The Ontario Securities Commission

OSC Bulletin

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

The Ontario Securities Commission
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Table of Contents

Chapter 1

Notices / News Releases

1.1 Notices

1.1.1 Current Proceedings Before The Ontario Securities Commission

AUGUST 29, 2008

CURRENT PROCEEDINGS

BEFORE

ONTARIO SECURITIES COMMISSION

- -

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

The Harry S. Bray Hearing Room
Ontario Securities Commission
Cadillac Fairview Tower
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20 Queen Street West
Toronto, Ontario
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Suresh Thakrar, FIBC	—	ST
Wendell S. Wigle, Q.C.	—	WSW

SCHEDULED OSC HEARINGS

September 2, 2008 2:30 p.m.	**LandBankers International MX, S.A. De C.V.; Sierra Madre Holdings MX, S.A. De C.V.; L&B LandBanking Trust S.A. De C.V.; Brian J. Wolf Zacarias; Roger Fernando Ayuso Loyo, Alan Hemingway, Kelly Friesen, Sonja A. McAdam, Ed Moore, Kim Moore, Jason Rogers and Dave Urrutia** s. 127 M. Britton in attendance for Staff Panel: LER/ST
September 2, 2008 3:30 p.m.	**FactorCorp Inc., FactorCorp Financial Inc. and Mark Twerdun** s. 127 M. Mackewn in attendance for Staff Panel: LER/ST
September 3, 2008 9:00 a.m..	**Sunwide Finance Inc., Sun Wide Group, Sun Wide Group Financial Insurers & Underwriters, Wi-Fi Framework Corporation, Bryan Bowles, Steven Johnson, Frank R. Kaplan and George Sutton** s. 127 C. Price in attendance for Staff Panel: JEAT/CSP
September 4, 2008 1:00 p.m.	**Rodney International, Choeun Chhean (also known as Paulette C. Chhean) and Michael A. Gittens (also known as Alexander M. Gittens)** s. 127 M. Britton in attendance for Staff Panel: WSW/ST

September 9, 2008 1:00 p.m.	**Irwin Boock, Svetlana Kouznetsova, Victoria Gerber, Compushare Transfer Corporation, Federated Purchaser, Inc., TCC Industries, Inc., First National Entertainment Corporation, WGI Holdings, Inc. and Enerbrite Technologies Group** s. 127(1) & (5) P. Foy in attendance for Staff Panel: JEAT/ST
September 9, 2008 1:00 p.m.	**Stanton De Freitas** s. 127 and 127.1 P. Foy in attendance for Staff Panel: JEAT/ST
September 9, 2008 1:00 p.m.	**David Watson, Nathan Rogers, Amy Giles, John Sparrow, Leasesmart, Inc., Advanced Growing Systems, Inc., The Bighub.com, Inc., Pharm Control Ltd., Universal Seismic Associates Inc., Pocketop Corporation, Asia Telecom Ltd., International Energy Ltd., Cambridge Resources Corporation, Nutrione Corporation and Select American Transfer Co.** s. 127 and 127.1 P. Foy in attendance for Staff Panel: JEAT/ST
September 11, 2008 9:00 a.m.	**Sulja Bros. Building Supplies, Ltd. (Nevada), Sulja Bros. Building Supplies Ltd., Kore International Management Inc., Petar Vucicevich and Andrew DeVries** s. 127 & 127.1 M. Britton in attendance for Staff Panel: JEAT/MCH
September 11, 2008 10:00 a.m.	**Limelight Entertainment Inc., Carlos A. Da Silva, David C. Campbell, Jacob Moore and Joseph Daniels** s. 127 and 127.1 D. Ferris in attendance for Staff Panel: JEAT/ST
September 12, 2008 10:00 a.m.	**Roger D. Rowan, Watt Carmichael Inc., Harry J. Carmichael and G. Michael McKenney** s. 127 J. Superina in attendance for Staff Panel: PJL/ST/DLK
September 16, 2008 2:30 p.m.	**Darren Delage** s. 127 M. Adams in attendance for Staff Panel: PJL/ST
September 16, 2008 2:30 p.m.	**Goldpoint Resources Corporation, Lino Novielli, Brian Moloney, Evanna Tomeli, Robert Black, Richard Wylie and Jack Anderson** s. 127(1) and 127(5) M. Boswell in attendance for Staff Panel: TBA
September 19, 2008 10:00 a.m.	**Xi Biofuels Inc., Biomaxx Systems Inc., Ronald David Crowe and Vernon P. Smith** and **Xiiva Holdings Inc. carrying on Business as Xiiva Holdings Inc., Xi Energy Company, Xi Energy and Xi Biofuels** s. 127 M. Vaillancourt in attendance for Staff Panel: PJL/WSW/DLK
September 19, 2008 2:30 p.m.	**New Life Capital Corp., New Life Capital Investments Inc., New Life Capital Advantage Inc., New Life Capital Strategies Inc., 1660690 Ontario Ltd., L. Jeffrey Pogachar, Paola Lombardi and Alan S. Price** s. 127 S. Kushneryk in attendance for Staff Panel: WSW/ST

