proportionate interest in the Labs Partnership (through its ownership of the Labs Limited Partnership Interest); and

(d) identifies the audited consolidated financial statements of MDS that were

prepared using the financial records from which the Summary Financial Information was prepared and discloses that the audit opinion with respect to such MDS audited consolidated financial statements was issued without a reservation of opinion, provided that the Circular will disclose the fact that the auditors of MDS do not express any opinion on the Summary Financial Information.

IN ONTARIO, IT IS ORDERED THAT MDS and Hemosol are exempt under section 113 of the OBCA from the requirements of the OBCA to include the Historical Financial Information in the Circular as required by paragraph 112(1)(a) of the OBCA and Items 31 and 32 of the Regulations under the OBCA, provided that the Circular:

(a) includes the Summary Financial Information;

(b) describes Hemosol's proportionate interest in the Labs Partnership (through its ownership of the Labs Limited Partnership Interest); and

(c) identifies the audited consolidated financial statements of MDS that were prepared using the financial records from which the Summary Financial Information was prepared and discloses that the audit opinion with respect to such MDS audited consolidated financial statements was issued without a reservation of opinion, provided that the Circular will disclose the fact that the auditors of MDS do not express any opinion on the Summary Financial Information.

March 12, 2004.

"Margo Paul"

2.1.8 CML Healthcare Income Fund et al. - MRRS Decision

Headnote

Mutual Reliance Review System for Exemptive Relief Applications — issuer participating in plan of arrangement to form itself into income fund — issuer "spinning off" portion of its existing business into new separate entity — issuer granted relief from the continuous disclosure requirements — fund and new separate entity deemed to be reporting issuer — fund and new separate entity granted relief from the requirement to have a "current AIF" filed on SEDAR for the purposes of resale legislation — fund granted relief from registration and prospectus requirement for trades made in connection with its distribution reinvestment plan.

Applicable Ontario Statutory Provisions

Securities Act, R.S.O. 1990, c. S.5, as am., ss. 25, 53, 74, 80, 80(b)(iii), 83(1), 88(2)(b).

Applicable Ontario Rules

Rule 51-501AIF and MD&A.
Multilateral Instrument 45-102 Resale of Securities.

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

AND

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

AND

IN THE MATTER OF
CML HEALTHCARE INCOME FUND,
CML HEALTHCARE INC.,
CIPHER PHARMACEUTICALS INC.,
CML HEALTHCARE ACQUISITIONCO INC.
AND CML HEALTHCARE EXCHANGECO INC.

MRRS DECISION DOCUMENT

WHEREAS the local securities regulatory authority or regulator (collectively, the "Decision Makers") in each of Ontario, British Columbia, Alberta, Saskatchewan, Manitoba, Quebec, New Brunswick, Prince Edward Island, Newfoundland and Labrador, Nova Scotia, the Yukon Territory, the Northwest Territories and Nunavut (the "Jurisdictions") has received an application from CML Healthcare Income Fund (the "Fund"), CML Healthcare Inc. ("CML"), CML Healthcare Acquisitionco Inc.

("AcquisitionCo"), Cipher Pharmaceuticals Inc. ("New Cipher") and CML Healthcare Exchangeco Inc. ("ExchangeCo") for a decision under the securities legislation of the Jurisdictions (the "Legislation") that:

(a) for the purposes of the Legislation in Ontario, Manitoba, Nova Scotia and Newfoundland and Labrador, the Fund be deemed or declared a reporting issuer at the effective date (the "Effective Date") of the proposed plan of arrangement (the "Arrangement") under section 182 of the *Business Corporations Act* (Ontario) (the "OBCA") involving the Fund, CML, New Cipher, AcquisitionCo and ExchangeCo and the security holders of CML and various holding companies ("Holding Companies")

(b) the requirements contained in the Legislation of British Columbia, Alberta, Saskatchewan, Manitoba, Ontario, Quebec, Nova Scotia, and Newfoundland and Labrador, with respect to AcquisitionCo (or its successor on amalgamation with CML and the Holding Companies, if any, ("New CML")), to issue a press release and file a report with the Jurisdictions upon the occurrence of a material change, file an annual report, file interim financial statements and audited annual financial statements with the Jurisdictions and deliver such statements to the security holders of New CML, file and deliver an information circular or make an annual filing with the Jurisdictions in lieu of filing an information circular, file an annual information form and provide management's discussion and analysis of financial condition and results of operations (the "Continuous Disclosure Requirements"), where applicable, shall not apply to AcquisitionCo or New CML;

(c) for the purposes of the Legislation of the Jurisdictions other than Quebec, New Brunswick, Prince Edward Island, the Yukon Territory, the Northwest Territories and Nunavut, New Cipher be deemed or declared to be a reporting issuer at the Effective Date of the Arrangement;

(d) the requirement that the Fund have a current AIF filed on SEDAR in order to be a qualifying issuer under Multilateral Instrument 45-102 *Resale of Securities* ("MI 45-102") not apply;

(e) the requirement that New Cipher have a current AIF filed on SEDAR in order to be a qualifying issuer under MI 45-102 not apply; and

(f) the registration requirement and the prospectus requirement shall not apply to the distribution of units ("Additional Units") pursuant to the Fund's distribution reinvestment plan (the "DRIP");

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

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

AND WHEREAS the Fund, CML, New Cipher, AcquisitionCo and ExchangeCo have represented to the Decision Makers as follows:

1. CML is a corporation amalgamated and subsisting pursuant to the provisions of the OBCA.

2. The head and principal office of CML is located at 6560 Kennedy Road, Mississauga, Ontario, L5T 2X4.

3. CML is actively engaged in the diagnostic services business and the drug development and pharmaceutical research business.

4. The authorized capital of CML consists of an unlimited number of common shares ("Common Shares").

5. As at January 16, 2004, 20,952,452 Common Shares were issued and outstanding.

6. The Common Shares are listed on the Toronto Stock Exchange (the "TSX").

7. CML is a reporting issuer in the Provinces of British Columbia, Alberta, Saskatchewan, Manitoba, Ontario, Quebec, Nova Scotia and Newfoundland and Labrador and has been for more than 12 months.

8. CML's fiscal year end is September 30.

9. CML has filed all the information that it has been required to file as a reporting issuer in each of the Provinces of British Columbia, Alberta, Saskatchewan, Manitoba, Ontario, Quebec, Nova Scotia and Newfoundland and Labrador and is not in default of the securities legislation in any of these jurisdictions.

10. The Fund is an unincorporated open-ended investment trust governed by the laws of the Province of Ontario and created pursuant to a declaration of trust dated January 12, 2004 (the "Declaration of Trust").

11. The Fund was established for the purpose of, among other things.

    (a) investing in the common shares and notes of AcquisitionCo and acquiring, directly or indirectly, the CML Shares pursuant to the Arrangement;

    (b) investing in securities, including securities issued by New CML and its affiliates, and otherwise lending funds to New CML and its affiliates;

12. The head and principal office of the Fund is located at 6560 Kennedy Road, Mississauga, Ontario, L5T 2X4.

13. The Fund was established with nominal capitalization and currently has only nominal assets and no liabilities. The only activity which will initially be carried on by the Fund will be the holding of securities of AcquisitionCo, ExchangeCo and New CML.

14. The Fund is authorized to issue an unlimited number of units ("Units") and an unlimited number of special voting units ("Special Voting Units").

15. As of the date hereof, there is one Unit issued and outstanding, which is owned by CML, and no Special Voting Units are outstanding.

16. The Fund has received conditional approval from the TSX for the listing on the TSX of the Units to be issued in connection with the Arrangement subject to, among other things, completion of the Arrangement. The Units issuable from time to time in exchange for exchangeable shares of New CML will also be listed on the TSX, subject to receipt of final approval from the TSX.

17. The Fund proposes to implement the DRIP pursuant to which holders of Units ("Unitholders") who are Canadian residents will be entitled to elect to have all cash distributions paid on any Units held by them automatically reinvested in Additional Units to be issued from treasury at a price equal to the 10-day weighted average trading price of the Units, or purchased on the market at the prevailing market price.

18. Cash distributions due to participants in the DRIP ("Participants") will be paid to the Fund's agent under the DRIP (the "Plan Agent") and applied by the Plan Agent to the purchase of Additional Units, which will be held under the DRIP for the account of Participants.

19. Additional Units will be purchased either, at the discretion of New CML, directly from the Fund or through the facilities of the TSX.

20. The acquisition price of Additional Units purchased through the facilities of the TSX, in respect of any date on which a cash distribution is paid by the Fund to Unitholders (a "Cash Distribution Date"), will be based on the average price for which the Additional Units are acquired through the facilities of the TSX for the purpose of the DRIP, in respect of that cash distribution commencing on such Cash Distribution Date (the "Market Purchase Price").

21. The acquisition price of Additional Units purchased directly from the Fund will be equal to the weighted average trading price of the Units on the TSX on the ten trading days preceding the Cash Distribution Date (the "Treasury Purchase Price").

22. Under the DRIP, the acquisition price of Additional Units will be 100% of the Treasury Purchase Price or the Market Purchase Price.

23. No commissions, service charges or brokerage fees will be payable by Participants in connection with the purchase of Additional Units under the DRIP.

24. Additional Units issued and held under the DRIP will be registered in the name of the Plan Agent or its nominee as agent for the Participants, and all cash distributions on Units so held for the account of a Participant will be automatically reinvested in Additional Units in accordance with the terms of the DRIP and the election of the Participants.

25. A Participant may terminate its participation in the DRIP at any time by written notice to the Plan Agent. A notice received at least seven business days prior to a distribution record date will be effective for the following Cash Distribution Date.

26. The Fund reserves the right to amend, suspend or terminate the DRIP at any time, provided that such action shall not have a retroactive effect which would prejudice the interests of the Participants. All Participants will be sent written notice of any such amendment, suspension or termination.

27. Upon termination of the DRIP or a Participant's participation in the DRIP, the Participant(s) will receive a certificate for all the whole Additional Units held in their account and a cash payment for any fraction of a Unit.

28. The distribution of Additional Units by the Fund pursuant to the DRIP cannot be made in reliance on certain existing registration and prospectus exemptions contained in the Legislation because the DRIP involves the reinvestment of distributions of distributable cash of the Fund and not the reinvestment of dividends, interest or distributions of capital gains or out of earnings or surplus.

29. The distribution of Additional Units by the Fund pursuant to the DRIP cannot be made in reliance on registration and prospectus exemptions contained in the Legislation for distribution reinvestment plans of mutual funds, because the Fund is not a "mutual fund" as defined in the Legislation.

30. The Fund is not a reporting issuer in any of the Jurisdictions.

31. The Fund's fiscal year end is December 31.

32. AcquisitionCo is a wholly-owned subsidiary of the Fund and was incorporated pursuant to the OBCA on January 9, 2004. AcquisitionCo was incorporated to participate in the Arrangement.

33. The head and registered office of AcquisitionCo is located at 6560 Kennedy Road, Mississauga, Ontario, L5T 2X4.

34. The authorized capital of AcquisitionCo currently consists of an unlimited number of common shares. Prior to the Arrangement, the articles of AcquisitionCo will be amended to create a class of exchangeable shares, unlimited in number (the "Exchangeable Shares").

35. As of the date hereof, there are 42 million common shares of AcquisitionCo issued and outstanding, all of which are owned by the Fund. All common shares of New CML will be owned beneficially (directly or indirectly) by the Fund, for as long as any outstanding Exchangeable Shares are owned by any person other than the Fund or any of the Fund's subsidiaries and other affiliates.

36. AcquisitionCo is not a reporting issuer in any of the Jurisdictions. Upon completion of the Arrangement, New CML will become a reporting issuer in certain of the Jurisdictions due to the fact that its existence will continue following the exchange of securities in connection with the Arrangement.

37. The articles of New CML will be the same as the articles of AcquisitionCo, and New CML's name will be "CML Healthcare Inc." The head and registered office of New CML will be the head and registered office of AcquisitionCo.

38. New Cipher was incorporated pursuant to the OBCA on January 9, 2004. New Cipher has not carried on any active business since incorporation.

39. The head and principal office of New Cipher will be located at 966 Pantera Drive, Mississauga, Ontario, L4W 2S1.

40. Pursuant to the Arrangement, New Cipher will acquire, directly or indirectly, from CML all of the outstanding shares of Cipher Holdings (Barbados) Limited, Cipher Canada Inc., 1430267 Ontario Limited, 1448345 Ontario Limited and Pharma Medica Research Inc. (collectively, the "New Cipher Assets"). Following the completion of the Arrangement, New Cipher will be a drug development and pharmaceutical research company engaged in developing medications utilizing advanced drug delivery technologies and providing contract research services.

41. The authorized capital of New Cipher consists of an unlimited number of New Cipher Shares.

42. As of the date hereof, one New Cipher Share is issued and outstanding.

43. New Cipher has applied to list the New Cipher Shares on the TSX. The New Cipher Shares issuable from time to time will also be listed on the TSX, subject to receipt of final approval from the TSX.

44. New Cipher is not a reporting issuer in any of the Jurisdictions.

45. ExchangeCo was incorporated pursuant to the OBCA on January 9, 2004. ExchangeCo has not carried on any active business since incorporation.

46. The head and principal office of ExchangeCo is located at 6560 Kennedy Road, Mississauga, Ontario, L5T 2X4.

47. The authorized capital of ExchangeCo consists of an unlimited number of common shares.

48. As of the date hereof, one common share of ExchangeCo is issued and outstanding. The sole common share of ExchangeCo is currently owned by the Fund.

49. The Arrangement will be effected by way of the Plan pursuant to section 182 of the OBCA, as described herein. The Arrangement will require: (i) approval by not less than two-thirds of the votes cast by the shareholders of CML ("Shareholders") (present in person or represented by proxy) at the meeting (the "Meeting") of security holders to be held for the purpose of approving the Arrangement; and (ii) approval of the Ontario Superior Court of Justice (the "Court");.

50. CML's information circular dated January16, 2004 (the "Information Circular") contains prospectus-level disclosure concerning the respective business and affairs of CML, New Cipher, the Fund and New CML and a detailed description of the Arrangement, and is being mailed to Shareholders in connection with the Meeting. The Information Circular has been prepared in

conformity with the provisions of the OBCA and applicable securities laws and policies.

51. The assets that will make up the business of New Cipher have been the subject of continuous disclosure on an ongoing basis for more than 12 months, in accordance with CML's responsibilities as a reporting issuer subject to the Continuous Disclosure Requirements.

52. The Arrangement provides that on the Effective Date each of the events below shall, except as otherwise expressly provided, be deemed to occur sequentially without further act or formality:

(a) the CML Shares held by Dissenting Shareholders who have exercised dissent rights which remain valid immediately before the Effective Date shall be deemed to have been transferred to CML and be cancelled and cease to be outstanding and such Dissenting Shareholders shall cease to have any rights as Shareholders other than the right to be paid the fair value of their CML Shares;

(b) simultaneously with the transfers described in paragraphs (c), (d) and (e), each issued and outstanding CML Share in respect of which the holder has validly elected to receive an Exchangeable Share (except any such CML Shares in respect of which, as a result of proration, the Shareholder is deemed not to have so elected) shall be transferred to AcquisitionCo (free of any claims) in exchange for

(i) one Series A Note of AcquisitionCo (a "Series A Note"); and

(ii) four Exchangeable Shares and related ancillary rights;

and an amount equal to the difference between the fair market value of a CML Share and the aggregate fair market value of a Series A Note and the ancillary rights related to such Exchangeable Shares, in each case determined at the time of the transfer, shall be added by AcquisitionCo to the stated capital of the Exchangeable Shares for each Exchangeable Share so issued;

(c) simultaneously with the transfers described in paragraphs (b), (d) and (e), each issued and outstanding share of any applicable Holding Company ("Holding Company Shares") (which have been tendered pursuant to the option (the "Holding Company Alternative") available to Shareholders who hold their CML shares through a Holding Company) in respect of which the holder has validly elected to receive Exchangeable Shares (except any such Holding Company Share in respect of which, as a result of proration, the Shareholder is deemed not to have so elected) shall be transferred to AcquisitionCo (free of any claims) in exchange for

(i) one Series A Note, and

(ii) four Exchangeable Shares and related ancillary rights,

and an amount equal to the difference between the fair market value of a CML Share and the aggregate fair market value of a Series A Note and the ancillary rights related to such Exchangeable Shares, in each case determined at the time of the transfer, shall be added by AcquisitionCo to the stated capital of the Exchangeable Shares for each Exchangeable Share so issued;

(d) simultaneously with the transfers described in paragraphs (b), (c) and (e), each issued and outstanding CML Share not transferred to AcquisitionCo under paragraph 4.39.2 (other than CML Shares held by Holding Companies) shall be transferred to the Fund (free of any claims) in exchange for

(i) one Series B Note of the Fund (a "Series B Note"), and

(ii) four Units;

(e) simultaneously with the transfers described in paragraphs (b), (c) and (d), each issued and outstanding Holding Company Share not transferred to AcquisitionCo under paragraph (c) shall be transferred to the Fund (free of any claims) in exchange for

(i) one Series B Note, and

(ii) four Units;

(f) the Fund shall transfer to AcquisitionCo (free of any claims) each of the CML Shares held by it in exchange for

(i) one Note of AcquisitionCo (a "Note"),

(ii) one Series A Note, and

(iii) one common share of AcquisitionCo (an "AcquisitionCo Share"),

and an amount equal to the difference between the fair market value of a CML Share and the aggregate fair market value of one Note and one Series A Note, in each case determined at the time of the transfer, shall be added by AcquisitionCo to the stated capital of the AcquisitionCo Shares for each AcquisitionCo Share so issued;

(g) the Fund shall transfer to AcquisitionCo (free of any claims) each of the Holding Company Shares held by it in exchange for

(i) one Note,

(ii) one Series A Note, and

(iii) one AcquisitionCo Share,

and an amount equal to the difference between the fair market value of a CML Share and the aggregate fair market value of one Note and one Series A Note, in each case determined at the time of the transfer, shall be added by AcquisitionCo to the stated capital of the AcquisitionCo Shares for each AcquisitionCo Share so issued;

(h) AcquisitionCo shall deliver a drawdown notice to the agent for the Lenders under AcquisitionCo's new credit facilities and shall borrow $190 million under such new credit facilities;

(i) AcquisitionCo, CML, each of the Holding Companies, if any, and Diagnostic Acquisition Inc. (hereinafter referred to in this paragraph (i) as "predecessor corporations") shall be amalgamated with effect from the Effective Time to form New CML with the effect that

(i) all of the property of the predecessor corporations held immediately before the amalgamation (except any amounts receivable from any predecessor corporations or shares of any predecessor corporations) will become the property of New CML;

(ii) all of the liabilities of the predecessor corporations immediately before the amalgamation (except amounts payable to any predecessor corporations) will become liabilities of New CML;

(iii) all of the CML Shares and all of the Holding Company Shares held by AcquisitionCo and the Diagnostic Acquisition shares held by CML immediately before the amalgamation will be cancelled;

(iv) the Fund will receive one New CML Share for each AcquisitionCo Share held by it before the amalgamation;

(v) each holder of an Exchangeable Share of AcquisitionCo will receive one Exchangeable Share of New CML for each Exchangeable Share of AcquisitionCo held by it immediately before the amalgamation;

(vi) the stated capital of the Exchangeable Shares of New CML will be fixed at an amount equal to the stated capital of the Exchangeable Shares of AcquisitionCo immediately before the amalgamation; and

(vii) the stated capital of the New CML Shares will be fixed at an amount equal to the stated capital of the AcquisitionCo Shares immediately prior to the amalgamation;

(j) each Series A Note shall be redeemed by New CML in exchange for one New Cipher Share and an amount equal to $7.00;

(k) each option to purchase a CML Share (an "Option") shall be exchanged for one option to purchase a New Cipher Share (a "New Cipher Share") and one option to purchase a Unit (a "Fund Option"); and

(l) each Series B Note shall be redeemed by the Fund in exchange for one New Cipher Store and an amount equal to $7.00.

53. New CML will become a reporting issuer under the Legislation in British Columbia, Alberta, Saskatchewan, Manitoba, Ontario, Quebec, Nova Scotia, and Newfoundland and Labrador, and will be subject to the Continuous Disclosure Requirements in such Jurisdictions.

54. The Fund will not be a reporting issuer under the Legislation in Manitoba, Ontario, Nova Scotia and Newfoundland and Labrador at the Effective Date.

55. New Cipher will not be a reporting issuer within the definitions of the applicable Jurisdictions, other than Quebec, at the Effective Date.

56. The Exchangeable Shares provide a holder with a security having economic and voting rights which are, as nearly as practicable, equivalent to those of the Units.

57. Under the terms of the Exchangeable Shares and certain ancillary rights to be granted in connection with the Arrangement, holders of Exchangeable Shares will be able to exchange them at their option at any time for Units.

58. Under the terms of the Exchangeable Shares and certain ancillary rights to be granted in connection with the Arrangement, the Fund, ExchangeCo or AmalgamationCo will redeem, retract or otherwise acquire Exchangeable Shares in exchange for Units in certain circumstances.

59. In order to ensure that the Exchangeable Shares remain the voting and economical equivalent of the Units prior to their exchange, the Arrangement provides for:

(a) a voting and exchange trust agreement to be entered into among the Fund, AcquisitionCo and CIBC Mellon Trust Company (the "Voting and Exchange Agreement Trustee") which will, among other things, (i) grant to the Voting and Exchange Agreement Trustee, for the benefit of holders of Exchangeable Shares, the right to require the Fund or ExchangeCo to exchange the Exchangeable Shares for Units, and (ii) trigger automatically the exchange of the Exchangeable Shares for Units upon the occurrence of certain specified events;

(b) the deposit by the Fund of Special Voting Units with the Voting and Exchange Agreement Trustee which will effectively provide the holders of Exchangeable Shares with voting rights equivalent to those attached to the Units; and

(c) a support agreement to be entered into between the Fund, AcquisitionCo and ExchangeCo which will, among other things, restrict the Fund from issuing or distributing to the holders of all or substantially all of the outstanding Units:

(i) additional Units or securities convertible into Units;

(ii) rights, options or warrants for the purchase of Units; or

(iii) units or securities of the Fund other than Units, rights, options or warrants other than those mentioned above, evidence of indebtedness of the Fund or other assets of the Fund,

unless the same or an equivalent distribution is simultaneously made to holders of Exchangeable Shares, an equivalent change is simultaneously made to the Exchangeable Shares, such issuance or distribution is made in connection with a distribution reinvestment plan instituted for holders of Units or a unitholder rights protection plan approved for holders of Units by the board of directors of AcquisitionCo, or the approval of holders of Exchangeable Shares has been obtained.

60. The Information Circular discloses that application will be made to relieve New CML from the Continuous Disclosure Requirements.

61. The Fund will concurrently send to holders of Exchangeable Shares resident in the Jurisdictions all disclosure material it sends to holders of Units pursuant to the Legislation.

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

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

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

1. the Fund shall be deemed or declared a reporting issuer at the Effective Date for the purposes of the Legislation of Ontario, Manitoba, Nova Scotia and Newfoundland and Labrador;

2. the Continuous Disclosure Requirements of British Columbia, Alberta, Saskatchewan, Manitoba, Ontario, Quebec, Nova Scotia, and Newfoundland and Labrador (other than the requirement to file an annual information form and to file and deliver interim and annual management's discussion and analysis) shall not apply to New CML for so long as:

(a) the Fund is a reporting issuer in Québec and at least one of the jurisdictions listed in Appendix B of MI 45-102 and is an

electronic filer under National Instrument 13-101;

(b) the Fund sends to all holders of Exchangeable Shares resident in the Jurisdictions all disclosure material furnished to holders of Units under the Continuous Disclosure Requirements;

(c) the Fund complies with the requirements of the TSX, or such other market or exchange on which the Units may be quoted or listed, in respect of making public disclosure of material information on a timely basis;

(d) New CML is in compliance with the requirements of the Legislation to issue a press release and file a report with the Jurisdictions upon the occurrence of a material change in respect of the affairs of New CML that is not also a material change in the affairs of the Fund;

(e) the Fund includes in all future mailings of proxy solicitation materials to holders of Exchangeable Shares a clear and concise insert explaining the reason for the mailed material being solely in relation to the Fund and not to New CML, such insert to include a reference to the economic equivalency between the Exchangeable Shares and Units and the right to direct voting at meetings of Unitholders:

(f) the Fund remains the direct or indirect beneficial owner of all of the issued and outstanding voting securities of New CML, other than the Exchangeable Shares; and

(g) New CML does not issue any preferred shares or debt obligations other than debt obligations issued to its affiliates or to banks, loan corporations. trust corporations, treasury branches, credit unions, insurance companies or other financial institutions;

3. New Cipher shall be deemed or declared a reporting issuer at the Effective Date for the purposes of the Legislation of the Jurisdictions, other than Quebec, New Brunswick, Prince Edward Island, the Yukon Territory, the Northwest Territories and Nunavut;

4. the registration requirement and the prospectus requirement shall not apply to trades of Additional Units by the Fund to the Fund's agent under the DRIP for the account of participants in the DRIP pursuant to the DRIP provided that:

(a) at the time of the trade the Fund is a reporting issuer or the equivalent under the Legislation and is not in default of any requirements of the Legislation;

(b) no sales charge is payable in respect of the trade;

(c) the Fund has caused to be sent to the person or company to whom the Additional Units are traded, not more than 12 months before the trade a statement describing:

(i) their right to withdraw from the DRIP and to make an election to receive cash instead of Additional Units on the making of a distribution of income by the Fund (the "Withdrawal Right"); and

(ii) instructions on how to exercise the Withdrawal Right; and

(d) the first trade of Additional Units acquired under such decision shall be deemed to be a distribution or a primary distribution to the public; and

5. the prospectus requirement shall not apply to the first trade in Additional Units acquired pursuant to the DRIP, provided that

(a) except in Québec, the conditions in subsections (3) or (4) of section 2.6 of MI 45-102 are satisfied;

(b) in Québec,

(i) the Fund is and has been a reporting issuer in Québec for the 12 months preceding the trade, including the period of time that CML was a reporting issuer in Québec immediately before the Arrangement;

(ii) no unusual effort is made to prepare the market or to create a demand for the securities that are the subject of the alienation;

(iii) no extraordinary commission or other consideration is paid to a person or company in respect of the trade; and

(iv) if the selling security holder is an insider or officer of the Fund, the selling security holder has no reasonable grounds to

believe that the Fund is in default of securities legislation.

March 10, 2004.

"Paul Moore" "Robert Davis"

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

1. in Saskatchewan, Ontario, Quebec, and Newfoundland and Labrador, the requirement to file an annual information form and to provide management's discussion and analysis of financial condition and results of operations shall not apply to New CML for so long as the conditions in paragraph 2 of the decision above are complied with;

2. in British Columbia, Alberta, Saskatchewan, Ontario, Nova Scotia and Newfoundland and Labrador, upon the Effective Date, the requirement contained in the Legislation to have a current AIF filed on SEDAR in order to be a qualifying issuer under MI 45-102 shall not apply to the Fund provided that the Fund files:

   (a) a notice on SEDAR advising that the Information Circular has been filed as an alternate form of annual information form and identifying the SEDAR Project Number under which the Information Circular was filed and the portions of the Information Circular containing disclosure specific to the Fund; and

   (b) a copy of the Information Circular under the Fund's SEDAR profile;

   (c) to the extent that the Fund relies upon this decision in connection with a distribution of securities under any of the provisions listed in Appendix D or E of MI 45-102 or a provision of securities legislation that specifies that the first trade of the securities is subject to section 2.5 or 2.6 of MI 45-102, the Fund files a Form 45-102F2 on or before the tenth day after the distribution date of any securities certifying that it is a qualifying issuer except for the requirement to have a current AIF; and

   (d) this decision expires 90 days after the Fund's financial year ending December 31, 2004;

3. in Québec, the Fund will be exempt from the requirements of subparagraph 1(e) of decision no. 2003-C-0377 of the Commission des valeurs mobilieres du Québec given that the Information Circular contains prospectus level disclosure including financial statements of CML for the year ended September 30, 2003, for the purpose of the Fund qualifying for the shortened hold period; this exemption will expire 90 days after the Fund's financial year ending December 31, 2004;

4. in British Columbia, Alberta, Saskatchewan, Ontario, Nova Scotia and Newfoundland and Labrador, upon the Effective Date, the requirement contained in the Legislation to have a current AIF filed on SEDAR in order to be a qualifying issuer under MI 45-102 shall not apply to New Cipher provided that New Cipher files:

   (a) a notice on SEDAR advising that the Information Circular has been filed as an alternate form of annual information form and identifying the SEDAR Project Number under which the Information Circular was filed and the portions of the Information Circular containing disclosure specific to New Cipher; and

   (b) a copy of the Information Circular under New Cipher's SEDAR profile;

   (c) to the extent that New Cipher relies upon this decision in connection with a distribution of securities under any of the provisions listed in Appendix D or E of MI 45-102 or a provision of securities legislation that specifies that the first trade of the securities is subject to section 2.5 or 2.6 of MI 45-102, New Cipher files a Form 45-102F2 on or before the tenth day after the distribution date of any securities certifying that it is a "qualifying issuer" except for the requirement to have a current AIF; and

   (d) this decision expires 90 days after New Cipher's financial year ending September 30, 2004; and

5. in Québec, New Cipher will be exempt from the requirements of subparagraph 1(e) of decision no. 2003-C-0377 of the Commission des valeurs mobilieres du Quebec given that the Information Circular contains prospectus level disclosure including financial statements for the year ended September 30, 2003, for the purpose of New Cipher qualifying for the shortened hold period; this exemption will expire 90 days after New Cipher's financial year ending September 30, 2004.

March 10, 2004.

"Erez Blumberger"

2.1.9 RNC Gold Inc. - MRRS Decision

Headnote

Mutual Reliance Review System for Exemptive Relief Applications – issuer prepared and mailed management information circular for purpose of reverse take-over – management information circular contains prospectus level disclosure regarding applicant, target and proposed transaction – issuer exempt from requirement to have a "current AIF" filed on SEDAR in order to be considered a "qualifying issuer" for the purposes of resale legislation.

Applicable Ontario Statutory Provisions

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

Applicable Ontario Rules

Multilateral Instrument 45-102 Resale of Securities.

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

AND

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

AND

IN THE MATTER OF
RNC GOLD INC.

MRRS DECISION DOCUMENT

WHEREAS the local securities regulatory authority or regulator (the "Decision Maker") in each of British Columbia, Alberta, Ontario and Quebec (the "Jurisdictions") has received an application from RNC Gold Inc. (the "Applicant") for a decision pursuant to the securities legislation of the Jurisdictions (the "Legislation") exempting the Applicant from the requirement (the "Current AIF Requirement") that an issuer have a current annual information form ("AIF") filed on the system for electronic document analysis and retrieval ("SEDAR") in order to be considered a "qualifying issuer" or the equivalent (a "Qualifying Issuer") for the purpose of the resale provisions contained in the Legislation;

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

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

AND WHEREAS the Applicant has represented to the Decision Makers as follows:

1. The Applicant is a corporation amalgamated under the laws of Canada and its head office is in Toronto, Ontario.

2. The Applicant is a reporting issuer under the securities legislation in each of the Jurisdictions, and is an electronic filer under National Instrument 13-101 - *System for Electronic Document Analysis and Retrieval* and, to the best of its knowledge, is not in default of the securities legislation of Ontario or any other Jurisdiction.

3. The Applicant's common shares and warrants are each listed and posted for trading on the Toronto Stock Exchange (the "TSX") under the symbols "RNC" and "RNC.WT", respectively.

4. Pursuant to a Share Exchange Agreement (the "Agreement") dated as of December 4, 2003, the Applicant acquired (the "Acquisition") all of the issued and outstanding common shares (the "Old RNC Shares") and warrants (the "Old RNC Warrants") of RNC Gold Inc., a private Ontario corporation ("Old RNC"). Pursuant to the Agreement, the Applicant issued to the securityholders of Old RNC an aggregate of 15,897,500 common shares (the "Tango Shares") and 8,776,174 warrants (the "Tango Warrants") at a deemed price of $2.00 per share as consideration for the Acquisition. Immediately following the completion of the Acquisition, 93% of the Tango Shares were held by the former securityholders of Old RNC, and 7% of the Tango Shares were held by the Applicant's previous shareholders.

5. Pursuant to the Acquisition, the Applicant was required to consolidate the Tango Shares at a ratio of 25 to 1 prior to completion of the Acquisition. The Applicant also agreed to change its name to "RNC Gold Inc." following the completion of the Acquisition.

6. The Acquisition constituted a "Back Door Listing" (an "RTO") for the purposes of the rules and policies of the TSX.

7. The Acquisition and all actions taken by the Applicant in connection with the RTO were subject to both TSX approval and the approval of the Applicant's shareholders.

8. In connection with the RTO, the Applicant and Old RNC prepared a joint management information circular (the "Circular"), containing such disclosure as prescribed by the TSX and copies of the Circular were delivered to all security holders of the Applicant for consideration as well as to the TSX for its approval. The Circular provided prospectus-level disclosure regarding the

Applicant, Old RNC, the Agreement, the Acquisition and contained disclosure regarding the management and operations of both companies including the following financial information:

(i) audited financial statements of the Applicant with management discussion and analysis ("MD&A") for the most recently completed financial years ended December 31, 2002 and December 31, 2001 on a comparative basis;

(ii) unaudited financial statements and MD&A for the six months ended June 30, 2003 and June 30, 2002 on a comparative basis;

(iii) audited financial statements and MD&A of RNC Minerals Ltd. ("RNC Resources") which was the operating subsidy of Old RNC, for the financial years ended December 31, 2002 and December 31, 2001; and

(iv) unaudited financial statements and MD&A of RNC Resources for the six months ended June 30, 2003 and June 30, 2002 on a comparative basis.

9. The RTO received shareholder approval at an annual and special meeting of shareholders held on December 2, 2003 (the "Meeting"). The Applicant's common shares and warrants were approved for listing and trading on the TSX on December 1, 2003 and commenced trading on December 10, 2003.

10. At the Meeting, the Applicant's shareholders also authorised the Applicant to issue up to 100% of its issued and outstanding common shares pursuant to one or more private placements over the next 12 months.

11. The Applicant intends to pursue one or more such private placements (the "Financings") as a means to helping finance its future growth and its future exploration activities.

12. The Applicant has filed on SEDAR technical reports prepared in accordance with National Instrument 43-101 - *Standards of Disclosure for Mineral Projects*, in respect of its various mineral projects and properties.

13. The Applicant currently satisfies the requirements of being a "qualifying issuer" under Multilateral Instrument 45-102 - *Resale of Securities* ("MI 45-102") and the equivalent requirements of the CVMQ Decision No. 2003-C-0377 (the "CVMQ Resale Decision") except for the requirement that it have filed a current AIF on SEDAR.

14. The Circular contains disclosure comparable and substantially identical to that which would otherwise be provided in a current AIF prepared in accordance with Form 44-101F1 under National Instrument 44-101- *Short Form Prospectus Distributions*.

15. The Circular provides market participants, including any places under the Financings, with a level of disclosure concerning the Applicant and its business and operations commensurate with the level of disclosure required of a "qualifying issuer" under MI 45-102 or the CVMQ Resale Decision.

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 Applicant is exempt from the Current AIF Requirement provided that:

(a) the Applicant files a Form 45-102 F2, or its equivalent in Quebec as prescribed in the CVMQ Resale Decision, on or before the tenth day after the distribution date of any securities certifying that it is a Qualifying Issuer or that it satisfies the equivalent requirements of the CVMQ Resale Decision, except for the requirement that the Applicant have a current AIF; and

(b) at the distribution date of any securities of the Applicant, the Applicant has filed a notice on SEDAR advising that it has filed the Circular as an alternative form of AIF and identifying the SEDAR project number under which the Circular was filed; and

(c) this decision expires on the earlier of

(i) the date on which the Applicant files with the Decision Makers its audited annual financial statements for the year ended December 31, 2003, and

(ii) May 19, 2004.

March 16, 2004.

"Cameron McInnis"

2.1.10 Canfor Corporation - MRRS Decision

Headnote

Mutual Reliance Review System for Exemptive Relief Applications – National Instrument 54-101 – Exemption granted from the requirement of section 2.1(b) to set record date at least 30 days prior to shareholders meeting – record date set 27 days before meeting.

Applicable Ontario Rules

National Instrument 54-101 Communication with Beneficial Owners of Securities of a Reporting Issuer – sections 2.1(b) and 9.2.

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

AND

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

AND

IN THE MATTER OF
CANFOR CORPORATION

MRRS DECISION DOCUMENT

WHEREAS an application (the "Application") has been received by the securities regulatory authority or regulator (the "Decision Makers") in each of British Columbia, Alberta, Saskatchewan, Manitoba, Ontario, Québec, New Brunswick, Nova Scotia, Newfoundland and Labrador, Yukon Territory, Northwest Territories and Nunavut from Canfor Corporation ("Canfor"), for a decision pursuant to National Instrument 54-101 ("NI 54-101") that, in connection with the proposed acquisition by Canfor of Slocan Forest Products Ltd. ("Slocan") pursuant to a plan of arrangement under the *Company Act* (British Columbia) (or any successor legislation) (the "Arrangement"), Canfor be exempt from the requirement to establish a record date for the 2004 annual general meeting of shareholders of Canfor (the "Canfor AGM"), which is to be held following the closing of the Arrangement, not fewer than 30 days before the date of the Canfor AGM in accordance with Section 2.1(b) of NI 54-101 (the "Record Date Requirement");

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

AND WHEREAS Canfor and Slocan have represented to the Decision Makers that:

1. Canfor is a company incorporated under the *Company Act* (British Columbia); the common shares in the capital of Canfor ("Canfor Shares") are listed and posted for trading on the Toronto Stock Exchange (the "TSX"); Canfor is a reporting issuer in every province of Canada, and its head office is located in Vancouver, British Columbia;

2. Slocan is a company incorporated under the *Company Act* (British Columbia); the common shares in the capital of Slocan ("Slocan Shares") are listed and posted for trading on the TSX; Slocan is a reporting issuer in British Columbia, Alberta, Saskatchewan, Manitoba, Ontario and Québec, and its head office is located in Richmond, British Columbia;

3. pursuant to a combination agreement dated November 25, 2003 between Canfor and Slocan (the "Combination Agreement"), Canfor intends to acquire through the Arrangement all of the issued and outstanding Slocan Shares; on November 25, 2003, Canfor and Slocan each issued a press release announcing the entering into of the Combination Agreement and the proposed Arrangement;

4. under the Arrangement, each Slocan Share (other than Slocan Shares held by either Canfor and its affiliates or by Slocan Shareholders who have validly exercised dissent rights under the Arrangement) will be transferred to and acquired by Canfor in exchange for 1.3147 Canfor Shares; upon completion of the Arrangement, Slocan will be a wholly-owned subsidiary of Canfor;

5. the Arrangement must be approved at a meeting of holders of Slocan Shares ("Slocan Shareholders") expected to be held on or about March 25, 2004 (the "Slocan Special Meeting");

6. the Arrangement is expected to close and take effect on or about April 1, 2004 (the "Arrangement Closing Date");

7. the board of directors of Canfor have set April 30, 2004 as the date of the Canfor AGM (the "Canfor AGM Meeting Date") in order to facilitate the orderly transition, following the completion of the Arrangement, to the new senior management of Canfor, including the replacement of the current President and Chief Executive Officer of Canfor and with the appointment of Jim Shepherd, currently the President and Chief Executive Officer of Slocan, as the new President and Chief Executive Officer of Canfor, all as contemplated by the Combination Agreement and the Arrangement and as publicly disclosed;

8. Canfor believes it is in the best interest of Canfor and its shareholders that the Meeting Date be established on the earliest workable date to achieve the goal of integrating the two businesses in a timely fashion;

9. Canfor further believes that it is in the best interests of Canfor and its shareholders that shareholder representation at the Canfor AGM be based on the shareholdings of Canfor subsequent to the Arrangement Closing Date such that Slocan Shareholders receiving Canfor Shares under the Arrangement are represented at the Canfor AGM, at which a new slate of directors, with representatives from both Canfor and Slocan, will be submitted to the shareholders;

10. in order to achieve the shareholder representation referred to in paragraph 9 above, the record date for entitlement to receive notice of the Canfor AGM (the "Record Date") must be set on a date that is subsequent to the Arrangement Closing Date;

11. Canfor will be able to comply with all other provisions of NI 54-101 applicable to the Canfor AGM, including Sections 2.3 and 2.5, and will make requests for information from depositories and intermediaries (the "Shareholder Information") and other communications under NI 54-101 in respect of shareholders of both Canfor and Slocan concurrently in connection with the Canfor AGM; Slocan has agreed to collect Shareholder Information in respect of Slocan Shareholders in advance of the Arrangement Closing Date; this process will be facilitated by the fact that Slocan will have obtained such information in connection with the Slocan Special Meeting;

12. CIBC Mellon Trust Company is the transfer agent for both Canfor and Slocan and has advised that it will be able to collect and compile, on behalf of Canfor and Slocan, Shareholder Information in respect of shareholders of Canfor and Slocan concurrently in connection with the Canfor AGM;

AND WHEREAS under 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 NI 54-101 that provides the Decision Makers with the jurisdiction to make the Decision has been met;

THE DECISION of the Decision Makers under NI 54-101 is that, in connection with the Canfor AGM, Canfor shall be exempt from the Record Date Requirement provided that

(a) the Record Date is established at a date no less than 27 days before the Canfor AGM Meeting Date; and

(b) Canfor complies with all other provisions of NI 54-101 applicable to the Canfor AGM.