September 22, 2008 10:00 a.m.	**John Illidge, Patricia McLean, David Cathcart, Stafford Kelley and Devendranauth Misir** S. 127 and 127.1 I. Smith in attendance for Staff Panel: TBA
September 26, 2008 10:00 a.m.	**Hollinger Inc., Conrad M. Black, F. David Radler, John A. Boultbee and Peter Y. Atkinson** s.127 J. Superina in attendance for Staff Panel: LER/MCH
September 30, 2008 10:00 a.m.	**Al-Tar Energy Corp., Alberta Energy Corp., Drago Gold Corp., David C. Campbell, Abel Da Silva, Eric F. O'Brien and Julian M. Sylvester** s. 127 & 127.1 M. Boswell in attendance for Staff Panel: JEAT/DLK
October 6, 2008 10:00 a.m.	**Norshield Asset Management (Canada) Ltd., Olympus United Group Inc., John Xanthoudakis, Dale Smith and Peter Kefalas** s.127 P. Foy in attendance for Staff Panel: TBA
October 7, 2008 10:00 a.m.	**Gold-Quest International, Health and Harmoney, Iain Buchanan and Lisa Buchanan** s.127 H. Craig in attendance for Staff Panel: TBA
October 8, 2008 10:00 a.m.	**MRS Sciences Inc. (formerly Morningside Capital Corp.), Americo DeRosa, Ronald Sherman, Edward Emmons and Ivan Cavric** s. 127 & 127(1) D. Ferris in attendance for Staff Panel: TBA
October 20, 2008 10:00 a.m.	**Shane Suman and Monie Rahman** s. 127 & 127(1) C. Price in attendance for Staff Panel: TBA
October 27, 2008 10:00 a.m.	**Adrian Samuel Leemhuis, Future Growth Group Inc., Future Growth Fund Limited, Future Growth Global Fund limited, Future Growth Market Neutral Fund Limited, Future Growth World Fund and ASL Direct Inc.** s. 127(5) K. Daniels in attendance for Staff Panel: TBA
November 3, 2008 10:00 a.m.	**Rene Pardo, Gary Usling, Lewis Taylor Sr., Lewis Taylor Jr., Jared Taylor, Colin Taylor and 1248136 Ontario Limited** s. 127 M. Britton/M. Boswell in attendance for Staff Panel: TBA
November 11, 2008 2:30 p.m.	**LandBankers International MX, S.A. De C.V.; Sierra Madre Holdings MX, S.A. De C.V.; L&B LandBanking Trust S.A. De C.V.; Brian J. Wolf Zacarias; Roger Fernando Ayuso Loyo, Alan Hemingway, Kelly Friesen, Sonja A. McAdam, Ed Moore, Kim Moore, Jason Rogers and Dave Urrutia** s. 127 M. Britton in attendance for Staff Panel: LER/ST
November 25, 2008 2:30 p.m.	**Shallow Oil & Gas Inc., Eric O'Brien, Abel Da Silva, Gurdip Singh Gahunia aka Michael Gahunia and Abraham Herbert Grossman aka Allen Grossman** s. 127(7) and 127(8) M. Boswell in attendance for Staff Panel: TBA