March 11, 2004.

"Brenda Leong"

2.1.11 Ritchie Bros. Auctioneers Incorporated - MRRS Decision

Headnote

Mutual Reliance Review System for Exemptive Relief Applications – exemption from eligibility requirements under NI 44-101 for Canadian reporting issuer whose common shares are not listed on a stock exchange in Canada; common shares are listed on NYSE and exceed market capitalization threshold in NI 44-101.

Applicable Rules

National Instrument 44-101 Short Form Prospectus Distributions, ss. 2.2, 2.3 and 15.1.

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

AND

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

AND

IN THE MATTER OF
RITCHIE BROS. AUCTIONEERS INCORPORATED

MRRS DECISION DOCUMENT

1. WHEREAS the local securities regulatory authority or regulator (the "Decision Maker") in each of British Columbia, Alberta, Saskatchewan, Manitoba, Ontario, Québec, Nova Scotia, New Brunswick, Newfoundland and Labrador and Prince Edward Island (the "Jurisdictions") has received an application from Ritchie Bros. Auctioneers Incorporated ("Ritchie Bros.") for a decision under the securities legislation of the Jurisdictions (the "Legislation") that the eligibility requirement (the "Eligibility Requirement") contained in sections 2.2(3) and 2.3(3) of National Instrument 44-101*Short Form Prospectus Distributions* ("NI 44-101") does not apply to Ritchie Bros. in order to permit Ritchie Bros. to participate in the prompt offering qualification system (the "POP System");

2. 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;

3. AND WHEREAS, unless otherwise defined, the terms herein have the meanings set out in National Instrument 14-101 (Definitions);

4. AND WHEREAS Ritchie Bros. has represented to the Decision Makers that:

   1. Ritchie Bros. is a corporation incorporated under the federal laws of Canada, is a reporting issuer in British Columbia, Alberta and Nova Scotia and is not in default of the Legislation;

   2. the head office of Ritchie Bros. is located at 6500 River Road, Richmond, British Columbia;

   3. Ritchie Bros. is registered under the Securities and Exchange Act of 1934 in the United States and is not in default of any requirement under such Act;

   4. the authorized capital of Ritchie Bros. consists of an unlimited number of Common Shares of which 16,982,349 were issued and outstanding as of December 1, 2003;

   5. the Common Shares are listed and posted for trading on the New York Stock Exchange (the "NYSE") but are not listed and posted for trading on any stock exchange in Canada;

   6. Ritchie Bros. is not eligible to participate in the POP System because its Common Shares are listed and posted for trading on the NYSE and not on an exchange in Canada as required under sections 2.2(3) and 2.3(3) of NI 44-101; and

   7. the aggregate market value of the Common Shares listed and posted for trading on the NYSE as calculated in accordance with NI 44-101 was in excess of $75,000,000 at December 1, 2003, or approximately $746,133,605.70;

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

6. 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;

7. THE DECISION of the Decision Makers under the Legislation is that Ritchie Bros. is exempt from the Eligibility Requirements to participate in the POP System, provided that, at the relevant time:

(a) Ritchie Bros. complies with all other applicable filing requirements, procedures and eligibility requirements of NI 44-101 except for section 2.2(3) or 2.3(3) of NI 44-101; and

(b) the aggregate market value of Ritchie Bros.' Common Shares listed and posted for trading on the NYSE, on a date within 60 days before the date of the filing by Ritchie Bros. of a preliminary short form prospectus under NI 44-101, is:

(i) at least $75,000,000 if Ritchie Bros. is relying on section 2.2 of NI 44-101, or

(ii) at least $300,000,000 if Ritchie Bros. is relying on section 2.3 of NI 44-101.

January 2, 2004.

"Brenda Leong"

2.1.12 McKinley Capital Management, Inc. - ss. 6.1(1) of MI 31-102 and s. 6.1 of OSC Rule 13-502

Headnote

International adviser exempted from the electronic funds transfer requirement pursuant to subsection 6.1(1) of Multilateral Instrument 31-102 National Registration Database and activity fee contemplated under section 4.1 of Ontario Securities Commission Rule 13-502 Fees waived in respect of this discretionary relief, subject to certain conditions.

Rules Cited

Multilateral Instrument 31-102 National Registration Database (2003) 26 O.S.C.B. 926, s. 6.1.
Ontario Securities commission Rule 13-502 Fees (2003) 26 O.S.C.B. 867, ss. 4.1 and 6.1.

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

AND

IN THE MATTER OF
McKINLEY CAPITAL MANAGEMENT, INC.

DECISION
(Subsection 6.1(1) of Multilateral Instrument 31-102 *National Registration Database* and section 6.1 of Rule 13-502 *Fees*)

UPON the Director having received the application of McKinley Capital Management, Inc. (the Applicant) for an order pursuant to subsection 6.1(1) of Multilateral Instrument 31-102 *National Registration Database* (MI 31-102) granting the Applicant relief from the electronic funds transfer requirement contemplated under MI 31-102 and for relief from the activity fee requirement contemplated under section 4.1 of Ontario Securities Commission Rule 13-502 *Fees* (Rule 13-502) in respect of this discretionary relief;

AND UPON considering the application and the recommendation of the staff of the Ontario Securities Commission (the Commission);

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

1. The Applicant is incorporated under the laws of the State of Alaska in the United States of America. The Applicant is not a reporting issuer. The Applicant is registered under the Act as an international adviser. The head office of the Applicant is located in Anchorage, Alaska.

2. MI 31-102 requires that all registrants in Canada enrol with CDS Inc. (CDS) and use the national registration database (NRD) to complete certain registration filings. As part of the enrolment process, registrants are required to open an

account with a member of the Canadian Payments Association from which fees may be paid with respect to NRD by electronic pre-authorized debit (electronic funds transfer or, the EFT Requirement).

3. The Applicant has encountered difficulties in setting up a Canadian based bank account for purposes of fulfilling the EFT Requirement.

4. The Applicant confirms that it is not registered in another category to which the EFT Requirement applies and that Ontario and British Columbia are the only jurisdictions in which it is registered.

5. Staff of the Canadian Securities Administrators has indicated that, with respect to applications from international dealers and international advisers (or applicants in equivalent categories of registration) for relief from the EFT Requirement, it is prepared to recommend waiving the fee normally required to accompany applications for discretionary relief (the Application Fee).

6. For Ontario registrants, the requirement for payment of the Application Fee is set out in section 4.1 of Rule 13-502.

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

IT IS THE DECISION of the Director, pursuant to subsection 6.1(1) of MI 31-102 that the Applicant is granted relief from the EFT Requirement for so long as the Applicant:

A. makes acceptable alternative arrangements with CDS for the payment of NRD fees;

B. pays its participation fee under the Act to the Commission by cheque, draft, money order or other acceptable means at the time of filing its application for annual renewal, which shall be no later than the first day of December in each year;

C. pays any applicable activity fees, or other fees that the Act requires it to pay to the Commission, by cheque, draft, money order or other acceptable means at the appropriate time; and

D. is not registered in any Jurisdiction in another category to which the EFT Requirement applies;

PROVIDED THAT the Applicant submits a similar application, where required, in any other Canadian jurisdiction where it becomes registered as an international dealer or international adviser or in an equivalent registration category;

AND IT IS THE FURTHER DECISION of the Director, pursuant to section 6.1 of Rule 13-502, that the Application Fee will be waived in respect of the application for this Decision.

March 23, 2004.

"David M. Gilkes"

2.2 Orders

2.2.1 Veris Biotechnology Corporation - s. 144

Headnote

Section 144 - full revocation of cease trade order upon remedying of defaults.

Statues Cited

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
VERIS BIOTECHNOLOGY CORPORATION
(the Corporation)

ORDER
(Section 144)

WHEREAS the securities of the Corporation are subject to a Temporary Order of the Director dated January 7, 2003 under paragraph 127(1)2 and subsection 127(5) of the Act extended by the Order of the Director dated January 17, 2003 (collectively referred to as the Cease Trade Order) directing that trading in the securities of the Corporation cease;

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

AND UPON the Corporation having represented to the Commission that:

1. The Corporation was incorporated under the laws of Ontario on September 22, 1987 and is a reporting issuer under the Act. The Corporation is not a reporting issuer or the equivalent under the securities legislation of any other jurisdiction in Canada.

2. The Cease Trade Order was issued as a result of the Corporation's failure to file its audited annual financial statements for the fiscal year ended July 31, 2002 (the July 31, 2002 Annual Financial Statements) and interim financial statements for the three-month period ended October 31, 2002 (the Q1 2003 Interim Financial Statements). Subsequently, the Corporation failed to file its interim financial statements for the nine-month period ended April 30, 2003 (the Q3 2003 Interim Financial Statements), its annual financial statements for the fiscal year ended July 31, 2003 (the July 31, 2003 Annual Financial Statements) and its interim financial statements for the three-month period ended October 31, 2003 (the Q1 2004 Interim Financial Statements).

3. The Corporation filed on SEDAR the July 31, 2002 Annual Financial Statements on February 13, 2003, the Q1 2003 Interim Financial Statements on February 12, 2003, the Q3 2003 Interim Financial Statements on July 7, 2003, and the July 31, 2003 Annual Financial Statements and the Q1 2004 Interim Financial Statements on February 18, 2004. The Corporation subsequently filed on SEDAR amended copies of Q1 2003 and Q3 2003 Interim Financial Statements.

4. The Corporation held an annual meeting of shareholders on March 5, 2004. Copies of the July 31, 2003 Annual Financial Statements were mailed to all shareholders prior to this meeting.

5. Except for the Cease Trade Order and the Corporation's failure to file or send to its shareholders the Q3 2003 Interim Financial Statements, the July 31, 2003 Annual Financial Statements, and the Q1 2004 Interim Financial Statements, the Corporation is not otherwise in default of any of the requirements of the Act or the regulations made thereunder;

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

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

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

March 18, 2004.

"Cameron McInnis"

2.2.2 PacRim Resources Ltd. - ss. 83.1(1)

Headnote

Subsection 83.1(1) - Issuer deemed a reporting issuer in Ontario - Issuer has been a reporting issuer in British Columbia since September 1996 and in Alberta since July 1997 - Issuer listed and posted for trading on the TSX Venture Exchange - Issuer not designated as a capital pool company by TSX Venture - Continuous disclosure - requirements of British Columbia and Alberta substantially the same as those of Ontario.

Statutes Cited

Securities Act, R.S.O. 1990, c. S.5, as am., ss. 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
PACRIM RESOURCES LTD.

ORDER
(Subsection 83.1(1))

UPON the application of PacRim Resources Ltd. (the "Company") for an order pursuant to subsection 83.1(1) of the Act deeming the Company to be a reporting issuer for the purposes of Ontario securities law;

AND UPON considering the application and the recommendation of staff of the Ontario Securities Commission (the "Commission");

AND UPON the Company representing to the Commission as follows:

1. The Company was continued pursuant to the *Canada Business Corporations Act* on September 27, 2002.

2. The head office of the Company is located at Suite 205, The Royal Building, 277 Lakeshore Road West, Oakville, Ontario, L6J 1H9.

3. The authorized capital of the Company consists of an unlimited number of common shares and an unlimited number of preferred shares issuable in series. As of June 26, 2003, 11,393,012 common shares had been issued and 99,000 common shares had been reserved for stock options. No preferred shares had been issued as at June 26, 2003.

4. The Company has been a reporting issuer under the *Securities Act* (British Columbia)(the "B.C. Act") since September 11, 1996 and a reporting issuer under the *Securities Act* (Alberta)(the "Alberta Act") since July 14, 1997.

5. The Company is not in default of any requirements of the B.C. Act or the Alberta Act.

6. The common shares of the Company are listed on the TSX Venture Exchange ("TSXV"), and the Company is in compliance with all requirements of the TSXV.

7. The Company is not a reporting issuer in Ontario, and is not a reporting issuer, or equivalent, in any other jurisdiction, except British Columbia and Alberta.

8. The Company has a significant connection to Ontario because the mind and management of the Company are located in Ontario.

9. The continuous disclosure requirements of the B.C. Act and the Alberta Act are substantially the same as the requirements under the Act.

10. The continuous disclosure materials filed by the Company under the B.C. Act and the Alberta Act are available on the System for Electronic Document Analysis and Retrieval.

11. The Company has not been subject to any penalties or sanctions imposed against the Company by a court relating to Canadian securities legislation or by a Canadian securities regulatory authority, and has not entered into any settlement agreement with any Canadian securities regulatory authority.

12. Neither the Company nor any of its officers, directors, nor to the knowledge of the Company, its officers and directors, any of its shareholders holding sufficient securities of the Company to affect materially the control of the Company, 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.

13. Neither the Company nor any of its officers, directors, nor to the knowledge of the Company, its officers and directors, any of its shareholders holding sufficient securities of the Company to affect materially the control of the Company, 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 preceding 10 years.

14. None of the officers or directors of the Company, nor to the knowledge of the Company, its officers and directors, any of its shareholders holding sufficient securities of the Company to affect materially the control of the Company, 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 or similar orders, or orders 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.

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

IT IS HEREBY ORDERED pursuant to subsection 83.1(1) of the Act that the Company be deemed a reporting issuer for the purposes of the Act.

March 18, 2004.

"Iva Vranic"

2.2.3 Manulife Financial Corporation et al. - s. 6.1 of OSC Rule 13-502

Headnote

An open-ended trust established to comply with regulatory requirements of the Office of the Superintendent of Financial Institutions is exempt from having to pay corporate finance participation fees, subject to certain conditions.

Applicable Ontario Statutory Provisions

Ontario Securities Commission Rule 13-502 Fees 26 OSCB 890, s. 2.2 and 6.1.

IN THE MATTER OF
ONTARIO SECURITIES COMMISSION
RULE 13-502 FEES

AND

IN THE MATTER OF
MANULIFE FINANCIAL CORPORATION

AND

IN THE MATTER OF
THE MANUFACTURERS LIFE INSURANCE COMPANY

AND

IN THE MATTER OF
MANULIFE FINANCIAL CAPITAL TRUST

ORDER

WHEREAS the Director has received an application from Manulife Financial Corporation (**MFC**), from The Manufacturers Life Insurance Company (**MLI**), a direct, wholly-owned subsidiary of MFC and from Manulife Financial Capital Trust (the **Trust**) for an order pursuant to section 6.1 of OSC Rule 13-502 Fees (the **Fees Rule**), that the requirement to pay a participation fee under section 2.2 of the Fees Rule shall not apply to the Trust, subject to certain terms and conditions.

AND WHEREAS MFC, MLI and the Trust have represented to the Director that:

1. The Trust is an open-end trust established under the laws of the Province of Ontario by The Canada Trust Company as trustee (the **Trustee**), pursuant to a declaration of trust made as of October 30, 2001, as amended and restated. The Trust has a financial year end of December 31. The Trust is a reporting issuer in Ontario and is not, to its knowledge, in default of any requirement under the securities legislation of Ontario. MLI acts as administrative agent for the Trust pursuant to an Administration and Advisory Agreement dated October 30, 2001, as amended and restated.

2. The outstanding securities of the Trust consist of (i) Special Trust Securities (the **Special Trust Securities**), which are voting securities of the Trust, and (ii) Manulife Financial Capital Securities – Series A and Manulife Financial Capital Securities – Series B (the **MaCS**). The Special Trust Securities and the MaCS are collectively referred to herein as the **Trust Securities**. All outstanding Special Trust Securities are held by MLI. The Trust distributed 60,000 MaCS – Series A and 940,000 MaCS – Series B in a public offering pursuant to a prospectus dated December 5, 2001 (the **Offering**). The MaCS – Series A are listed on the Toronto Stock Exchange, the MaCS – Series B are not listed on any exchange. They may be redeemed at par beginning on June 30, 2012.

3. MLI is a direct wholly owned subsidiary of MFC. The Trust is an indirect, wholly owned subsidiary of MFC by virtue of MLI's ownership of all the outstanding voting securities of the Trust.

4. Pursuant to a Mutual Reliance Review System for Exemptive Relief Decision Document dated May 19, 2000 (the **2000 MRRS Decision**) granted to MLI by the OSC and the other Decision Makers set out therein, such decision makers determined that MLI would not be subject to the disclosure requirements contained in the securities legislation of the Province of Ontario and the securities legislation of the other applicable jurisdictions so long as MFC complied with the requirements and so long as MFC had no assets, other than of nominal value, other than MFC's interest in MLI.

5. The Trust is a special purpose issuer, established solely for the purpose of effecting the Offering in order to provide MLI with a cost effective means of raising capital for Canadian financial institution regulatory purposes. The Trust acquires and holds sufficient assets to generate income for distribution to holders of the Trust Securities. The Trust does not and will not carry on any operating activity other than in connection with the Offering. The assets and liabilities of the Trust are reported on the consolidated balance sheet of MFC.

6. Pursuant to a Mutual Reliance Review System for Exemptive Relief Decision Document dated March 21, 2002 (the **2002 MRRS Decision**) granted to the Trust by the OSC and the other Decision Makers set out therein, such Decision Makers determined that the requirement contained in the securities legislation of the Province of Ontario and the securities legislation of the other applicable jurisdictions to:

   (a) file interim and audited Annual Financial Statements (the **Financial Statements**) with the Decision Makers and deliver such statements to holders of Trust Securities;

   (b) make an Annual Filing, where applicable, with the Decision Makers in lieu of filing an information circular; and

   (c) file an Annual Report and an information circular with the Decision Maker in Quebec and deliver such report or information circular to holders of Trust Securities resident in Quebec;

shall not apply to the Trust for so long as the following conditions are satisfied:

   (i) MFC remains a reporting issuer under the Legislation;

   (ii) MLI remains a reporting issuer under the Legislation;

   (iii) MFC files with the Decision Makers, in electronic format under the Trust's SEDAR profile, the documents listed in clauses (a) to (c) above, at the same time as they are required under the Legislation to be filed by MFC;

   (iv) the Trust pays all filing fees that would otherwise be payable by the Trust in connection with the filing of the documents referred to in clauses (a) to (c) above of this Decision;

   (v) MFC sends its Financial Statements and Annual Filing, where applicable, to holders of Trust Securities and its Annual Report to holders of Trust Securities resident in the Province of Quebec at the same time and in the same manner as if the holders of Trust Securities were holders of MFC Common Shares;

   (vi) all outstanding securities of the Trust are either MaCS or Special Trust Securities;

   (vii) the rights and obligations (other than the economic terms thereof) of holders of additional series of MaCS are the same in all material respects as the rights and obligations of the holders of MaCS - Series A and MaCS - Series B at the date of the 2002 MRRS Decision; and

(viii) all of the outstanding Special Trust Securities are beneficially owned by MLI or any of its affiliates and all of the issued and outstanding voting shares of MLI or of its affiliate which owns the Special Trust Securities are beneficially owned by MFC;

and provided that the 2002 MRRS Decision shall expire 30 days after:

(A) the date that MLI can no longer rely on the 2000 MRRS Decision; or

(B) the date a material adverse change occurs in the affairs of the Trust.

and that the AIF and MD&A Requirements (as defined in the 2002 MRRS Decision) shall not apply to the Trust for so long as:

(i) the conditions set out in clauses (i), (ii), (vi), (vii) and (viii) of the 2002 MRRS Decision are complied with;

(ii) MFC files the AIF and the annual and interim MD&A with the Decision Makers, in electronic format under the Trust's SEDAR profile at the same time as they are required under the Legislation to be filed by MFC;

(iii) the Trust pays all filing fees that would otherwise be payable by the Trust in connection with the filing of the documents referred to in clauses (a) to (c) of the 2002 MRRS Decision;

(iv) MFC sends its annual and interim MD&A to holders of Trust Securities at the same time and in the same manner as if the holders of Trust Securities were holders of MFC Common Shares;

and provided that the 2002 MRRS Decision shall expire 30 days after:

(A) the date that MLI can no longer rely on the 2000 MRRS Decision; or

(B) the date a material adverse change occurs in the affairs of the Trust.

7. The Trust was established by MLI to comply with regulatory requirements of the Office of the Superintendent of Financial Institutions (**OSFI**) respecting the issuance of innovative Tier 1 capital. Innovative instruments, such as the MaCS, must satisfy the detailed requirements of OSFI Interim Appendix to Guideline A-2 Principles Governing Inclusion of Innovative Instruments in Tier 1 Capital (the **OSFI Guideline**), to be included in Tier 1 capital. The OSFI Guideline requires that innovative instruments be issued by a separate special purpose issuer.

8. Issuing innovative instruments, such as the MaCS, is a cost effective means of raising Tier 1 capital for MLI. However, the MaCS could not have been issued directly under the OSFI Guideline. If MLI could have issued the MaCS directly, this capital would have been included in the calculation of the participation fee payable by MFC under section 2.2(2) of the Fees Rule. The current market capitalization of the MaCS is approximately $1.1 billion and MFC's current market capitalization is approximately $22.2 billion. The combined market capitalization would be well below the $25 billion threshold for the next participation fee level in the participation fee calculation. As a result, a direct issuance by MLI of the MaCS would not have increased the aggregate participation fee payable by MFC.

9. No continuous disclosure documents concerning only the Trust will be filed with the OSC, and the Trust will not issue any further securities other than Special Trust Securities issued to MLI or to a direct or indirect wholly-owned subsidiary of MFC.

10. The Trust is a 'Class 1 reporting issuer' under the Fees Rule. Its capitalization as at December 31, 2002 was approximately $1.021 billion. Accordingly, under the Fees Rule the Trust would be required to pay a participation fee of $37,500 for 2003 (9/12ths of $50,000) and a participation fee of $50,000 for each subsequent financial year. Assuming the MaCS were redeemed on June 30, 2012, the Trust would be required to pay aggregate participation fees of $450,000 over its remaining operational lifetime.

THE ORDER of the Director under the Fees Rule is that the requirement to pay a participation fee under section 2.2 of the Fees Rule shall not apply to the Trust, for so long as:

(i) MFC, MLI and the Trust continue to satisfy all of the conditions contained in the 2002 MRRS Decision, and MFC and

MLI continue to satisfy all the conditions contained in the 2000 MRRS decision;

(ii) the Trust does not issue any further securities, other than Special Trust Securities issued to MLI or to a direct or indirect wholly-owned subsidiary of MFC; and

(iii) the capitalization of the Trust represented by the MaCS is included in the participation fee calculation applicable to MFC.

March 12, 2004.

"Charlie MacCready"

2.2.4 Fidelity Investments Money Management, Inc. - s. 80 of the CFA

Headnote

Sub-adviser to registered adviser exempted from the adviser registration requirement in paragraph 22(1)(b) of the Commodity Futures Act, in connection with the registered adviser acting as an adviser, in respect of commodity futures contracts and commodity futures options, to one or more mutual funds – Exemption for this sub-adviser under the CFA parallels the exemption from the adviser registration requirement in the Securities Act contained in section 7.3 of Ontario Securities Commission Rule 35-502 Non-Resident Advisers – Exemption expires in three years.

Statutes Cited

Commodity Futures Act, R.S.O. 1990, c. C.20, as am., ss. 22(1)(b) and 80.
Securities Act, R.S.O. 1990, c. S.5, as am.

Rules Cited

Ontario Securities Commission Rule 35-502 Non-Resident Advisers, s. 7.3.

IN THE MATTER OF
THE COMMODITY FUTURES ACT, R.S.O. 1990,
CHAPTER C.20, AS AMENDED (the "CFA")

AND

IN THE MATTER OF
FIDELITY INVESTMENTS MONEY MANAGEMENT, INC.
AND FIDELITY INVESTMENTS CANADA LIMITED

ORDER
(Section 80)

UPON the application (the "Application") of Fidelity Investments Money Management, Inc. (the "Sub-Adviser") to the Ontario Securities Commission (the "Commission") for an order, pursuant to section 80 of the CFA, that, with respect to the Sub-Adviser acting as an adviser to Fidelity Investments Canada Limited (the "Principal Adviser") in connection with the Principal Adviser acting as an adviser to certain Funds (as defined below), neither the Sub-Adviser, nor any of its directors, officers or employees ("Sub-Adviser Representatives") acting on its behalf as an adviser, shall be subject to paragraph 22(1)(b) of the CFA;

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

AND UPON the Sub-Adviser having represented to the Commission that:

1. The Sub-Adviser is a corporation organized under the laws of the State of New Hampshire that is resident in the United States of America (the "U.S.A").

2. The Sub-Adviser is not registered under the CFA as either an adviser or dealer.

3. The Sub-Adviser is not required under applicable commodity futures legislation in the U.S.A. to be registered as a commodity trading adviser with the United States Commodity Futures Trading Commission, nor is the Sub-Adviser required to be a member of the National Futures Association, in order to provide the services to the Principal Adviser described in paragraph 8, below.

4. The Principal Adviser is a corporation amalgamated under the laws of Ontario that is resident in Ontario.

5. The Principal Adviser is registered under the CFA as an adviser, in the category of "commodity trading manager".

6. The Principal Adviser is also registered under the Securities Act (the "OSA") as an adviser in the categories of "investment counsel" and "portfolio manager," and, as a dealer, in the category of "mutual fund dealer".

7. Where the Principal Adviser acts as the trustee and manager of certain mutual funds (each, a "Fund"), the Principal Adviser may, pursuant to written agreement made between the Principal Adviser and the Fund:

    (i) acts as an adviser (as defined in the OSA) to the Fund, in respect of securities, and

    (ii) acts as an adviser to the Fund, in respect of trading commodity futures contracts and commodity futures options,

    by exercising discretionary authority in respect of the investment portfolio of the Fund, with discretionary authority to purchase or sell on behalf of the Fund:

    (iii) securities, and

    (iv) commodities futures contracts and commodities futures options.

8. In connection with the Principal Adviser acting as an adviser to a Fund, in respect of the purchase or sale of commodity futures contracts and commodity futures options, the Principal Adviser, may, from time to time, pursuant to a written agreement made between the Principal Adviser and the Sub-Adviser, retain the Sub-Advisers to act as an adviser to the Principal Adviser, by exercising discretionary authority, on behalf of the Principal Adviser, in respect of the investment portfolio of the Fund, with discretionary authority to buy or sell commodity futures options and commodity futures contracts for the Fund, provided that:

    (i) in each case, the option or contract must be cleared through an acceptable clearing corporation; and

    (ii) in no case will any trading in commodity futures contracts or commodity futures options constitute the primary focus or investment objective of the Fund.

9. There is presently no rule under the CFA that provides an exemption from the adviser registration requirement in paragraph 22(1)(b) of the CFA, for a person or company acting as an adviser to another registered adviser in respect of commodity futures options and commodity futures contracts that is similar to the exemption from the adviser registration requirement in clause 25(1)(b) of the OSA for acting as an adviser (as defined in the OSA) in respect of securities, in section 7.3 of the Ontario Securities Commission Rule 35-502 *Non-Resident Advisers*.

AND UPON the Commission being of the opinion that to do would not be prejudicial to the public interest;

IT IS ORDERED, pursuant to section 80 of the CFA, that neither the Sub-Adviser, nor any Sub-Adviser Representative acting on behalf of the Sub-Adviser, is subject to paragraph 22(1)(b) of the CFA, in respect of their acting as an adviser to the Principal Adviser, in connection with the Principal Adviser acting as an adviser to one or more Funds, provided that, at the relevant time and in the case of each Fund:

(a) the Principal Adviser is registered under the CFA as an adviser, in the category of "commodity trading manager";

(b) the duties and obligations of the Sub-Adviser are set out in a written agreement with the Principal Adviser;

(c) the Principal Adviser has contractually agreed with the Fund to be responsible for any loss that arises out of any failure of the Sub-Adviser:

    (i) to exercise the powers and discharge the duties of its office honestly, in good faith and in the best interests of the Fund and its securityholders, or

    (ii) to exercise the degree of care, diligence and skill that a reasonably prudent person

would exercise in the circumstances;

(d) the Principal Adviser cannot be relieved by the Fund or its securityholders from its responsibility for any loss referred to in paragraph (c), above;

(e) the securityholders of the Fund have received written disclosure, in a prospectus or other offering document, disclosing:

(i) the responsibility of the Principal Adviser for losses arising out of any failure of the Sub-Adviser referred to in paragraph (c), above, and

(ii) that there may be difficulty in enforcing legal rights against the Sub-Adviser because it is resident outside of Canada and all or substantially all of the Sub-Adviser's assets may be situated outside of Canada; and

(f) this Order shall terminate on the day that is three years after the date of the Order.

March 12, 2004.

"Paul M. Moore" "Suresh Thakrar"

2.2.5 Fidelity International Limited - s. 80 of the CFA

Headnote

Sub-adviser to registered adviser exempted from the adviser registration requirement in paragraph 22(1)(b) of the Commodity Futures Act, in connection with the registered adviser acting as an adviser, in respect of commodity futures contracts and commodity futures options, to one or more mutual funds – Exemption for this sub-adviser under the CFA parallels the exemption from the adviser registration requirement in the Securities Act contained in section 7.3 of Ontario Securities Commission Rule 35-502 Non-Resident Advisers – Exemption expires in three years.

Statutes Cited

Commodity Futures Act, R.S.O. 1990, c. C.20, as am., ss. 22(1)(b) and 80.
Securities Act, R.S.O. 1990, c. S.5, as am.

Rules Cited

Ontario Securities Commission Rule 35-502 Non-Resident Advisers, s. 7.3.

IN THE MATTER OF
THE COMMODITY FUTURES ACT, R.S.O. 1990,
CHAPTER C.20, AS AMENDED (the "CFA")

AND

IN THE MATTER OF
FIDELITY INTERNATIONAL LIMITED
AND FIDELITY INVESTMENTS CANADA LIMITED

ORDER
(Section 80)

UPON the application (the "Application") of Fidelity International Limited (the "Sub-Adviser") to the Ontario Securities Commission (the "Commission") for an order, pursuant to section 80 of the CFA, that, with respect to the Sub-Adviser acting as an adviser to Fidelity Investments Canada Limited (the "Principal Adviser") in connection with the Principal Adviser acting as an adviser to certain Funds (as defined below), neither the Sub-Adviser, nor any of its directors, officers or employees ("Sub-Adviser Representatives") acting on its behalf as an adviser, shall be subject to paragraph 22(1)(b) of the CFA;

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

AND UPON the Sub-Adviser having represented to the Commission that:

1. The Sub-Adviser is a corporation organized under the laws of Bermuda that is resident in Bermuda.

2. The Sub-Adviser is not registered under the CFA as either an adviser or dealer.

3. The Sub-Adviser is not registered pursuant to any applicable commodity futures legislation in Bermuda and such registration is not required in order to provide the services to the Principal Adviser described in paragraph 8, below.

4. The Principal Adviser is a corporation amalgamated under the laws of Ontario that is resident in Ontario.

5. The Principal Adviser is registered under the CFA as an adviser, in the category of "commodity trading manager".

6. The Principal Adviser is also registered under the Securities Act (the "OSA") as an adviser in the categories of "investment counsel" and "portfolio manager," and, as a dealer, in the category of "mutual fund dealer".

7. Where the Principal Adviser acts as the trustee and manager of certain mutual funds (each, a "Fund"), the Principal Adviser may, pursuant to written agreement made between the Principal Adviser and the Fund:

    (i) acts as an adviser (as defined in the OSA) to the Fund, in respect of securities, and

    (ii) acts as an adviser to the Fund, in respect of trading commodity futures contracts and commodity futures options,

    by exercising discretionary authority in respect of the investment portfolio of the Fund, with discretionary authority to purchase or sell on behalf of the Fund:

    (iii) securities, and

    (iv) commodities futures contracts and commodities futures options.

8. In connection with the Principal Adviser acting as an adviser to a Fund, in respect of the purchase or sale of commodity futures contracts and commodity futures options, the Principal Adviser, may, from time to time, pursuant to a written agreement made between the Principal Adviser and the Sub-Adviser, retain the Sub-Advisers to act as an adviser to the Principal Adviser, by exercising discretionary authority, on behalf of the Principal Adviser, in respect of the investment portfolio of the Fund, with discretionary authority to buy or sell commodity futures options and commodity futures contracts for the Fund, provided that:

    (i) in each case, the option or contract must be cleared through an acceptable clearing corporation; and

    (ii) in no case will any trading in commodity futures contracts or commodity futures options constitute the primary focus or investment objective of the Fund.

9. There is presently no rule under the CFA that provides an exemption from the adviser registration requirement in paragraph 22(1)(b) of the CFA, for a person or company acting as an adviser to another registered adviser in respect of commodity futures options and commodity futures contracts that is similar to the exemption from the adviser registration requirement in clause 25(1)(b) of the OSA for acting as an adviser (as defined in the OSA) in respect of securities, in section 7.3 of the Ontario Securities Commission Rule 35-502 *Non-Resident Advisers*.

AND UPON the Commission being of the opinion that to do would not be prejudicial to the public interest;

IT IS ORDERED, pursuant to section 80 of the CFA, that neither the Sub-Adviser, nor any Sub-Adviser Representative acting on behalf of the Sub-Adviser, is subject to paragraph 22(1)(b) of the CFA, in respect of their acting as an adviser to the Principal Adviser, in connection with the Principal Adviser acting as an adviser to one or more Funds, provided that, at the relevant time and in the case of each Fund:

(a) the Principal Adviser is registered under the CFA as an adviser, in the category of "commodity trading manager";

(b) the duties and obligations of the Sub-Adviser are set out in a written agreement with the Principal Adviser;

(c) the Principal Adviser has contractually agreed with the Fund to be responsible for any loss that arises out of any failure of the Sub-Adviser:

    (i) to exercise the powers and discharge the duties of its office honestly, in good faith and in the best interests of the Fund and its securityholders, or

    (ii) to exercise the degree of care, diligence and skill that a reasonably prudent person would exercise in the circumstances;

(d) the Principal Adviser cannot be relieved by the Fund or its securityholders from its

responsibility for any loss referred to in paragraph (c), above;

(e) the securityholders of the Fund have received written disclosure, in a prospectus or other offering document, disclosing:

(i) the responsibility of the Principal Adviser for losses arising out of any failure of the Sub-Adviser referred to in paragraph (c), above, and

(ii) that there may be difficulty in enforcing legal rights against the Sub-Adviser because it is resident outside of Canada and all or substantially all of the Sub-Adviser's assets may be situated outside of Canada; and

(f) this Order shall terminate on the day that is three years after the date of the Order.

March 12, 2004.

"Paul M. Moore" "Suresh Thakrar"

2.2.6 Acuity Funds Ltd. - s. 147

Headnote

Mutual fund dealer exempted from the requirements to include the amount of its liability under certain limited recourse participating securitized promissory notes that may, from time to time, be issued by the dealer in: (i) the calculation by the dealer of its "total liabilities" for the purpose of determining the "minimum free capital" that would otherwise be required to be maintained by the dealer pursuant to subsection 107(1) of the Regulation; and (ii) in the calculation by the dealer of the amount of "total liabilities" required to be identified in Statement C of Form 9 to the Regulation which the dealer is required, from time to time, to deliver to the Commission in accordance with section 141 of the Regulation – Exemption is subject to conditions.

Statutes Cited

Securities Act, R.S.O. 1990, c. S.5, as am., s. 147.

Regulations Cited

Regulation made under the Securities Act, R.R.O. 1990, Reg. 1015, as am., ss. 107(1), 141, Form 9, Statement C.

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

AND

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

AND

IN THE MATTER OF
ACUITY FUNDS LTD.

ORDER
(Section 147 of the Act)

UPON the application (the "Application") of Acuity Funds Ltd. ("Acuity") to the Ontario Securities Commission (the "Commission") for an order, pursuant to section 147 of the Act, exempting Acuity from the requirements to include the amount of its liability under certain limited recourse participating securitized promissory notes (each, a "Limited Recourse Note") that may, from time to time, be issued by Acuity in:

(i) the calculation by Acuity of its "total liabilities" for the purpose of determining the "minimum free capital" that would otherwise be required to be maintained by Acuity pursuant to subsection 107(1) of the Regulation; and

(ii) in the calculation by Acuity of the amount

of "total liabilities" required to be identified in Statement C of Form 9 to the Regulation which Acuity is required, from time to time, to deliver to the Commission in accordance with section 141 of the Regulation.

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

AND UPON Acuity having represented to the Commission that:

1. Acuity, a corporation incorporated under the laws of Ontario, is registered under the Act as a dealer, in the categories of "mutual fund dealer" and "limited market dealer".

2. By a decision of the Director dated June 7, 2001, *In the Matter of Acuity Funds Ltd.*, Acuity was, pursuant to section 5.1 of Ontario Securities Commission Rule 31-506 *SRO Membership – Mutual Fund Dealers* (the "SRO Membership Rule"), exempted from the provisions of section 2.1 and 3.1 of the SRO Membership Rule which would otherwise require that Acuity:

   (i) be a member of the Mutual Fund Dealers Association of Canada (the "MFDA") on or after July 2, 2002; and

   (ii) file with the MFDA, no later than May 23, 2001, an application and corresponding fees for such membership,

   subject to certain terms and conditions.

3. Acuity is not registered under the *Commodity Futures Act* ("CFA") as "futures commission merchant" or in any other category of registration under the CFA.

4. Acuity is currently the manager and trustee of sixteen (16) mutual fund trusts (the "Current Acuity Mutual Funds"), listed in the attached Schedule "A", that offer their securities for sale, pursuant to a prospectus, on a deferred charge basis. Acuity may, in the future, also act as the manager and trustee for certain other open-end mutual funds (each, a "Future Acuity Mutual fund") that will offer their securities for sale, pursuant to a prospectus, on a deferred charge basis. (Current Acuity Mutual Funds and Future Acuity Mutual Funds are herein referred to, collectively, as the "Acuity Mutual Funds" and, individually, as an "Acuity Mutual Fund".)

5. Shares or units (each, an "Acuity Mutual Fund Security") of each of the Current Acuity Mutual Funds are currently offered for sale in all provinces and territories of Canada under a simplified prospectus dated October 13, 2003. Each Acuity Mutual Fund is, or will be, at the relevant time, subject to the provisions of National Instrument 81-102 – *Mutual Funds*.

6. Acuity proposes to issue and offer, from time to time, in one or more offerings (each an "Offering") on a private placement basis, Limited Recourse Notes, together with undivided interests (each, a "Recourse Source Interest") in the following future revenues (the "Recourse Sources") of Acuity:

   (i) certain management fees that are payable to Acuity in respect of one or more of the Acuity Mutual Funds; and

   (ii) certain charges that are payable to Acuity, in certain circumstances, by the holders of Acuity Mutual Fund Securities of one or more Acuity Mutual Funds upon their redemption of Acuity Mutual Fund Securities.

7. The Limited Recourse Notes and Recourse Source Interests will be issued under the terms of one or more Note and Participation Agreements (each, a "Limited Recourse Note Agreement") made between Acuity, one or more of the Acuity Mutual Funds and the holders (each, a "Limited Recourse Note Holder"), from time to time, of the corresponding Limited Recourse Notes.

8. The net proceeds from each Offering will be used by Acuity to, among other things, finance the payment of selling commissions expenses and related expenses that are payable, or have been paid, by Acuity on the sale of the corresponding Acuity Mutual Fund Securities.

9. Under the terms of each of the Limited Recourse Note Agreement, Limited Recourse Note Holders will be limited in their recourse for any amounts owing by Acuity under their Limited Recourse Notes to the corresponding Recourse Sources.

10. Each of the Limited Recourse Note Agreements will provide that, if the corresponding Recourse Sources are insufficient to fully discharge the principal and interest then owing under the corresponding Limited Recourse Notes, all obligations of Acuity in respect of such Limited Recourse Notes shall thereupon cease, and no further action, proceeding, claim or judgment for any deficiency shall be commenced, sought or obtained against Acuity, its affiliates, any directors, officers, employees or agents of Acuity or any affiliate thereof, or against any Acuity Mutual Funds.

11. The intent of the proposed Offerings is to replicate, in general terms, the economics of previous mutual funds limited partnerships which were used to finance deferred sales charges incurred by mutual fund managers during the 1980's and 1990's.

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

IT IS ORDERED, pursuant to section 147 of the Act, that Acuity is exempt from the requirement to include the amount of its liability under Limited Recourse Notes in:

(i) the calculation by Acuity of its "total liabilities" for the purpose of determining the "minimum free capital" that would otherwise be required to be maintained by Acuity pursuant to subsection 107(1) of the Regulation; and

(ii) in the calculation by Acuity of the amount of its "total liabilities" required to be identified in Statement C of Form 9 to the Regulation which Acuity would otherwise be required, from time to time, to deliver to the Commission in accordance with section 141 of the Regulation;

PROVIDED THAT:

(A) in the case of each Statement C, any amount (the "Excluded Amount") not included in "total liabilities" that would, but for this Order, otherwise be required to be included, is identified by way of a note which: specifies the Excluded Amount; refers to this Decision; identifies the corresponding Limited Recourse Notes, including the principal amount then outstanding and the applicable rate of interest (or other amounts) then owing under the Limited Recourse Notes; and identifies the corresponding Limited Recourse Sources;

(B) in the case of each Statement C, and each determination of "minimum free capital", Acuity does not recognize as any asset any amount of Limited Recourse Notes Proceeds, unless the amount is no longer owing under the corresponding Limited Recourse Notes; and

(C) not less than five days after the issue of any Limited Recourse Notes comprising an Offering, Acuity delivers to the Commission (Attention: Manager, Registrant Regulation and Manager, Compliance) written notice of the issuance, which: includes a copy of this Decision; identifies the corresponding Limited Recourse Notes, including the principal amount then outstanding and the applicable rate of interest (or other amounts) then owing under the Limited Recourse Notes; and identifies the corresponding Limited Recourse Sources.

March 2, 2004.

"Paul M. Moore" "Paul K. Bates"

SCHEDULE "A"

CURRENT ACUITY MUTUAL FUNDS

Acuity Canadian Equity Fund
Acuity Clean Environment Equity Fund
Acuity Social Values Canadian Equity Fund
Acuity All Cap 30 Canadian Equity Fund
Acuity Clean Environment Science And Technology Fund
Acuity Global Equity Fund
Acuity Clean Environment Global Equity Fund
Acuity Social Values Global Equity Fund
Acuity G7 RSP Equity Fund
Acuity Canadian Balanced Fund
Acuity Clean Environment Balanced Fund
Acuity Growth & Income Fund
Acuity Income Trust Fund
Acuity High Income Fund
Acuity Fixed Income Fund
Acuity Money Market Fund

2.2.7 Morgan Stanley Alternative Investment Partners LP et al. - ss. 78(1) and s. 80 of the CFA

Headnote

Section 78(1) of the Commodity Futures Act (Ontario) (the CFA) – Revocation of the decision of the Commission, dated September 20, 2002 entitled In the Matter of Morgan Stanley Alternative Investment Partners LP, Morgan Stanley AIP GP LP, MSDW AIP (Cayman) Ltd., and Morgan Stanley AIP (Cayman) GP Ltd.

Section 80 of the Commodity Futures Act (Ontario) - Relief from the adviser registration requirement of paragraph 22(1)(b) of the CFA granted to a non-resident adviser in respect of advising certain mutual funds, non-redeemable investment funds and similar investment vehicles (the "Funds"), the securities of which will be offered primarily outside of Canada, in respect of investments in investment vehicles that may invest in, commodity futures contracts and commodity futures options principally traded on commodity futures exchanges outside Canada and cleared through clearing corporations outside Canada, and, in certain cases, direct investments by the Funds in commodity futures contracts and commodity futures options principally traded on commodity futures exchanges outside Canada and cleared through clearing corporations outside Canada, subject to certain terms and conditions.

Statutes Cited

Commodity Futures Act, R.S.O. 1990, c. C.20, as am., s. 78(1).
Commodity Futures Act, R.S.O. 1990, c. C.20, as am., s. 22(1)(b) and s. 80.
Securities Act, R.S.O. 1990, c. S.5, as am. – Rule 35-502 – Non Resident Advisers.

IN THE MATTER OF
THE *COMMODITY FUTURES ACT,*
R.S.O. 1990, CHAPTER C.20, AS AMENDED (the "CFA")

AND

IN THE MATTER OF
MORGAN STANLEY ALTERNATIVE
INVESTMENT PARTNERS LP,
MORGAN STANLEY AIP GP LP,
MSDW AIP (CAYMAN) LTD.,
MORGAN STANLEY AIP (CAYMAN) GP LTD.,
AND
MSAIP (CAYMAN) LIMITED

ORDER
(Subsection 78(1) and Section 80 of the CFA)

WHEREAS the Ontario Securities Commission (the "Commission") has received an application (the "Application") from Morgan Stanley Alternative Investment Partners LP, Morgan Stanley AIP GP LP, MSDW AIP (Cayman) Ltd., Morgan Stanley AIP (Cayman) GP Ltd., and MSAIP (Cayman) Limited (the "Applicants") for an order

pursuant to subsection 78(1) of the CFA to revoke a decision of the Commission dated September 20, 2002 entitled *In the Matter of Morgan Stanley Alternative Investment Partners LP, Morgan Stanley AIP GP LP, MSDW AIP (Cayman) Ltd., and Morgan Stanley AIP (Cayman) GP Ltd.* and an order pursuant to section 80 of the CFA that each of the Applicants and their respective directors, partners, officers, and employees are exempt from the requirements of paragraph 22(1)(b) of the CFA in respect of advising certain mutual funds, non-redeemable investment funds and similar investment vehicles (the "Funds"), the securities of which will be offered primarily outside of Canada, in respect of investments in investment vehicles that may invest in, commodity futures contracts and commodity futures options principally traded on commodity futures exchanges outside Canada and cleared through clearing corporations outside Canada, and, in certain cases, direct investments by the Funds in commodity futures contracts and commodity futures options principally traded on commodity futures exchanges outside Canada and cleared through clearing corporations outside Canada, subject to certain terms and conditions;

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

AND UPON the Applicants having represented to the Commission that:

1. The Applicants are Morgan Stanley Alternative Investment Partners LP, Morgan Stanley AIP GP LP, MSDW AIP (Cayman) Ltd., Morgan Stanley AIP (Cayman) GP Ltd., and MSAIP (Cayman) Limited. Each of the Applicants is an indirect affiliate of Morgan Stanley, a global financial services firm incorporated under the laws of the State of Delaware, the common stock of which is listed on the New York Stock Exchange and on the Pacific Exchange. Morgan Stanley Alternative Investment Partners LP is a limited partnership organized under the laws of the state of Delaware. Morgan Stanley AIP GP LP is a limited partnership organized under the laws of the state of Delaware. MSDW AIP (Cayman) Ltd. is an exempted company organized under the laws of the Cayman Islands. Morgan Stanley AIP (Cayman) GP Ltd. is an exempted company organized under the laws of the Cayman Islands. MSAIP (Cayman) Limited is an exempted company organized under the laws of the Cayman Islands. None of the Applicants is resident in Canada.

2. The Funds include funds that are offshore feeder funds (the "Feeder Funds") that are established outside of Canada and outside of the United States. Three of the Applicants (MSDW AIP (Cayman) Ltd., Morgan Stanley AIP (Cayman) GP Ltd., and MSAIP (Cayman) Limited) serve as general partners of the respective Feeder Funds they manage and cause the assets of the Feeder Funds to be invested primarily in funds established in the United States ("U.S. Funds").

3. The Funds (being comprised of the Feeder Funds and U.S. Funds) advised by the Applicants are or will be established outside of Canada. Securities of the Funds are or will be primarily offered outside of Canada to institutional investors and high net worth individuals. Securities of the Funds will be offered to a small number of Ontario residents who will be at the time of their investment institutional investors or high net worth individuals. Such securities will be offered and distributed in Ontario through registrants (as defined under the *Securities Act* (Ontario) (the "OSA")), which have the appropriate registration, in reliance upon an exemption from the requirements of sections 53 and 62 of the OSA.

4. All of the Funds are or will be "fund of funds" which will primarily invest in certain investment vehicles unaffiliated with the Applicants and which are, or will be, established outside of Canada (the "Underlying Funds"). The Feeder Funds invest in the Underlying Funds indirectly by investing directly in the U.S. Funds that invest directly in the Underlying Funds.

5. Certain of the Underlying Funds may invest in commodity futures contracts and commodity futures options principally traded on organized exchanges outside of Canada and cleared through clearing corporations located outside of Canada. Certain of the Funds advised by the Applicants may also invest directly in commodity futures contracts and commodity futures options principally traded on organized exchanges outside of Canada and cleared through clearing corporations located outside of Canada.

6. The Underlying Funds in which the Funds will from time to time invest are, or will be, managed by certain third party managers outside of Canada (the "Managers") and are investing, or will invest, in investments selected by the Managers which may include commodity futures contracts and commodity futures options. The Managers are unaffiliated with the Applicants and do not, and will not in the future, provide advice directly to the Funds.

7. One or more of the Applicants have selected, or will select, the Underlying Funds in which the Funds have invested, or will invest, based on the investment strategies implemented by the Manager of the relevant Underlying Fund and the respective investment objectives and policies of the Fund that has invested, or will invest, in the Underlying Fund. The investment strategies implemented by the Managers may include investing in commodity futures contracts and commodity futures options.

8. By selecting an Underlying Fund based upon the Underlying Fund's investment strategy, where such strategy may specifically involve investing in

commodity futures contracts and commodity futures options, and by advising the Funds directly on investing in commodity futures contracts and commodity futures options, the Applicants currently provide, or will in the future provide, advice with respect to commodity futures contracts and commodity futures options or securities to the Funds.

9. Certain affiliates of the Applicants are registered with the Commission. Morgan Stanley & Co. Incorporated is registered under the OSA in the categories of international dealer and international adviser (investment counsel and portfolio manager). An affiliate of the Applicants, Morgan Stanley Investment Management Inc., is registered under the OSA in the category of international adviser (investment counsel and portfolio manager). Another affiliate of the Applicants, Morgan Stanley Canada Limited, is registered under the OSA as a broker and investment dealer (equities). Morgan Stanley & Co. Limited and Morgan Stanley & Co. International Limited, two other affiliates of the Applicants, are registered under the OSA as international dealers. The Applicants are not, and have no current intention of becoming registered, in any capacity under the OSA or the CFA.

10. Each of the Applicants, where required, is registered or licensed under the applicable legislation of its principal jurisdiction to provide advice to the Funds, or is entitled to rely on appropriate exemptions from such registrations or licences pursuant to the applicable legislation of its principal jurisdiction. In particular:

    (a) Morgan Stanley Alternative Investment Partners LP is a registered investment adviser with the Securities and Exchange Commission (the "SEC") in the United States of America (the "USA"), a registered commodity pool operator with the Commodity Futures Trading Commission (the "CFTC") in the USA, and a member of the National Futures Association (the "NFA") in the USA;

    (b) Morgan Stanley AIP GP LP is a registered investment adviser with the SEC, a registered commodity trading advisor and a registered commodity pool operator with the CFTC, and is a member of the NFA;

    (c) MSDW AIP (Cayman) Ltd. is not required to be, and accordingly is not, currently registered as an investment adviser with the SEC but is a registered commodity pool operator with the CFTC, and is a member of the NFA;

    (d) Morgan Stanley AIP (Cayman) GP Ltd. is not required to be, and accordingly is not, currently registered as an investment adviser with the SEC but is a registered commodity pool operator with the CFTC, and is a member of the NFA;

    (e) MSAIP (Cayman) Limited is not required to be, and accordingly is not, currently registered as an investment adviser with the SEC; and is not required to be, and accordingly is not, currently registered as a commodity pool operator with the CFTC.

11. None of the Funds is, and none has any current intention of becoming, a reporting issuer in Ontario or in any other Canadian jurisdiction.

12. Prospective investors in the Funds who are Ontario residents will receive disclosure that includes (i) a statement that there may be difficulty in enforcing any legal rights against any of the applicable Funds (or any of the Underlying Funds), the Applicant advising the relevant Funds, the trustee or manager of the applicable Funds (or of any of the Underlying Funds) because they are resident outside of Canada and all or substantially all of their assets are situated outside of Canada; and (ii) a statement that the Applicant advising the relevant Funds and, where applicable, the Managers advising the relevant Underlying Funds are not, or will not be, registered with or licensed by any securities regulatory authority in Canada and, accordingly, the protections available to clients of a registered adviser will not be available to purchasers of securities of such Fund.

AND UPON being satisfied that it would not be prejudicial to public interest for the Commission to grant the exemption requested on the basis of the terms and conditions proposed,

IT IS ORDERED pursuant to subsection 78(1) of the CFA that the decision of the Commission, dated September 20, 2002, entitled *In the Matter of Morgan Stanley Alternative Investment Partners LP, Morgan Stanley AIP GP LP, MSDW AIP (Cayman) Ltd., and Morgan Stanley AIP (Cayman) GP Ltd.*, is revoked.

IT IS FURTHER ORDERED pursuant to section 80 of the CFA that each of the Applicants and their respective directors, partners, officers, and employees responsible for advising the Funds are not subject to the requirements of paragraph 22(1)(b) of the CFA in respect of their advisory activities in connection with the Funds, for a period of three years, provided that at the time such activities are engaged in:

    (a) The Applicants, where required, are or will be, registered or licensed under applicable legislation of a jurisdiction in Canada, other than Ontario, or a foreign

jurisdiction to provide advice to the Funds, or are, or will be entitled to rely on appropriate exemptions from such registrations or licences pursuant to the applicable legislation of a jurisdiction in Canada, other than Ontario, or a foreign jurisdiction;

(b) the Funds and the Underlying Funds invest in commodity futures contracts and commodity futures options principally traded on organized exchanges outside of Canada and cleared through clearing corporations located outside of Canada and other derivative instruments traded over the counter;

(c) securities of the Funds and Underlying Funds will be offered primarily outside of Canada and will only be distributed in Ontario through a registrant (as defined under the OSA), and in reliance upon an exemption from the requirements of sections 53 and 62 of the OSA and upon an exemption from the adviser registration requirement provided under section 7.10 of Commission Rule 35-502 Non-Resident Advisers; and

(d) prospective investors in the Funds who are Ontario residents will receive disclosure that includes (i) a statement that there may be difficulty in enforcing any legal rights against any of the applicable Funds (or any of the Underlying Funds), the Applicant advising the relevant Funds, the trustee or manager of the applicable Funds (or of any of the Underlying Funds) because they are resident outside of Canada and all or substantially all of their assets are situated outside of Canada; and (ii) a statement that the Applicant advising the relevant Funds and, where applicable, the Managers advising the relevant Underlying Funds are not, or will not be, registered with or licensed by any securities regulatory authority in Canada and, accordingly, the protections available to clients of a registered adviser will not be available to purchasers of securities of such Fund.

March 23, 2004.

"Paul M. Moore" "Suresh Thakrar"

2.2.8 Dominion and Anglo Investment Corporation - s. 83

Headnote

Issuer deemed to have ceased to be a reporting issuer. Issuer has 54 security holders in Ontario A substantial majority of shareholders are insiders of the issuer. Issuer required to continue to provide security holders with continuous disclosure information about the issuer.

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
DOMINION AND ANGLO INVESTMENT CORPORATION

ORDER
(Section 83 of the Act)

UPON the application of Dominion and Anglo Investment Corporation ("Dominion") to the Ontario Securities Commission (the "Commission") for an order, pursuant to section 83 of the Act, that Dominion 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 Dominion having represented to the Commission that:

1. Dominion is a corporation incorporated under the laws of Canada in 1930 and is a reporting issuer only in the Province of Ontario.

2. The Applicant is a reporting issuer in Ontario only because it had securities that were listed and posted on a stock exchange in Ontario at a time since September 15, 1979. It meets none of the other criteria that would cause it to be deemed a reporting issuer under the definition of that term in section 1(1) of the Act.

3. From prior to September 15, 1979 until October 15, 1982, Dominion had preferred shares which were listed and posted for trading on the Toronto Stock Exchange (the TSX). These shares were voluntarily delisted from the TSX in 1982 when they were no longer able to meet the minimum listing requirements with respect to the number of shares held by the public. Dominion also had common shares trading on the TSX. Those shares were delisted in 1971.

4. No securities of Domino are currently quoted on any exchange or market in Canada. On average over the past decade, only one trade has taken place per year with one resulting change per year in the share registry of Dominion, in respect of each class of Dominion's shares.

5. As of December 23, 2003 Dominion had the following shares issued and outstanding: Common shares - 335,935; Preferred Shares - 5,223; Special Common Shares - 173,819; Third Common Shares - 5,246; Junior Preferred Shares, 1983 Series - 5,221,355; and Junior Preferred Shares, Special 1983 Series – 5,207,381.

6. The Special Common Shares, Third Common Shares, Junior Preferred Shares 1983 Series, and Junior Preferred Shares, Special 1983 Series were issued only in the form of dividend-in-kind to the holders of the Common shares or upon conversions of Common shares to achieve certain income tax efficiencies.

7. With respect to the classes of common shares of the Issuer, the family of the Honourable Henry N. R. Jackman and entities with which they are associated (the Jackman Group) hold the substantial majority of the outstanding shares. The breakdown is as follows: Common shares - 99.99 %; Special Common shares - 99.56%; and Third Common shares -90.16% are held by the Jackman Group.

8. Outside of the Jackman Group, there are 28 registered holders of common shares, of which 27 are resident in Ontario. With respect to the Preferred shares there are 18 registered holders outside of the Jackman Group, of which only 16 are resident in Ontario. Members of the Jackman Group are aware of the present application.

9. Dominion is not an investment fund as defined in OSC Rule 14-501 as it purposes include investing for the purpose of exercising control. It is also not an active operating business but rather a portfolio of long-term investments in "significantly influenced companies". The costs of maintaining reporting issuer status now represents a significant element of Dominion's business expenses.

11. Dominion does not have any present intention to seek public financing by way of an offering to the public of its securities in Canada or any other jurisdiction nor to have any of its shares listed on any stock exchange.

12. Dominion is not in default of any of its requirements as a reporting issuer in Ontario.

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 Dominion is deemed to have ceased to be a reporting issuer for purposes of the Act provided that, Dominion continues to provide to its security holders on a timely basis the following continuous disclosure documents:

a. An annual report including audited comparative financial statements and Management's Discussion an Analysis, together with a complete listing of all portfolio holdings; and

b. Quarterly reports, including unaudited comparable quarterly financial statements and Management's Discussion and Analysis.

March 12, 2004.

"Paul M. Moore" "Suresh Thakrar"

2.2.9 Bourse de Montréal Inc. - s. 147, s. 80 of the CFA and s. 6.1 of OSC Rule 91-502

Headnote

Bourse de Montréal – Permanent exemption from section 21 of the Securities Act, section 15 of the Commodity Futures Act and Part 4 of OSC Rule 91-502 Trading in Recognized Options.

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

AND

IN THE MATTER OF
THE *COMMODITY FUTURES ACT*,
R.S.O. 1990, CHAPTER C.20,
AS AMENDED (the "CFA")

AND

IN THE MATTER OF
BOURSE DE MONTRÉAL INC.

ORDER
(Section 147 of the Act, section 80 of the CFA and section 6.1 of OSC Rule 91-502)

WHEREAS Bourse de Montréal Inc. (the "Bourse") has filed an application dated November 28, 2002 (the "Application") to the Ontario Securities Commission (the "Commission") requesting:

(a) an order pursuant to section 147 of the Act exempting the Bourse from the recognition requirement in section 21 of the Act; and

(b) an order pursuant to section 80 of the CFA exempting the Bourse from the registration requirement in section 15 of the CFA;

AND WHEREAS the Bourse has applied to the Director for an order pursuant to section 6.1 of OSC Rule 91-502 *Trades in Recognized Options* ("Rule 91-502") for an exemption from Part 4 of Rule 91-502;

AND WHEREAS deemed rule *In the Matter of Trading in Commodity Futures Contracts Entered Into On The Montreal Stock Exchange* issued August 25, 1980, and deemed rule *In the Matter of Trading In Commodity Futures Contracts and Commodity Futures Options Entered Into On The Montreal Exchange* issued August 22, 1989, exempt trades by and with registered dealers trading commodity futures contracts and commodity futures options entered into on the Bourse from section 33 of the CFA;

AND WHEREAS the Bourse has represented to the Commission and the Director as follows:

1. The Bourse was incorporated on September 29, 2000 pursuant to the *Companies Act* (Québec).

2. On December 17, 2002, the Bourse was granted recognition as a self-regulatory organization in Québec pursuant to section 169 of the *Securities Act,* R.S.Q., c. V-1.1, under Ruling No. 2002-C-0470 (the "Recognition Order", attached as Schedule "C") issued by the Commission des valeurs mobilières du Québec (the "CVMQ").

3. The Bourse is situated in Montréal, Québec, has an office in Toronto, Ontario and a back-up site in Mississauga, Ontario.

4. The Bourse is subject to regulatory oversight by the Autorité des marchés financiers (the "AMF"), currently, the Agence nationale d'encadrement du secteur financier.

5. The Bourse has been advised that the Commission and CVMQ entered into a memorandum of understanding ("MOU") respecting the continued oversight of the Bourse by the CVMQ. Under the terms of the MOU, the CVMQ and its successor, the AMF, are responsible for conducting the regulatory oversight of the Bourse and for conducting an oversight program of the Bourse for the purpose of ensuring that the Bourse meets appropriate standards for market operation and member and market regulation.

6. The Canadian Derivatives Clearing Corporation ("CDCC") is a wholly-owned subsidiary of the Bourse and is subject to the regulatory oversight of the AMF.

7. CDCC is the clearing agency for all trades in options, commodity futures contracts and commodity futures options traded on the Bourse.

AND WHEREAS CVMQ was succeeded by the AMF on February 1, 2004;

AND WHEREAS the Bourse has agreed to comply with the terms and conditions set out in Schedule "A";

AND WHEREAS Commission staff have conducted a review of the Application, which included an assessment of the operations of the Bourse, against the criteria set out in Schedule "B";

AND WHEREAS based on the Application and the representations that the Bourse has made to the Commission and the Director, the Commission is satisfied that the granting of exemptions from recognition and registration to the Bourse would not be prejudicial to the public interest;

AND WHEREAS based on the Application and the representations that the Bourse has made to the Commission and the Director, the Director is satisfied that an exemption from Part 4 of Rule 91-502 would not be prejudicial to the public interest;

IT IS HEREBY ORDERED by the Commission that pursuant to section 147 of the Act, the Bourse is exempt from recognition as a stock exchange under section 21 of the Act, and pursuant to section 80 of the CFA, the Bourse is exempt from registration as a commodity futures exchange under section 15 of the CFA;

AND IT IS HEREBY ORDERED by the Director that pursuant to section 6.1 of Rule 91-502, the Bourse is exempt from Part 4 of Rule 91-502;

PROVIDED THAT the Bourse complies with the terms and conditions attached hereto as Schedule "A".

March 16, 2004.

"Paul M. Moore" "Susan Wolburgh Jenah" "Charles Macfarlane"

SCHEDULE "A"

Terms and Conditions

Regulation of the Bourse

1. The Bourse will continue to be subject to the regulatory oversight of the AMF as described in the Recognition Order attached as Schedule "C".

2. The Bourse will continue to comply with the terms and conditions set out in the Recognition Order attached as Schedule "C".

3. The Bourse will continue to be subject to such joint regulatory oversight as may be established and prescribed by the AMF and the Commission from time to time.

4. The MOU referred to in paragraph 5 of the order has not been terminated.

5. The Bourse will operate an exchange for options, commodity futures contracts and commodity futures options.

Rule and Product Review

6. The Bourse will provide:

   (i) all new rules and amendments (together, "Rules"); and

   (ii) all new contract specifications and amendments;

   to the AMF for review and approval in accordance with the procedures established by the AMF, as amended from time to time. These procedures include the publication of the new Rules for comment in English and French at the same time.

7. The Bourse will concurrently provide the Commission with copies of all Rules that it files for review and approval with the AMF in both English and French. Once the AMF has approved the Rules in English and in French (which will be approved at the same time), the Bourse will provide copies of all final Rules to the Commission within two weeks of approval by the AMF. The Bourse will post the final Rules, in English and French, on its website or will make them publicly available, as soon as practicable.

8. The Bourse will concurrently provide the Commission with copies of all contract specifications and amended contract specifications that it files for review and approval with the AMF, in both English and French. The Bourse will provide copies of all approved contracts to the Commission within two weeks of approval by the AMF.

Information Sharing

9. Upon request by the Commission to the AMF, the Bourse will provide to the Commission through the AMF any information in the possession of the Bourse, or over which the Bourse has control, relating to Approved Participants, Foreign Approved Participants and Restricted Trading Permit Holders and their representatives and the market operations of the Bourse, including, but not limited to, Approved Participant, Foreign Approved Participant and Restricted Trading Permit Holder lists, shareholder lists, products, trading information and disciplinary decisions.

10. The Bourse shall file with the Commission any related information concerning the Bourse that is required pursuant to National Instrument 21-101 *Marketplace Operation.*

Regulation of CDCC

11. The Bourse will, until such time as CDCC is recognized by the Commission as a recognized clearing agency under the Act and recognized clearing house under the CFA or is subject to joint regulatory oversight pursuant to the terms of a memorandum of understanding entered into between the AMF and the Commission,

   (i) cause CDCC to concurrently provide the Commission with copies of all Rules that it files for review and approval with the AMF and cause CDCC to provide copies of all final Rules to the Commission in both English and French;

(ii) cause CDCC to continue to provide the Commission, concurrently with the AMF, with copies of all audited financial statements and reports prepared by an independent auditor in respect of CDCC's financial situation and operations;

(iii) cause CDCC to provide the Commission, concurrently with the AMF, with copies of all internal CDCC risk management reports intended for its members and any outside report, including any audit report prepared in accordance with section 5900 of the Canadian Institute of Chartered Accountants Handbook, on the results of an examination or review of CDCC's risk management policies, controls and standards undertaken by an independent person;

(iv) cause CDCC to promptly notify the Commission, together with the AMF, of any material failures or changes to its systems;

(v) cause CDCC to promptly notify the Commission, together with the AMF, of any material problems with the clearance and settlement of transactions in contracts traded on the Bourse, including any failure by a member of CDCC to promptly fulfil its settlement obligations that could materially affect the operations or financial situation of CDCC;

(vi) promote fair access to CDCC and will not unreasonably prohibit or limit access by a person or company to services offered by CDCC; and

(vii) promote within CDCC a corporate governance structure that minimizes the potential for any conflict of interest between the Bourse and CDCC that could adversely affect the clearance and settlement of trades in contracts or the effectiveness of CDCC's risk management policies, controls and standards.

Coordination of Regulation

12. The Bourse will use best efforts to implement, within one year of this order, procedures to co-ordinate trading halts, in addition to circuit breakers, between the Bourse and any marketplace on which any security underlying the Bourse's product is traded, or its regulation services provider, and any other marketplace on which any related security is traded, or its regulation services provider.

SCHEDULE "B"

Criteria for Exemption

PART 1 CORPORATE GOVERNANCE

1.1 Fair Representation

The governance structure of the Bourse provides for:

(a) fair and meaningful representation having regard to the nature and structure of the Bourse;

(b) appropriate representation on the Bourse's Board and its Board committees of persons independent of the Bourse's shareholders that own or control, directly or indirectly, over 10% of its shares, Approved Participants, Foreign Approved Participants, Restricted Trading Permit Holders, and employees; and

(c) appropriate conflict of interest provisions for all directors, officers and employees of the Bourse;

(d) appropriate conflict of interest provisions between

(i) the Bourse and CDCC;

(ii) the directors, officers and employees of CDCC and the directors, officers and employees of the Bourse; and

(iii) the Bourse and the Bourse's Regulatory Division.

1.2 Appropriate Provisions for Directors and Officers

The Bourse takes reasonable steps to ensure

(a) appropriate qualifications, remuneration, limitation of liability and indemnity provisions for directors and officers; and

(b) each officer and director is a fit and proper person.

PART 2 FEES

2.1 Fees

The Bourse's process for setting fees is fair, transparent and appropriate. Any and all fees imposed by the Bourse on its participants are equitably allocated, do not have the effect of creating barriers to access and are balanced with the criterion that the Bourse has sufficient revenues to satisfy its responsibilities.

PART 3 ACCESS

3.1 Fair Access

The requirements of the Bourse relating to access to the facilities of the Bourse are fair, transparent and reasonable and include requirements in respect of notice, an opportunity to be heard or make representations, the keeping of records, the giving of reasons and the provisions for appeals.

3.2 Details of Access Criteria

In particular, the Bourse:

(a) has written standards for granting access to trading on its facilities to ensure users have appropriate integrity and fitness;

(b) has and enforces financial integrity standards for those persons who enter orders for execution on the system, including, but not limited to, credit or position limits and clearing membership;

(c) does not unreasonably prohibit or limit access by a person or company to services offered by it;

(d) keeps records of each grant and denial or limitation of access, including reasons for granting, denying or limiting access; and

(e) restricts access to adequately trained system users who have demonstrated competence in the functions that they perform.

3.3 Access for Ontario Residents

The Bourse provides direct access, either through terminals, data feeds or third party provided interfaces, to only those persons who are duly registered or licensed under Ontario laws.

PART 4 REGULATION

4.1 Jurisdiction

The Bourse is responsible for and has the jurisdiction to perform member and market regulation, including the ability to set rules, conduct compliance reviews and perform surveillance and enforcement.

4.2 Issuer/Product Regulation

The products traded on the Bourse and the contract specifications are approved by the AMF.

4.3 Transparency

Adequate provision has been made to record and publish accurate and timely trade and quotation information. This information is provided to all participants on an equitable basis.

4.4 Sufficient Systems and Resources

(a) The Bourse has the means to adequately monitor and enforce and actively monitors and enforces Approved Participants, Foreign Approved Participants and Restricted Trading Permit Holders and their representatives for compliance with securities legislation and the Rules of the Bourse.

(b) The Bourse has the means to adequately monitor and enforce and actively monitors and enforces trading in its markets, including cross market conduct, for possible abuses.

4.5 Record Keeping

The Bourse maintains adequate provisions for keeping books and records, including operations of the Bourse, audit trail information on all trades and compliance and/or violations of Bourse requirements and securities legislation.

4.6 Availability of Information to the AMF

The Bourse has mechanisms in place to ensure that the information necessary to conduct adequate surveillance of the system for supervisory and enforcement purposes is available to the AMF on a timely basis.

PART 5 RULEMAKING

5.1 Purpose of Rules

The Bourse maintains rules, policies and other similar instruments that:

(a) are not contrary to the public interest;

(b) are fair; and

(c) are designed to, in particular:

(i) ensure compliance with the rules of the Bourse and securities legislation;

(ii) prevent fraudulent and manipulative acts and practices;

(iii) promote just and equitable principles of trade;

(iv) foster co-operation and co-ordination with persons or companies engaged in regulating, clearing, settling, processing information with respect to, and facilitating transactions in, the products traded on the Bourse;

(v) provide appropriate supervision and discipline for violations of securities legislation and the rules of the Bourse;

(vi) ensure a fair and orderly market;

(vii) ensure that the Bourse business is conducted in a manner so as to afford protection to investors; and

(viii) provide for appropriate dispute procedures.

5.2 No Discrimination or Burden on Competition

The rules of the Bourse do not:

(a) permit unreasonable discrimination among issuers or participants; or

(b) impose any burden on competition that is not reasonably necessary or appropriate.

PART 6 SYSTEMS AND TECHNOLOGY

6.1 System Capability/Scalability

For each of its systems that support order entry, order routing, execution, data feeds, trade reporting, trade comparison and system-enforced rules, the Bourse maintains a level of capacity that allows it to properly carry on its business and has in place processes to ensure the integrity of each system. This includes maintaining reasonable back-up, contingency and business continuity plans, disaster recovery plans and internal controls.

6.2 Information Technology Risk Management Procedures

The Bourse has procedures in place that:

(a) handle trading errors, trading halts and circuit breakers;

(b) ensure the competence, integrity and authority of system users; and

(c) ensure that the system users are adequately supervised.

PART 7 FINANCIAL VIABILITY

7.1 Financial Viability

The Bourse has sufficient financial resources for the proper performance of its functions.

7.2 Financial Statements

The Bourse prepares annual audited financial statements in accordance with Canadian GAAP and covered by a report prepared by an independent auditor.

PART 8 CLEARING AND SETTLEMENT

8.1 Relationship with Clearing Agency

All transactions executed on the Bourse are cleared through CDCC.

8.2 Regulation of the Clearing Agency

CDCC is subject to regulation by the AMF that addresses risk and promotes transparency, fairness and investor protection.

8.3 Authority of the Foreign Regulator

The AMF has the appropriate authority and procedures for oversight of the CDCC. This oversight includes rule review and regular, periodic regulatory examinations of CDCC by the AMF.

8.4 Clearing and Settlement Arrangements

The Bourse ensures that:

(i) appropriate clearing and settlement arrangements are in place to provide reasonable assurance that all obligations arising out of transactions on the Bourse will be met; and

(ii) CDCC has policies and procedures to deal with problems relating to clearing and settling contracts.

8.5 Technology of Clearing Corporation

The Bourse has assured itself that the information technology used by CDCC has been adequately reviewed and tested and provides at least the same level of safeguards as required of the Bourse.

8.6 Risk Management of Clearing Corporation

The Bourse has assured itself that CDCC has established appropriate risk management policies and procedures, contingency plans, default procedures and internal controls.

PART 9 INFORMATION SHARING AND OVERSIGHT ARRANGEMENTS

9.1 Information Sharing and Oversight Agreement

Satisfactory information sharing and oversight agreements exist among the Commission and the AMF.

SCHEDULE "C"

CVMQ RECOGNITION ORDER OF THE BOURSE DE MONTRÉAL

RULING No. 2002-C-0470

RE: Recognition of *Bourse de Montréal Inc.* as a self-regulatory organization, under section 169 of the *Securities Act* (R.S.Q., chap. V-1.1)

WHEREAS an exchange must be recognized as a self-regulatory organization in order to carry on business in Québec pursuant to Section 169 of the *Securities Act* (R.S.Q., c.V-1.1) (hereinafter the "Act");

AND WHEREAS the company *Bourse de Montréal Inc*. (hereinafter "Bourse"), within the context of its demutualization project, has filed with the *Commission des valeurs mobilières du Québec* (hereinafter the "Commission") an application for recognition of the Bourse as a self-regulatory organization;

AND WHEREAS on September 28, 2000, the Commission rendered Ruling No. 2000-C-0588 (B.C.V.M.Q., 2000-10-13, Vol. XXXI, n° 41, 7) for the purpose of exempting the Bourse, under section 263 of the Act, from the requirements of section 169 of the Act that prescribes that an exchange must be recognized as a self-regulatory organization to carry on business in Québec, on the grounds that neither the Bourse's demutualization process nor the examination of the required documentation were completed;

AND WHEREAS on November 24, 2000, the Commission rendered Ruling No. 2000-C-0729 (B.C.V.M.Q., 2000-12-08, Vol. XXXI, n° 49, 4) for the purpose of granting the Bourse recognition as a self-regulatory organization to carry on business in Québec under section 169 of the Act;

AND WHEREAS the above-cited ruling prescribes that the terms and conditions of the Recognition Ruling would be reexamined by the Commission to ensure that they are still adapted to the situation;

AND WHEREAS the Commission has verified that the constituting documents, by-laws and operating rules of the Bourse are in compliance with sections 175 and 176 of the *Act;*

AND WHEREAS the Commission considers that the financial resources and administrative structure of the Bourse are adequate to its objects, in accordance with section 174 of the Act;

AND WHEREAS the Bourse created a division responsible for regulation (hereinafter the "Division") whose primary mission is to supervise the regulatory duties and operations of the Bourse;

AND WHEREAS the Commission sees fit to grant recognition to the Bourse, provided the terms and conditions are respected;

IN CONSEQUENCE THEREOF, the Commission, pursuant to section 169 of the *Act*, grants *Bourse de Montréal Inc.* recognition as a self-regulatory organization to carry on business in Québec.

AS SUCH, the Commission repeals Ruling No. 2000-C-0588 that it rendered on September 28, 2000 (B.C.V.M.Q., 2000-10-13, Vol. XXXI, n° 41, 7) as well as Ruling No. 2000-C-0729 that it rendered on November 24, 2000 (B.C.V.M.Q., 2000-12-08, Vol. XXXI, n° 49, 4).

This recognition is granted based on the following terms and conditions:

For the purpose of this ruling, the terms "approved participant", "foreign approved participant" and "shareholder" correspond to the term "member" within the meaning of the *Act*, with any necessary modifications.

I. SHARE OWNERSHIP

a) No person, including persons associated with said person, shall be allowed to hold, own or exercise control, either directly or indirectly, over more than ten percent (10%) of any class or any series of voting shares of the Bourse.

b) The Bourse shall inform the Commission immediately in writing, if it becomes aware that any person, including persons associated with said person, holds, owns or exercises control, either directly or indirectly, over more than ten percent (10%) of any class or series of voting shares of the Bourse and shall take the necessary steps to immediately remedy the situation, in compliance with Appendix 1 of its deed of incorporation.

c) The Bourse shall submit to the Commission a list of its shareholders on a semi-annual basis, in accordance with the time limit prescribed in the "Reports and Documents to be Submitted" table found in Appendix 1 of this ruling.

d) The Bourse shall immediately inform the Commission in writing of any shareholder agreements that it is aware of.

II. CORPORATE STRUCTURE

a) Arrangements made by the Bourse with respect to the appointment, removal from office, and functions of the persons ultimately responsible for making and enforcing the rules of the Bourse, namely the Board of Directors, its committees and the Special Committee – Regulatory Division (hereinafter called the "Governing Body"), shall ensure a proper balance between the interests of the different entities desiring access to the facilities of the Bourse (hereinafter called "Approved Participants" and "Foreign Approved Participants") and, in order to ensure diversity of representation on the Board, a reasonable number and proportion of directors shall not be associated with an Approved Participant or with a Foreign Approved Participant within the meaning of the Bourse's by-laws. In particular, the Bourse shall ensure that at least fifty percent (50%) of its directors shall consist of individuals who are not associated with an Approved Participant, a Foreign Approved Participant, a Restricted Trading Permit Holder, an officer, an employee or a shareholder holding, either directly or indirectly, more than ten percent (10%) of any class of voting shares and a maximum of two of its directors shall be part of senior management at the Bourse

b) Arrangements made by the Bourse with respect to quorum at directors' meetings shall ensure that the number and make-up of directors necessary to constitute quorum represent a proper balance between the interests of the different entities on the Board. In particular, the Bourse shall ensure that quorum at directors' meetings shall be at least equal to the majority of directors.

c) Without limiting the generality of the foregoing, the Bourse's administrative structure shall provide for:

i) fair and meaningful representation on its governing body, given the nature and structure of the Bourse, and any governance committee thereto or similar body, and in the approval of its rules;

ii) a minimum of fifty percent (50%) of the members of the Bourse's committees to which powers are delegated by the Board are not associated with an Approved Participant, a Foreign Approved Participant, a Restricted Trading Permit Holder, an officer, an employee or a shareholder holding, either directly or indirectly, more than ten percent (10%) of any class of voting shares, in accordance with the Bourse's by-laws.