December 1, 2008 TBA	**Firestar Capital Management Corp., Kamposse Financial Corp., Firestar Investment Management Group, Michael Ciavarella and Michael Mitton** s. 127 H. Craig in attendance for Staff Panel: TBA
December 3, 2008 10:00 a.m.	**Global Energy Group, Ltd. and New Gold Limited Partnerships** s. 127 H. Craig in attendance for Staff Panel: TBA
January 12, 2009 10:00 a.m.	**Franklin Danny White, Naveed Ahmad Qureshi, WNBC The World Network Business Club Ltd., MMCL Mind Management Consulting, Capital Reserve Financial Group, and Capital Investments of America** s. 127 C. Price in attendance for Staff Panel: TBA
February 2, 2009 10:00 a.m.	**Biovail Corporation, Eugene N. Melnyk, Brian H. Crombie, John R. Miszuk and Kenneth G. Howling** s. 127(1) and 127.1 J. Superina/A. Clark in attendance for Staff Panel: TBA
March 23, 2009 10:00 a.m.	**Imagin Diagnostic Centres Inc., Patrick J. Rooney, Cynthia Jordan, Allan McCaffrey, Michael Shumacher, Christopher Smith, Melvyn Harris and Michael Zelyony** s. 127 and 127.1 H. Craig in attendance for Staff Panel: TBA
April 6, 2009 10:00 a.m.	**Gregory Galanis** s. 127 P. Foy in attendance for Staff Panel: TBA
April 20, 2009 10:00 a.m.	**Al-Tar Energy Corp., Alberta Energy Corp., Drago Gold Corp., David C. Campbell, Abel Da Silva, Eric F. O'Brien and Julian M. Sylvester** s. 127 S. Horgan in attendance for Staff Panel: TBA
May 4, 2009 10:00 a.m.	**Borealis International Inc., Synergy Group (2000) Inc., Integrated Business Concepts Inc., Canavista Corporate Services Inc., Canavista Financial Center Inc., Shane Smith, Andrew Lloyd, Paul Lloyd, Vince Villanti, Larry Haliday, Jean Breau, Joy Statham, David Prentice, Len Zielke, John Stephan, Ray Murphy, Alexander Poole, Derek Grigor and Earl Switenky** s. 127 and 127.1 Y. Chisholm in attendance for Staff Panel: TBA
September 21, 2009 10:00 a.m.	**Swift Trade Inc. and Peter Beck** s. 127 S. Horgan in attendance for Staff Panel: TBA
TBA	**Yama Abdullah Yaqeen** s. 8(2) J. Superina in attendance for Staff Panel: TBA

TBA **Microsourceonline Inc., Michael Peter Anzelmo, Vito Curalli, Jaime S. Lobo, Sumit Majumdar and Jeffrey David Mandell**

s. 127

J. Waechter in attendance for Staff

Panel: TBA

TBA **Frank Dunn, Douglas Beatty, Michael Gollogly**

s.127

K. Daniels in attendance for Staff

Panel: TBA

TBA **Peter Sabourin, W. Jeffrey Haver, Greg Irwin, Patrick Keaveney, Shane Smith, Andrew Lloyd, Sandra Delahaye, Sabourin and Sun Inc., Sabourin and Sun (BVI) Inc., Sabourin and Sun Group of Companies Inc., Camdeton Trading Ltd. and Camdeton Trading S.A.**

s. 127 and 127.1

Y. Chisholm in attendance for Staff

Panel: JEAT/DLK/CSP

TBA **Juniper Fund Management Corporation, Juniper Income Fund, Juniper Equity Growth Fund and Roy Brown (a.k.a. Roy Brown-Rodrigues)**

s.127 and 127.1

D. Ferris in attendance for Staff

Panel: TBA

TBA **Matthew Scott Sinclair**

s.127

P. Foy in attendance for Staff

Panel: TBA

TBA **Robert Kasner**

s. 127

H. Craig in attendance for Staff

Panel: TBA

TBA **First Global Ventures, S.A., Allen Grossman and Alan Marsh Shuman**

s. 127

D. Ferris in attendance for Staff

Panel: WSW/ST/MCH

TBA **Merax Resource Management Ltd. carrying on business as Crown Capital Partners, Richard Mellon and Alex Elin**

s. 127

H. Craig in attendance for Staff

Panel: JEAT/MC/ST

ADJOURNED SINE DIE

Global Privacy Management Trust and Robert Cranston

Andrew Keith Lech

S. B. McLaughlin

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

Portus Alternative Asset Management Inc., Portus Asset Management Inc., Boaz Manor, Michael Mendelson, Michael Labanowich and John Ogg