The Bourse shall comply with the provisions set forth in paragraphs a) and c) ii) of this section within six months following this ruling.

III. ACCESS

a) The Bourse shall permit all securities dealers that satisfy the applicable regulatory requirements to access the trading facilities of the Bourse.

b) Without limiting the generality of the foregoing, the Bourse shall:

i) establish written standards for granting access to persons or entities trading on the Bourse's facilities;

ii) not unreasonably prohibit or limit access by a person, a company or an entity to services offered by it; and

iii) keep records of:

- all granted access requests, specifying the entities to which access was granted in addition to the reasons for granting such access; and

- all denial or limitation of access, specifying the reasons for denying or limiting access to any applicant.

IV. FEES

a) Any and all fees imposed by the Bourse on its Approved Participants, Foreign Approved Participants and Restricted Trading Permit Holders shall be equitably allocated. Fees shall not have the effect of creating barriers to access; however, they must take into consideration that the Bourse must have sufficient revenues to perform its duties, its regulatory activities and its exchange operations.

b) The Bourse's process for setting fees shall be fair and appropriate.

c) A list of fees required by the Bourse shall be submitted to the Commission on an annual basis, in accordance with the time limit prescribed in the "Reports and Documents to be Submitted" table found in Appendix 1 of this ruling.

V. REGULATORY DIVISION

a) The Bourse shall maintain a separate regulatory division, which shall fall under the authority of a special committee named by the Board with clearly defined regulation responsibilities for its market and for its Approved Participants, Foreign Approved Participants and Restricted Trading Permit Holders and a separate administrative structure.

b) The Bourse shall obtain prior approval from the Commission before making any changes to the Division's administrative and organizational structure or to the Special Committee – Regulatory Division, which may materially affect regulatory duties and operations.

c) The Division shall be completely autonomous in accomplishing its functions and in its decision-making process. The independence of the Division and its personnel shall be ensured and strict partition measures shall be established in order to prevent conflicts of interest with the Bourse's other activities.

d) Every year, the Bourse shall provide the Commission with an activity report, including a report on the Division's operations prepared by the latter. This report shall include information that may be requested. It shall take into consideration the observance of terms and conditions related to the Division. Moreover, it shall be in such form as may be specified by the Commission, in accordance with the time limit prescribed in the "Reports and Documents to be Submitted" table found in Appendix 1 of this ruling.

e) The Division shall promptly report to the Commission when there is reason to believe that there has been any misconduct or fraud by Approved Participants, Foreign Approved Participants or their representatives or by Restricted Trading Permit Holders or other persons, where investors, Approved Participants, Foreign Approved Participants or their clients, Restricted Trading Permit Holders, the Canadian Investor Protection Fund or the Bourse may reasonably be expected to suffer serious damage as a consequence thereof, including where the solvency of an Approved Participant, a Foreign Approved Participant or a Restricted Trading Permit Holder is at risk or there may exist material deficiencies in their supervisory or internal controls.

f) The Commission shall be notified of the following on a monthly basis, in accordance with the time limit prescribed in the "Reports and Documents to be Provided" table found in Appendix 1 of this ruling:

   (i) all new investigations initiated by the Division, including the persons involved and the nature of the investigation; and

   (ii) all investigations which do not lead to disciplinary proceedings and which are closed, including the date the investigation started, the conduct and persons involved and the disposition of the investigation.

g) A conflict of interest policy shall be established by the Bourse to allow the personnel and members of the Special Committee – Regulatory Division to disclose their interests and to foresee the possibility that a person may withdraw from a file and/or a ruling.

h) The Division shall obtain prior approval from the Commission before providing any regulatory duties or operations to other exchanges, self-regulatory organizations, persons operating Alternative Trading Systems or other persons.

i) The Division shall obtain prior approval from the Commission before subcontracting a portion of its regulatory duties or operations to other self-regulatory organizations.

j) Subject to any changes that may be agreed upon between the Bourse and the Commission, the Division shall be operated on the following basis:

   i) The Division's duties and operations shall be independent and structurally separated from the for-profit operations of the Bourse. The Division shall perform its duties and operations based on the principle of self-financing and shall be not-for-profit.

   ii) The Division shall be a separate business unit of the Bourse, which shall be governed by the Board of Directors of the Bourse. The Board shall establish a Special Committee – Regulatory Division (hereinafter called the "Special Committee") to oversee the duties and operations of the Division, which shall be made up of a majority of persons who shall not be associated with an Approved Participant, a Foreign Approved Participant, a Restricted Trading Permit Holder, an officer, an employee or a shareholder holding, either directly or indirectly, more than ten percent (10%) of any class of voting shares of the Bourse, in accordance

with the Bourse's "Rules Regarding the Special Committee – Regulatory Division." The quorum at meetings shall be a majority of persons who shall not be associated with an Approved Participant, a Foreign Approved Participant, a Restricted Trading Permit Holder, an officer, an employee or a shareholder holding, either directly or indirectly, more than ten percent (10%) of any class of voting shares, in accordance with the Bourse's "Rules Regarding the Special Committee – Regulatory Division.

iii) The chief operating officer of the Division (the "Vice-President – Regulatory Division") shall report any regulatory or disciplinary issues to the Bourse's Special Committee. The Vice-President – Regulatory Division, or the person designated by the Vice-President – Regulatory Division, shall be present at all meetings of the Special Committee relating to the duties and operations of the Division, unless otherwise indicated by the Special Committee, and shall provide information upon request to the Special Committee with respect to the duties and operations of the Division. The Special Committee and the Vice-President – Regulatory Division shall both be responsible for ensuring that the duties and operations of the Division are conducted appropriately.

iv) The Division's financial structure shall be separate and it shall operate on a cost-recovery basis. Any surplus shall be redistributed to Approved Participants and to Foreign Approved Participants and any shortfall shall be made up by a special assessment by the Approved Participants and the Foreign Approved Participants or by the Bourse upon recommendation to the Board by the Special Committee.

v) The Division shall have a separate budget, which shall be subject to the approval of the Board upon recommendation by the Special Committee and shall be administered by the Vice-President – Regulatory Division. The Division shall be allocated the necessary support from other departments of the Bourse, including in the technology area, in accordance with its budgets and reasonable requirements, while ensuring its independence.

vi) The Bourse shall ensure that the Division has the necessary resources to fulfil its market and Approved Participant, Foreign Approved Participant and Restricted Trading Permit Holder regulation functions and it shall submit to the Commission, on an annual basis, the Division's budget as well as the report justifying the setting of annual fees charged to Approved Participants, Foreign Approved Participants and Restricted Trading Permit Holders, in accordance with the time limit prescribed in the "Reports and Documents to be Submitted" table found in Appendix 1 of this ruling.

vii) The Bourse shall adopt and use all reasonable efforts to comply with policies and procedures designed to ensure that confidential information concerning the Division's duties and operations is maintained in confidence and not shared inappropriately with the for-profit operations of the Bourse or other persons.

viii) The Vice-President – Regulatory Division, the President, the Special Committee and the Board shall provide information with respect to the duties and operations of the Division to the Commission upon request.

ix) The Bourse shall inform the Commission, on a semi-annual basis, of its staff complement, by function, specifying authorized, filled and vacant positions and any material changes or reductions in Division personnel, by function, in accordance with the time limit prescribed in the "Reports and Documents to be Submitted" table found in Appendix 1 of this ruling.

x) Management of the Bourse, including the Division Vice-President, shall at least annually self-assess the performance by the Division of its market, of Approved Participant, Foreign Approved Participant and Restricted Trading Permit Holder regulation functions and report thereon to the Special Committee, together with any recommendations for improvements. The Special Committee shall in turn report to the Board as to the performance by the Division of its market, of Approved Participant, Foreign Approved Participant and Restricted Trading Permit Holder regulation functions. The Bourse shall provide the Commission with copies of such reports and shall advise the Commission of any proposed measures arising therefrom, in accordance with the time limit prescribed in the "Reports and Documents to be Submitted" table found in Appendix 1 of this ruling.

xi) Decisions made by the Special Committee with respect to disciplinary matters or summary procedures are revisable in accordance with the *Act*.

VI. FINANCIAL VIABILITY AND FINANCIAL REPORTS

a) The Bourse shall maintain sufficient financial resources for the proper performance of its functions.

b) The Bourse shall be in default and shall report without delay to the Commission when, calculated based on its consolidated and non-consolidated financial statements:

i) its working capital ratio is less than or equal to 1.5:1 (current liquid assets i.e. cash, short-term investments, accounts receivable and long-term investments cashable at any time / current liabilities);

ii) its cash flow / total debt outstanding is less than or equal to twenty percent (20%) (adjusted net earnings for the 12 most recent months of items that do not affect liquidities i.e. amortization, deferred taxes and any other expenses that do not impact liquidities / short and long-term debts);

iii) its financial leverage ratio is greater than or equal to 4.0 (total assets / capital).

The above-mentioned ratios calculated based on consolidated financial statements do not include the following items:

- Daily settlements due from clearing members;

- Daily settlements due to clearing members;

- Clearing members' cash margin deposits (in assets and liabilities);

- Clearing fund cash deposits (in assets and liabilities).

c) Should the Bourse fail to respect any of the above-mentioned financial ratios for a period of more than three months, the Bourse shall promptly inform the Commission in writing of the reasons for the continued ratio deficiencies and the steps being taken to rectify the problem and reestablish its financial equilibrium. Furthermore, from the moment the Bourse fails to respect the financial ratios for a period exceeding 3 months and until the ratio deficiencies have been eliminated for at least 6 months, the Bourse shall not, without the prior approval of the Commission, make any capital expenditures not already reflected in the financial statements or make any loans, bonuses, dividends or other distributions of assets to any director, senior executive, related company or shareholder.

d) The Bourse shall provide a report, which shall include the monthly calculation of each ratio based on consolidated and non-consolidated financial statements attached with the quarterly financial statements for the first three quarters of the fiscal year and with the annual audited financial statements for the fourth quarter, in accordance with the time limit prescribed in the "Reports and Documents to be Submitted" table found in Appendix 1 of this ruling.

e) The Bourse shall submit its annual consolidated and non-consolidated audited financial statements, as well as those of each of its subsidiaries and companies constituting a long-term investment in an affiliated company, in accordance with the time limit prescribed in the "Reports and Documents to be Submitted" table found in Appendix 1 of this ruling.

f) The Bourse shall submit its quarterly consolidated and non-consolidated financial statements, as well as those of each of its subsidiaries and companies constituting a long-term investment in an affiliated company, in accordance with the time limit prescribed in the "Reports and Documents to be Submitted" table found in Appendix 1 of this ruling.

g) Quarterly and annual consolidated audited financial statements shall include a budget analysis of the results as well as a comparative analysis of the results with the corresponding period of the previous fiscal year. These analyses shall be presented in accordance with the time limit prescribed in the "Reports and Documents to be Submitted" table found in Appendix 1 of this ruling.

h) The Bourse's quarterly and annual non-consolidated audited financial statements as well as those of its subsidiaries shall include a budget analysis of the results as well as a comparative analysis of the results with the corresponding period of the previous fiscal year. These analyses shall be presented in accordance with the time limit prescribed in the "Reports and Documents to be Submitted" table found in Appendix 1 of this ruling.

i) The Bourse shall provide segmented information on the Division's quarterly and annual results, including a budget analysis of the results, in accordance with the time limit prescribed in the "Reports and Documents to be Submitted" table found in Appendix 1 of this ruling.

j) The Bourse shall submit its annual consolidated and non-consolidated budget in addition to that of its subsidiaries as well as any long-term budget forecasts, in accordance with the time limit prescribed in the "Reports and Documents to be Submitted" table found in Appendix 1 of this ruling.

k) The Bourse shall inform the Commission, immediately and in writing, of any material change to the consolidated and non-consolidated budgets approved by the Board of Directors.

l) The Bourse shall provide any other financial information required by the Commission.

VII. SYSTEMS

For each of its systems that support order entry, order routing, order execution, data feeds, trade reporting and trade comparison, capacity and integrity requirements, the Bourse shall promptly notify the Commission in writing of any material systems failures that could impact market operations and of any major changes made to a system.

VIII. CLEARING AND SETTLEMENT

The Bourse shall ensure that there is an adequate clearing and settlement system in place so that the requirements of contracts traded on its market are met. The Bourse shall ensure that settlement and clearing services are provided by a clearing agency recognized by the Commission and shall have rules and policies in place to deal with problems related to settling and clearing negotiated contracts.

IX DELEGATION OF POWERS

The Bourse shall exercise the powers delegated to it under the *Securities Act* and the *Regulation Concerning Securities* (R.R.Q., chap. V-1.1, r. 1) and in accordance with the ruling rendered on the delegation of powers to *Bourse de Montréal Inc.* and the approval of any sub-delegation by *Bourse de Montréal Inc.* of any powers delegated to it under sections 170 and 170.1 of the *Securities Act* (French title of this ruling: *Délégation de pouvoirs à Bourse de Montréal Inc. & approbation de la sous-délégation par Bourse de Montréal Inc. des pouvoirs délégués, en vertu des articles 170 et 170.1 de la Loi sur les valeurs mobilières*); this ruling was rendered by the Commission on December 17, 2002, in accordance with Ruling No. 2002-C-0471. It sets forth the exercise and application of powers that are delegated to the Bourse and the conditions for exercising these powers. It also authorizes the Bourse to delegate to a committee appointed by it, and to one of its employees, the powers that were delegated to it by the Commission. It also grants the Bourse the power to grant exemptions from certain provisions of Policy Statement No. Q-9 – Dealers, Advisers and Representatives [B.C.V.M.Q., 1994-10-07, Vol. XXV, n° 40, 3-38 (Ruling No. 1994-C-0395 rendered on October 5, 1994); as amended]. It shall be amended from time to time following amendments to the Act, the Regulation or following a request by the Bourse.

X. PURPOSE OF RULES

The Bourse and the Division shall, subject to the terms and conditions of this Recognition Ruling and the jurisdiction and oversight of the Commission in accordance with Québec securities laws, establish such rules, regulations, policies, procedures, practices or other similar instruments as are necessary or appropriate to govern and regulate all aspects of its business and internal affairs and shall in so doing specifically govern and regulate so as to:

i) seek to ensure compliance with securities legislation;

ii) seek to prevent fraudulent and manipulative acts and practices;

iii) seek to promote just and equitable principles of trade;

iv) seek to foster cooperation and coordination with persons or companies engaged in regulating, clearing, settling, processing information with respect to, and facilitating transactions in securities.

XI. DISCIPLINE OF APPROVED PARTICIPANTS, FOREIGN APPROVED PARTICIPANTS AND RESTRICTED TRADING PERMIT HOLDERS AND THEIR REPRESENTATIVES

The Bourse, through the Division, shall appropriately discipline its Approved Participants, Foreign Approved Participants and Restricted Trading Permit Holders and their representatives for violations of securities legislation and by-laws, rules, regulations, policies, procedures, practices and other similar instruments of the Bourse.

XII. DUE PROCESS

The Bourse, including the Division, shall ensure that the requirements of the Bourse relating to access to the facilities of the Bourse, the imposition of limitations or conditions on access and denial of access are fair and reasonable, including in respect of notices, an opportunity to be heard or make representations, the keeping of records, the giving of reasons and the provisions for appeals.

XIII. INSIDER TRADING AND DISCIPLINARY PROCEEDINGS

The Bourse, including the Division, shall:

a) draft and implement rules, policies and other texts of a similar nature related to insider trading;

b) develop, implement and operate adequate insider trading oversight systems;

c) do what is necessary to reach an agreement with all markets where underlying securities or securities related to its products are traded, or with the regulation services provider for this market, in order to detect insider trading activities, abusive practices and manipulation and to enforce related rules and implement procedures to coordinate the supervision of insider trading activities and the implementation of rules governing these activities with this market;

d) implement procedures aimed at coordinating cease trade orders, in addition to circuit breakers, with all markets where underlying securities or securities related to its products are traded, or with the regulation services provider for this market; and

e) develop policies and procedures related to conflicts of interest enabling the Bourse's officers and the Canadian Derivatives Clearing Corporation to disclose their interest and to make provisions so that a person may withdraw from a file or a ruling.

The Bourse shall comply with the provisions of this section within one year of this ruling being adopted.

XIV. INFORMATION SHARING

The Bourse, including the Division, shall cooperate in the sharing of information and otherwise, with the Commission and its personnel, with the Canadian Investor Protection Fund and other Canadian exchanges, recognized self-regulatory organizations and regulatory authorities responsible for the supervision or regulation of securities, subject to the applicable laws concerning the sharing of information and the protection of personal information, in particular section 5 of the *Charter of Human Rights and Freedoms* (R.S.Q., chapter C-12), sections 3 and 35 to 41 of the *Civil Code of Québec* (S.Q., 1991, chapter 64) and the provisions of *An Act Respecting the Protection of Personal Information in the Private Sector* (R.S.Q., chapter P-39.1).

XV. ADDITIONAL INFORMATION

The Bourse shall file any information in accordance with *National Instrument 21-101, Marketplace Operation* [B.C.V.M.Q., 2002-08-31, Vol. XXXI, n° 35, 3 & *Annexe D* (Ruling No. 2001-C-0409 rendered on August 28, 2002); as amended]. The independent review report dealing with the capacity, integrity and security of the Bourse's systems, which is set forth in the above-mentioned National Instrument, shall be filed in accordance with the time limit prescribed in the "Reports and Documents to be Submitted" table found in Appendix 1 of this ruling.

Signed in Montréal on December 17, 2002

APPENDIX 1
Reports and Documents to be Submitted

Section in Ruling	Wording of Section Referred to in the Recognition Ruling	Frequency	Time Limit or Deadline
I c)	Submit the list of shareholders of *Bourse de Montréal Inc.* to the *Commission des valeurs mobilières du Québec.*	Semi-annually on June 30 and December 31	30 days after the frequency date
IV c)	Submit the list of fees required by *Bourse de Montréal Inc*.	Annually	Upon approval
V d)	Provide the Commission with an activity report, including a report on the Division's operations prepared by the Division. This report shall include information that may be requested and shall take into consideration the respect of terms and conditions related to the Division and shall be in such form as may be specified by the Commission.	Annually	60 days after the end of the fiscal year
V f) i)	Inform the Commission of all new investigations initiated by the Division, including the names of persons involved and the nature of the investigation.	Monthly	30 days after the end of the month
V f) ii)	Inform the Commission of all investigations which do not lead to disciplinary proceedings and which are closed, including the date the investigation started, the conduct and persons involved and the disposition of the investigation.	Monthly	30 days after the end of the month
V j) vi)	Provide the Commission with the Division's budget as well as the report justifying the setting of annual fees charged to Approved Participants, Foreign Approved Participants and Restricted Trading Permit Holders.	Annually	Upon approval
V j) ix)	Inform the Commission of the Division's staff complement, by function, specifying authorized, filled and vacant positions and any material changes or reductions in Division personnel, by function.	Semi-annually	30 days after the end of the semi-annual period
V j) x)	Provide copies of reports to the Commission prepared by the Bourse's management, including the Division Vice-President, based on the Division's self-assessment of performance of its market regulation function and of its Approved Participants, Foreign Approved Participants and Restricted Trading Permit Holders regulation functions and report thereon to the Special Committee – Regulatory Division, together with any recommendations for improvements. The Bourse shall also inform the Commission of any proposed measures arising from these assessments.	At least once a year	30 days after filing it with the Special Committee – Regulatory Division
VI d)	Provide a report, attached with the quarterly financial statements, which shall include the monthly calculation of each ratio based on consolidated and non-consolidated financial statements attached with the quarterly financial statements for the first three quarters of the fiscal year and with the audited annual financial statements for the fourth quarter.	Quarterly	60 days after the end of each quarter and 90 days after the end of each fiscal year

Section in Ruling	Wording of Section Referred to in the Recognition Ruling	Frequency	Time Limit or Deadline
VI e)	Submit its annual consolidated and non-consolidated audited financial statements as well as those of each of its subsidiaries and companies constituting a long-term investment in an affiliated company.	Annually	90 days after the end of the fiscal year
VI f)	Submit the Bourse's quarterly consolidated and non-consolidated financial statements as well as those of each of its subsidiaries and companies constituting a long-term investment in an affiliated company.	Quarterly	60 days after the end of each quarter
VI g)	Submit a budget analysis of the results as well as a comparative analysis of the results with the corresponding period of the previous fiscal year, with the Bourse's quarterly and annual consolidated audited financial statements as well as those of its subsidiaries.	Quarterly and Annually	60 days after the end of each quarter and 90 days after the end of each fiscal year
VI h)	Submit a budget analysis of the results as well as a comparative analysis of the results with the corresponding period of the previous fiscal year, with the Bourse's quarterly and annual non-consolidated audited financial statements as well as those of its subsidiaries.	Quarterly and Annually	60 days after the end of each quarter and 90 days after the end of each fiscal year
VI i)	Submit segmented information for the Division including a budget analysis of the results, with the Bourse's quarterly and annual audited financial statements.	Quarterly and Annually	60 days after the end of each quarter and 90 days after the end of each fiscal year
VI j)	Submit its annual consolidated and non-consolidated budget in addition to that of its subsidiaries as well as any long-term budget forecasts.	Annually	Upon approval
XV	Submit the independent review report dealing with the capacity, integrity and security of the Bourse's systems which is set forth in *National Instrument 21-101*. This report also contains the recommendations and conclusions of the independent review.	Annually	As soon as it is submitted to upper management for review

2.3 Rulings

2.3.1 ACS Media Income Fund and ACS Media Canada Inc. - s. 74 and ss. 83.1(1)

Headnote

Issuer within income trust structure deemed to be a reporting issuer. Exemption granted from registration and prospectus requirements, in connection with distribution of shares and notes held by the fund to a holder of units upon a redemption in specie of the units effected in accordance with the declaration of trust. First trade relief granted in connection with trade in shares or notes received by a holder of units upon a redemption in specie, subject to certain conditions.

Statutes Cited

Securities Act, R.S.O. 1990, c. S.5, as am. ss. 25, 53, 74 and 83.1(1).

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

AND

IN THE MATTER OF
ACS MEDIA INCOME FUND
AND ACS MEDIA CANADA INC.

RULING and ORDER
(Section 74 and Subsection 83.1(1))

UPON the application (the "Application") of ACS Media Income Fund (the "Fund") and ACS Media Canada Inc. ("Media Canada") to the Ontario Securities Commission (the "Commission") for:

(a) an order pursuant to subsection 83.1(1)(a) of the *Securities Act* (Ontario) (the "Act") that Media Canada be deemed a "reporting issuer";

(b) a ruling pursuant to section 74 of the Act that the registration and prospectus requirements of Ontario securities law do not apply to the distribution of common shares of Media Canada (the "Media Canada Shares") and 14% unsecured subordinated notes of Media Canada (the "Media Canada Notes") held by the Fund to a holder of the Fund's trust units (the "Units") upon a redemption *in specie* of the Units effected in accordance with the Fund's declaration of trust dated April 28, 2003, as amended (the "Declaration of Trust"); and

(c) a ruling pursuant to section 74 of the Act that the first trade in the Media Canada Shares or Media Canada Notes received by a holder of Units upon a redemption *in specie* referred to in paragraph (b) shall not be a distribution, provided that:

(i) the issuer of the securities is a reporting issuer in Ontario at the date of such trade;

(ii) either the Fund or the issuer of the securities has been a reporting issuer in Ontario for the four months immediately preceding the trade;

(iii) no unusual effort is made to prepare the market or to create a demand for the securities that are the subject of the trade;

(iv) no extraordinary commission or consideration is paid to a person or company in respect of the trade; and

(v) if the selling security holder is an insider or officer of the Fund, the issuer or their respective subsidiary entities, the person has no reason to believe that any of such parties is in default of Ontario securities law;

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

AND UPON the Fund and Media Canada representing to the Commission as follows:

1. The Fund is an unincorporated, open-ended, limited purpose trust established under the laws of Ontario pursuant to the Declaration of Trust. Its registered and head office is located in Toronto, Ontario.

2. The authorized capital of the Fund consists of an unlimited number of Units. The initial public offering of 17,500,000 Units was made pursuant to a prospectus dated April 29, 2003 (the "Prospectus"). The Fund is a reporting issuer or the equivalent in Ontario and each of the other jurisdictions in Canada and, to the best of its knowledge, information and belief, is not in default of any requirements of securities legislation in any of the jurisdictions in Canada. As at February 11, 2004, there were 20,000,000 Units issued and outstanding.

3. The Fund's subsidiary entities have significant U.S.-based operations and, as such, the Fund was established as a "fixed investment trust" for United States federal income tax purposes under U.S. Treasury Regulation section 301.7701-4(c).

4. The Fund's assets consist solely of all of the 91,876,581.71 issued and outstanding Media Canada Shares and all of the $91,876,581.71 principal amount of Media Canada Notes issued and outstanding at the date hereof. The Fund may, from time to time, subscribe for additional Media Canada Shares and Media Canada Notes but, as a "fixed investment trust", and consistent with other restrictions contained in the Declaration of Trust, it is precluded from directly owing any other securities or investments.

5. Through its ownership of Media Canada Shares and Media Canada Notes, the Fund indirectly owns a 99.9% economic interest in the business of ACS Media LLC (the "Company"), an Alaskan limited liability company whose business primarily consists of publishing yellow pages and white pages directories.

6. The Units are listed and posted for trading on the Toronto Stock Exchange (the "TSX") under the symbol "AYP.UN".

7. Media Canada is a corporation incorporated on February 10, 2003 pursuant to the *Business Corporations Act* (Ontario). Its registered and head office is located in Toronto, Ontario.

8. The authorized capital of Media Canada consists of an unlimited number of Media Canada Shares and no preferred shares. As at February 4, 2004, there were 91,876,581.71 Media Canada Shares and no preferred shares issued and outstanding.

9. Media Canada is not a "reporting issuer" or the equivalent in any jurisdiction in Canada.

10. Media Canada is a wholly-owned subsidiary of the Fund and has carries on no independent operations. It acts solely as a funding conduit between the Fund and its operating subsidiary entities.

11. To date, a number of income funds with significant cross-border operations and operating cash flows have completed prospectus offerings in Canada. Of these, less than half (including the Fund) were structured with the income fund established as a "fixed investment trust" for U.S. tax purposes. As a fixed investment trust, the Fund is disregarded for U.S. federal income tax purposes, and each holder of Units is treated as directly owning its proportionate share of the Fund's investments.

12. The Declaration of Trust contains a redemption *in specie* feature whereby holders of Units have the right to tender their Units to the Fund for redemption, with the redemption price paid by a distribution of a proportionate share of the Fund's assets (being a proportionate number of Media Canada Shares and Media Canada Notes).

13. The exercise of this redemption right was identified in the Prospectus as being subject to regulatory approval, as no general prospectus exemption would be available to permit the distribution of these securities (as the issuers of the Media Canada Shares and Media Canada Notes are not reporting issuers). Moreover, the Prospectus identified that there would be no trading market for the Media Canada Shares and Media Canada Notes so distributed.

14. The Fund has determined that it would be desirable to ensure that there are no significant trading or other restrictions that would be imposed on a holder of Units that exercised its redemption right to obtain Media Canada Shares and Media Canada Notes.

15. We understand that the TSX would not be prepared to list the Media Canada Shares unless Media Canada were a reporting issuer under the Act. Under the Act, an issuer is a reporting issuer by virtue of a TSX listing only if its securities are listed and posted for trading (which, as noted below, may not be the case). As such, it would be necessary to obtain an order from the Commission pursuant to subsection 83.1(1)(a) of the Act deeming Media Canada to be a reporting issuer.

16. Initially, the Media Canada Shares may not satisfy the public distribution requirements established by the TSX, or a sufficient trading market in the shares may not exist. As such, it is possible that the Media Canada Shares would initially be listed, but not posted for trading, on the TSX until such time as a sufficient number of redemptions *in specie* have occurred.

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

IT IS HEREBY RULED pursuant to section 74 of the Act that the registration and prospectus requirements of Ontario securities law do not apply to the distribution of the Media Canada Shares and the Media Canada Notes held by the Fund to a holder of Units upon a redemption *in specie* of the Units effected in accordance with the Declaration of Trust;

AND IT IS FURTHER RULED pursuant to section 74 of the Act that the first trade in the Media Canada Shares or Media Canada Notes received by a holder of Units upon a redemption *in specie* referred to above shall not be a distribution, provided that:

(i) the issuer of the securities is a reporting issuer in Ontario at the date of such trade;

(ii) either the Fund or the issuer of the securities has been a reporting issuer in Ontario for the four months immediately preceding the trade;

(iii) no unusual effort is made to prepare the market or to create a demand for the securities that are the subject of the trade;

(iv) no extraordinary commission or consideration is paid to a person or company in respect of the trade; and

(v) if the selling security holder is an insider or officer of the Fund, the issuer or their respective subsidiary entities, the person has no reason to believe that any of such parties is in default of Ontario securities law.

March 19, 2004.

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

AND IT IS HEREBY ORDERED pursuant to subsection 83.1(1) of the Act that Media Canada is deemed to be a reporting issuer for the purposes of Ontario securities law.

March 19, 2004.

"Iva Vranic"

2.3.2 Great Lakes Carbon Income Fund et al. - s. 74 and ss. 83.1(1)

Headnote

Issuers within income trust structure deemed to be reporting issuers. Exemption granted from registration and prospectus requirements, in connection with distribution of shares and notes held by the fund to a holder of units upon a redemption in specie of the units effected in accordance with the declaration of trust. First trade relief granted in connection with trade in shares or notes received by a holder of units upon a redemption in specie, subject to certain conditions.

Statutes Cited

Securities Act, R.S.O. 1990, c. S.5, as am. ss. 25, 53, 74 and 83.1(1).

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

AND

IN THE MATTER OF
GREAT LAKES CARBON INCOME FUND
AND CARBON CANADA INC.

RULING and ORDER
(Section 74 and Subsection 83.1(1))

UPON the application (the "Application") of Great Lakes Carbon Income Fund (the "Fund"), Carbon Canada Inc. ("Carbon Canada") and Huron Carbon ULC ("Carbon ULC") to the Ontario Securities Commission (the "Commission") for:

(a) orders pursuant to subsection 83.1(1)(a) of the *Securities Act* (Ontario) (the "Act") that each of Carbon Canada and Carbon ULC be deemed a "reporting issuer";

(b) a ruling pursuant to section 74 of the Act that the registration and prospectus requirements of Ontario securities law do not apply to the distribution of common shares of Carbon Canada (the "Carbon Canada Shares") and 16% unsecured subordinated notes of Carbon ULC (the "Carbon ULC Notes") held by the Fund to a holder of the Fund's trust units (the "Units") upon a redemption *in specie* of the Units effected in accordance with the Fund's declaration of trust dated June 25, 2003, as amended (the "Declaration of Trust"); and

(c) a ruling pursuant to section 74 of the Act that the first trade in the Carbon Canada Shares or Carbon ULC Notes received by a holder of Units upon a redemption *in*

specie referred to in paragraph (b) shall not be a distribution, provided that:

(i) the issuer of the securities is a reporting issuer in Ontario at the date of such trade;

(ii) either the Fund or the issuer of the securities has been a reporting issuer in Ontario for the four months immediately preceding the trade;

(iii) no unusual effort is made to prepare the market or to create a demand for the securities that are the subject of the trade;

(iv) no extraordinary commission or consideration is paid to a person or company in respect of the trade; and

(v) if the selling security holder is an insider or officer of the Fund, the issuer or their respective subsidiary entities, the person has no reason to believe that any of such parties is in default of Ontario securities law;

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

AND UPON the Fund and Carbon Canada representing to the Commission as follows:

1. The Fund is an unincorporated, open-ended, limited purpose trust established under the laws of Ontario pursuant to the Declaration of Trust. Its registered and head office is located in Toronto, Ontario.

2. The authorized capital of the Fund consists of an unlimited number of Units. The initial public offering of 18,500,000 Units was made pursuant to a prospectus dated July 29, 2003 (the "Prospectus"). The Fund is a reporting issuer or the equivalent in Ontario and each of the other jurisdictions in Canada and, to the best of its knowledge, information and belief, is not in default of any requirements of securities legislation in any of the jurisdictions in Canada. As at January 29, 2004, there were 20,350,000 Units issued and outstanding.

3. The Fund's assets consist solely of all of the 20,350,000 issued and outstanding Carbon Canada Shares and all of the $139,601,000 principal amount of Carbon ULC Notes issued and outstanding as at January 29, 2004. The Fund may, from time to time, subscribe for additional Carbon Canada Shares and Carbon ULC Notes but, as a "fixed investment trust", and consistent with other restrictions contained in the Declaration of Trust, it is precluded from directly owning any other securities or investments.

4. Through its ownership of Carbon Canada Shares and Carbon ULC Notes, the Fund indirectly owns a 38.55% economic interest in the business of Great Lakes Carbon LLC (the "Company"), a Delaware limited liability company whose business primarily consists of the production of anode and industrial grade calcined petroleum coke.

5. The Units are listed and posted for trading on the Toronto Stock Exchange (the "TSX") under the symbol "GLC.UN".

6. Carbon Canada is a corporation incorporated on June 18, 2003 pursuant to the *Business Corporations Act* (Ontario). Its registered and head office is located in Toronto, Ontario.

7. The authorized capital of Carbon Canada consists of an unlimited number of Carbon Canada Shares and no preferred shares. As at January 29, 2004, there were 20,350,000 Carbon Canada Shares and no preferred shares issued and outstanding.

8. Carbon Canada is not a "reporting issuer" or the equivalent in any jurisdiction in Canada.

9. Carbon Canada is a wholly-owned subsidiary of the Fund and carries on no independent operations. It acts solely as a funding conduit between the Fund and its operating subsidiary entities.

10. Carbon ULC is an unlimited liability company organized under the laws of the Province of Nova Scotia on June 18, 2003. Its registered and head office is located in Halifax, Nova Scotia.

11. The authorized capital of Carbon ULC consists of 5,000,000 common shares and no preferred shares. As at January 29, 2004, one common share and no preferred shares were issued and outstanding.

12. Carbon ULC is not a "reporting issuer" or the equivalent in any jurisdiction in Canada.

13. Carbon ULC is a wholly-owned subsidiary of GLC Carbon USA Inc. ("GLC Carbon USA"), which is, in turn, a controlled subsidiary entity of the Fund and Carbon Canada. Carbon ULC carries on no independent operations. It acts solely as a funding conduit between the Fund and its operating subsidiary entities.

14. The Fund's subsidiary entities have significant U.S.-based operations and, as such, the Fund was established as a "fixed investment trust" for United States federal income tax purposes under

U.S. Treasury Regulation section 301.7701-4(c). As a fixed investment trust, the Fund is disregarded for U.S. federal income tax purposes, and each holder of Units is treated as directly owning its proportionate share of the Fund's investments.

15. The Declaration of Trust contains a redemption *in specie* feature whereby holders of Units have the right to tender their Units to the Fund for redemption, with the redemption price paid by a distribution of a proportionate share of the Fund's assets (being a proportionate number of Carbon Canada Shares and Carbon ULC Notes).

16. The exercise of this redemption right was identified in the Prospectus as being subject to regulatory approval, as no general prospectus exemption would be available to permit the distribution of these securities (as the issuers of the Carbon Canada Shares and Carbon ULC Notes were not then reporting issuers). Moreover, the Prospectus identified that there would be no trading market for the Carbon Canada Shares and Carbon ULC Notes so distributed.

17. The Fund has determined that it would be desirable to ensure that there are no significant trading or other restrictions that would be imposed on a holder of Units that exercised its redemption right to obtain such Carbon Canada Shares and Carbon ULC Notes.

18. The Fund and Carbon Canada have been advised that the TSX would not be prepared to list the Carbon Canada Shares unless Carbon Canada were a reporting issuer under the Act. Under the Act, an issuer is a reporting issuer by virtue of a TSX listing only if its securities are listed and posted for trading (which, as noted below, may not be the case). As such, it would be necessary to obtain an order from the Commission pursuant to subsection 83.1(1)(a) of the Act deeming Carbon Canada to be a reporting issuer.

19. Initially, the Carbon Canada Shares may not satisfy the public distribution requirements established by the TSX, or a sufficient trading market in the shares may not exist. As such, it is possible that the Carbon Canada Shares would initially be listed, but not posted for trading, on the TSX until such time as a sufficient number of redemptions *in specie* have occurred.

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

IT IS HEREBY RULED pursuant to section 74 of the Act that the registration and prospectus requirements of Ontario securities law do not apply to the distribution of the Carbon Canada Shares and the Carbon ULC Notes held by the Fund to a holder of Units upon a redemption *in specie* of the Units effected in accordance with the Declaration of Trust;

AND IT IS FURTHER RULED pursuant to section 74 of the Act that the first trade in the Carbon Canada Shares or Carbon ULC Notes received by a holder of Units upon a redemption *in specie* referred to above shall not be a distribution, provided that:

(i) the issuer of the securities is a reporting issuer in Ontario at the date of such trade;

(ii) either the Fund or the issuer of the securities has been a reporting issuer in Ontario for the four months immediately preceding the trade;

(iii) no unusual effort is made to prepare the market or to create a demand for the securities that are the subject of the trade;

(iv) no extraordinary commission or consideration is paid to a person or company in respect of the trade; and

(v) if the selling security holder is an insider or officer of the Fund, the issuer or their respective subsidiary entities, the person has no reason to believe that any of such parties is in default of Ontario securities law.

March 19, 2004.

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

AND IT IS HEREBY ORDERED pursuant to subsection 83.1(1) of the Act that each of Carbon Canada and Carbon ULC is deemed to be a reporting issuer for the purposes of Ontario securities law.

March 19, 2004.

"Iva Vranic"

Chapter 3

Reasons: Decisions, Orders and Rulings

3.1 Reasons for Decision

3.1.1 Patrick Fraser Kenyon Pierrepont Lett et al.

Headnote

Investment Contract – Security – Trading – Acts in Furtherance of a Trade – Exemptions – Trading in Ontario – Market Intermediaries

The sole issue was whether the Respondents were trading in securities without registration contrary to s.25(1) of the Act. The Respondents, none of whom were registered under the Act, offered a high yield program that had such characteristics sufficient to constitute an "investment contract" and, as such, a "security" as per the definitions contained within the Act. By accepting funds from investors, by attempting to forward the funds to purchase a bank guarantee, or debenture in order to gain access to the high yield program and by repeatedly providing proof of funds letters to third parties, it was found that the Respondents' actions constituted acts in furtherance of a trade. On the issue as to whether the Respondents were exempted from the requirement to be registered, the Respondents were all based in the Toronto area, had bank accounts in the Toronto area and carried on business in the Toronto area. The trading occurred in Ontario. A substantial part of the Respondents' time during the relevant period was involvement or attempted involvement in the high yield program. This, together with a finding that the investors deposited monies with the Respondents in Toronto and the monies were accepted by the Respondents for the purpose of acquiring high yield programs results in a finding that the Respondents were market intermediaries and were not exempted from the requirement of s.25 of the Act to be registered.

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

AND

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

Hearing Dates: November 17, 18, 2003. January 29, 2004

Panel:	H. Lorne Morphy, Q.C.	Commissioner (Chair of the Panel)
	M. Theresa McLeod	Commissioner
	Suresh Thakrar	Commissioner
Counsel:	Karen Manarin	For the Staff of the OSC
	David C. Moore	Solicitors for the Respondents
	Kenneth G.G. Jones	Lett, Milehouse and Pierrepont

REASONS

1. This hearing involved only the Respondents Patrick Fraser Kenyon Pierrepont Lett ("Lett"), Milehouse Investment Management Limited ("Milehouse") and Pierrepont Trading Inc. ("Pierrepont") (collectively, the "Respondents"). Proceedings against the other Respondents have either been previously dealt with or will be dealt with separately from this hearing.

2. In the Amended Statement of Allegations, it is alleged that these Respondents traded in securities without being registered contrary to section 25(1)(a) of the *Securities Act*, R.S.O. 1990, c.S.5, as amended. If established, Staff is asking that sanctions be ordered under sections 127(1) and 127.1 of the Act.

3. At the outset of the hearing, Staff and the Respondents requested the Panel determine whether the Respondents had acted contrary to section 25(1)(a) of the Act prior to hearing any submissions concerning possible sanctions. The Panel agreed to this request.

4. The hearing was held on November 17 and 18, 2003 with additional submissions being heard on January 29, 2004.

A. The Facts

5. At the outset of the hearing, an Agreed Statement of Facts was filed as well as a Joint Hearing Brief consisting of six volumes of documents. No other evidence was called.

6. Paragraphs 2 – 19 of the Agreed Statement of Facts state:

> 2. Patrick Fraser Kenyon Pierrepont Lett is an individual residing in Ontario and is, and was, between January 1996 and October 1999, the President, a Director and the directing mind of Milehouse Investment Management Limited and Pierrepont Trading Inc. (collectively referred to as the "Companies").
>
> 3. Each of the Companies is incorporated under the laws of Ontario. Neither of the Companies has been registered in any capacity under the Securities Act.
>
> 4. Lett was previously a registrant but he is currently not registered under the Act and was not registered during the material record.
>
> 5. BMO Nesbitt Burns Inc. was registered as a Broker/Investment Dealer under the Act.
>
> 6. John Craig Dunn was registered under the Act from October 1994 to August 2002 as a trading officer with Nesbitt at its branch located at 1 Robert Speck Parkway, Mississauga, Ontario. From July 1986 to February 2002, Dunn was the Branch Manager of the Nesbitt branch located at 1 Robert Speck Parkway, Mississauga, Ontario.
>
> 7. John Steven Hawkyard was registered under the Act from October 1989 to April 1997 as a salesperson of Bank of Montreal Investment Management Limited, a dealer in the category of Mutual Fund Dealer. From March 1996 to April 1997, Hawkyard was the Manager of the Bank of Montreal – Private Banking Services Branch located at 1 Robert Speck Parkway, Mississauga, Ontario.
>
> 8. In April 1997, Hawkyard moved from the Bank of Montreal to Nesbitt and, from November 1997 to August 2202, was registered as a salesperson of Nesbitt at 1 Robert Speck Parkway, Mississauga, Ontario, the branch which was managed by Dunn. The Nesbitt branch was located in the same building and adjoins the Bank of Montreal branch.
>
> 9. Lett first met Dunn in the 1980s or early 1990s and considered him to be a friend. Prior to opening the Nesbitt accounts, Dunn had business dealings with Lett. Dunn had loaned monies to Lett for an offshore investment. In November 1995, Lett opened an account in the name of Milehouse at the Nesbitt Mississauga Branch, which is the branch that Dunn managed. Lett also opened an account in the name of Pierrepont in February 1997 and a second Milehouse account in May 1998 at the Nesbitt Mississauga branch (collectively, these accounts will be referred to as the "Respondents' Accounts")[1]. Dunn was the Investment Advisor responsible for the Respondents' Accounts at the Mississauga branch.
>
> 10. Dunn introduced Lett to Hawkyard as a client with substantial net worth who was intending to embark upon a high yield program as referred to below. Lett and Hawkyard's relationship was strictly business. Lett opened bank accounts at the Bank of Montreal Branch located at 1 Robert Speck in Mississauga as follows; a personal bank account in May 1996, accounts in the name of Pierrepont in January and April 1997 and an account in the name of Milehouse in May 1998.[2]

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1 The Respondents admit as evidence the brokerage firm records contained in the Joint Hearing Brief, Volumes 3, 5 and 6 (Disclosure Brief, Volumes 12, 15 and 16).

2 The Respondents admit as evidence the banking records contained in the Joint Hearing Brief, Volume 4 (Disclosure Brief, Volume 13).

11. During the period April 1996 – February 1999, seven individuals or entities transferred, deposited, or caused approximately US $21 million to be transferred, or deposited into the Milehouse accounts at Nesbitt or at the Bank of Montreal in Mississauga.[3]

NAME	DESCRIPTION	AMOUNT
Constantin Nasses[4]	A resident of Monaco who was charged with insider trading in the United States in 1986 but has failed to respond to the charges	US $8,000,000
A. H. Velarde[5]	A resident of Virginia who, in June of 1999, was charged by the Securities and Exchange Commission with aiding and abetting two lawyers in a prime bank scheme. This individual settled the charges.	US $5,200,000
Lenzburg Capital Corp.	An Alberta corporation who was later subject to a freeze order obtained by the Alberta Securities Commission, for failing to return funds to investors, as required pursuant to the terms set out in a Settlement Agreement.	US $4,500,000
Greater Ministries International Inc. ("GMI")	A Florida corporation purportedly involved in evangelical missionary work. In 2001, the founder of this organization was convicted or fraud and conspiracy.	US $1,525,000
Dr. Dana	A resident of New York.	US $1,000,000
Dr. Hoppenstein	A resident of New York.	US $1,000,000
Bruce Houran	A resident of Florida.	US $ 250,000
	Total	US $21,475,000

12. The Respondents did not create or devise the high yield program but received documentation from third parties which purported to describe the high yield program, and which introduced the Respondents to the program. The descriptions of the high yield program are not all consistent but have the following characteristics. The high yield program was to include the purchase on margin of a bank guarantee or debenture, issued by a foreign bank, through the Respondents' Accounts at Nesbitt. The proceeds from the purchase were to be directed to a third party who was represented as having access to a high yield program. The high yield program was supposed to involve the purchase and sale of medium term bank notes. The bank notes were to be purchased at a substantial discount based upon a commitment issued by the United States Treasury Department. Substantial profits were to be earned because of the ability of the commitment holder to purchase at a discount. A portion of the profits on the subsequent sale of the bank notes were represented to be used for projects associated with the United States government (i.e., an American foreign policy initiative) or for humanitarian purposes. The balance of the profits would be left in the hands of the commitment holder. According to some of the documents, profits in the range of 100% to 480% would be earned by the commitment holder which would be shared with the Respondents and the parties who would have provided funds in the first instance.

13. Between April 1996 and March 1999, the Respondents requested and received Proof of Funds Letters regarding the accounts of Milehouse and Pierrepont at Nesbitt. The Proof of Funds Letters are as follows:

Date	On Letterhead of	Under Signature of
April 2, 1996	Bank of Montreal	Hawkyard
April 17, 1996	Bank of Montreal	Hawkyard
June 10, 1996	Nesbitt Burns	Dunn
July 23, 1996	Nesbitt Burns	Dunn

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3 Attached as Appendix A is a schedule detailing the "Transfers or Deposits by Individuals or Entities". All parties admit as evidence the source documents in the Disclosure Brief that inform this schedule: Joint Hearing Brief, Volumes 3, 4, 5 and 6 (Disclosure Brief, Volumes 12, 13, 15 and 16).

Attached as Exhibit "B" is a schedule which outlines "Examples of the Respondents' Communications to and Documents Involving Other Parties re: High Yield Program". The Respondents agree to the admission in evidence of all source documents supporting Appendix "B".

4 Nasses has some association or connection with a bank called the Arab Commerce Bank and the Arab Commerce Trust. Lett met Nasses through David Friedenbach (an American who initially was going to be involved with Milehouse) and Mirza Hadi (a UK resident). Nasses initially sent $10 million so that he could enter a high yield program promoted by Friedenbach and Hadi.

5 Velarde is an attorney in Virginia, U.S.A. Verlarde, who worked closely with Friedenbach, also wanted to access the program.

Date	On Letterhead of	Under Signature of
August 28, 1996	No letterhead	Hawkyard & Indovina
September 19, 1996	Bank of Montreal	Hawkyard & Indovina
December 18, 1996	Bank of Montreal	Hawkyard & Indovina
January 16, 1997	Bank of Montreal	Hawkyard & Indovina
January 16, 1997	Bank of Montreal	Hawkyard & Indovina
April 7, 1997	Bank of Montreal	Hawkyard & Indovina
April 29, 1997	Bank of Montreal	Indovina
July 17, 1997	Bank of Montreal	Indovina
August 25, 1997	Bank of Montreal	Indovina
October 7, 1997	Bank of Montreal	Indovina
October 23, 1997	Bank of Montreal	Indovina
November 20, 1997	Bank of Montreal	Indovina
December 2, 1997	Bank of Montreal	Hawkyard & Indovina
March 31, 1998	Bank of Montreal	Hawkyard & Indovina
April 6, 1998	Bank of Montreal	Hawkyard & Indovina
June 16, 1998	Bank of Montreal	Indovina
November 19, 1998	Bank of Montreal	Dunn & Swiaty
March 9, 1999	Nesbitt Burns	Dunn & Kiedrowski

14. Some of the Proof of Fund Letters were subsequently sent to third parties outside Ontario. The Proof of Funds Letters were considered to be necessary for the high yield program.

15. As noted above, several of the Proof of Funds Letters were on the letterhead of the Bank of Montreal. Lett told a representative of Nesbitt and a representative of the Bank of Montreal that the letters would confirm Lett's ability to purchase on margin a bank instrument or guarantee and that the bank of Montreal was more widely recognizable in Europe than Nesbitt.

16. Pierrepont and Milehouse also executed corporate documents reflecting their intent to enter into these programs.[6] Lett and his Companies entered into agreements, executed Letters of Intent and authored correspondence in an attempt to enter into high yield programs.[7]

17. The Respondents did not purchase a bank guarantee or debenture and were never able to access the high yield program.

18. The Respondents acknowledge that their involvement or attempted involvement in the high yield program constituted a substantial portion of their business activities during the relevant period.

19. The Respondents agree that the documents contained in the joint hearing brief and any other documents referred to herein may be admitted into evidence without formal proof. The Respondents and Staff reserve the right to raise issues regarding the relevance of these documents and to provide context.

B. Issues for Determination

7. The relevant portion of section 25(1) of the Act provides that no person shall trade in a security…unless the person or company is registered as a dealer…

8. Having regard to the Amended Statement of Allegations and the evidence before us, a determination as to whether the Respondents breached section 25(1)(a) of the Act involves a determination of the following issues:

(a) did the Respondents trade in securities which involves both the question as to whether there was trading and, if so, was it of a security as those terms are defined in section 1 of the Act?

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6 Attached as Appendix "C" ("Corporate Documents Executed by Respondents Pierrepont or Milehouse") is a schedule which outlines the corporate documents executed. The Respondents agree to the admission in evidence of all source documents supporting Appendix "C".

7 Attached as Appendix "D" ("Respondents' Attempts to Access High Yield Program") is a schedule which outlines the attempts to access the high yield program. The Respondents agree to the admission in evidence of all source documents supporting Appendix "D".

Attached as Appendix "E" ("Respondents' Communications of Documents Relating to Other Individuals or Entities") is a schedule which outlines further communications regarding the program. The Respondents agree to the admission in evidence of all source documents supporting Appendix "E".

(b) are the Respondents exempt from the requirements for registration by reason of the exemptions found in the Act and the Regulations?

(c) if there was trading in securities, was that trading in Ontario?

C. Position of Staff

9. Staff made two submissions as to what was the security alleged to have been traded by these Respondents.

10. Initially Staff asserted the high yield program as set out in paragraph 12 of the Agreed Statement of Facts described the program as including the purchase and sale of a bank guarantee or debenture, a medium term bank note and a commitment issued by the United States Treasury Department. These three components of the high yield program, Staff submitted, satisfied the definition of security found in section 1(1) "security" subparagraph (e), of the Act.

11. When additional submissions were heard on January 29, 2004, Staff also argued that the high yield program was in and of itself a security under section 1(1) "security" subparagraph (n), of the Act in that it meets the requirements as found in judicial authorities for being an investment contract.

12. As to trading, Staff's position was that there was no actual trading but rather acts in furtherance of a trade which fell within the definition of trade or trading found in section 1(1) "trade" subparagraph (e), of the Act.

13. Staff's position was that the Respondents acted as market intermediaries by engaging in the business of trading in securities in Ontario and as such, they were not exempt from registration and that the trading was done in Ontario.

D. Respondents' Position

14. Counsel for the Respondents argued that the evidence fell short of establishing the existence of any security being traded in Ontario.

15. In his submissions regarding whether there was a security being traded, Respondents' counsel made reference to a statement in the Amended Statement of Allegations regarding the high yield program:

> The program has characteristics of a prime and bank interest scheme and, as such, has no basis in reality.

Counsel submitted that Staff cannot allege on one hand that the attributes of a high yield program do not exist and on the other hand contend that the non-existent attributes constitute a security.

16. Counsel further submitted that paragraph 12 of the Agreed Statement of Facts simply refers to descriptions of the high yield program derived from documents of third parties and there is no evidence that any of those attributes existed so as to establish there was actually an investment contract as was being asserted by Staff.

17. As to trading, it was argued that any act in furtherance of a trade must be within the particulars alleged by Staff in paragraph 22 of the Amended Statement of Allegations in order to comply with section 8 of the *Statutory Powers Procedures Act*.

18. In respect of these acts in furtherance of a trade, the Respondents urged that they must be read in the context of paragraph 12 of the Agreed Statement of Facts which sets out that the Respondents did not create or devise the high yield program but received documents from third parties which purported to disclose the high yield program and which introduced the Respondents to it.

19. Counsel argued that there was no evidence that the Respondents engaged in any activities to solicit or encourage any investment in the high yield program or that they made any representations to prospective investors regarding it.

20. Counsel argued that any activities within the program by the Respondents were in furtherance of purchasing – not selling and accordingly, were outside the definition of trading as found in section 1(1) of the Act and relied on the decision of *Re Burnett* (1983), 6 O.S.C.B. 2751.

21. As to the receipt of funds, it was argued that the mere receipt of funds falls short of any act in furtherance of a trade unless there was evidence that the monies were received as a result of solicitations for the specific purpose of acquiring the security.

22. On the question of whether there was trading in Ontario, Mr. Moore submitted that there was not sufficient nexus to Ontario for the activities to be considered as trading in Ontario.

23. On the issue as to whether the Respondents were market intermediaries, Mr. Moore submitted that while it was admitted in the Agreed Statement of Facts that his clients were involved in the high yield program for a substantial portion of their business activities during the relevant period, such activities were in fact acts in furtherance of purchases in connection with the high yield program. Accordingly, it was argued, that this did not mean that the Respondents spent a substantial portion or any portion of their business activities in the business of trading in securities in Ontario and that the Respondents were not market intermediaries.

E. Relevant Statutory Provisions

24. Section 25(1) of the Act provides that no person or company shall, (a) trade in a security or act as an underwriter unless the person or company is registered as a dealer, or is registered as a salesperson or as a partner or as an officer of a registered dealer and is acting on behalf of the dealer.

25. Section 1(1) of the Act provides:

"Security" includes:

(e) any bond, debenture, note or other evidence of indebtedness, share, stock, unit, unit certificate…

(n) any investment contract.

"Trade" or "Trading" includes:

(a) any sale or disposition of a security or valuable consideration, whether the terms of payment are beyond margin, instalment or otherwise, but does not include a purchase of a security or, except as provided in clause (d), a transfer, pledge or encumbrance of securities for the purpose of giving collateral for a debt made in good faith.

(e) any act, advertisement, solicitation, conduct or negotiation directly or indirectly in furtherance of any of the foregoing.

26. Section 35(1) Exemption of Trades – subject to the regulations, registration is not required in respect of the following trades:

Clause 5: A trade where the purchaser purchases as a principle if the trade is a security which has an aggregate acquisition cost to such purchaser of not less than $97,000 or such other amount as is prescribed.

27. Section 27(1) of the Regulations raised the threshold from $97,000 to $150,000.

28. Section 206 of the Regulations provides:

"the exemptions from registration contained in subsections 35(1) and (2) of the Act or in any other part of this Regulations are unavailable to market to a market intermediary except in respect of (a) a trade referred to in paragraphs 1, 6, 7, 8, 19, 20 or 22 of subsection 35(1) of the Act…

29. Section 204(1) of the Regulations defines market intermediary as:

"market intermediary" means a person or company that engages or holds himself, herself or itself out as engaging in Ontario in the business of trading in securities as principle or agent, other than trading in securities purchased by the person or company for his, her or its own account for investment only and not with a view to resale or distribution, and without limiting the generality of the foregoing, includes a person or company that engages or holds himself, herself or itself out as engaging in the business of (a) entering into agreements or arrangements with underwriters or issuers, in connection with distributions of securities, to purchase or sell such securities, (b) participating in distributions of securities as a selling group or member, (c) making a market in securities, or (d) trading in securities with accounts fully managed by the person or company as agent or trustee, whether or not the person or company engages in trading in securities purchased for investment only.

F Degree of Proof Required

30. In addition to the submissions raised concerning section 25(1)(a) of the Act, Mr. Moore argued that as the allegations against the Respondents involved what he called improper conduct contrary to Ontario securities law, cogent and convincing evidence was required. He conceded that the effect of this submission would be that this standard of proof would be required in all cases before the Commission. He cited no authority for the proposition.

31. Requiring proof that is “clear and convincing and based upon cogent evidence” has been accepted as necessary in order to make findings involving discipline or affecting one's ability to earn a livelihood.

32. This is not such a hearing. Rather, it is a hearing to determine whether or not the Respondents traded in securities without registration contrary to section 25(1) of the Act.

33. In *Bernstein* v. *College of Physicians and Surgeons (Ontario)* (1977), 15 O.R. (2nd) 477 at 470 (Div.Ct.). O'Leary J. stated:

> In all cases, before reaching a conclusion of fact, the Tribunal must be reasonably satisfied that the fact occurred, and whether the Tribunal is so satisfied will depend on the totality of the circumstances involving the nature and consequences of the fact or facts to be proved, the seriousness of an allegation made, and the gravity of the consequences that will flow from a particular finding.

34. In making our decision herein, we will have regard to that direction.

G. Analysis

Was There a Security?

35. As has been noted, Staff in its submissions took two positions to support its plea that what was being traded was a security within section 1(1) of the Act. The first was that paragraph 12 of the Agreed Statement of Facts describes the high yield program as involving the purchase and sale of a bank guarantee or debenture, a medium term bank note and a commitment issued by the United States Treasury Department.

36. Staff submitted that each of these components of the high yield program satisfy the definition of security as defined in section 1(1) “security” subparagraph (e), of the Act.

37. Staff’s further position was that the high yield program itself is a security in that it is an investment contract within section 1(1) “security” subparagraph (n), of the Act.

38. Paragraph 18 of the Amended Statement of Allegations states:

> Seven investors (the “Investors”) deposited approximately U.S. $21 million into the Lett accounts at Nesbitt or the Milehouse account at the Bank of Montreal for the purpose of investing in an intended trading program.

39. The “intended trading program” equates with what is described in the Agreed Statement of Facts as the "high yield program".

40. The allegation in paragraph 18 of the Amended Statement of Allegations clearly asserts that what is alleged as being traded is the high yield program itself and not the components of it. Paragraph 12 of the Agreed Statement of Facts defines the high yield program as including the bank guarantee, the medium term bank notes and the U.S. Treasury Department commitments.

41. In that it is alleged that it was the high yield programs that were being traded, not the components of those programs, the issue for determination is whether the high yield programs are investment contracts so as to qualify as a security under section 1(1) “security” subparagraph (n), of the Act.

42. Mr. Moore argues that the high yield program as referred to in paragraph 12 of the Agreed Statement of Facts cannot be a security by reason of the statement in the Amended Statement of Allegations that “the program has characteristics of a prime bank instrument and as such has no basis in reality”.

43. Mr. Moore argues that Staff cannot assert that something has no basis in reality and at the same time maintain that it qualifies as a security under the Act. We do not accept that submission. We understand that statement as simply going to the merits of the program as an investment – not to the question as to whether or not it comes within the definition of security found in section 1(1) of the Act. It is clear from other parts of the Agreed Statement of Facts that the Respondents have admitted pursuing high yield programs which must have been "real" for the Respondents to have pursued in the first place.

44. Mr. Moore further argued that the very language found in paragraph 12 of the Agreed Statement of Facts was such that it did not enable one to ascertain what the actual characteristics of the high yield programs were so as to determine whether it was in fact an investment contract. That submission overlooks the statement found within paragraph 12 of the Agreed Statement of Facts that “the descriptions of the high yield program are not all consistent but have the following characteristics”. This is followed by a description of those characteristics.

45. Mr. Moore's submission further overlooks other statements in the Agreed Statement of Facts such as found in paragraphs 10, 11, 14, 16, 17 and 18 which refer to the high yield program without any suggestion that there is any ambiguity or uncertainty as to its nature.

46. The Act does not define investment contract. It has, however, been the subject of numerous judicial decisions both in the United States and in Canada. Those decisions were recently considered by the Commission in the matter of First Federal Capital (Canada) Corporation and Monte Morris Friesner (2004), 27 O.S.C.B. 1603. In discussing the requirements of an investment contract it was stated in that decision:

> [24] In *Securities and Exchange Commission* v. *W.J. Howey Co. et a,* 328 U.S. 293(1946), the Supreme Court of the United States enunciated a three-part test to determine whether a scheme constitutes an investment contract. The three requirements are that the scheme involve (i) an investment of money, (ii) in a common enterprise, (iii) with profits solely to come from the efforts of others.
>
> [25] In *Howey*, Mr. Justice Murphy stated with respect to the meaning of "investment contract":
>
> > [i]t had been broadly construed by state courts so as to afford the investing public a full measure of protection. Form was disregarded for substance and emphasis was place upon economic reality. An investment contract thus came to mean a contract or scheme "the placing of capital or laying out of money in a way intended to secure income or profit from its employment"… In other words, an investment contract for purpose of the *Securities Act* means a contract, transaction or scheme whereby a person invests his money in a common enterprise and is led to expect profits solely from the efforts of the promoter or a third party, it being immaterial whether the shares in the enterprise are evidenced by formal certificates or by nominal interest in the physical assets employed in the enterprise… It embodies a flexible rather than a static principle, one that is capable of adaptation to meet the countless and variable schemes devised by those who seek the use of the money of others on the promise of profits.
>
> [26] He stated"
>
> > [i]t follows that the arrangements whereby the investors' interests are made manifest involve investment contracts, *regardless of the legal terminology in which such contracts are clothed"* (italics added)… the test is whether the scheme involves an investment of money in a common enterprise with profits to come solely from the efforts of others.
>
> [27] This test was refined and endorsed by the Supreme Court of Canada in *Pacific Coast* at page 540. In that case, the court observed:
>
> > … to give a strict interpretation of the word "solely" … would not serve the purpose of the legislation. Rather we adopt a more realistic test, whether the efforts made by those others than the investor are the undeniably significant ones, those essential managerial efforts which affect the failure or success of the enterprise . . . The expression "common enterprise" has been defined to mean . . one in which the fortunes of the investor are interwoven with and dependent upon the efforts and success of those seeking the investment of third parties.

47. Having regard to the test set out above for an investment contract, we find the characteristics of the high yield program, as described in paragraph 12 of the Agreed Statement of Facts, satisfy that test and meet the requirements to constitute a security as defined under the Act.

Were the High Yield Programs Being Traded by the Respondents?

48. As noted earlier, the Amended Statement of Allegations does not allege that there were any actual trades but does assert that there were specific acts in furtherance of trades.

49. Those acts are found in paragraph 22 of the Amended Statement of Allegations and are:

(a) By accepting the funds from the investors.

(b) By attempting to forward the funds to purchase the bank guarantee or debenture (the proceeds would be used to access the high yield program).

(c) By repeatedly providing proof of funds letters to third parties.

50. In considering the acts alleged in furtherance of trades, it is necessary that only one or more of the three acts be established. It is necessary, however, that it be established that any acts were in furtherance of trades to one or more of the seven investors and that they were acts in furtherance of trades of the high yield programs.

51. This is of particular importance in that there is no evidence of solicitation or acts by the Respondents that led to the investors transferring monies to the Respondents' accounts. The fact that there is no such evidence does not mean that it cannot be found that the Respondents were trading. It does mean, however, that to prove the Respondents were acting in furtherance of trades, it must be established that the alleged acts were acts in furtherance of trades of the high yield programs to one or more of the seven investors.

52. In considering whether this has been established, both the Agreed Statement of Facts and the documents in the six volumes of the Joint Hearing Brief must be considered.

53. The Agreed Statement of Facts and the Joint Hearing Brief were put to the Panel by agreement between Staff and the Respondents as the only evidence in this matter. This means that both Staff and the Respondents understood that they would not have an opportunity through *viva voce* evidence to provide additional evidence in order to provide explanations, elaborations or qualifications as to what has been agreed to in the Agreed Statement of Facts and the documents in the Joint Hearing Brief.

54. Paragraphs 9 – 18 of the Agreed Statement of Facts set out in a logical sequence a comprehensive set of facts starting with the Respondents opening accounts, then receiving the monies and ending with the Respondents attempting to enter into high yield programs. That sequence and the detail of the facts are important and cannot be ignored in considering the issue as to whether there is evidence that the acts alleged in furtherance of the trades were actually for and on behalf of trades in high yield programs to one or more of the seven investors.

55. Having carefully considered the Agreed Statement of Facts, the only reasonable conclusion is that it was intended to convey that the investors deposited their money with the Respondents for the purpose of investing in high yield programs and that the Respondents accepted the money for that purpose and then took steps to access the high yield programs. To conclude, that the monies were deposited and accepted for any other purpose is simply not reasonable. If the Respondents did not intend this to be conveyed by the Agreed Statement of Facts, it should have been expressly so stated therein. This conclusion is expressly supported by footnotes 4 and 5 to the Agreed Statement of Facts.

56. In addition, documents in the Joint Hearing Brief support the fact that the investors deposited monies in the Respondents' accounts for the high yield programs and that they were accepted by the Respondents for that purpose.

57. Tab 54 of the Joint Hearing Brief is a letter dated October 2, 1996 from the Respondent, Lett, to Greater Ministries which contains the following paragraph:

> You have wired to Milehouse Investment Management Limited's account at Nesbitt Burns U.S. $475,000. No specific instruction or purpose was given to the use of these funds either to Milehouse or Nesbitt Burns at the time. However, the money has been used as margin for a high yield bank debenture and trading program. Since that time, you have given us U.S. $100,000 to Bob Douglas who has passed the funds to me and U.S. $150,000 to Milehouse.

58. Tab 393 of the Joint Hearing Brief is a letter dated August 13, 1999 from Lett to Velarde which includes the statement:

> Sometime ago you requested that I provide financial leverage for your clients' funds such that they could make a U.S. $10 million investment into the high yield trading program with Zagaras trading in the UK.
>
> I have followed your wishes to the letter and current that the U.S. $10 million investment is registered in a program waiting for an appropriate syndication to start trading.

59. Tab 214 of the Joint Hearing Brief is a Joint Venture Agreement dated March 24, 1998 between Milehouse Investment and Lenzburg Capital Corporation which contract is executed by Lett on March 24, 1998. The contract refers to a deposit of U.S. $4.5 million which closely coincides with the fact that the deposit of that amount in the Lett account on March 27, 1998 as noted in Schedule A to the Agreed Statement of Facts. The terms of this Joint Venture Agreement are consistent with high yield programs as set out in paragraph 12 of the Agreed Statement of Facts and also shows that the monies were deposited for and accepted by the Respondents for that purpose.

60. These and numerous other documents in the Joint Hearing Brief clearly demonstrate that the investors' monies were deposited in the Respondents' accounts and accepted by the Respondents for the purpose of selling participation in the high yield program.

61. A further act alleged in Amended Statement of Allegations as an act in furtherance of a trade was the fact that the Respondents repeatedly provided proof of funds letters to third parties. Paragraph 13 of the Agreed Statement of Facts sets

out numerous proof of funds letters that were obtained by the Respondents. When paragraph 13 is read in its context in the Agreed Statement of Facts with particular reference to paragraphs 14 and 15, we find that repeatedly providing proof of funds letters to third parties were acts in furtherance of a trade to the investors by the Respondents which has been clearly established by the evidence.

62. As noted earlier, Mr. Moore's submission is that these activities by the Respondents involved the Respondents purchasing or attempting to purchase debentures and attempting to purchase interests in high yield programs. Relying upon the decision of *Re Burnett* and the definition of trading in the Act, he maintains that these acts of purchase do not constitute trading.

63. The difficulty with this submission is that it may have been applicable if we had found that the securities in issue were the components of the high yield program rather than the high yield program itself. Having found that the high yield program in its totality constitutes a security, the issue becomes whether it was being traded and not whether the components of the program were being traded. The act of purchasing debentures is simply one of the acts required to be carried out by the Respondents in the trading of the high yield programs to the investors.

64. We find that it has been established with clear and compelling evidence that the Respondents have, as alleged, acted in furtherance of trades to the investors of high yield programs or of interests therein. This means that the Respondents were trading in securities as those terms are defined in the Act.

Exemptions

65. Having regard to section 206(1) of the Regulations, if we find that the Respondents were market intermediaries as defined in section 204(1) of the Regulations, the Respondents are not exempt from having to be registered. In order to make this finding, it is necessary for us to find that the Respondents were engaged in or held themselves out as engaging in Ontario in the business of trading in securities as principle or agent.

66. The Respondents were all based in the Toronto area, had bank accounts in the Toronto area, carried on business in the Toronto area. Most, if not all, of the documents referred to in the Agreed Statement of Facts and in the six volumes of documents composing the Joint Hearing Brief consist of documents that were either sent by the Respondents from the Toronto area or addressed to them in the Toronto area.

67. We have no hesitation in finding that the Respondents were carrying on business in Ontario.

68. Paragraph 18 of the Agreed Statement of Facts is an acknowledgement that a substantial part of the Respondents' time during the relevant period was involvement or attempted involvement in the high yield program. Based on that together with our finding that the investors deposited monies with the Respondents in Toronto and the monies were accepted by the Respondents for the purpose of acquiring high yield programs or interests therein, we find that the Respondents were market intermediaries and accordingly, have no exemption from the requirement of section 25 of the Act to be registered.

Was There Trading in Ontario?

69. The final issue for determination is whether the trading in securities was trading in Ontario. Having found that the Respondents had acted in furtherance of trading in regard to the high yield programs and as those acts occurred in Ontario, we find that the trading of the securities occurred in Ontario.

* * *

70. Based on these determinations, we find that it has been clearly established through the evidence before us that the Respondents traded in securities contrary to section 25(1)(a) of the Act as alleged.

71. Having regard to this finding, the Secretary of the Commission is asked to arrange a date to hear submissions concerning whether it is in the public interest to make one or more orders under section 127(1) and 127.1 of the *Securities Act*.

March 18, 2004.

"H. Lorne Morphy" "M. Theresa McLeod" "Suresh Thakrar"

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
222 Pizza Express Corp.	04 Mar 04	16 Mar 04		18 Mar 04
Azoico Ltd.	04 Mar 04	16 Mar 04		18 Mar 04
Energy Visions Inc.	09 Mar 04	19 Mar 04		23 Mar 04
EP 2000 Conservation Inc.	12 Mar 04	24 Mar 04	24 Mar 04	
Genoray Advanced Technologies Ltd.	23 Mar 04	02 Apr 04		
Intelpro Media Group Inc.	24 Mar 04	05 Apr 04		

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
Atlas Cold Storage Income Trust	02 Dec 03	15 Dec 03	15 Dec 03		

4.3.1 Issuer CTO's Revoked

Company Name	Date of Revocation
Veris Biotechnology Corporation	**18 Mar 04**

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Chapter 5

Rules and Policies

5.1.1 National Instrument 52-108 Auditor Oversight

NATIONAL INSTRUMENT 52-108
AUDITOR OVERSIGHT

PART 1 DEFINITIONS AND APPLICATION

1.1 Definitions - In this Instrument

"CPAB" means the Canadian Public Accountability Board/Conseil canadien sur la reddition de comptes, incorporated as a corporation without share capital under the *Canada Corporations Act* by Letters Patent dated April 15, 2003, and any of its successors;

"participation agreement" means a written agreement between the CPAB and a public accounting firm in connection with the CPAB's program of practice inspections and the establishment of practice requirements;

"participating audit firm" means a public accounting firm that has entered into a participation agreement and that has not had its participant status terminated, or, if its participant status was terminated, has been reinstated in accordance with CPAB by-laws; and

"public accounting firm" means a sole proprietorship, partnership, corporation or other legal entity engaged in the business of providing services as public accountants.

1.2 Application and Transition –

(1) This Instrument applies to reporting issuers and public accounting firms.

(2) Section 2.1 and Part 3 do not apply in Alberta, British Columbia and Manitoba.

(3) Part 2 does not apply unless

(a) the CPAB's prescribed time period for the public accounting firm to submit a participation agreement has expired, and

(b) the auditor's report prepared by the public accounting firm is dated on or after March 30, 2004.

PART 2 AUDITOR OVERSIGHT

2.1 Public accounting firms – A public accounting firm that prepares an auditor's report with respect to the financial statements of a reporting issuer must be, as of the date of its auditor's report,

(a) a participating audit firm, and

(b) in compliance with any restrictions or sanctions imposed by the CPAB.

2.2 Reporting Issuers – A reporting issuer that files its financial statements accompanied by an auditor's report must have the auditor's report prepared by a public accounting firm that is, as of the date of the auditor's report,

(a) a participating audit firm, and

(b) in compliance with any restrictions or sanctions imposed by the CPAB.

PART 3 NOTICE

3.1 Notice of Restrictions -

(1) A participating audit firm that is appointed to prepare an auditor's report with respect to the financial statements of a reporting issuer must, if the CPAB imposes restrictions on the participating audit firm intended to address defects in its quality control systems, provide notice to the regulator.

(2) The notice required under subsection (1) must be in writing and include a complete description of

(a) the defects in the quality control systems identified by the CPAB, and

(b) the restrictions imposed by the CPAB, including the date the restrictions were imposed and the time period within which the participating audit firm agreed to address the defects.

(3) The notice required under subsection (1) must be delivered within 2 business days of the restrictions being imposed.

3.2 Idem -

(1) A participating audit firm that is subject to CPAB restrictions intended to address defects in its quality control systems and that is informed by the CPAB that it failed to address defects in its quality control systems, to the satisfaction of the CPAB, within the agreed upon time period, must provide notice to

(a) the audit committee of each reporting issuer for which it is appointed to prepare an auditor's report, or, if a reporting issuer does not have an audit committee, the board of directors or the person or persons responsible for reviewing and approving the reporting issuer's financial statements before they are filed, and

(b) the regulator, if the participating audit firm is appointed to prepare an auditor's report with respect to the financial statements of a reporting issuer.

(2) The notice required under subsection (1) must be in writing and include a complete description of

(a) the defects in the quality control systems identified by the CPAB,

(b) the restrictions imposed by the CPAB that were intended to address defects in its quality control systems, including the date the restrictions were imposed and the time period within which the participating audit firm agreed to address the defects, and

(c) the reasons it was unable to address the defects to the satisfaction of the CPAB.

(3) The notice required under subsection (1) must be delivered within 10 business days of the participating audit firm being informed by the CPAB that it has failed to address the defects in its quality control systems.

3.3 Notice of Sanctions –

(1) A participating audit firm that is subject to sanctions imposed by the CPAB must provide notice to

(a) the audit committee of each reporting issuer for which it is appointed to prepare an auditor's report, or, if a reporting issuer does not have an audit committee, the board of directors or the person or persons responsible for reviewing and approving the reporting issuer's financial statements before they are filed, and

(b) the regulator, if the participating audit firm is appointed to prepare an auditor's report with respect to the financial statements of a reporting issuer.

(2) The notice required under subsection (1) must be in writing and include a complete description of the sanctions imposed by the CPAB, including the date the sanctions were imposed.

(3) The notice required under subsection (1) must be delivered within 10 business days of the sanctions being imposed.

3.4 Notice of Restrictions and Sanctions Prior to Appointment –

(1) Prior to accepting an appointment to prepare an auditor's report with respect to the financial statements of a reporting issuer, a participating audit firm must provide notice in accordance with

(a) subsections 3.2(1) and 3.2(2), if the CPAB informed the participating audit firm within the 12-month period immediately preceding the expected date of appointment that it failed to address defects in its quality control systems to the satisfaction of the CPAB, and

(b) subsections 3.3(1) and 3.3(2), if the CPAB imposed sanctions on the participating audit firm within the 12-month period immediately preceding the expected date of appointment.

(2) For the purposes of subsection (1), the references to "is appointed" contained in subsections 3.2(1) and 3.3(1) shall mean "is expected to be appointed."

(3) A participating audit firm is not required to provide notice under subsection (1) if, pursuant to a notice provided under sections 3.2 or 3.3, the reporting issuer and regulator have been provided notice of the participating audit firm's failure to address the defects in its quality control systems to the satisfaction of the CPAB and of the sanctions imposed by the CPAB.

PART 4 EXEMPTION

4.1 Exemption –

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

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

PART 5 EFFECTIVE DATE

5.1 Effective Date – This Instrument comes into force on March 30, 2004.

5.1.2 Multilateral Instrument 52-109 Certification of Disclosure in Issuers' Annual and Interim Filings

MULTILATERAL INSTRUMENT 52-109
CERTIFICATION OF DISCLOSURE IN ISSUERS' ANNUAL AND INTERIM FILINGS

Part 1 – Definitions and Application

1.1 Definitions - In this Instrument,

"AIF" has the meaning ascribed to it in NI 51-102*;*

"annual certificate" means the certificate required to be filed pursuant to Part 2;

"annual filings" means the issuer's AIF, if any, and annual financial statements and annual MD&A filed under provincial and territorial securities legislation for the most recently completed financial year, including for greater certainty all documents and information that are incorporated by reference in the AIF;

"annual financial statements" means the annual financial statements required to be filed under NI 51-102;

"Canadian GAAP" has the meaning ascribed to it in NI 52-107;

"disclosure controls and procedures" means controls and other procedures of an issuer that are designed to provide reasonable assurance that information required to be disclosed by the issuer in its annual filings, interim filings or other reports filed or submitted by it under provincial and territorial securities legislation is recorded, processed, summarized and reported within the time periods specified in the provincial and territorial securities legislation and include, without limitation, controls and procedures designed to ensure that information required to be disclosed by an issuer in its annual filings, interim filings or other reports filed or submitted under provincial and territorial securities legislation is accumulated and communicated to the issuer's management, including its chief executive officers and chief financial officers (or persons who perform similar functions to a chief executive officer or a chief financial officer), as appropriate to allow timely decisions regarding required disclosure;

"interim certificate" means the certificate required to be filed pursuant to Part 3;

"interim filings" means the issuer's interim financial statements and interim MD&A filed under provincial and territorial securities legislation for the most recently completed interim period;

"interim financial statements" means the interim financial statements required to be filed under NI 51-102;

"interim period" has the meaning ascribed to it in NI 51-102;

"internal control over financial reporting" means a process designed by, or under the supervision of, the issuer's chief executive officers and chief financial officers, or persons performing similar functions, and effected by the issuer's board of directors, management and other personnel, to provide reasonable assurance regarding the reliability of financial reporting and the preparation of financial statements for external purposes in accordance with the issuer's GAAP and includes those policies and procedures that:

(a) pertain to the maintenance of records that in reasonable detail accurately and fairly reflect the transactions and dispositions of the assets of the issuer,

(b) provide reasonable assurance that transactions are recorded as necessary to permit preparation of financial statements in accordance with the issuer's GAAP, and that receipts and expenditures of the issuer are being made only in accordance with authorizations of management and directors of the issuer, and

(c) provide reasonable assurance regarding prevention or timely detection of unauthorized acquisition, use or disposition of the issuer's assets that could have a material effect on the annual financial statements or interim financial statements;

"investment fund" has the meaning ascribed to it in NI 51-102;

"issuer's GAAP" has the meaning ascribed to it in NI 52-107;

"MD&A" has the meaning ascribed to it in NI 51-102*;*

"NI 51-102" means National Instrument 51-102 *Continuous Disclosure Obligations*;

"NI 52-107" means National Instrument 52-107 *Acceptable Accounting Principles, Auditing Standards and Reporting Currency*;

"Sarbanes-Oxley Act" means the Sarbanes-Oxley Act of 2002, Pub.L. 107-204, 116 Stat. 745 (2002);

"SEDAR" means the computer system for the transmission, receipt, acceptance, review and dissemination of documents filed in electronic format known as the System for Electronic Document Analysis and Retrieval;

"subsidiary" has the meaning ascribed to it in Section 1590 of the CICA Handbook; and

"US GAAP" has the meaning ascribed to it in NI 52-107.