Maitland Capital Ltd., Allen Grossman, Hanouch Ulfan, Leonard Waddingham, Ron Garner, Gord Valde, Marianne Hyacinthe, Diana Cassidy, Ron Catone, Steven Lanys, Roger McKenzie, Tom Mezinski, William Rouse and Jason Snow

Euston Capital Corporation and George Schwartz

Al-Tar Energy Corp., Alberta Energy Corp., Eric O'Brien, Bill Daniels, Bill Jakes, John Andrews, Julian Sylvester, Michael N. Whale, James S. Lushington, Ian W. Small, Tim Burton and Jim Hennesy

Global Partners Capital, WS Net Solution, Inc., Hau Wai Cheung, Christine Pan, Gurdip Singh Gahunia

Land Banc of Canada Inc., LBC Midland I Corporation, Fresno Securities Inc., Richard Jason Dolan, Marco Lorenti and Stephen Zeff Freedman

1.1.2 CSA Notice 46-305 – Second Update on Principal Protected Notes

CANADIAN SECURITIES ADMINISTRATORS' NOTICE 46-305
SECOND UPDATE ON PRINCIPAL PROTECTED NOTES

This notice provides an update on the Canadian Securities Administrators' (CSA) review of Principal Protected Notes (PPNs) and the recent coming into force of federal regulations applicable to PPNs (the Federal PPN Regulations).

What is a PPN?

A PPN is an investment product that offers an investor potential returns based on the performance of an underlying investment and a guarantee that the investor will receive, on maturity of the PPN, not less than the principal amount invested. For the purpose of this notice, PPNs include the instruments commonly described as market-linked GICs and market-linked notes.

Background

Identification of Concerns with PPNs

On July 7, 2006, the CSA published CSA Notice 46-303 – *Principal Protected Notes* (the 2006 Notice) and an Investor Watch which identified a number of the CSA's concerns about PPNs. The key concerns related to four main areas:

1. Inadequate, overly complex and inappropriate disclosure in PPN information statements and marketing materials.

2. Compliance with know your client (KYC) and suitability obligations by registrants in connection with sales of PPNs.

3. Use of PPNs as a vehicle for selling alternative investment products to retail investors.

4. Registrant referrals to purchase PPNs without a determination by a registrant that the referral is in the best interests of the client.

CSA Consultations and Market Analysis

Following publication of the 2006 Notice, the CSA's review of PPNs included:

- extensive consultations with industry stakeholders about the distribution and regulation of PPNs;
- an analysis of the issuer and distribution channels for the PPN market; and
- discussions with the federal Department of Finance about the proposed Federal PPN Regulations.

As a result of its consultations and market analysis, the CSA determined that the majority of PPNs (comprised of linked notes and linked GICs) are issued by federally-regulated financial institutions, primarily Schedule I and Schedule II banks. The CSA also notes that 70-80% of linked note PPNs are sold by members of the Investment Industry Regulatory Organization of Canada (IIROC) (formerly the Investment Dealers Association of Canada (IDA)) and another 10% of linked note PPNs are sold by members of the Mutual Fund Dealers Association of Canada (MFDA). The majority of linked GICs are issued by caisses populaires based in the province of Québec.

Previous Update on CSA's Review of PPNs and Proposed Course of Action

On July 28, 2007, the CSA provided an update on its review of PPNs in CSA Notice 46-304 *Update on Principal Protected Notes* (the 2007 Notice). In the 2007 Notice, we reviewed the data on issuer and distribution channels for the PPN market and noted that we were consulting with the federal Department of Finance regarding proposed Federal PPN Regulations. We also described our intention to review the final form of the proposed Federal PPN Regulations to determine whether they addressed our key disclosure concerns for PPNs issued by federally-regulated financial institutions. The 2007 Notice further noted that the CSA had initiated discussions with the MFDA regarding changes to MFDA rules that would confirm the application of KYC and suitability obligations to dealings in PPNs by MFDA members and their representatives.

Federal PPN Regulations

On July 1, 2008, the Federal PPN Regulations came into force. The regulations apply to all PPNs (whether linked notes or linked GICs) issued by federally-regulated financial institutions, including banks and authorized foreign banks under the *Bank*

Act (Canada), retail associations under the *Cooperative Credit Associations Act* (Canada) and companies under the *Trust and Loan Companies Act* (Canada) (Federal Financial Institutions). The Federal PPN Regulations specify requirements for the content, manner and timing of disclosure for PPNs issued by Federal Financial Institutions. The Financial Consumer Agency of Canada (FCAC) will be responsible for compliance and enforcement of the Federal PPN Regulations.