1.2 Application – This Instrument applies to all reporting issuers other than investment funds.

Part 2 – Certification of Annual Filings

2.1 Every issuer must file a separate annual certificate, in Form 52-109F1, in respect of and personally signed by each person who, at the time of filing the annual certificate:

1. is a chief executive officer;

2. is a chief financial officer; and

3. in the case of an issuer that does not have a chief executive officer or chief financial officer, performs similar functions to a chief executive officer or a chief financial officer, as the case may be.

2.2 The annual certificates must be filed by the issuer separately but concurrently with the latest of the following:

1. if it files an AIF, the filing of its AIF; and

2. the filing of its annual financial statements and annual MD&A.

Part 3 - Certification of Interim Filings

3.1 Every issuer must file for each interim period a separate interim certificate, in Form 52-109F2, in respect of and personally signed by each person who, at the time of the filing of the interim certificate:

1. is a chief executive officer;

2. is a chief financial officer; and

3. in the case of an issuer that does not have a chief executive officer or chief financial officer, performs similar functions to a chief executive officer or a chief financial officer, as the case may be.

3.2 The interim certificates must be filed by the issuer separately but concurrently with the filing of its interim filings.

Part 4 - Exemptions

4.1 Exemption for Issuers that Comply with U.S. Laws –

(1) Subject to subsection (4), an issuer is exempt from Part 2 with respect to the most recently completed financial year if:

(a) the issuer is in compliance with U.S. federal securities laws implementing the annual report certification requirements in section 302(a) of the Sarbanes-Oxley Act; and

(b) the issuer's signed certificates relating to its annual report for its most recently completed financial year are filed through SEDAR as soon as reasonably practicable after they are filed with the SEC.

(2) Subject to subsection (5), an issuer is exempt from Part 3 with respect to the most recently completed interim period if:

(a) the issuer is in compliance with U.S. federal securities laws implementing the quarterly report certification requirements in section 302(a) of the Sarbanes-Oxley Act; and

(b) the issuer's signed certificates relating to its quarterly report for its most recently completed quarter are filed through SEDAR as soon as reasonably practicable after they are filed with the SEC.

(3) An issuer is exempt from Part 3 with respect to the most recently completed interim period if:

(a) the issuer furnishes to the SEC a current report on Form 6-K containing the issuer's quarterly financial statements and MD&A;

(b) the Form 6-K is accompanied by signed certificates that are furnished to the SEC in the same form required by U.S. federal securities laws implementing the quarterly report certification requirements in section 302(a) of the Sarbanes-Oxley Act; and

(c) the signed certificates relating to the quarterly report filed under cover of the Form 6-K are filed through SEDAR as soon as reasonably practicable after they are furnished to the SEC.

(4) Notwithstanding subsection 4.1(1), Part 2 of this Instrument applies to an issuer with respect to the most recently completed financial year if the issuer files annual financial statements prepared in accordance with Canadian GAAP, unless the issuer files those statements with the SEC in compliance with U.S. federal securities laws implementing the annual report certification requirements in section 302(a) of the Sarbanes-Oxley Act.

(5) Notwithstanding subsection 4.1(2), Part 3 of this Instrument applies to an issuer with respect to the most recently completed interim period if the issuer files interim financial statements prepared in accordance with Canadian GAAP, unless the issuer files those statements with the SEC in compliance with U.S. federal securities laws implementing the quarterly report certification requirements in section 302(a) of the Sarbanes-Oxley Act.

4.2 Exemption for Foreign Issuers – An issuer is exempt from the requirements in this Instrument so long as it qualifies for the relief contemplated by, and is in compliance with the requirements and conditions set out in, sections 5.4 and 5.5 of National Instrument 71-102 *Continuous Disclosure and Other Exemptions Relating to Foreign Issuers.*

4.3 Exemption for Certain Exchangeable Security Issuers – An issuer is exempt from the requirements in this Instrument so long as it qualifies for the relief contemplated by, and is in compliance with the requirements and conditions set out in, section 13.3 of NI 51-102.

4.4 Exemption for Certain Credit Support Issuers – An issuer is exempt from the requirements in this Instrument so long as it qualifies for the relief contemplated by, and is in compliance with the requirements and conditions set out in, section 13.4 of NI 51-102.

4.5 General Exemption –

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

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

Part 5 - Effective Date and Transition

5.1 Effective Date - This Instrument comes into force on March 30, 2004.

5.2 Transition –

(1) **Annual Certificates** –

(a) Subject to paragraph (1)(b), the provisions of this Instrument concerning annual certificates apply for financial years beginning on or after January 1, 2004.

(b) Notwithstanding Part 2 or paragraph (1)(a), an issuer may file annual certificates in Form 52-109FT1 in respect of any financial year ending on or before March 30, 2005.

(2) **Interim Certificates** –

(a) Subject to paragraph (2)(b), the provisions of this Instrument concerning interim certificates apply for interim periods beginning on or after January 1, 2004.

(b) Notwithstanding Part 3 or paragraph (2)(a), an issuer may file interim certificates in Form 52-109FT2 in respect of any interim period that occurs prior to the end of the first financial year in respect of which the issuer is required to file an annual certificate in Form 52-109F1.

Form 52-109F1 - Certification of Annual Filings

I, ***‹identify the certifying officer, the issuer, and his or her position at the issuer›***, certify that:

1. I have reviewed the annual filings (as this term is defined in Multilateral Instrument 52-109 *Certification of Disclosure in Issuers' Annual and Interim Filings*) of ***‹identify issuer›*** (the issuer) for the period ending ***‹state the relevant date›***;

2. Based on my knowledge, the annual filings do not contain any untrue statement of a material fact or omit to state a material fact required to be stated or that is necessary to make a statement not misleading in light of the circumstances under which it was made, with respect to the period covered by the annual filings;

3. Based on my knowledge, the annual financial statements together with the other financial information included in the annual filings fairly present in all material respects the financial condition, results of operations and cash flows of the issuer, as of the date and for the periods presented in the annual filings;

4. The issuer's other certifying officers and I are responsible for establishing and maintaining disclosure controls and procedures and internal control over financial reporting for the issuer, and we have:

   (a) designed such disclosure controls and procedures, or caused them to be designed under our supervision, to provide reasonable assurance that material information relating to the issuer, including its consolidated subsidiaries, is made known to us by others within those entities, particularly during the period in which the annual filings are being prepared;

   (b) designed such internal control over financial reporting, or caused it to be designed under our supervision, to provide reasonable assurance regarding the reliability of financial reporting and the preparation of financial statements for external purposes in accordance with the issuer's GAAP; and

   (c) evaluated the effectiveness of the issuer's disclosure controls and procedures as of the end of the period covered by the annual filings and have caused the issuer to disclose in the annual MD&A our conclusions about the effectiveness of the disclosure controls and procedures as of the end of the period covered by the annual filings based on such evaluation; and

5. I have caused the issuer to disclose in the annual MD&A any change in the issuer's internal control over financial reporting that occurred during the issuer's most recent interim period that has materially affected, or is reasonably likely to materially affect, the issuer's internal control over financial reporting.

Date: .....

_____
[Signature]
[Title]

Form 52-109FT1 - Certification of Annual Filings during Transition Period

I, ***‹identify the certifying officer, the issuer, and his or her position at the issuer›***, certify that:

1. I have reviewed the annual filings (as this term is defined in Multilateral Instrument 52-109 *Certification of Disclosure in Issuers' Annual and Interim Filings*) of ***‹identify issuer›*** (the issuer) for the period ending ***‹state the relevant date›***;

2. Based on my knowledge, the annual filings do not contain any untrue statement of a material fact or omit to state a material fact required to be stated or that is necessary to make a statement not misleading in light of the circumstances under which it was made, with respect to the period covered by the annual filings; and

3. Based on my knowledge, the annual financial statements together with the other financial information included in the annual filings fairly present in all material respects the financial condition, results of operations and cash flows of the issuer, as of the date and for the periods presented in the annual filings.

Date: .....

_____
[Signature]
[Title]

Form 52-109F2 - Certification of Interim Filings

I ***‹identify the certifying officer, the issuer, and his or her position at the issuer›***, certify that:

1. I have reviewed the interim filings (as this term is defined in Multilateral Instrument 52-109 *Certification of Disclosure in Issuers' Annual and Interim Filings*) of ***‹identify the issuer›***, (the issuer) for the interim period ending ***‹state the relevant date›***;

2. Based on my knowledge, the interim filings do not contain any untrue statement of a material fact or omit to state a material fact required to be stated or that is necessary to make a statement not misleading in light of the circumstances under which it was made, with respect to the period covered by the interim filings;

3. Based on my knowledge, the interim financial statements together with the other financial information included in the interim filings fairly present in all material respects the financial condition, results of operations and cash flows of the issuer, as of the date and for the periods presented in the interim filings;

4. The issuer's other certifying officers and I are responsible for establishing and maintaining disclosure controls and procedures and internal control over financial reporting for the issuer, and we have:

   (a) designed such disclosure controls and procedures, or caused them to be designed under our supervision, to provide reasonable assurance that material information relating to the issuer, including its consolidated subsidiaries, is made known to us by others within those entities, particularly during the period in which the interim filings are being prepared; and

   (b) designed such internal control over financial reporting, or caused it to be designed under our supervision, to provide reasonable assurance regarding the reliability of financial reporting and the preparation of financial statements for external purposes in accordance with the issuer's GAAP; and

5. I have caused the issuer to disclose in the interim MD&A any change in the issuer's internal control over financial reporting that occurred during the issuer's most recent interim period that has materially affected, or is reasonably likely to materially affect, the issuer's internal control over financial reporting.

Date: .....

_____
[Signature]
[Title]

Form 52-109FT2 - Certification of Interim Filings during Transition Period

I ***‹identify the certifying officer, the issuer, and his or her position at the issuer›***, certify that:

1. I have reviewed the interim filings (as this term is defined in Multilateral Instrument 52-109 *Certification of Disclosure in Issuers' Annual and Interim Filings*) of ***‹identify the issuer›***, (the issuer) for the interim period ending ***‹state the relevant date›***;

2. Based on my knowledge, the interim filings do not contain any untrue statement of a material fact or omit to state a material fact required to be stated or that is necessary to make a statement not misleading in light of the circumstances under which it was made, with respect to the period covered by the interim filings; and

3. Based on my knowledge, the interim financial statements together with the other financial information included in the interim filings fairly present in all material respects the financial condition, results of operations and cash flows of the issuer, as of the date and for the periods presented in the interim filings.

Date: .....

_____
[Signature]
[Title]

Companion Policy 52-109CP – To Multilateral Instrument 52-109
Certification of Disclosure in Issuers' Annual and Interim Filings

Part 1 – General

This Companion Policy provides information about how the provincial and territorial securities regulatory authorities interpret Multilateral Instrument 52-109, and should be read in conjunction with it.

Part 2 – Form and Filing of Certificates

The annual certificates and interim certificates must be filed in the exact language prescribed in Forms 52-109F1 and 52-109F2 (subject to Part 3 – Form of Certificates during Transition Period). Each certificate must be separately filed through SEDAR under the issuer's profile in the appropriate annual certificate or interim certificate filing type:

Category of Filing - Continuous Disclosure
Folder for Filing Type - General

Filing Type - Annual Certificates
Document Type:
Form 52-109F1 - Certification of Annual Filings - CEO
Form 52-109F1 - Certification of Annual Filings - CFO
Form 52-109FT1 - Certification of Annual Filings - CEO
Form 52-109FT1 - Certification of Annual Filings - CFO

or

Filing Type - Interim Certificates
Document Type:
Form 52-109F2 - Certification of Interim Filings - CEO
Form 52-109F2 - Certification of Interim Filings - CFO
Form 52-109FT2 - Certification of Interim Filings - CEO
Form 52-109FT2 - Certification of Interim Filings - CFO

As indicated in Part 11, an issuer that is in compliance with U.S. federal securities laws implementing the certification requirements in section 302(a) of the Sarbanes-Oxley Act, may be able to rely upon the exemptions from the annual certificate and interim certificate requirements under section 4.1. To avail itself of these exemptions, an issuer must file through SEDAR the certificates of the chief executive officer and chief financial officer that the issuer filed with SEC as exhibits to the annual or quarterly reports with respect to the relevant reporting period. These certificates should be filed in the appropriate filing type described above.

An issuer relying on the exemptions in section 4.1 of the Instrument need not file the paper copies of the signed certificates that it filed with, or furnished to, the SEC.

Part 3 – Certificates during Transition Period

Section 5.2 provides for a transition period for the filing of both annual certificates and interim certificates.

Pursuant to section 2.1, an issuer is required to file its annual certificates in Form 52-109F1. Under subsection 5.2(1)(b), however, an issuer may file annual certificates in Form 52-109FT1 in respect of any financial year ending on or before March 30, 2005. Form 52-109FT1 does not require the certifying officers to make the representations set out in paragraphs 4 and 5 of Form 52-109F1 regarding the design of disclosure controls and procedures and internal control over financial reporting, the evaluation of the effectiveness of disclosure controls and procedures and any changes in the issuer's internal control over financial reporting.

Pursuant to section 3.1, an issuer is required to file its interim certificates in Form 52-109F2. Under subsection 5.2(2)(b), however, an issuer may file interim certificates in Form 52-109FT2 in respect of any interim period that occurs prior to the end of the first financial year in respect of which the issuer is required to file an annual certificate in Form 52-109F1. The representations set out in paragraphs 4 and 5 of Form 52-109F1 will serve as the basis for the corresponding representations set out in paragraphs 4 and 5 of Form 52-109F2.

Upon completion of the transition period, issuers must file annual certificates and interim certificates in Forms 52-109F1 and 52-109F2, respectively, which will include the representations in paragraph 4 of these forms. For further clarification, we do not

expect the representations in paragraph 4 to extend to the prior period comparative information included in the annual filings or interim filings if:

(a) the prior period comparative information was previously the subject of certificates in Forms 52-109FT1 or 52-109FT2; or

(b) the Instrument did not require an annual certificate or interim certificate in respect of the prior period to be filed.

For illustration purposes only, the table in Appendix A sets out the filing requirements for annual certificates and interim certificates of issuers with financial years beginning on the first day of a month.

Part 4 – Persons Performing Functions Similar to a Chief Executive Officer and Chief Financial Officer

Where an issuer does not have a chief executive officer or chief financial officer, each person who performs similar functions to a chief executive officer or chief financial officer must certify the annual filings and interim filings. It is left to the issuer's discretion to determine who those persons are. In the case of an income trust reporting issuer (as described in proposed National Policy 41-201 *Income Trusts and Other Indirect Offerings*) where executive management resides at the underlying business entity level or in an external management company, we would generally consider the chief executive officer or chief financial officer of the underlying business entity or the external management company to be persons performing functions in respect of the income trust similar to a chief executive officer or chief financial officer. In the case of a limited partnership reporting issuer with no chief executive officer or chief financial officer, we would generally consider the chief executive officer or chief financial officer of its general partner to be persons performing functions in respect of the limited partnership reporting issuer similar to a chief executive officer or chief financial officer.

Part 5 – "New" Chief Executive Officers and Chief Financial Officers

Chief executive officers and chief financial officers (or persons performing functions similar to a chief executive officer or chief financial officer) holding such offices at the time that annual certificates and interim certificates are required to be filed are the persons who must sign those certificates. Certifying officers are required to file annual certificates and interim certificates in the specified form (without any amendment) and failure to do so will be a breach of the Instrument.

Pursuant to paragraphs 4(a) and (b) of Forms 52-109F1 and 52-109F2, the certifying officers are required to represent that they have designed (or caused to be designed under their supervision) disclosure controls and procedures and internal control over financial reporting. There may be situations where an issuer's disclosure controls and procedures and internal control over financial reporting have been designed and implemented prior to the certifying officers assuming their respective offices. We recognize that in these situations the certifying officers may have difficulty in representing that they have designed or caused to be designed these controls and procedures. In our view, where:

(a) disclosure controls and procedures and internal control over financial reporting have been designed and implemented prior to the certifying officers assuming their respective offices;

(b) the certifying officers have reviewed the existing controls and procedures upon assuming their respective offices; and

(c) the certifying officers have designed (or caused to be designed under their supervision) any modifications or enhancements to the existing controls and procedures determined to be necessary following their review,

the certifying officers will have designed (or caused to be designed under their supervision) these controls and procedures for the purposes of paragraphs 4(a) and (b) of Forms 52-109F1 and 52-109F2.

Part 6 – Internal Control over Financial Reporting and Disclosure Controls and Procedures

We believe that chief executive officers and chief financial officers should be required to certify that their issuers have adequate internal control over financial reporting and disclosure controls and procedures. We believe that this is an important factor in maintaining integrity in our capital markets and thereby enhancing investor confidence in our capital markets. The Instrument defines "disclosure controls and procedures" and "internal control over financial reporting". The Instrument does not, however, prescribe the degree of complexity or any specific policies or procedures that must make up those controls and procedures. This is intentional. In our view, these considerations are best left to management's judgement based on various factors that may be particular to an issuer, including its size, the nature of its business and the complexity of its operations.

While there is a substantial overlap between the definition of disclosure controls and procedures and internal control over financial reporting, there are both some elements of disclosure controls and procedures that are not subsumed within the definition of internal control over financial reporting and some elements of internal control over financial reporting that are not subsumed within the definition of disclosure controls and procedures. For example, disclosure controls and procedures may

include those components of internal control over financial reporting that provide reasonable assurances that transactions are recorded as necessary to permit the preparation of financial statements in accordance with the issuer's GAAP. However, some issuers may design their disclosure controls and procedures so that certain components of internal control over financial reporting pertaining to the accurate recording of transactions and disposition of assets or to the safeguarding of assets are not included.

Part 7 – Evaluation of Effectiveness of Disclosure Controls and Procedures

Paragraph 4(c) of Form 52-109F1 requires the certifying officers to represent that they have evaluated the effectiveness of the issuer's disclosure controls and procedures and have caused the issuer to disclose in the annual MD&A their conclusions about the effectiveness of the disclosure controls and procedures based on such evaluation. The Instrument does not specify the contents of the certifying officers' report on its evaluation of disclosure controls and procedures; however, given that disclosure controls and procedures should be designed to provide, at a minimum, reasonable assurance of achieving their objectives, the report should set forth, at a minimum, the conclusions of the certifying officers as to whether the controls and procedures are, in fact, effective at the "reasonable assurance" level.

Part 8 – Fair Presentation

Pursuant to the third paragraph in each of the annual certificates and interim certificates, the chief executive officer and chief financial officer must each certify that their issuer's financial statements and other financial information "fairly present" the financial condition of the issuer for the relevant time period. Those representations are not qualified by the phrase "in accordance with generally accepted accounting principles" which Canadian auditors typically include in their financial statement audit reports. This qualification has been specifically excluded from the Instrument to prevent management from relying entirely upon compliance with the issuer's GAAP in this representation, particularly where the issuer's GAAP financial statements may not reflect the financial condition of an issuer (since the issuer's GAAP does not always define all the components of an overall fair presentation).

The Instrument requires the certifying officers to certify that the financial statements (including prior period comparative financial information) *and the other financial information* included in the annual filings and interim filings fairly present the issuer's financial condition, results of operation and cash flows. The certification statement regarding the fair presentation of financial statements and other information is not limited to a representation that the financial statements and other financial information have been presented in accordance with the issuer's GAAP. We believe that this is appropriate as the certification is intended to provide assurances that the financial information disclosed in the annual filings and interim filings, viewed in their entirety, meets a standard of overall material accuracy and completeness that is broader than financial reporting requirements under GAAP. As a result, issuers are not entitled to limit the representation to Canadian GAAP, US GAAP or any other source of generally accepted accounting principles.

We do not believe that a formal definition of fair presentation is appropriate as it encompasses a number of qualitative and quantitative factors that may not be applicable to all issuers. In our view, fair presentation includes but is not necessarily limited to:

- selection of appropriate accounting policies
- proper application of appropriate accounting policies
- disclosure of financial information that is informative and reasonably reflects the underlying transactions
- inclusion of additional disclosure necessary to provide investors with a materially accurate and complete picture of financial condition, results of operations and cash flows

The concept of fair presentation as used in the annual certificates and interim certificates is not limited to compliance with the issuer's GAAP; however, it is not intended to permit an issuer to depart from the issuer's GAAP recognition and measurement principles in the preparation of its financial statements. In the event that an issuer is of the view that there are limitations to the issuer's GAAP based financial statements as an indicator of the issuer's financial condition, the issuer should provide additional disclosure in its MD&A necessary to provide a materially accurate and complete picture of the issuer's financial condition, results of operations and cash flows.

For additional commentary on what constitutes fair presentation we refer you to case law in this area. The leading U.S. case in this area is *U.S. v. Simon* (425 F.2d 796); the leading Canadian case in this area is the B.C. Court of Appeal decision in *Kripps v. Touche Ross and Co.* [1997] B.C.J. No. 968.

Part 9 – Financial Condition

Pursuant to the third paragraph in each of the annual certificates and interim certificates, the chief executive officer and chief financial officer must each certify that their issuer's financial statements fairly present the financial condition of the issuer for the relevant time period. The Instrument does not formally define financial condition. The term "financial condition" in the annual certificates and interim certificates is intended to be used in the same manner as the term "financial condition" is used in The Canadian Institute of Chartered Accountants' MD&A Guidelines and NI 51-102. In our view, financial condition encompasses a number of qualitative and quantitative factors which would be difficult to enumerate in a comprehensive list applicable to all issuers. Financial condition of an issuer includes, without limitation, considerations such as:

- liquidity
- solvency
- capital resources
- overall financial health of the issuer's business
- current and future considerations, events, risks or uncertainties that might impact the financial health of the issuer's business

Part 10 – Consolidation

Issuers are required to prepare their financial statements on a consolidated basis under the issuer's GAAP. As a result the representations in paragraphs 2 and 3 of the certification will extend to consolidated financial statements. In addition, when the certifying officers provide these two representations, we expect that these representations will indicate that their issuers' disclosure controls and procedures provide reasonable assurance that material information relating to their issuers *and their consolidated subsidiaries* is made known to them.

We are of the view that regardless of the level of control that an issuer has over a consolidated subsidiary, management of the issuer has an obligation to present consolidated disclosure that includes a fair presentation of the financial condition of the subsidiary. An issuer needs to maintain adequate internal control over financial reporting and disclosure controls and procedures to accomplish this. In the event that a chief executive officer or chief financial officer is not satisfied with his or her issuer's controls and procedures insofar as they relate to consolidated subsidiaries, the chief executive officer or chief financial officer should cause the issuer to disclose in its MD&A his or her concerns regarding such controls and procedures.

An issuer's financial results and MD&A may consolidate those of a subsidiary which is also a reporting issuer. In those circumstances, it is left to the business judgment of the certifying officers of the issuer to determine the level of due diligence required in respect of the consolidated subsidiary in order to provide the issuer's certification.

Part 11 – Exemptions

The exemptions in section 4.1 of the Instrument are based on our view that the investor confidence aims of the Instrument do not justify requiring issuers to comply with the certification requirements in the Instrument if such issuers already comply with substantially similar requirements in the U.S.

As a condition to being exempt from the annual certificate and interim certificate requirements under subsections 4.1(1) and (2) respectively, issuers must file through SEDAR the certificates of the chief executive officer and chief financial officer that they filed with the SEC in compliance with its rules implementing the certification requirements prescribed in section 302(a) of the Sarbanes-Oxley Act.

Pursuant to NI 52-107 certain Canadian issuers are able to satisfy their requirements to file financial statements prepared in accordance with Canadian GAAP by filing statements prepared in accordance with US GAAP. However, it is possible that some Canadian issuers may still continue to prepare two sets of financial statements and continue to file their Canadian GAAP statements in the applicable jurisdictions. In order to ensure that the Canadian GAAP financial statements are certified (pursuant to either the Sarbanes-Oxley Act or the Instrument) those issuers will not have recourse to the exemptions in subsections 4.1(1) and (2).

Part 12 – Liability for False Certification

An officer providing a false certification potentially could be subject to quasi-criminal, administrative or civil proceedings under securities law.

Officers providing a false certification could also potentially be subject to private actions for damages either at common law or, in Québec, under civil law, or under the *Securities Act* (Ontario) when amendments which create statutory civil liability for misrepresentations in continuous disclosure are proclaimed in force. The liability standard applicable to a document required to be filed with the Ontario Securities Commission, including an annual certificate or interim certificate, will depend on whether the document is a "core" document as defined under Part XXIII.1 of the *Securities Act* (Ontario). Annual certificates and interim certificates are currently not included in the definition of "core document" but would be caught by the definition of "document".

In any action commenced under Part XXIII.1 of the *Securities Act* (Ontario) a court has the discretion to treat multiple misrepresentations having common subject matter or content as a single misrepresentation. This provision could permit a court in appropriate cases to treat a misrepresentation in an issuer's financial statements and a misrepresentation made by an officer in an annual certificate or interim certificate that relate to the underlying financial statements as a single misrepresentation.

Appendix A – Annual Certificate and Interim Certificate Filing Requirements

For illustration purposes only, the following table sets out the filing requirements for annual certificates and interim certificates for issuers with financial years beginning on the first day of a month.

Financial Year Beginning On	Financial Period	Annual Certificate Required	Interim Certificate Required	Form of Certificate[1]
January 1 **(i.e. year end of December 31)**	Financial year January 1, 2003 to December 31, 2003	No	Not Applicable	*The Instrument does not apply to financial years beginning before January 1, 2004.*
	Interim period January 1, 2004 to March 31, 2004	Not Applicable	Yes	"Bare" Interim Certificate[2]
	Interim period April 1, 2004 to June 30, 2004	Not Applicable	Yes	"Bare" Interim Certificate
	Interim period July 1, 2004 to September 30, 2004	Not Applicable	Yes	"Bare" Interim Certificate
	Financial year January 1, 2004 to December 31, 2004	Yes	Not Applicable	"Bare" Annual Certificate[3]
	Interim period January 1, 2005 to March 31, 2005	Not Applicable	Yes	"Bare" Interim Certificate *(If an issuer voluntarily filed its annual certificate for financial year January 1, 2004 to December 31, 2004 as a "Full" Annual Certificate[4], the issuer should file its interim certificate as a "Full" Interim Certificate.[5])*
	Interim period April 1, 2005 to June 30, 2005	Not Applicable	Yes	"Bare" Interim Certificate *(If an issuer voluntarily filed its annual certificate for financial year January 1, 2004 to December 31, 2004 as a "Full" Annual Certificate, the issuer should file its interim certificate as a "Full" Interim Certificate.)*
	Interim period July 1, 2005 to September 30, 2005	Not Applicable	Yes	"Bare" Interim Certificate *(If an issuer voluntarily filed its annual certificate for financial year January 1, 2004 to December 31, 2004 as a "Full" Annual Certificate, the issuer should file its interim certificate as a "Full" Interim Certificate.)*

1 Where the form requirement specified is a "bare" annual certificate, issuers may voluntarily choose to file a "full" annual certificate. Where the form requirement specified is a "bare" interim certificate, issuers may voluntarily choose to file a "full" interim certificate.

2 For the purposes of Appendix A, ""bare" interim certificate" means a certificate in Form 52-109FT2.

3 For the purposes of Appendix A, ""bare" annual certificate" means a certificate in Form 52-109FT1.

4 For the purposes of Appendix A, ""full" annual certificate" means a certificate in Form 52-109F1.

5 For the purposes of Appendix A, ""full" interim certificate" means a certificate in Form 52-109F2.

Financial Year Beginning On	Financial Period	Annual Certificate Required	Interim Certificate Required	Form of Certificate[1]
	Financial year January 1, 2005 to December 31, 2005 and each successive financial year	Yes	Not Applicable	"Full" Annual Certificate
	Interim period January 1, 2006 to March 31, 2006 and each successive interim period	Not Applicable	Yes	"Full" Interim Certificate
February 1 **(i.e. year end of January 31)**	Financial year February 1, 2003 to January 31, 2004	No	Not Applicable	*The Instrument does not apply to financial years beginning before January 1, 2004.*
	Interim period February 1, 2004 to April 30, 2004	Not Applicable	Yes	"Bare" Interim Certificate
	Interim period May 1, 2004 to July 31, 2004	Not Applicable	Yes	"Bare" Interim Certificate
	Interim period August 1, 2004 to October 31, 2004	Not Applicable	Yes	"Bare" Interim Certificate
	Financial year February 1, 2004 to January 31, 2005	Yes	Not Applicable	"Bare" Annual Certificate
	Interim period February 1, 2005 to April 30, 2005	Not Applicable	Yes	"Bare" Interim Certificate *(If an issuer voluntarily filed its annual certificate for financial year February 1, 2004 to January 31, 2005 as a "Full" Annual Certificate, the issuer should file its interim certificate as a "Full" Interim Certificate.)*
	Interim period May 1, 2005 to July 31, 2005	Not Applicable	Yes	"Bare" Interim Certificate *(If an issuer voluntarily filed its annual certificate for financial year February 1, 2004 to January 31, 2005 as a "Full" Annual Certificate, the issuer should file its interim certificate as a "Full" Interim Certificate.)*
	Interim period August 1, 2005 to October 31, 2005	Not Applicable	Yes	"Bare" Interim Certificate *(If an issuer voluntarily filed its annual certificate for financial year February 1, 2004 to January 31, 2005 as a "Full" Annual Certificate, the issuer should file its interim certificate as a "Full" Interim Certificate.)*
	Financial year February 1, 2005 to January 31, 2006 and each successive financial year	Yes	Not Applicable	"Full" Annual Certificate

Financial Year Beginning On	Financial Period	Annual Certificate Required	Interim Certificate Required	Form of Certificate[1]
	Interim period February 1, 2006 to April 30, 2006 and each successive interim period	Not Applicable	Yes	"Full" Interim Certificate
March 1 **(i.e. year end of February 28/29)**	Interim period September 1, 2003 to November 30, 2003	Not Applicable	No	*The Instrument does not apply to interim periods beginning before January 1, 2004.*
	Financial year March 1, 2003 to February 29, 2004	No	Not Applicable	*The Instrument does not apply to financial years beginning before January 1, 2004.*
	Interim period March 1, 2004 to May 31, 2004	Not Applicable	Yes	"Bare" Interim Certificate
	Interim period June 1, 2004 to August 31, 2004	Not Applicable	Yes	"Bare" Interim Certificate
	Interim period September 1, 2004 to November 30, 2004	Not Applicable	Yes	"Bare" Interim Certificate
	Financial year March 1, 2004 to February 28, 2005	Yes	Not Applicable	"Bare" Annual Certificate
	Interim period March 1, 2005 to May 31, 2005	Not Applicable	Yes	"Bare" Interim Certificate *(If an issuer voluntarily filed its annual certificate for financial year March 1, 2004 to February 28, 2005 as a "Full" Annual Certificate, the issuer should file its interim certificate as a "Full" Interim Certificate.)*
	Interim period June 1, 2005 to August 31, 2005	Not Applicable	Yes	"Bare" Interim Certificate *(If an issuer voluntarily filed its annual certificate for financial year March 1, 2004 to February 28, 2005 as a "Full" Annual Certificate, the issuer should file its interim certificate as a "Full" Interim Certificate.)*
	Interim period September 1, 2005 to November 30, 2005	Not Applicable	Yes	"Bare" Interim Certificate *(If an issuer voluntarily filed its annual certificate for financial year March 1, 2004 to February 28, 2005 as a "Full" Annual Certificate, the issuer should file its interim certificate as a "Full" Interim Certificate.)*
	Financial year March 1, 2005 to February 28, 2006 and each successive financial year	Yes	Not Applicable	"Full" Annual Certificate

Financial Year Beginning On	Financial Period	Annual Certificate Required	Interim Certificate Required	Form of Certificate[1]
	Interim period March 1, 2006 to May 31, 2006 and each successive interim period	Not Applicable	Yes	"Full" Interim Certificate
April 1 **(i.e. year end of March 31)**	Interim period October 1, 2003 to December 31, 2003	Not Applicable	No	*The Instrument does not apply to interim periods beginning before January 1, 2004.*
	Financial year April 1, 2003 to March 31, 2004	No	Not Applicable	*The Instrument does not apply to financial years beginning before January 1, 2004.*
	Interim period April 1, 2004 to June 30, 2004	Not Applicable	Yes	"Bare" Interim Certificate
	Interim period July 1, 2004 to September 30, 2004	Not Applicable	Yes	"Bare" Interim Certificate
	Interim period October 1, 2004 to December 31, 2004	Not Applicable	Yes	"Bare" Interim Certificate
	Financial year April 1, 2004 to March 31, 2005 and each successive financial year	Yes	Not Applicable	"Full" Annual Certificate
	Interim period April 1, 2005 to June 30, 2005 and each successive interim period	Not Applicable	Yes	"Full" Interim Certificate
May 1 **(i.e. year end of April 30)**	Interim period November 1, 2003 to January 31, 2004	Not Applicable	No	*The Instrument does not apply to interim periods beginning before January 1, 2004.*
	Financial year May 1, 2003 to April 30, 2004	No	Not Applicable	*The Instrument does not apply to financial years beginning before January 1, 2004.*
	Interim period May 1, 2004 to July 31, 2004	Not Applicable	Yes	"Bare" Interim Certificate
	Interim period August 1, 2004 to October 31, 2004	Not Applicable	Yes	"Bare" Interim Certificate
	Interim period November 1, 2004 to January 31, 2005	Not Applicable	Yes	"Bare" Interim Certificate
	Financial year May 1, 2004 to April 30, 2005 and each successive financial year	Yes	Not Applicable	"Full" Annual Certificate

Financial Year Beginning On	Financial Period	Annual Certificate Required	Interim Certificate Required	Form of Certificate[1]
	Interim period May 1, 2005 to July 31, 2005 and each successive interim period	Not Applicable	Yes	"Full" Interim Certificate
June 1 **(i.e. year end of May 31)**	Interim period September 1, 2003 to November 30, 2003	Not Applicable	No	*The Instrument does not apply to interim periods beginning before January 1, 2004.*
	Interim period December 1, 2003 to February 29, 2004	Not Applicable	No	*The Instrument does not apply to interim periods beginning before January 1, 2004.*
	Financial year June 1, 2003 to May 31, 2004	No	Not Applicable	*The Instrument does not apply to financial years beginning before January 1, 2004.*
	Interim period June 1, 2004 to August 31, 2004	Not Applicable	Yes	"Bare" Interim Certificate
	Interim period September 1, 2004 to November 30, 2004	Not Applicable	Yes	"Bare" Interim Certificate
	Interim period December 1, 2004 to February 28, 2005	Not Applicable	Yes	"Bare" Interim Certificate
	Financial year June 1, 2004 to May 31, 2005 and each successive financial year	Yes	Not Applicable	"Full" Annual Certificate
	Interim period June 1, 2005 to August 31, 2005 and each successive interim period	Not Applicable	Yes	"Full" Interim Certificate
July 1 **(i.e. year end of June 30)**	Interim period October 1, 2003 to December 31, 2003	No	Not Applicable	*The Instrument does not apply to interim periods beginning before January 1, 2004*
	Interim period January 1, 2004 to March 31, 2004	Not Applicable	Yes	"Bare" Interim Certificate
	Financial year July 1, 2003 to June 30, 2004	No	Not Applicable	*The Instrument does not apply to financial years beginning before January 1, 2004*
	Interim period July 1, 2004 to September 30, 2004	Not Applicable	Yes	"Bare" Interim Certificate
	Interim period October 1, 2004 to December 31, 2004	Not Applicable	Yes	"Bare" Interim Certificate
	Interim period January 1, 2005 to March 31, 2005	Not Applicable	Yes	"Bare" Interim Certificate

Financial Year Beginning On	Financial Period	Annual Certificate Required	Interim Certificate Required	Form of Certificate[1]
	Financial year July 1, 2004 to June 30, 2005 and each successive financial year	Yes	Not Applicable	"Full" Annual Certificate
	Interim period July 1, 2005 to September 30, 2005 and each successive interim period	Not Applicable	Yes	"Full" Interim Certificate
August 1 **(i.e. year end of July 31)**	Interim period November 1, 2003 to January 31, 2004	Not Applicable	No	*The Instrument does not apply to interim periods beginning before January 1, 2004.*
	Interim period February 1, 2004 to April 30, 2004	Not Applicable	Yes	"Bare" Interim Certificate
	Financial year August 1, 2003 to July 31, 2004	No	Not Applicable	*The Instrument does not apply to financial years beginning before January 1, 2004.*
	Interim period August 1, 2004 to October 31, 2004	Not Applicable	Yes	"Bare" Interim Certificate
	Interim period November 1, 2004 to January 31, 2005	Not Applicable	Yes	"Bare" Interim Certificate
	Interim period February 1, 2005 to April 30, 2005	Not Applicable	Yes	"Bare" Interim Certificate
	Financial year August 1, 2004 to July 31, 2005 and each successive financial year	Yes	Not Applicable	"Full" Annual Certificate
	Interim period August 1, 2005 to October 31, 2005 and each successive interim period	Not Applicable	Yes	"Full" Interim Certificate
September 1 **(i.e. year end of August 31)**	Interim period September 1, 2003 to November 30, 2003	Not Applicable	No	*The Instrument does not apply to interim periods beginning before January 1, 2004.*
	Interim period December 1, 2003 to February 29, 2004	Not Applicable	No	*The Instrument does not apply to interim periods beginning before January 1, 2004.*
	Interim period March 1, 2004 to May 31, 2004	Not Applicable	Yes	"Bare" Interim Certificate
	Financial year September 1, 2003 to August 31, 2004	No	Not Applicable	*The Instrument does not apply to financial years beginning before January 1, 2004.*

Financial Year Beginning On	Financial Period	Annual Certificate Required	Interim Certificate Required	Form of Certificate[1]
	Interim period September 1, 2004 to November 30, 2004	Not Applicable	Yes	"Bare" Interim Certificate
	Interim period December 1, 2004 to February 28, 2005	Not Applicable	Yes	"Bare" Interim Certificate
	Interim period March 1, 2005 to May 31, 2005	Not Applicable	Yes	"Bare" Interim Certificate
	Financial year September 1, 2004 to August 31, 2005 and each successive financial year	Yes	Not Applicable	"Full" Annual Certificate
	Interim period September 1, 2005 to November 30, 2005 and each successive interim period	Not Applicable	Yes	"Full" Interim Certificate
October 1 **(i.e. year end of September 30)**	Interim period October 1, 2003 to December 31, 2003	Not Applicable	No	*The Instrument does not apply to interim periods beginning before January 1, 2004.*
	Interim period January 1, 2004 to March 31, 2004	Not Applicable	Yes	"Bare" Interim Certificate
	Interim period April 1, 2004 to June 30, 2004	Not Applicable	Yes	"Bare" Interim Certificate
	Financial year October 1, 2003 to September 30, 2004	No	Not Applicable	*The Instrument does not apply to financial years beginning before January 1, 2004.*
	Interim period October 1, 2004 to December 31, 2004	Not Applicable	Yes	"Bare" Interim Certificate
	Interim period January 1, 2005 to March 31, 2005	Not Applicable	Yes	"Bare" Interim Certificate
	Interim period April 1, 2005 to June 30, 2005	Not Applicable	Yes	"Bare" Interim Certificate
	Financial year October 1, 2004 to September 30, 2005 and each successive financial year	Yes	Not Applicable	"Full" Annual Certificate
	Interim period October 1, 2005 to December 31, 2005 and each successive interim period	Not Applicable	Yes	"Full" Interim Certificate

Financial Year Beginning On	Financial Period	Annual Certificate Required	Interim Certificate Required	Form of Certificate[1]
November 1 **(i.e. year end of October 31)**	Financial year November 1, 2002 to October 31, 2003	No	Not Applicable	*The Instrument does not apply to financial years beginning before January 1, 2004.*
	Interim period November 1, 2003 to January 31, 2004	Not Applicable	No	*The Instrument does not apply to interim periods beginning before January 1, 2004.*
	Interim period February 1, 2004 to April 30, 2004	Not Applicable	Yes	"Bare" Interim Certificate
	Interim period May 1, 2004 to July 31, 2004	Not Applicable	Yes	"Bare" Interim Certificate
	Financial year November 1, 2003 to October 31, 2004	No	Not Applicable	*The Instrument does not apply to financial years beginning before January 1, 2004.*
	Interim period November 1, 2004 to January 31, 2005	Not Applicable	Yes	"Bare" Interim Certificate
	Interim period February 1, 2005 to April 30, 2005	Not Applicable	Yes	"Bare" Interim Certificate
	Interim period May 1, 2005 to July 31, 2005	Not Applicable	Yes	"Bare" Interim Certificate
	Financial year November 1, 2004 to October 31, 2005 and each successive financial year	Yes	Not Applicable	"Full" Annual Certificate
	Interim period November 1, 2005 to January 31, 2006 and each successive interim period	Not Applicable	Yes	"Full" Interim Certificate
December 1 **(i.e. year end of November 30)**	Financial year December 1, 2002 to November 30, 2003	No	Not Applicable	*The Instrument does not apply to financial years beginning before January 1, 2004.*
	Interim period December 1, 2003 to February 29, 2004	Not Applicable	No	*The Instrument does not apply to interim periods beginning before January 1, 2004.*
	Interim period March 1, 2004 to May 31, 2004	Not Applicable	Yes	"Bare" Interim Certificate
	Interim period June 1, 2004 to August 31, 2004	Not Applicable	Yes	"Bare" Interim Certificate
	Financial year December 1, 2003 to November 30, 2004	No	Not Applicable	*The Instrument does not apply to financial years beginning before January 1, 2004.*

Financial Year Beginning On	Financial Period	Annual Certificate Required	Interim Certificate Required	Form of Certificate[1]
	Interim period December 1, 2004 to February 28, 2005	Not Applicable	Yes	"Bare" Interim Certificate
	Interim period March 1, 2005 to May 31, 2005	Not Applicable	Yes	"Bare" Interim Certificate
	Interim period June 1, 2005 to August 31, 2005	Not Applicable	Yes	"Bare" Interim Certificate
	Financial year December 1, 2004 to November 30, 2005 and each successive financial year	Yes	Not Applicable	"Full" Annual Certificate
	Interim period December 1, 2005 to February 28, 2006 and each successive interim period	Not Applicable	Yes	"Full" Interim Certificate

5.1.3 Multilateral Instrument 52-110 Audit Committees

MULTILATERAL INSTRUMENT 52-110
AUDIT COMMITTEES

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MULTILATERAL INSTRUMENT 52-110
AUDIT COMMITTEES

PART 1
DEFINITIONS AND APPLICATION

1.1 Definitions – In this Instrument,

"accounting principles" has the meaning ascribed to it in National Instrument 52-107 *Acceptable Accounting Principles, Auditing Standards and Reporting Currency*;

"AIF" has the meaning ascribed to it in National Instrument 51-102;

"asset-backed security" has the meaning ascribed to it in National Instrument 51-102;

"audit committee" means a committee (or an equivalent body) established by and among the board of directors of an issuer for the purpose of overseeing the accounting and financial reporting processes of the issuer and audits of the financial statements of the issuer, and, if no such committee exists, the entire board of directors of the issuer;

"audit services" means the professional services rendered by the issuer's external auditor for the audit and review of the issuer's financial statements or services that are normally provided by the external auditor in connection with statutory and regulatory filings or engagements;

"credit support issuer" has the meaning ascribed to it in section 13.4 of National Instrument 51-102;

"designated foreign issuer" has the meaning ascribed to it in National Instrument 71-102 *Continuous Disclosure and Other Exemptions Relating to Foreign Issuers*;

"exchangeable security issuer" has the meaning ascribed to it in section 13.3 of National Instrument 51-102;

"executive officer" of an entity means an individual who is:

(a) a chair of the entity;

(b) a vice-chair of the entity;

(c) the president of the entity;

(d) a vice-president of the entity in charge of a principal business unit, division or function including sales, finance or production;

(e) an officer of the entity or any of its subsidiary entities who performs a policy-making function in respect of the entity; or

(f) any other individual who performs a policy-making function in respect of the entity;

"foreign private issuer" means an issuer that is a foreign private issuer within the meaning of Rule 405 under the 1934 Act;

"immediate family member" means an individual's spouse, parent, child, sibling, mother or father-in-law, son or daughter-in-law, brother or sister-in-law, and anyone (other than an employee of either the individual or the individual's immediate family member) who shares the individual's home;

"investment fund" has the meaning ascribed to it in National Instrument 51-102;

"marketplace" has the meaning ascribed to it in National Instrument 21-101 *Marketplace Operation*;

"MD&A" has the meaning ascribed to it in National Instrument 51-102;

"National Instrument 51-102" means National Instrument 51-102 *Continuous Disclosure Obligations*;

"non-audit services" means services other than audit services;

"SEC foreign issuer" has the meaning ascribed to it in National Instrument 71-102 *Continuous Disclosure and Other Exemptions Relating to Foreign Issuers*;

"U.S. marketplace" means an exchange registered as a 'national securities exchange' under section 6 of the 1934 Act, or the Nasdaq Stock Market;

"venture issuer" means an issuer that does not have any of its securities listed or quoted on any of the Toronto Stock Exchange, a U.S. marketplace, or a marketplace outside of Canada and the United States of America.