A copy of the Federal PPN Regulations can be found at:

- http://laws.justice.gc.ca/en/showtdm/cr/SOR-2008-180

Prior to their publication in final form, the CSA consulted with the federal Department of Finance about the Federal PPN Regulations. We have reviewed the Federal PPN Regulations and think that they impose significant disclosure obligations for PPNs issued by Federal Financial Institutions. Further, in light of the market data that shows Federal Financial Institutions issue a majority of PPNs, the disclosure required by the Federal PPN Regulations could assist a large proportion of PPN investors.

KYC and Suitability Obligations

Compliance with KYC and suitability obligations is a critical aspect of investor protection and should apply to sales of all PPNs by registrants (except where a specific exemption exists).

As explained in the 2007 Notice, the IDA (now IIROC) has confirmed that its regulations and by-laws that impose KYC and suitability obligations apply to all its members' dealings without limitation as to the type of investment product being sold. The MFDA has recently issued suitability guidelines confirming that its members are responsible for assessing the suitability of recommendations made with respect to all business of the member, including investment advice or recommendations relating to PPNs.[1] The CSA continues to support the further objective of ensuring that KYC and suitability obligations also apply to all dealings in PPNs by representatives of IIROC and MFDA members. The CSA is discussing this objective with IIROC and the MFDA.

In Québec, representatives of mutual funds dealers are members of the *Chambre de la sécurité financière* and are subject to the *Regulation respecting the rules of ethics in the securities sector* which provides that KYC and suitability obligations apply without limitation as to the type of investment being sold.

Conclusion

The Federal PPN Regulations, together with our regulatory initiatives, substantially address our key concerns with PPNs identified in the 2006 Notice. In particular:

- the Federal PPN Regulations prescribe disclosure enhancements for PPNs issued by Federal Financial Institutions, which comprise a majority of the PPN market;
- we continue to discuss with IIROC and the MFDA how best to ensure that KYC and suitability obligations apply to all dealings in PPNs by representatives of IIROC and MFDA members;
- the improved disclosure and sales practices that should result from the changes contemplated above substantially address the concerns associated with the sale of PPNs as a vehicle for selling alternative investment products to retail investors;
- proposed National Instrument 31-103 – *Registration Requirements* (NI 31-103) has specific requirements relating to registrant referral arrangements.[2]

In addition, the Autorité des marchés financiers intends to establish guidelines relating to disclosure, sales and sound business practices for PPNs sold by financial institutions authorized to carry on business in Québec. The majority of linked GICs are issued by caisses populaires based in the province of Québec.

The CSA will continue to monitor the issue and sale of PPNs.

[1] Member Regulation Notice MR-0069 – *Suitability Guidelines* published by the MFDA on April 14, 2008.

[2] The CSA published NI 31-103 for comment on February 29, 2008. See Part 6 of NI 31-103.

Questions

If you have any questions, please refer them to any of the following:

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August 29, 2008

1.2 Notices of Hearing

1.2.1 Sunwide Finance Inc. et al. - s. 127(1), 127.1

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

AND

IN THE MATTER OF
SUNWIDE FINANCE INC., SUN WIDE GROUP,
SUN WIDE GROUP FINANCIAL
INSURERS & UNDERWRITERS, BRYAN BOWLES,
ROBERT DRURY, STEVEN JOHNSON,
FRANK R. KAPLAN, RAFAEL PANGILINAN,
LORENZO MARCOS D. ROMERO,
AND GEORGE SUTTON

NOTICE OF HEARING
Sections 127(1) and 127.1

WHEREAS on November 19, 2007, the Ontario Securities Commission (the "Commission") issued a temporary cease trade order pursuant to sections 127(1) and 127(5) of the *Securities Act*, R.S.O. 1990, c. S.5, as amended (the "*Act*") ordering that Sunwide Finance Inc., Sun Wide Group Financial Insurers & Underwriters, Wi-Fi Framework Corporation, and their officers, directors, employees and/or agents cease trading in all securities immediately, including the securities of Wi-Fi Framework Corporation;

AND WHEREAS, following hearings held on December 3, 2007, March 4, 2008 and July 22, 2008, the Commission ordered that the temporary cease trade order be extended until, most recently, September 3, 2008.

TAKE NOTICE THAT the Commission will hold a hearing pursuant to sections 127 and 127.1 of the *Act* at the offices of the Commission, 20 Queen Street West, 17th Floor, Large Hearing Room, commencing on September 3, 2008 at 9:00 a.m., or as soon thereafter as the hearing can be held.

AND TAKE NOTICE the purpose of the hearing is to consider whether it is in the public interest for the Commission to make an order that:

(a) pursuant to clause 2 of subsection 127(1), trading in any securities by the respondents cease permanently or for such other period as specified by the Commission;

(b) pursuant to clause 2.1 of subsection 127(1), acquisition of any securities by the respondents be prohibited, permanently or for the period specified by the Commission;

(c) pursuant to clause 3 of subsection 127(1), any exemptions contained in Ontario securities law do not apply to the respondents permanently or for such other period as specified by the Commission;

(d) pursuant to clause 6 of subsection 127(1), the respondents be reprimanded;

(e) pursuant to clause 8 of subsection 127(1), the respondents be prohibited from becoming or acting as a director or officer of any issuer;

(f) pursuant to clause 8.2 of subsection 127(1), the respondents be prohibited from becoming or acting as a director or officer of a registrant;

(g) pursuant to clause 8.4 of subsection 127(1), the respondents be prohibited from becoming or acting as a director or officer of an investment fund manager;

(h) pursuant to clause 8.5 of subsection 127(1), the respondents be prohibited from becoming or acting as a registrant, as an investment fund manager or as a promoter;

(i) pursuant to clause 9 of subsection 127(1), the respondents pay an administrative penalty of not more than $1 million for each failure to comply with Ontario securities law to the Commission;

(j) pursuant to clause 10 of subsection 127(1), the respondents disgorge to the Commission any amounts obtained as a result of non-compliance with securities law;

(k) pursuant to section 127.1, the Respondents pay the costs of the investigation and the costs of or related to the hearing incurred by or on behalf of the Commission; and

(l) such other order as the Commission may consider appropriate.

BY REASON OF the allegations set out in the Statement of Allegations of Staff dated August 21, 2008, and such additional allegations as counsel may advise and the Commission may permit.

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

AND FURTHER TAKE NOTICE that if the respondents to the proceedings fails to attend, the hearing may proceed in the absence of the party and the party is not entitled to any further notice of the proceeding.

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

Dated at Toronto on this 21st day of August, 2008

"John Stevenson"

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

AND

IN THE MATTER OF
SUNWIDE FINANCE INC., SUN WIDE GROUP,
SUN WIDE GROUP FINANCIAL
INSURERS & UNDERWRITERS, BRYAN BOWLES,
ROBERT DRURY, STEVEN JOHNSON,
FRANK R. KAPLAN, RAFAEL PANGILINAN,
LORENZO MARCOS D. ROMERO,
AND GEORGE SUTTON

STATEMENT OF ALLEGATIONS
OF STAFF OF THE
ONTARIO SECURITIES COMMISSION

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

Overview

1. This proceeding centres on the solicitation of various investors by Sunwide Finance Inc. ("Sunwide"), which purports to be an Ontario financial services firm. Sunwide and related businesses, Sun Wide Group and Sun Wide Group Financial Insurers & Underwriters (collectively, the "Sun Wide Group"), and individuals purporting to represent them, including Bryan Bowles ("Bowles"), Robert Drury ("Drury"), Steven Johnson ("Johnson"), Frank R. Kaplan ("Kaplan"), and George Sutton ("Sutton") (collectively, the "Sunwide Respondents"), participated in "advance-fee" schemes.

The Individual Respondents

2. None of the individual respondents are registered in any capacity with the Commission.

3. Each of Sutton, Johnson, Drury, and Bowles made oral or written representations on behalf of Sunwide to members of the public variously in respect of the shares of Wi-Fi Framework Corporation ("Wi-Fi"), Remington Ventures Inc. ("Remington"), Quest Oil Corporation ("Quest"), and General Components Inc. ("GCI"). These issuers were or are United States corporations and their securities were primarily traded on the Over-the-Counter Bulletin Board.

4. Kaplan purports to be the "President, Board of Directors" of Sunwide Group. Kaplan made written representations on behalf of Sun Wide Group to members of the public purportedly guaranteeing the re-purchase of shares by Sunwide.