1.2 Application – This Instrument applies to all reporting issuers other than:

(a) investment funds;

(b) issuers of asset-backed securities;

(c) designated foreign issuers;

(d) SEC foreign issuers;

(e) issuers that are subsidiary entities, if

(i) the subsidiary entity does not have equity securities (other than non-convertible, non-participating preferred securities) trading on a marketplace, and

(ii) the parent of the subsidiary entity is

(A) subject to the requirements of this Instrument, or

(B) an issuer that (1) has securities listed or quoted on a U.S. marketplace, and (2) is in compliance with the requirements of that U.S. marketplace applicable to issuers, other than foreign private issuers, regarding the role and composition of audit committees;

(f) exchangeable security issuers, if the exchangeable security issuer qualifies for the relief contemplated by, and is in compliance with the requirements and conditions set out in, section 13.3 of National Instrument 51-102; and

(g) credit support issuers, if the credit support issuer qualifies for the relief contemplated by, and is in compliance with the requirements and conditions set out in, section 13.4 of National Instrument 51-102.

1.3 Meaning of Affiliated Entity, Subsidiary Entity and Control –

(1) For the purposes of this Instrument, a person or company is considered to be an affiliated entity of another person or company if

(a) one of them controls or is controlled by the other or if both persons or companies are controlled by the same person or company, or

(b) the person or company is

(i) both a director and an employee of an affiliated entity, or

(ii) an executive officer, general partner or managing member of an affiliated entity.

(2) For the purposes of this Instrument, 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.

(3) For the purpose of this Instrument, "control" means the direct or indirect power to direct or cause the direction of the management and policies of a person or company, whether through ownership of voting securities or otherwise.

(4) Despite subsection (1), a person will not be considered to be an affiliated entity of an issuer for the purposes of this Instrument if the person:

(a) owns, directly or indirectly, ten per cent or less of any class of voting securities of the issuer; and

(b) is not an executive officer of the issuer.

1.4 Meaning of Independence –

(1) A member of an audit committee is independent if the member has no direct or indirect material relationship with the issuer.

(2) For the purposes of subsection (1), a material relationship means a relationship which could, in the view of the issuer's board of directors, reasonably interfere with the exercise of a member's independent judgement.

(3) Despite subsection (2), the following individuals are considered to have a material relationship with an issuer:

(a) an individual who is, or has been, an employee or executive officer of the issuer, unless the prescribed period has elapsed since the end of the service or employment;

(b) an individual whose immediate family member is, or has been, an executive officer of the issuer, unless the prescribed period has elapsed since the end of the service or employment;

(c) an individual who is, or has been, an affiliated entity of, a partner of, or employed by, a current or former internal or external auditor of the issuer, unless the prescribed period has elapsed since the person's relationship with the internal or external auditor, or the auditing relationship, has ended;

(d) an individual whose immediate family member is, or has been, an affiliated entity of, a partner of, or employed in a professional capacity by, a current or former internal or external auditor of the issuer, unless the prescribed period has elapsed since the person's relationship with the internal or external auditor, or the auditing relationship, has ended;

(e) an individual who is, or has been, or whose immediate family member is or has been, an executive officer of an entity if any of the issuer's current executive officers serve on the entity's compensation committee, unless the prescribed period has elapsed since the end of the service or employment;

(f) an individual who

(i) has a relationship with the issuer pursuant to which the individual may accept, directly or indirectly, any consulting, advisory or other compensatory fee from the issuer or any subsidiary entity of the issuer, other than as remuneration for acting in his or her capacity as a member of the board of directors or any board committee, or as a part-time chair or vice-chair of the board or any board committee; or

(ii) receives, or whose immediate family member receives, more than $75,000 per year in direct compensation from the issuer, other than as remuneration for acting in his or her capacity as a member of the board of directors or any board committee, or as a part-time chair or vice-chair of the board or any board committee, unless the prescribed period has elapsed since he or she ceased to receive more than $75,000 per year in such compensation.

(g) an individual who is an affiliated entity of the issuer or any of its subsidiary entities.

(4) For the purposes of subsection (3), the prescribed period is the shorter of

(a) the period commencing on March 30, 2004 and ending immediately prior to the determination required by subsection (3); and

(b) the three year period ending immediately prior to the determination required by subsection (3).

(5) For the purposes of clauses (3)(c) and (3)(d), a partner does not include a fixed income partner whose interest in the internal or external auditor is limited to the receipt of fixed amounts of compensation (including deferred compensation) for prior service with an internal or external auditor if the compensation is not contingent in any way on continued service.

(6) For the purposes of clause (3)(f), compensatory fees and direct compensation do not include the receipt of fixed amounts of compensation under a retirement plan (including deferred compensation) for prior service with the issuer if the compensation is not contingent in any way on continued service.

(7) For the purposes of subclause 3(f)(i), the indirect acceptance by a person of any consulting, advisory or other compensatory fee includes acceptance of a fee by

(a) a person's spouse, minor child or stepchild, or a child or stepchild who shares the person's home; or

(b) an entity in which such person is a partner, member, an officer such as a managing director occupying a comparable position or executive officer, or occupies a similar position (except limited partners, non-managing members and those occupying similar positions who, in each case, have no active role in providing services to the entity) and which provides accounting, consulting, legal, investment banking or financial advisory services to the issuer or any subsidiary entity of the issuer.

(8) Despite subsection (3), a person will not be considered to have a material relationship with the issuer solely because he or she

(a) has previously acted as an interim chief executive officer of the issuer, or

(b) acts, or has previously acted, as a chair or vice-chair of the board of directors or any board committee, other than on a full-time basis.

1.5 Meaning of Financial Literacy – For the purposes of this Instrument, an individual is financially literate if he or she has the ability to read and understand a set of financial statements that present a breadth and level of complexity of accounting issues that are generally comparable to the breadth and complexity of the issues that can reasonably be expected to be raised by the issuer's financial statements.

PART 2
AUDIT COMMITTEE RESPONSIBILITIES

2.1 Audit Committee – Every issuer must have an audit committee that complies with the requirements of the Instrument.

2.2 Relationship with External Auditors – Every issuer must require its external auditor to report directly to the audit committee.

2.3 Audit Committee Responsibilities –

(1) An audit committee must have a written charter that sets out its mandate and responsibilities.

(2) An audit committee must recommend to the board of directors:

(a) the external auditor to be nominated for the purpose of preparing or issuing an auditor's report or performing other audit, review or attest services for the issuer; and

(b) the compensation of the external auditor.

(3) An audit committee must be directly responsible for overseeing the work of the external auditor engaged for the purpose of preparing or issuing an auditor's report or performing other audit, review or attest services for the issuer, including the resolution of disagreements between management and the external auditor regarding financial reporting.

(4) An audit committee must pre-approve all non-audit services to be provided to the issuer or its subsidiary entities by the issuer's external auditor.

(5) An audit committee must review the issuer's financial statements, MD&A and annual and interim earnings press releases before the issuer publicly discloses this information.

(6) An audit committee must be satisfied that adequate procedures are in place for the review of the issuer's public disclosure of financial information extracted or derived from the issuer's financial statements, other than the public disclosure referred to in subsection (5), and must periodically assess the adequacy of those procedures.

(7) An audit committee must establish procedures for:

(a) the receipt, retention and treatment of complaints received by the issuer regarding accounting, internal accounting controls, or auditing matters; and

(b) the confidential, anonymous submission by employees of the issuer of concerns regarding questionable accounting or auditing matters.

(8) An audit committee must review and approve the issuer's hiring policies regarding partners, employees and former partners and employees of the present and former external auditor of the issuer.

2.4 *De Minimis* Non-Audit Services – An audit committee satisfies the pre-approval requirement in subsection 2.3(4) if:

(a) the aggregate amount of all the non-audit services that were not pre-approved is reasonably expected to constitute no more than five per cent of the total amount of fees paid by the issuer and its subsidiary entities to the issuer's external auditor during the fiscal year in which the services are provided;

(b) the issuer or the subsidiary entity of the issuer, as the case may be, did not recognize the services as non-audit services at the time of the engagement; and

(c) the services are promptly brought to the attention of the audit committee of the issuer and approved, prior to the completion of the audit, by the audit committee or by one or more of its members to whom authority to grant such approvals has been delegated by the audit committee.

2.5 Delegation of Pre-Approval Function –

(1) An audit committee may delegate to one or more independent members the authority to pre-approve non-audit services in satisfaction of the requirement in subsection 2.3(4).

(2) The pre-approval of non-audit services by any member to whom authority has been delegated pursuant to subsection (1) must be presented to the audit committee at its first scheduled meeting following such pre-approval.

2.6 Pre-Approval Policies and Procedures – An audit committee satisfies the pre-approval requirement in subsection 2.3(4) if it adopts specific policies and procedures for the engagement of the non-audit services, if:

(a) the pre-approval policies and procedures are detailed as to the particular service;

(b) the audit committee is informed of each non-audit service; and

(c) the procedures do not include delegation of the audit committee's responsibilities to management.

PART 3
COMPOSITION OF THE AUDIT COMMITTEE

3.1 Composition –

(1) An audit committee must be composed of a minimum of three members.

(2) Every audit committee member must be a director of the issuer.

(3) Subject to sections 3.2, 3.3, 3.4, 3.5 and 3.6, every audit committee member must be independent.

(4) Subject to sections 3.5 and 3.8, every audit committee member must be financially literate.

3.2 Initial Public Offerings –

(1) Subject to section 3.9, if an issuer has filed a prospectus to qualify the distribution of securities that constitutes its initial public offering, subsection 3.1(3) does not apply for a period of up to 90 days commencing on the date of the receipt for the prospectus, provided that one member of the audit committee is independent.

(2) Subject to section 3.9, if an issuer has filed a prospectus to qualify the distribution of securities that constitutes its initial public offering, subsection 3.1(3) does not apply for a period of up to one year commencing on the date of the receipt for the prospectus, provided that a majority of the audit committee members are independent.

3.3 Controlled Companies –

(1) An audit committee member that sits on the board of directors of an affiliated entity is exempt from the requirement in subsection 3.1(3) if the member, except for being a director (or member of a board committee) of the issuer and the affiliated entity, is otherwise independent of the issuer and the affiliated entity.

(2) Subject to section 3.7, an audit committee member is exempt from the requirement in subsection 3.1(3) if:

(a) the member would be independent of the issuer but for the relationship described in paragraph 1.4(3)(g);

(b) the member is not an executive officer, general partner or managing member of a person or company that

(i) is an affiliated entity of the issuer, and

(ii) has its securities trading on a marketplace;

(c) the member is not an immediate family member of an executive officer, general partner or managing member referred to in paragraph (b), above;

(d) the member does not act as the chair of the audit committee; and

(e) the board determines in its reasonable judgement that

(i) the member is able to exercise the impartial judgement necessary for the member to fulfill his or her responsibilities as an audit committee member, and

(ii) the appointment of the member is required by the best interests of the issuer and its shareholders.

3.4 Events Outside Control of Member – Subject to section 3.9, if an audit committee member ceases to be independent for reasons outside the member's reasonable control, the member is exempt from the requirement in subsection 3.1(3) for a period ending on the later of:

(a) the next annual meeting of the issuer, and

(b) the date that is six months from the occurrence of the event which caused the member to not be independent.

3.5 Death, Disability or Resignation of Member – Subject to section 3.9, if the death, disability or resignation of an audit committee member has resulted in a vacancy on the audit committee that the board of directors is required to fill, an audit committee member appointed to fill such vacancy is exempt from the requirements in subsections 3.1(3) and (4) for a period ending on the later of:

(a) the next annual meeting of the issuer, and

(b) the date that is six months from the day the vacancy was created.

3.6 Temporary Exemption for Limited and Exceptional Circumstances – Subject to section 3.7, an audit committee member is exempt from the requirement in subsection 3.1(3) if:

(a) the member is not an individual described in paragraphs 1.4(3)(f)(i) or 1.4(3)(g);

(b) the member is not an employee or officer of the issuer, or an immediate family member of an employee or officer of the issuer;

(c) the board, under exceptional and limited circumstances, determines in its reasonable judgement that

(i) the member is able to exercise the impartial judgement necessary for the member to fulfill his or her responsibilities as an audit committee member, and

(ii) the appointment of the member is required by the best interests of the issuer and its shareholders;

(d) the member does not act as chair of the audit committee; and

(e) the member does not rely upon this exemption for a period of more than two years.

3.7 Majority Independent – The exemptions in subsection 3.3(2) and section 3.6 are not available to a member unless a majority of the audit committee members would be independent.

3.8 Acquisition of Financial Literacy – Subject to section 3.9, an audit committee member who is not financially literate may be appointed to the audit committee provided that the member becomes financially literate within a reasonable period of time following his or her appointment.

3.9 Restriction on Use of Certain Exemptions – The exemptions in sections 3.2, 3.4, 3.5 and 3.8 are not available to a member unless the issuer's board of directors has determined that the reliance on the exemption will not materially adversely affect the ability of the audit committee to act independently and to satisfy the other requirements of this Instrument.

PART 4
AUTHORITY OF THE AUDIT COMMITTEE

4.1 Authority – An audit committee must have the authority

(a) to engage independent counsel and other advisors as it determines necessary to carry out its duties,

(b) to set and pay the compensation for any advisors employed by the audit committee, and

(c) to communicate directly with the internal and external auditors.

PART 5
REPORTING OBLIGATIONS

5.1 Required Disclosure – Every issuer must include in its AIF the disclosure required by Form 52-110F1.

5.2 Management Information Circular – If management of an issuer solicits proxies from the security holders of the issuer for the purpose of electing directors to the issuer's board of directors, the issuer must include in its management information circular a cross-reference to the sections in the issuer's AIF that contain the information required by section 5.1.

PART 6
VENTURE ISSUERS

6.1 Venture Issuers – Venture issuers are exempt from the requirements of Parts 3 (*Composition of the Audit Committee*) and 5 (*Reporting Obligations*).

6.2 Required Disclosure –

(1) Subject to subsection (2), if management of a venture issuer solicits proxies from the security holders of the venture issuer for the purpose of electing directors to its board of directors, the venture issuer must include in its management information circular the disclosure required by Form 52-110F2.

(2) A venture issuer that is not required to send a management information circular to its security holders must provide the disclosure required by Form 52-110F2 in its AIF or annual MD&A.

PART 7
U.S. LISTED ISSUERS

7.1 U.S. Listed Issuers – An issuer that has securities listed or quoted on a U.S. marketplace is exempt from the requirements of Parts 2 (*Audit Committee Responsibilities*), 3 (*Composition of the Audit Committee*), 4 (*Authority of the Audit Committee*), and 5 (*Reporting Obligations*), if:

(a) the issuer is in compliance with the requirements of that U.S. marketplace applicable to a issuers, other than foreign private issuers, regarding the role and composition of audit committees; and

(b) if the issuer is incorporated, continued or otherwise organized in a jurisdiction in Canada, the issuer includes in its AIF the disclosure (if any) required by paragraph 5 of Form 52-110F1.

PART 8
EXEMPTIONS

8.1 Exemptions –

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

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

PART 9
EFFECTIVE DATE

9.1 Effective Date –

(1) This Instrument comes into force on March 30, 2004.

(2) Despite subsection (1), this Instrument applies to an issuer commencing on the earlier of:

(a) the first annual meeting of the issuer after July 1, 2004, and

(b) July 1, 2005.

FORM 52-110F1
AUDIT COMMITTEE INFORMATION REQUIRED IN AN AIF

1. The Audit Committee's Charter

Disclose the text of the audit committee's charter.

2. Composition of the Audit Committee

Disclose the name of each audit committee member and state whether or not the member is (i) independent and (ii) financially literate.

3. Relevant Education and Experience

Describe the education and experience of each audit committee member that is relevant to the performance of his or her responsibilities as an audit committee member and, in particular, disclose any education or experience that would provide the member with:

(a) an understanding of the accounting principles used by the issuer to prepare its financial statements;

(b) the ability to assess the general application of such accounting principles in connection with the accounting for estimates, accruals and reserves;

(c) experience preparing, auditing, analyzing or evaluating financial statements that present a breadth and level of complexity of accounting issues that are generally comparable to the breadth and complexity of issues that can reasonably be expected to be raised by the issuer's financial statements, or experience actively supervising one or more persons engaged in such activities; and

(d) an understanding of internal controls and procedures for financial reporting.

4. Reliance on Certain Exemptions

If, at any time since the commencement of the issuer's most recently completed financial year, the issuer has relied on

(a) the exemption in section 2.4 *(De Minimis Non-audit Services*),

(b) the exemption in section 3.2 (*Initial Public Offerings*),

(c) the exemption in section 3.4 (*Events Outside Control of Member*),

(d) the exemption in section 3.5 (*Death, Disability or Resignation of Audit Committee Member*) or

(e) an exemption from this Instrument, in whole or in part, granted under Part 8 (*Exemptions)*,

state that fact.

5. Reliance on the Exemption in Subsection 3.3(2) or Section 3.6

If, at any time since the commencement of the issuer's most recently completed financial year, the issuer has relied upon the exemption in subsection 3.3(2) (*Controlled Companies*) or section 3.6 (*Temporary Exemption for Limited and Exceptional Circumstances*), state that fact and disclose

(a) the name of the member, and

(b) the rationale for appointing the member to the audit committee.

6. Reliance on Section 3.8

If, at any time since the commencement of the issuer's most recently completed financial year, the issuer has relied upon section 3.8 (*Acquisition of Financial Literacy*), state that fact and disclose

(a) the name of the member,

(b) that the member is not financially literate, and

(c) the date by which the member expects to become financially literate.

7. Audit Committee Oversight

If, at any time since the commencement of the issuer's most recently completed financial year, a recommendation of the audit committee to nominate or compensate an external auditor was not adopted by the board of directors, state that fact and explain why.

8. Pre-Approval Policies and Procedures

If the audit committee has adopted specific policies and procedures for the engagement of non-audit services, describe those policies and procedures.

9. External Auditor Service Fees (By Category)

(a) Disclose, under the caption "Audit Fees", the aggregate fees billed by the issuer's external auditor in each of the last two fiscal years for audit services.

(b) Disclose, under the caption "Audit-Related Fees", the aggregate fees billed in each of the last two fiscal years for assurance and related services by the issuer's external auditor that are reasonably related to the performance of the audit or review of the issuer's financial statements and are not reported under clause (a) above. Include a description of the nature of the services comprising the fees disclosed under this category.

(c) Disclose, under the caption "Tax Fees", the aggregate fees billed in each of the last two fiscal years for professional services rendered by the issuer's external auditor for tax compliance, tax advice, and tax planning. Include a description of the nature of the services comprising the fees disclosed under this category.

(d) Disclose, under the caption "All Other Fees", the aggregate fees billed in each of the last two fiscal years for products and services provided by the issuer's external auditor, other than the services reported under clauses (a), (b) and (c), above. Include a description of the nature of the services comprising the fees disclosed under this category.

INSTRUCTION

The fees required to be disclosed by this paragraph 9 relate only to services provided to the issuer or its subsidiary entities by the issuer's external auditor.

FORM 52-110F2
DISCLOSURE BY VENTURE ISSUERS

1. The Audit Committee's Charter

Disclose the text of the audit committee's charter.

2. Composition of the Audit Committee

Disclose the name of each audit committee member and state whether or not the member is (i) independent and (ii) financially literate.

3. Audit Committee Oversight

If, at any time since the commencement of the issuer's most recently completed financial year, a recommendation of the audit committee to nominate or compensate an external auditor was not adopted by the board of directors, state that fact and explain why.

4. Reliance on Certain Exemptions

If, at any time since the commencement of the issuer's most recently completed financial year, the issuer has relied on

(a) the exemption in section 2.4 *(De Minimis Non-audit Services*), or

(b) an exemption from this Instrument, in whole or in part, granted under Part 8 (*Exemptions)*,

state that fact.

5. Pre-Approval Policies and Procedures

If the audit committee has adopted specific policies and procedures for the engagement of non-audit services, describe those policies and procedures.

6. External Auditor Service Fees (By Category)

(a) Disclose, under the caption "Audit Fees", the aggregate fees billed by the issuer's external auditor in each of the last two fiscal years for audit fees.

(b) Disclose, under the caption "Audit-Related Fees", the aggregate fees billed in each of the last two fiscal years for assurance and related services by the issuer's external auditor that are reasonably related to the performance of the audit or review of the issuer's financial statements and are not reported under clause (a) above. Include a description of the nature of the services comprising the fees disclosed under this category.

(c) Disclose, under the caption "Tax Fees", the aggregate fees billed in each of the last two fiscal years for professional services rendered by the issuer's external auditor for tax compliance, tax advice, and tax planning. Include a description of the nature of the services comprising the fees disclosed under this category.

(d) Disclose, under the caption "All Other Fees", the aggregate fees billed in each of the last two fiscal years for products and services provided by the issuer's external auditor, other than the services reported under clauses (a), (b) and (c), above. Include a description of the nature of the services comprising the fees disclosed under this category.

INSTRUCTION

The fees required to be disclosed by this paragraph 5 relate only to services provided to the issuer or its subsidiary entities by the issuer's external auditor.

7. Exemption

Disclose that the issuer is relying upon the exemption in section 6.1 of the Instrument.

COMPANION POLICY 52-110CP
TO MULTILATERAL INSTRUMENT 52-110
AUDIT COMMITTEES

Part One
General

1.1 Purpose – Multilateral Instrument 52-110 *Audit Committees* (the Instrument) is a rule in each of Québec, Alberta, Manitoba, Ontario, Nova Scotia and Newfoundland and Labrador, a Commission regulation in Saskatchewan and Nunavut, a policy in New Brunswick, Prince Edward Island and the Yukon Territory, and a code in the Northwest Territories. We, the securities regulatory authorities in each of the foregoing jurisdictions (the Jurisdictions), have implemented the Instrument to encourage reporting issuers to establish and maintain strong, effective and independent audit committees. We believe that such audit committees enhance the quality of financial disclosure made by reporting issuers, and ultimately foster increased investor confidence in Canada's capital markets.

This companion policy (the Policy) provides information regarding the interpretation and application of the Instrument.

1.2 Application to Non-Corporate Entities. The Instrument applies to both corporate and non-corporate entities. Where the Instrument or this Policy refers to a particular corporate characteristic, such as a board of directors, the reference should be read to also include any equivalent characteristic of a non-corporate entity.

E.g., for an income trust to comply with the Instrument, the trustees should appoint a minimum of three trustees who are independent of the trust and the underlying business to act as an audit committee and fulfil the responsibilities of the audit committee imposed by the Instrument. Similarly, in the case of a limited partnership, the directors of the general partner who are independent of the limited partnership (including the general partner) should form an audit committee which fulfils these responsibilities.

If the structure of an issuer will not permit it to comply with the Instrument, the issuer should seek exemptive relief.

1.3 Management Companies. The definition of "executive officer" includes any individual who performs a policy-making function in respect of the entity in question. We consider this aspect of the definition to include an individual who, although not employed by the entity in question, nevertheless performs a policy-making function in respect of that entity, whether through another person or company or otherwise.

1.4 Audit Committee Procedures. The Instrument establishes requirements for the responsibilities, composition and authority of audit committees. Nothing in the Instrument is intended to restrict the ability of the board of directors or the audit committee to establish the committee's quorum or procedures, or to restrict the committee's ability to invite additional parties to attend audit committee meetings.

Part Two
The Role of the Audit Committee

2.1 The Role of the Audit Committee. An audit committee is a committee of a board of directors to which the board delegates its responsibility for oversight of the financial reporting process. Traditionally, the audit committee has performed a number of roles, including

- helping directors meet their responsibilities,
- providing better communication between directors and the external auditors,
- enhancing the independence of the external auditor,
- increasing the credibility and objectivity of financial reports, and
- strengthening the role of the directors by facilitating in-depth discussions among directors, management and the external auditor.

The Instrument requires that the audit committee also be responsible for managing, on behalf of the shareholders, the relationship between the issuer and the external auditors. In particular, it provides that an audit committee must have responsibility for:

(a) overseeing the work of the external auditors engaged for the purpose of preparing or issuing an auditor's report or related work; and

(b) recommending to the board of directors the nomination and compensation of the external auditors.

Although under corporate law an issuer's external auditors are responsible to the shareholders, in practice, shareholders have often been too dispersed to effectively exercise meaningful oversight of the external auditors. As a result, management has typically assumed this oversight role. However, the auditing process may be compromised if the external auditors view their main responsibility as serving management rather than the shareholders. By assigning these responsibilities to an independent audit committee, the Instrument ensures that the external audit will be conducted independently of the issuer's management.

2.2 Relationship between External Auditors and Shareholders. Subsection 2.3(3) of the Instrument provides that an audit committee must be directly responsible for overseeing the work of the external auditors engaged for the purpose of preparing or issuing an auditor's report or performing other audit, review or attest services for the issuer, including the resolution of disagreements between management and the external auditors regarding financial reporting. Notwithstanding this responsibility, the external auditors are retained by, and are ultimately accountable to, the shareholders. As a result, subsection 2.3(3) does not detract from the external auditors' right and responsibility to also provide their views directly to the shareholders if they disagree with an approach being taken by the audit committee.

2.3 Public Disclosure of Financial Information. Issuers are reminded that, in our view, the extraction of information from financial statements that have not previously been reviewed by the audit committee and the release of that information into the marketplace is inconsistent with the issuer's obligation to have its audit committee review the financial statements. See also National Policy 51-201 *Disclosure Standards*.

Part Three
Independence

3.1 Meaning of Independence. The Instrument generally requires every member of an audit committee to be independent. Subsection 1.4(1) of the Instrument defines independence to mean the absence of any direct or indirect material relationship between the director and the issuer. In our view, this relationship may include commercial, charitable, industrial, banking, consulting, legal, accounting or familial relationships. However, only those relationships which could, in the view of the issuer's board of directors, reasonably interfere with the exercise of a member's independent judgement should be considered material relationships within the meaning of section 1.4.

Subsection 1.4(3) of the Instrument sets out a list of persons that we believe have a relationship with an issuer that would reasonably interfere with the exercise of the person's independent judgement. Consequently, these persons are not considered independent for the purposes of the Instrument and are therefore precluded from serving on the issuer's audit committee. Directors and their counsel should therefore consider the nature of the relationships outlined in subsection 1.4(3) as guidance in applying the general independence test set out in subsection 1.4(1).

3.2 Derivation of Definition. The definition of independence and associated provisions included in the Instrument have been derived from both the rules promulgated by the SEC in response to the *Sarbanes-Oxley Act* and the corporate governance rules issued by the NYSE. The SEC rules set out requirements for a member of the audit committee to be considered independent. The NYSE corporate governance rules define independence and outline conditions for a director to be considered independent and also require that audit committee members be independent directors as defined by both the SEC provisions and the NYSE rules. We have mirrored this composite approach to the definition of independence for audit committee members in the Instrument.

3.3 Safe Harbour. Subsection 1.3(1) of the Instrument provides, in part, that a person or company is an affiliated entity of another entity if the person or company controls the other entity. Subsection 1.3(4), however, provides that a person will not be considered to be an affiliated entity of an issuer if the person:

(a) owns, directly or indirectly, ten per cent or less of any class of voting equity securities of the issuer; and

(b) is not an executive officer of the issuer.

Subsection 1.3(4) is intended only to identify those persons who are not considered affiliated entities of an issuer. The provision is not intended to suggest that a person who owns more than ten percent of an issuer's voting equity securities is automatically an affiliated entity of the issuer. Instead, a person who owns more than ten percent of an issuer's voting equity securities should examine all relevant facts and circumstances to determine if he or she is an affiliated entity within the meaning of subsection 1.3(1).

Part Four
Financial Literacy, Financial Education and Experience

4.1 Financial Literacy. For the purposes of the Instrument, an individual is financially literate if he or she has the ability to read and understand a set of financial statements that present a breadth and level of complexity of accounting issues that are generally comparable to the breadth and complexity of the issues that can reasonably be expected to be raised by the issuer's financial statements. In our view, it is not necessary for a member to have a comprehensive knowledge of GAAP and GAAS to be considered financially literate.

4.2 Financial Education and Experience.

(1) Item 3 of Form 52-110F1 requires an issuer to disclose any education or experience of an audit committee member that would provide the member with, among other things, an understanding of the accounting principles used by the issuer to prepare its financial statements. In our view, for a member to have such an understanding, the member needs a detailed understanding of only those accounting principles that might reasonably be applicable to the issuer in question. For example, an individual would not be required to have a detailed understanding of the accounting principles relating to the treatment of complex derivatives transactions if the issuer in question would not reasonably be involved in such transactions.

(2) Item 3 of Form 52-110F1 also requires an issuer to disclose any experience that the member has, among other things, actively supervising persons engaged in preparing, auditing, analyzing or evaluating certain types of financial statements. The phrase active supervision means more than the mere existence of a traditional hierarchical reporting relationship between supervisor and those being supervised. A person engaged in active supervision participates in, and contributes to, the process of addressing (albeit at a supervisory level) the same general types of issues regarding preparation, auditing, analysis or evaluation of financial statements as those addressed by the person or persons being supervised. The supervisor should also have experience that has contributed to the general expertise necessary to prepare, audit, analyze or evaluate financial statements that is at least comparable to the general expertise of those being supervised. An executive officer should not be presumed to qualify. An executive officer with considerable operations involvement, but little financial or accounting involvement, likely would not be exercising the necessary active supervision. Active participation in, and contribution to, the process, albeit at a supervisory level, of addressing financial and accounting issues that demonstrate a general expertise in the area would be necessary.

Part Five
Non-Audit Services

5.1 Pre-Approval of Non-Audit Services. Section 2.6 of the Instrument allows an audit committee to satisfy, in certain circumstances, the pre-approval requirements in subsection 2.3(4) by adopting specific policies and procedures for the engagement of non-audit services. The following guidance should be noted in the development and application of such policies and procedures:

- Monetary limits should not be the only basis for the pre-approval policies and procedures. The establishment of monetary limits will not, alone, constitute policies that are detailed as to the particular services to be provided and will not, alone, ensure that the audit committee will be informed about each service.

- The use of broad, categorical approvals (*e.g.* tax compliance services) will not meet the requirement that the policies must be detailed as to the particular services to be provided.

- The appropriate level of detail for the pre-approval policies will differ depending upon the facts and circumstances of the issuer. The pre-approval policies must be designed to ensure that the audit committee knows precisely what services it is being asked to pre-approve so that it can make a well-reasoned assessment of the impact of the service on the auditor's independence. Furthermore, because the Instrument requires that the policies cannot result in a delegation of the audit committee's responsibility to management, the pre-approval policies must be sufficiently detailed as to particular services so that a member of management will not be called upon to determine whether a proposed service fits within the policy.

Part Six
Disclosure Obligations

6.1 Incorporation by Reference. National Instrument 51-102 permits disclosure required to be included in an issuer's AIF or information circular to be incorporated by reference, provided that the referenced document has already been filed

with the applicable securities regulatory authorities.[1] Any disclosure required by the Instrument to be included in an issuer's AIF or management information circular may also incorporated by reference, provided that the procedures set out in National Instrument 51-102 are followed.

[1] See Part 1, paragraph (f) of Form 51-102F2 (*Annual Information Form*) and Part 1, paragraph (c) of Form 51-102F5 (*Information Circular*).

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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
11-Mar-2003	3 Purchasers	AADCO Vehicle Disposal Services Limited Partnership I - Limited Partnership Units	250,000.00	5.00
11-Mar-2003	A. Smallman	Acuity Pooled High Income Fund - Trust Units	25,000.00	1,750.00
12-Mar-2003	Gerald Arnold	Acuity Pooled High Income Fund - Trust Units	33,000.00	2,315.00
06-Mar-2003	Elaine Robertson	Acuity Pooled High Income Fund - Trust Units	50,000.00	34,870.00
07-Mar-2003	Dieter Frey	Acuity Pooled High Income Fund - Trust Units	174,026.00	12,127.00
13-Mar-2003	N/A	Aloak Corp. - Convertible Debentures	150,000.00	1.00
03-Feb-2003	EDS Canada Inc.	Bank of Ireland Asset Management Limited - Units	198,563.00	23,863.00
03-Feb-2003	EDS Canada Inc.	Bank of Ireland Asset Management Limited - Units	133,384.00	15,284.00
15-Mar-2003	1501678 Ontario Inc.	Chancellor Gate Ltd. - Units	160,000.00	160.00
14-Mar-2003	Lamont Gordon	Connacher Oil and Gas Limited - Units	101,250.00	225,000.00
10-Mar-2003	Dave Ramey	Consolidated Global Minerals Ltd. - Common Shares	100,000	1,000,000.00
28-Feb-2003	7 Purchasers	Contemporary Investment Corp. - Common Shares	161,865.00	161,865.00
10-Mar-2003	Royal Bank of Canada and Skypoint Capital Corporation	Core Networks Incorporated - Warrants	785,500.00	4,740,000.00
17-Mar-2003	Credit Risk Advisors and Bank of Montreal	Denbury Resources, Inc. - Notes	7,335,493.00	2.00

31-Dec-2002 1/31/03	Harris Capital Management Inc.	Distributionco Inc. - Units	31,402.00	157,014.00
18-Mar-2003	15 Purchasers	Dynamic Fuel Systems Inc. - Common Shares	363,083.00	271,562.00
15-Dec-2000 12/12/02	8 Purchasers	Dynex Capital Limited Partnership - Units	5,846,160.00	5,846.00
07-Mar-2003 3/12/03	3 Purchasers	Enpar Technologies Inc. - Units	250,000.00	2,083,332.00
11-Mar-2003	John Douglas	Eolectric Inc. - Shares	100,000.00	100,000.00
10-Mar-2003	12 Purchasers	Fortune Minerals Limited - Common Shares	365,345.00	521,922.00
10-Mar-2003	6 Purchasers	HBH Capital Limited Partnership - Limited Partnership Units	1,720,000.00	1,720.00
12-Mar-2003	10 Purchasers	High Point Resources Inc. - Common Shares	7,431,100.00	5,124,897.00
13-Mar-2003	Royal Trust Corporation of Canada	Imark Corporation - Common Shares	110,000.00	1,100,000.00
04-Mar-2003	Altamira Management	Japan Retail Fund Investment Corporation - Units	156,693.00	25.00
14-Mar-2003	Aumerco Ltd. and J. David Mason	Kettle Point Resources Ltd. - Special Warrants	50,000.00	100,000.00
15-Mar-2003	980235 Ontario Limited and Martin Fabi	Kingwest Avenue Portfolio - Units	350,000.00	20,933.00
01-Mar-2003	Lancaster Balanced Fund II	Lancaster Money Market Fund - Trust Units	1,855,887.00	185,588.00
03-Mar-2003	Robert Munday	Microsource Online, Inc. - Common Shares	1,200.00	200.00
03-Mar-2003	Kevin Drensek	Microsource Online, Inc. - Common Shares	6,000.00	1,000.00
03-Mar-2003	Ken Frost	Microsource Online, Inc. - Common Shares	6,000.00	1,000.00
28-Feb-2003	Winston Reynolds	Microsource Online, Inc. - Common Shares	1,200.00	200.00
25-Feb-2003	Jan F. Pilat	Microsource Online, Inc. - Common Shares	1,200.00	200.00
24-Feb-2003	Wes Durie	Microsource Online, Inc. - Common Shares	1,200.00	200.00
24-Feb-2003	Luc Ouimet	Microsource Online, Inc. - Common Shares	1,200.00	200.00
12-Mar-2003	Beutel Goodman and Franklin Templeton	Mitsubishi Tokyo Financial Group, Inc. - Shares	801,352.00	125,010.00

01-Mar-2003	5 Purchasers	MMCAP Limited Partnership Fund - Limited Partnership Units	375,000.00	375.00
10-Jan-2002 12/20/02	8 Purchasers	Morneau D.C. Services - Units	2,137,593.00	485,587.00
10-Jan-2002 12/20/02	5 Purchasers	Morneau D.C. Services - Units	2,784,758.00	229,525.00
10-Jan-2002 12/20/02	6 Purchasers	Morneau D.C. Services - Units	1,553,536.00	321,078.00
03-Mar-2003	Carl & Shirley Hasson;Larry G. Traxler	New Solutions Financial (IV) Corporation - Debentures	125,500.00	2.00
31-Dec-2002	7 Purchasers	Newport Mezzanine Fund - Units	600,000.00	6,000.00
12-Mar-2003	17 Purchasers	North Atlantic Nickel Corp. - Units	3,000,030.00	2,727,300.00
18-Mar-2003	4 Purchasers	Northam Real Estate Investment Fund VI, L.P. - Units	55,000,000.00	55,000.00
07-Mar-2003	Harold J. Hodge	Nustar Resources Inc. - Common Shares	50,000.00	500,000.00
13-Mar-2003	3 Purchasers	O'Donnell Emerging Companies Fund - Units	75,000.00	14,031.00
06-Mar-2003	Constellation Credit Linked Certificate Trust (Caribou)	Pioneer Trust - Notes	62,000,000.00	1.00
06-Mar-2003	Constellation Credit Linked Certificate Trust (Caribou)	Pioneer Trust - Notes	21,000,000.00	1.00
11-Mar-2003	Goldcorp Inc.	Planet Exploration Inc. - Units	500,000.00	1,000,000.00
14-Mar-2003	11 Purchasers	PointShot Wireless Inc. - Units	530,229.00	530,229.00
04-Mar-2003	3 Purchasers	Protus IP Solutions Inc. - Preferred Shares	2,000,000.00	2,500,000.00
14-Mar-2003	4 Purchasers	Talware Networx Inc. - Units	72,500.00	725,000.00
31-Jul-2002	11 Purchasers	The Enterprise AOF LP - Limited Partnership Units	4,900,000.00	196.00
12-Mar-2003	3 Purchasers	The Shaw Group, Inc. - Notes	7,287,215.57	3.00
12-Mar-2003	Marianne Whitten	The Strand Boulders Investment Trust - Trust Units	25,000.00	2.00
01-Nov-2002 2/7/03	14 Purchasers	Venture Trading Inc. - Common Shares	488,600.00	488,600.00
12-Mar-2003	Royal Bank of Canada and Trudell Medical Limited	Viron Therapeutics Inc. - Convertible Debentures	182,500.00	2.00
24-Jan-2003	7 Purchasers	William Wilson Group, Inc. - Units	75,000.00	15.00

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
John Buhler	Buhler Industries Inc. - Common Shares	438,600.00
Viceroy Resource Corporation	Channel Resources Ltd. - Common Shares	7,076,850.00
James A. Estill	EMJ Data Systems Ltd. - Common Shares	59,200.00
Glen R. Estill	EMJ Data Systems Ltd. - Common Shares	9,334.00
Hector Davila Santos	First Silver Reserve Inc. - Shares	135,000.00
Conrad M. Black	Hollinger Inc. - Shares	1,611,039.00
Xenolith Gold Limited	Kookaburra Resources Ltd. - Common Shares	1,113,700.00
Paros Enterprises Limited	Morguard Corporation - Common Shares	2,000,000.00
Great Pacific Capital Corp.	Westshore Terminals Income Fund - Trust Units	1,000,000.00

Chapter 11

IPOs, New Issues and Secondary Financings

Issuer Name:
Altamira Monthly Income Fund
Principal Regulator - Ontario
Type and Date:
Preliminary Simplified Prospectus dated March 15, 2004
Mutual Reliance Review System Receipt dated March 17, 2004
Offering Price and Description:
Mutual Fund Securities Net Asset Value
Underwriter(s) or Distributor(s):
Altamira Financial Services Ltd.
Altamira Financial Services Ltd.
Promoter(s):
-
Project #622036

Issuer Name:
Creststreet 2004 Limited Partnership
Principal Regulator - Ontario
Type and Date:
Preliminary Prospectus dated March 19, 2004
Mutual Reliance Review System Receipt dated March 22, 2004
Offering Price and Description:
$75,000,000 (Maximum Offering); $5,000,000 (Minimum Offering) A maximum of 7,500,000 and a minimum of 500,000 Limited Partnership Units Price: $10.00 per Unit Minimum Purchase: 250 Units
Underwriter(s) or Distributor(s):
Scotia Capital Inc.
BMO Nesbitt Burns Inc.
RBC Dominion Securities Inc.
TD Securities Inc.
Dundee Securities Corporation
HSBC Securities (Canada) Inc.
GMP Securities Ltd.
Peters & Co. Limited
Tristone Capital Inc.
Promoter(s):
Creststreet 2004 General Partner Limited
Creststreet Asset Management
Project #623475

Issuer Name:
Crystallex International Corporation
Principal Regulator - Ontario
Type and Date:
Preliminary Short Form Prospectus dated March 17, 2004
Mutual Reliance Review System Receipt dated March 17, 2004
Offering Price and Description:
$ * - * Common Shares Price: $ * per Common Share
Underwriter(s) or Distributor(s):
Orion Securities Inc.
Loewen, Ondaatje, McCutcheon Limited
Haywood Securities Inc.
Sprott Securities Inc.
McFarlane Gordon Inc.
Promoter(s):
-
Project #622176

Issuer Name:
CSI Wireless Inc.
Principal Regulator - Alberta
Type and Date:
Preliminary Short Form Prospectus (NI 44-101) dated March 23, 2004
Mutual Reliance Review System Receipt dated March 23, 2004
Offering Price and Description:
$16,250,000 - 5,000,000 Common Shares Issuable on Exercise of 5,000,000 Special Warrants
Price: $3.25 per Special Warrants
Underwriter(s) or Distributor(s):
GMP Securities Ltd.
Paradigm Capital Inc.
Pacific International Securities Inc.
Acumen Capital Finance Partners Limited
Promoter(s):
-
Project #623881

Issuer Name:
EnCana Holdings Finance Corp.
Principal Regulator - Alberta
Type and Date:
Preliminary Short Form Shelf Prospectus dated March 18, 2004
Mutual Reliance Review System Receipt dated March 19, 2004
Offering Price and Description:
US$2,000,000,000.00 - Debt Securities Unconditionally guaranteed as to principal, premium (if any), interest and certain other amounts by EnCana Corporation
Underwriter(s) or Distributor(s):
-
Promoter(s):
Encana Corporation
Project #622960

Issuer Name:
Flaherty & Crumrine Investment Grade Preferred Fund
Principal Regulator - Ontario
Type and Date:
Preliminary Prospectus dated March 19, 2004
Mutual Reliance Review System Receipt dated March 22, 2004
Offering Price and Description:
Maximum $ * - (* Units) Price: $25.00 per Unit
Underwriter(s) or Distributor(s):
RBC Dominion Securities Inc.
CIBC World Markets Inc.
BMO Nesbitt Burns Inc.
National Bank Financial Inc.
Scotia Capital Inc.
TD Securities Inc.
HSBC Securities (Canada) Inc.
Canaccord Capital Corporation
Desjardins Securities Inc.
Dundee Securities Corporation
First Associates Investments Inc.
Raymond James Ltd.
Acadian Securities Incorporated
Newport Securities Inc.
Research Capital Corporation
Wellington West Capital Inc.
Promoter(s):
Brompton Preferred Management Limited
Project #623437

Issuer Name:
Four Seasons Hotels Inc.
Type and Date:
Preliminary Short Form Shelf Prospectus dated March 16, 2004
Receipted on March 17, 2004
Offering Price and Description:
US$250,000,000.00 - Debt Securities (unsecured)
Underwriter(s) or Distributor(s):
-
Promoter(s):
-
Project #622111

Issuer Name:
Holiday Income Fund
Principal Regulator - Quebec
Type and Date:
Preliminary Prospectus dated March 22, 2004
Mutual Reliance Review System Receipt dated March 22, 2004
Offering Price and Description:
$ * - * Units Price: $10.00 per Unit
Underwriter(s) or Distributor(s):
Scotia Capital Inc.
BMO Nesbitt Burns Inc.
Promoter(s):
North American Accessories Ltd.
Project #623542

Issuer Name:
Mackenzie 2004 Resource Limited Partnership
Principal Regulator - Ontario
Type and Date:
Preliminary Prospectus dated March 18, 2004
Mutual Reliance Review System Receipt dated March 19, 2004
Offering Price and Description:
$50,000,000 (Maximum) (2,000,000 Units)
Price $25.00 per Unit. Minimum Purchase: 200 Units
Underwriter(s) or Distributor(s):
RBC Dominion Securities Inc.
CIBC World Markets Inc.
BMO Nesbitt Burns Inc.
National Bank Financial Inc.
Scotia Capital Inc.
TD Securities Inc.
Canaccord Capital Corporation
Desjardins Securities Inc.
Dundee Securities Corporation
First Associates Investments Inc.
HSBC Securities (Canada) Inc.
Raymond James Ltd.
Promoter(s):
Mackenzie 2004 GP Inc.
Project #622958

Issuer Name:
Macquarie Power Fund
Principal Regulator - Ontario
Type and Date:
Preliminary Prospectus dated March 15, 2004
Mutual Reliance Review System Receipt dated March 17, 2004
Offering Price and Description:
$ * - * Units Price: $10.00 per Unit
Underwriter(s) or Distributor(s):
TD Securities Inc.
CIBC World Markets Inc.
Promoter(s):
RQ Canada, LLC
Project #621760

Issuer Name:
MineralFields 2004 Flow-Through Limited Parrtnership
Principal Regulator - Ontario
Type and Date:
Preliminary Prospectus dated March 22, 2004
Mutual Reliance Review System Receipt dated March 23, 2004
Offering Price and Description:
$ * (Maximum Offering); $1,500,000 (Minimum Offering) A Maximum of * and a Minimum of 150,000 Limited Partnership Units Minimum Subscription: 500 Units Subscription Price: $10.00 per Unit
Underwriter(s) or Distributor(s):
Queensbury Securities Inc.
Haywood Securities Inc.
Promoter(s):
MineralFields 2004 Inc.
Project #623749

Issuer Name:
OPTI Canada Inc.
Principal Regulator - Alberta
Type and Date:
Amended and Restated Preliminary PREP Prospectus dated March 19, 2004
Mutual Reliance Review System Receipt dated March 22, 2004
Offering Price and Description:
$ * - * Common Shares
Underwriter(s) or Distributor(s):
TD Securities Inc.
Scotia Capital Inc.
RBC Dominion Securities Inc.
BMO Nesbitt Burns Inc.
CIBC World Markets Inc.
National Bank Financial Inc.
HSBC Securities (Canada) Inc.
Dundee Securities Corporation
FirstEnergy Capital Corp.
Raymond James Ltd.
Tristone Capital Inc.
Peters & Co. Limited
Richardson Partners Financial Ltd.
Promoter(s):
-
Project #615573

Issuer Name:
Pan American Silver Corp.
Principal Regulator - British Columbia
Type and Date:
Preliminary Short Form Prospectus dated March 22, 2004
Mutual Reliance Review System Receipt dated March 22, 2004
Offering Price and Description:
US$ * - * Common Shares
Underwriter(s) or Distributor(s):
-
Promoter(s):
-
Project #623553

Issuer Name:
Shoppers Drug Mart Corporation
Principal Regulator - Ontario
Type and Date:
Preliminary Short Form Prospectus dated March 18, 2004
Mutual Reliance Review System Receipt dated March 18, 2004
Offering Price and Description:
$800,000,000.00 - 25,000,000 Common Shares Price: $32.00 per Common Share
Underwriter(s) or Distributor(s):
CIBC World Markets Inc.
Merrill Lynch Canada Inc.
RBC Dominion Securities Inc.
Scotia Capital Inc.
BMO Nesbitt Burns Inc.
TD Securities Inc.
National Bank Financial Inc.
Credit Suisse First Boston Canada
Morgan Stanley Canada Limited
Promoter(s):
-
Project #622571

Issuer Name:
Altamira T-Bill Fund
Altamira Income Fund
Altamira Bond Fund
Altamira High Yield Bond Fund
Altamira Short Term Canadian Income Fund
Altamira Short Term Government Bond Fund
Altamira Short Term Global Income Fund
Altamira Global Bond Fund
Altamira Balanced Fund
Altamira Dividend Fund Inc.
Altamira Growth & Income Fund
Altamira Global Diversified Fund
Altamira Canadian Value Fund
Altamira Equity Fund
AltaFund Investment Corp.
Altamira Capital Growth Fund Limited
Altamira Special Growth Fund
Altamira European Equity Fund
Altamira Global Value Fund
Altamira US Larger Company Fund
Altamira Asia Pacific Fund
Altamira Japanese Opportunity Fund
Altamira Global Discovery Fund
Altamira Global 20 Fund
Altamira Global Small Company Fund
Altamira Select American Fund
Altamira Precision Canadian Index Fund
Altamira Precision Dow 30 Index Fund
Altamira Precision European Index Fund
Altamira Precision European RSP Index Fund
Altamira Precision International RSP Index Fund
Altamira Precision U.S. RSP Index Fund
Altamira Precision U.S. Midcap Index Fund
Altamira Biotechnology Fund
Altamira E-Business Fund
Altamira RSP E-Business Fund
Altamira Global Financial Services Fund
Altamira Health Sciences Fund
Altamira RSP Health Sciences Fund
Altamira Precious and Strategic Metal Fund
Altamira Resource Fund
Altamira Science and Technology Fund
Altamira RSP Science and Technology Fund
Principal Regulator - Ontario
Type and Date:
Amendment #1 dated March 11, 2004 to the Annual Information Form dated August 29, 2003
Mutual Reliance Review System Receipt dated March 17, 2004
Offering Price and Description:
-
Underwriter(s) or Distributor(s):
Altamira Financial Services Ltd.
Promoter(s):
Altamira Investment Services Inc.
Project #558001

Issuer Name:
BioSyntech, Inc.
Principal Regulator - Quebec
Type and Date:
Final Prospectus dated March 17, 2004
Mutual Reliance Review System Receipt dated March 18, 2004
Offering Price and Description:
$3,000,000 to $5,000,000 - Minimum 2,400,000 Units and Maximum 4,000,000 Units at $1.25 per Unit
Underwriter(s) or Distributor(s):
Canaccord Capital Corporation
Promoter(s):
Amine Selmani
Project #604839

Issuer Name:
BNN Split Corp.
Principal Regulator - Ontario
Type and Date:
Final Short Form Prospectus dated March 18, 2004
Mutual Reliance Review System Receipt dated March 18, 2004
Offering Price and Description:
3,2000,000 Class AA Preferred Shares, Series 1 @ $25.00 per Class AA Preferred Share, Series 1
Underwriter(s) or Distributor(s):
Scotia Capital Inc.
CIBC World Markets Inc.
RBC Dominion Securities Inc.
TD Securities Inc.
BMO Nesbitt Burns Inc.
National Bank Financial Inc.
HSBC Securities (Canada) Inc.
Desjardins Securities Inc.
Trilon Securities Corporation
Promoter(s):
BNN Investments Ltd.
Project #620661

Issuer Name:
Cedara Software Corp.
Principal Regulator - Ontario
Type and Date:
Final Short Form Prospectus dated March 17, 2004
Mutual Reliance Review System Receipt dated March 17, 2004
Offering Price and Description:
$50,000,000.00 - 5,000,000 Common Shares Price: $10.00 per Common Share
Underwriter(s) or Distributor(s):
Canaccord Capital Corporation
CIBC World Markets Inc.
GMP Securities Ltd.
Loewen, Ondaatje, McCutcheon Limited
McFarlane Gordon Inc.
Promoter(s):
-
Project #620367

Issuer Name:
CEN-TA-REAL ESTATE LTD.
AND
GRO-NET FINANCIAL TAX & PENSION PLANNERS LTD.
Type and Date:
Final Prospectuses dated March 22, 2004
Receipted on March 22, 2004
Offering Price and Description:
CONDOMINIUM INVESTMENT UNITS
Underwriter(s) or Distributor(s):
-
Promoter(s):
-
Project #612925

Issuer Name:
Elliott & Page Canadian Equity Fund
Elliott & Page Blue Chip Fund
Elliott & Page Total Equity Fund
Elliott & Page International Equity Fund
Elliott & Page Global Sector Fund
Elliott & Page RSP Total Equity Fund
E&P Manulife Balanced Asset Allocation Portfolio
E&P Manulife Maximum Growth Asset Allocation Portfolio
Principal Regulator - Ontario
Type and Date:
Amendment #1 dated March 15, 2004 to the Final Simplified Prospectuses and Annual Information Forms dated August 26, 2003
Mutual Reliance Review System Receipt dated March 19, 2004
Offering Price and Description:
-
Underwriter(s) or Distributor(s):
Elliott & Page Limited
Elliott & Page Limited
MFC Global Investment Management, a division of Elliott & Page Limited
Promoter(s):
Elliott & Page Limited
Project #558387

Issuer Name:
InnVest Real Estate Investment Trust
Principal Regulator - Ontario
Type and Date:
Final Short Form Prospectus dated March 23, 2004
Mutual Reliance Review System Receipt dated March 23, 2004
Offering Price and Description:
$46,024,250.00 - 4,055,000 Units and $57,500,000 6.25% Convertible Unsecured Subordinated Debentures Units
PRICE: $11.35 PER OFFERED UNIT
Underwriter(s) or Distributor(s):
RBC Dominion Securities Inc.
CIBC World Markets Inc.
Scotia Capital Inc.
TD Securities Inc.
Promoter(s):
-
Project #621042

Issuer Name:
IPC US Income Commercial Real Estate Investment Trust
Principal Regulator - Ontario
Type and Date:
Final Short Form Prospectus dated March 19, 2004
Mutual Reliance Review System Receipt dated March 19, 2004
Offering Price and Description:
U.S. $30,352,500.00 -3,550,000 Units Price: U.S. $8.55 per Unit
Underwriter(s) or Distributor(s):
CIBC World Markets Inc.
Desjardins Securities Inc.
Scotia Capital Inc.
National Bank Financial Inc.
RBC Dominion Securities Inc.
TD Securities Inc.
Canaccord Capital Corporation
HSBC Securities (Canada) Inc.
Raymond James Ltd.
Promoter(s):
-
Project #620692

Issuer Name:
LABRADOR IRON ORE ROYALTY INCOME FUND
Principal Regulator - Ontario
Type and Date:
Final Short Form Prospectus dated March 22, 2004
Mutual Reliance Review System Receipt dated March 22, 2004
Offering Price and Description:
$36,500,000.00 - 2,000,000 Subscription Receipts each representing the right to receive one Trust Unit Price: $18.25 per Subscription Receipt
Underwriter(s) or Distributor(s):
Scotia Capital Inc.
CIBC World Markets Inc.
RBC Dominion Securities Inc.
Promoter(s):
-
Project #621056

Issuer Name:
Mavrix Resource Fund 2004 Limited Partnership
Principal Regulator - Ontario
Type and Date:
Final Prospectus dated March 19, 2004
Mutual Reliance Review System Receipt dated March 22, 2004
Offering Price and Description:
-
Underwriter(s) or Distributor(s):
Canaccord Capital Corporation
National Bank Financial Inc.
TD Securities Inc.
Dundee Securities Corporation
Desjardins Securities Inc.
First Associates Investments Inc.
Raymond James Ltd.
McFarlane Gordon Inc.
Wellington West Capital Inc.
Promoter(s):
Mavrix Resource Fund 2004 Management Limited
Project #612496

Issuer Name:
Medical Facilities Corporation
Principal Regulator - Ontario
Type and Date:
Final Prospectus dated March 17, 2004
Mutual Reliance Review System Receipt dated March 19, 2004
Offering Price and Description:
Cdn$221,732,120.00 - 22,173,212 Income Participating Securities Price: Cdn $10.00 per Income Participating Securities
Underwriter(s) or Distributor(s):
BMO Nesbitt Burns Inc.
TD Securities Inc.
RBC Dominion Securities Inc.
National Bank Financial Inc.
Canaccord Capital Corporation
Promoter(s):
Black Hills Surgery Center, LLP
Dakota Plains Surgical Center, LLP
Sioux Falls Surgical Center, LLP
Project #614121

Issuer Name:
MI Developments Inc.
Principal Regulator - Ontario
Type and Date:
Final Short Form Shelf Prospectus dated March 19, 2004
Mutual Reliance Review System Receipt dated March 19, 2004
Offering Price and Description:
Cdn. $650,000 Debt Securities (Unsecured)
Underwriter(s) or Distributor(s):
-
Promoter(s):
-
Project #620244

Issuer Name:
MIX SEAMARK Total Canadian Equity Class
MIX SEAMARK Total Global Equity Class
MIX SEAMARK Total U.S. Equity Class
MIX Short Term Yield Class
MIX Canadian Large Cap Growth Class
MIX Canadian Large Cap Value Class
MIX Global Sector Class
MIX International Value Class
MIX U.S. Large Cap Growth Class
Principal Regulator - Ontario
Type and Date:
Amendment #1 dated March 15, 2004 to Final Simplified Prospectuses and Annual Information Forms dated October 21, 2003
Mutual Reliance Review System Receipt dated March 19, 2004
Offering Price and Description:
-
Underwriter(s) or Distributor(s):
Elliott & Page Limited
Elliott & Page Limited
Promoter(s):
Elliott & Page Limited
Project #575409

Issuer Name:
Northwest Canadian Equity Fund
Northwest Money Market Fund
Northwest Balanced Fund
Northwest Foreign Equity Fund
Northwest RSP Foreign Equity Fund
Northwest Specialty High Yield Bond Fund
Northwest Specialty Equity Fund
Northwest Specialty Innovations Fund
Principal Regulator - Ontario
Type and Date:
Amended and Restated Simplified Prospectuses and Annual Information Forms dated March 10, 004 to the Amended and Restating Simplified Prospectuses and Annual Information Forms dated April 11, 2003
Mutual Reliance Review System Receipt dated March 18, 2004
Offering Price and Description:
Mutual Fund Net Asset Value
Underwriter(s) or Distributor(s):
Northwest Mutual Funds Inc.
Northwest Mutual Funds Inc.
Promoter(s):
Northwest Mutual Funds Inc.
Project #520254

Issuer Name:
O&Y Real Estate Investment Trust
Principal Regulator - Ontario
Type and Date:
Final Short Form Prospectus dated March 17, 2004
Mutual Reliance Review System Receipt dated March 17, 2004
Offering Price and Description:
$125,085,000.00 - 9,300,000 Limited Voting Units Price: $13.45 per Limited Voting Unit
Underwriter(s) or Distributor(s):
RBC Dominion Securities Inc.
CIBC World Markets Inc.
TD Securities Inc.
BMO Nesbitt Burns Inc.
Scotia Capital Inc.
National Bank Financial Inc.
Canaccord Capital Corporation
Promoter(s):
-
Project #620376

Issuer Name:
Peak Energy Services Ltd.
Principal Regulator - Alberta
Type and Date:
Final Short Form Prospectus dated March 22, 2004
Mutual Reliance Review System Receipt dated March 22, 2004
Offering Price and Description:
$23,040,000.00 - 4,800,000 Common Shares PRICE: $4.80 PER COMMON SHARE
Underwriter(s) or Distributor(s):
Orion Securities Inc.
Sprott Securities Inc.
Canaccord Capital Corporation
CIBC World Market Inc.
GMP Securities Ltd.
Promoter(s):
-
Project #621179

Issuer Name:
Putnam Canadian Balanced Fund
Putnam Canadian Bond Fund
Putnam Canadian Equity Fund
Putnam Canadian Money Market Fund
Putnam Global Equity Fund
Putnam U.S. Value Fund
Putnam U.S. Voyager Fund
Putnam International Equity Fund
Principal Regulator - Ontario
Type and Date:
Final Simplified Prospectuses dated March 15, 2004
Mutual Reliance Review System Receipt dated March 18, 2004
Offering Price and Description:
Mutual Fund Units @ Net Asset Value
Underwriter(s) or Distributor(s):
-
Promoter(s):
Putnam Investments Inc.
Project #612628

Issuer Name:
Real Resources Inc.
Principal Regulator - Alberta
Type and Date:
Final Short Form Prospectus dated March 23, 2004
Mutual Reliance Review System Receipt dated March 23, 2004
Offering Price and Description:
$27,336,750.00 - 4,305,000 Common Shares PRICE: $6.35 PER COMMON SHARE
Underwriter(s) or Distributor(s):
GMP Securities Ltd.
ORION SECURITIES INC.
PETERS & CO. LIMITED
CIBC WORLD MARKETS INC.
RAYMOND JAMES LTD.
Promoter(s):
-
Project #621220

Issuer Name:
Retirement Residences Real Estate Investment Trust
Principal Regulator - Ontario
Type and Date:
Final Short Form Prospectus dated March 18, 2004
Mutual Reliance Review System Receipt dated March 18, 2004
Offering Price and Description:
$150,290,000.00 - 11,300,000 Units Price: $13.30 per Unit
Underwriter(s) or Distributor(s):
CIBC World Markets Inc.
Scotia Capital Inc.
RBC Dominion Securities Inc.
TD Securities Inc.
Canaccord Capital Corp.
National Bank Financial Inc.
HSBC Securities (Canada) Inc.
Desjardins Securities Inc.
Promoter(s):
-
Project #619738

Issuer Name:
Telesystem International Wireless Inc.
Principal Regulator - Quebec
Type and Date:
Final Short Form PREP Prospectus dated March 18, 2004
Mutual Reliance Review System Receipt dated on March 18, 2004
Offering Price and Description:
U.S.$ * - 21,000,000 Common Shares Price: U.S.$ * per Share Net
Underwriter(s) or Distributor(s):
BMO Nesbitt Burns Inc.
J.P. Morgan Securities Canada Inc.
Lazard Freres & Co. LLC
UBS Securities Canada Inc.
TD Securities Inc.
Promoter(s):
-
Project #619307

Chapter 12

Registrations

12.1.1 Registrants

Type	Company	Category of Registration	Effective Date
New Registration	Charterhouse Management Corporation	Limited Market Dealer	March 18, 2004
New Registration	Peregrine Investment Management, Inc.	Limited Market Dealer and Investment Counsel and Portfolio Manager	March 17, 2004
New Registration	JGA Investment Counsel Ltd.	Investment Counsel and Portfolio Manager and Limited Market Dealer	March 17, 2004
New Registration	First Nations Equity Incorporated	Limited Market Dealer	March 19, 2004
New Registration	MDS Capital Corporation	Limited Market Dealer	March 22, 2004
New Registration	Tailwind Capital Inc.	Limited Market Dealer and Investment Counsel and Portfolio Manager	March 22, 2004
Name Change	From: Multiple Retirement Services, Inc. To: M.R.S. Inc.	Mutual Fund Dealer and Limited Market Dealer	March 17, 2004

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Chapter 13

SRO Notices and Disciplinary Proceedings

13.1.1 IDA Discipline Penalties Imposed on David Cathcart – Violations of By-law 29.1 and Regulation 1300.1(a)

Contact:
Kathryn Andrews and
Ricardo Codina
Enforcement Counsel
(416) 364-6133

BULLETIN # 3264
March 17, 2004

DISCIPLINE

DISCIPLINE PENALTIES IMPOSED ON DAVID CATHCART – VIOLATIONS OF BY-LAW 29.1 AND REGULATION 1300.1(A)

Person Disciplined

The Ontario District Council of the Investment Dealers Association of Canada has imposed discipline penalties on David Cathcart, at all material times a registered representative with Northern Securities Inc. and with Rampart Securities Inc., a Member and former Member of the Association, respectively.

By-laws, Regulations, Policies Violated

Following a disciplinary hearing on March 4, 2004, the Ontario District Council found David Cathcart to have violated Association By-law 29.1 by engaging in conduct unbecoming or detrimental to the public interest:

(a) by conducting unauthorized trades in 3 client accounts between November 1999 and December 2000;

(b) by carrying out trading in the shares of MYO Diagnostics Ltd. and Charrington Business Consultants Inc. in various client accounts, without any benefit to those accounts and for the purpose of avoiding margin requirements or payment for the shares, in a practice known as "debit kiting";

(c) by accepting compensation from a client in May 2000 without disclosing such compensation to his employer; and

(d) by failing to disclose to the Association that he had become a director of Charrington Business Consultants Inc. in July 2000.

The District Council also found that Mr. Cathcart violated Regulation 1300.1(a), in that he failed to learn the essential facts relative to 4 clients and the transactions in their accounts.

Penalty Assessed

The discipline penalties assessed against Mr. Cathcart are as follows:

- A permanent prohibition on registration in any capacity with the Association.
- A fine in the amount of $120,000; broken down as follows:
  - i) $35,000 with respect to the unauthorized trading;
  - ii) $25,000 with respect to the debit kiting;
  - iii) $20,000 with respect to the failure to know his clients;
  - iv) $20,000 with respect to the failure to disclose information to his employer; and
  - v) $20,000 with respect to the failure to disclose information to the Association.
- Payment of a portion of the Association's costs in the amount of $50,000.

Summary of Facts

Registration history:

St. James Securities Inc.:

Between May 1996 and November 1999, Mr. Cathcart was employed as a Registered Representative (Non Retail) at St. James Securities Inc. ("SJS"), a former Member of the Association. While at SJS, Mr. Cathcart also assisted John Illidge ("Illidge") and, for a time, shared a Registered Representative code with him for various client accounts.

John Illidge:

Illidge was a Director, Chairman, Alternate Designated Person and Registered Representative of SJS at various times from 1996 to 1999. Illidge has not been registered with the Association since January 2000.

On June 17, 2003, the Ontario District Council approved a settlement agreement between Illidge and Association Staff. In the settlement agreement, Illidge admitted that, while at SJS, he had engaged in misconduct, including unauthorized trading, conducting personal trading through fictitious client accounts, carrying out transactions in various accounts for the sole purpose of moving debit positions between accounts and carrying out transactions that unduly prejudiced SJS's inventory accounts and SJS's capital position. Illidge was permanently banned from approval in any capacity and was fined $ 300,000. For further information see Bulletin 3165.

Northern Securities Inc:

In November and December 1999, following the demise of SJS, Mr. Cathcart was approved as a Registered Representative with Northern Securities Inc. ("NSI"). In November 1999, SJS transferred all of its client accounts to NSI and SJS ceased to operate at that time as a brokerage firm.

As Illidge was not registered at NSI, Mr. Cathcart was assigned all of Illidge's client accounts, including all accounts which Mr. Cathcart and Illidge had previously held as joint Registered Representatives (collectively "Illidge client accounts").

Rampart Securities Inc.:

From 2000 to September 2001, Mr. Cathcart was approved as a registered representative with Rampart Securities Inc. ("Rampart"). Rampart is a former Member of the Association.

In or about December 1999, Illidge became a Director of Rampart Mercantile Inc., the parent company of Rampart, and held that position during the time that Mr. Cathcart was employed at Rampart. At all material times, Illidge was also the Chief Executive Officer and President of Hucamp Mines Ltd. ("Hucamp").

Charrington:

Charrington Business Consultants Inc. ("Charrington"), now known as Digital Duplication Inc., is a small capital company whose shares were traded on the CDNX. At all material times, the market for Charrington's shares was illiquid. Mr. Cathcart was a director of Charrington.

MYO:

At all material times, MYO Diagnostics Ltd. ("MYO") was an unlisted small capital company based in California with an illiquid market for its shares. MYO was one of Illidge's clients at SJS. On November 1998 and April 1999, while at SJS, Illidge arranged private placements for MYO.

Failure to know his clients:

Although Mr. Cathcart became the Registered Representative for the Illidge client accounts at NSI, he failed to adequately know those clients in that he had minimal knowledge of the clients and of the transactional activity in their accounts. In particular, while at NSI, Mr. Cathcart did not adequately know clients MYO, O.C.L., and S.T. notwithstanding that he carried out the following transactions for those accounts:

(a) Sale of 325,000 shares of MYO for MYO's account on November 29, 1999, having a purported value of $ 1, 121,500.00;

(b) Sale of 100, 000 shares of MYO for O.C.L.'s account on December 6, 1999, having a purported value of $ 345,750.00; and

(c) Purchase of 1,700 shares of Lorus Therapeutic Inc. for S.T.'s account on November 17, 1999, having a purported value of $643.00.

S.T. was an estate trust. The trust was wound up on or about June 1998. In November 1999, when Mr. Cathcart carried out the transaction referred to above, Illidge was using S.T.'s account to carry out his personal trading. Mr. Cathcart either knew or ought to have known that S.T.'s account was being used by Illidge for his personal trading.

In addition, while at Rampart, Mr. Cathcart did not adequately know his client B.S., notwithstanding that he carried out a numerous amount of purchases and sales of shares including large value transactions in Charrington and Hucamp for B.S.'s accounts from May, 2000 to March, 2001.

Unauthorized trading:

A.D.:

Between October 2000 and December 2000, while Mr. Cathcart was employed at Rampart, he was the Registered Representative for client A.D.'s account. Mr. Cathcart caused the following transactions to take place in this account without the client's knowledge or consent:

(a) purchase of 160,000 shares of Hucamp on October 25, 2000;

(b) purchase of 500,000 shares of Hucamp on November 9, 2000;

(c) purchase of 30,000 shares of Hucamp on November 14, 2000;

(d) purchase of 40,000 shares of MPR Health Systems on December 29, 2000; and

(e) purchase of 66, 667 warrants of United America on December 29, 2000.

The transaction described above in item (b) was documented as a private placement of 500,000 flow through shares of Hucamp. Mr. Cathcart was the Registered Representative for Hucamp's trading accounts at Rampart. At the time of this purported private placement, Illidge was the CEO and President of Hucamp and had unrelated business dealings with client A.D.

Client A.D. did not receive its account statements for the transactions described above until January 2001. On or about March 10, 2001, client A.D. complained to Illidge and to Mr. Cathcart about unauthorized transactions in its account, including the purported private placement. Notwithstanding this information, on March 20, 2001, Illidge undertook to CDNX that he would provide it with the required executed Form 4D indicating client A.D. as the placee for this transaction.

Between March 10 and July 31, 2001, representatives of client A.D. faxed letters and left messages for Mr. Cathcart and Illidge requesting the reversal of the unauthorized transactions in its account.

On July 31, 2001, Mr. Cathcart attended a meeting with representatives of client A.D. to discuss the unauthorized transactions in its accounts. Illidge was also present at that meeting and gave assurances that the transactions would be reversed. Ultimately, the transactions were never corrected.

In addition, the transactions in MYO and ST's account referred to above were not authorized by the clients.

Failure to Disclose Compensation from Hucamp:

In May 2000, Mr. Cathcart received stock options in Hucamp as compensation for services rendered to Hucamp. Mr. Cathcart was the Registered Representative for Hucamp's accounts and also traded Hucamp shares for several client accounts. Mr. Cathcart failed to disclose to his employer, Rampart, that he had received such compensation.

Failure to Disclose Directorship in Charrington:

On or about July 10, 2000, while a Registered Representative at Rampart, Mr. Cathcart became a director of Charrington. He failed to disclose his position in Charrington to the Association.

"Debit Kiting":

While at Rampart, Mr. Cathcart conducted several transactions in the shares of MYO and Charrington in various client accounts without any economic benefit for those accounts.

Between January 11, 2000, and August 16, 2000, accounts for ten (10) individuals and/or corporate entities traded fourteen (14) times in the shares of MYO and/or Charrington. All of these transactions involved internal crosses between accounts for which Mr. Cathcart was the Registered Representative. The purpose of these transactions was to move shares of MYO and Charrington between accounts in order to avoid margin requirements or payment for the shares.

Illidge had also engaged in this pattern of trading at SJS while Mr. Cathcart was employed at SJS. Mr. Cathcart continued in this pattern of trading while employed at NSI and Rampart.

Mr. Cathcart has not been registered in any capacity with the Association since September 2001.

Kenneth A. Nason
Association Secretary

Chapter 25

Other Information

25.1 Consents

25.1.1 Banro Corporation - ss. 4(b) of Reg. 298

Headnote

Consent given to OBCA corporation to continue under the CBCA.

Statutes Cited

Business Corporations Act, R.S.O. 1990, c. B16, as am.
Canada Business Corporations Act, R.S.C. 1985, c. C-44, as am.
Securities Act, R.S.O. 1990, c. S.5, as am.

Regulation Cited

Regulation made under the Business Corporations Act, O. Reg. 289/00, as am., s. 4(b).

IN THE MATTER OF
ONT. REG. 289/00, AS AM., (THE "REGULATION")
MADE UNDER
THE BUSINESS CORPORATIONS ACT,
R.S.O. 1990, c.B.16, AS AM. (THE "OBCA")

AND

IN THE MATTER OF
BANRO CORPORATION

CONSENT
(Subsection 4(b) of the Regulation)

UPON the application (the "Application") of Banro Corporation (the "Applicant") to the Ontario Securities Commission (the "Commission") requesting a consent from the Commission for the Applicant to continue in another jurisdiction, as required by 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 intends to apply (the "Application for Continuance") to the Director under the OBCA for authorization to continue under the *Canada Business Corporations Act*, R.S.C. 1985, c. C-44, as amended (the "CBCA").

2. Pursuant to subsection 4(b) of the Regulation, where the corporation is an offering corporation, the Application for Continuance must be accompanied by a consent from the Commission.

3. The Applicant was incorporated under the CBCA on May 3, 1994 and continued under the OBCA on October 24, 1996, and its head office is located at Suite 7070, 1 First Canadian Place, 100 King Street West, Toronto, Ontario. The Applicant 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"). The Applicant's authorized share capital consists of an unlimited number of common shares and an unlimited number of preference shares, issuable in series.

4. The Applicant intends to remain a reporting issuer under the Act.

5. The Applicant is not in default of any of the provisions of the Act or the regulations or rules made thereunder.

6. The Applicant is not a party to any proceeding or, to the best of its knowledge, information and belief, pending proceeding under the Act.

7. The Applicant's shareholders authorized the continuance of the Applicant as a corporation under the CBCA by special resolution at a meeting of shareholders held on March 8, 2004.

8. The CBCA provides that only 25% of the directors of a corporation must be resident Canadians, subject to certain exceptions. The principal reason for the said proposed continuance is that the Applicant's management believes that the interests of the Applicant will be better served under the CBCA by providing the Applicant with greater flexibility in attracting experienced directors of any nationality to serve the Applicant.

9. 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 the Applicant as a corporation under the CBCA.

March 12, 2004.

"Paul M. Moore" "Suresh Thakrar"

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