5. Lorenzo Marcos D. Romero ("Romero") rented a Toronto, Ontario virtual office, which address was used to represent to investors that Sunwide was an Ontario financial services firm. Romero appears to be a resident of the Philippines.

6. Romero paid for the Toronto virtual office with a credit card in the name of Rafael Pangilinan ("Pangilinan").

The Corporate Respondents

7. None of the corporate respondents are validly-incorporated entities, reporting issuers in Ontario, or registrants in Ontario.

(a) Sunwide Companies

8. Sunwide represented to investors that it was located at 20 Bay Street, 11th floor Toronto, Ontario. That address is the address for Queens Quay Executive Offices Limited, a company providing telephone, fax and postal services to international clients.

9. Sunwide Group and Sunwide Group Financial Insurers & Underwriters purported to guarantee the re-purchase of shares by Sunwide.

(b) Century Management Division. INC

10. The Sunwide documents directed investors to wire transfer money to an account at HSBC in New York City, U.S.A. held by Credicorp Bank, a Panamanian bank, with "further credit" to an account in the name of Century Management Division. INC [sic]. Investor funds were in fact deposited to the above-mentioned account.

Scope of Activity

11. The Sunwide Respondents solicited investors including during the period between May and July 2007.

The Advanced-Fee Scheme Solicitations

12. The Sunwide Respondents' solicitations targeted shareholders of various companies, including Wi-Fi, Remington, Quest and GCI. The investors had no previous relationship with Sunwide.

13. The Sunwide Respondents offered to purchase shares at a substantial premium only after receiving from the shareholders payment for a "refundable vendors bond", which purported to "guarantee" the purchase of the shares by Sunwide. In some cases, Sunwide also required payment to it of a fee representing the capital gains tax that would supposedly be incurred on the sale of the shares.

14. The Sunwide Respondents also solicited investors to "exercise" warrants that the Sunwide Respondents claimed were available to the shareholders based on their existing shareholdings. The Sunwide Respondents claimed that they would purchase from investors the shares allotted by the exercise of the warrants at a substantial premium only after first receiving from the investors payment of the exercise-price funds.

15. Sunwide, after collecting the funds from investors, never performed its commitment to purchase the securities at the substantial premium or at all.

16. Sunwide claimed to be conducting its business from Toronto, Ontario and the "securities purchase agreement" provided to investors, supposedly guaranteeing the share re-purchase, purports to be subject to the laws of the "State of Ontario, Canada".

Breach of Ontario Securities Law

17. The Sunwide Respondents have breached Ontario securities law by:

a. trading and advising in securities without registration, prospectus, or an appropriate exemption from the registration requirements contrary to ss. 25 and 53 of the *Securities Act*, R.S.O. 1990, c. S.5 (the "*Act*");

b. making prohibited representations to re-purchase securities contrary to s. 38 of the *Act*; and

c. making misrepresentations to re-purchase the shares knowing or having reasonably ought to have known that they would result in a fraud on a person contrary to s. 126.1 of the *Act*.

Unregistered Trading and Advising

18. The breaches of s. 25 of the *Act* by the Sunwide Respondents include:

a. causing investors to purchase the "refundable vendors bond" (the "Bond"), a security pursuant to the sub-definition (e) of "security" in s. 1(1) of the *Act*, and purporting to guarantee the re-purchase of shares, which was an act in furtherance of the sale of the Bond;

b. the solicitation of investors to "exercise" warrants and to direct to Sunwide payments with the promise of re-purchase at a substantial premium were acts in furtherance of a trade; and

c. advising investors in respect of the sale and purchase of securities without being registered to do so.

Unlawful Distributions

19. The activities of the respondents constituted distributions of securities for which no preliminary prospectus and prospectus were issued nor receipted by the Director, contrary to section 53 of the *Act*.

Prohibited Representations

20. The above representations as to the share re-purchase constitute prohibited representations under s. 38 of the *Act* because of the offer to re-purchase and the

undertaking as to the future value of the shares and warrants.

Fraud

21. The representations of the Sunwide Respondents as to the re-purchase at a substantial premium of shares were false, where the Sunwide Respondents knew or reasonably ought to have known that they would result in a fraud on investors contrary to s. 126.1 of the *Act*.

Conduct Contrary to the Public Interest

22. The respondents' conduct, including the actions of Romero and Pangilinan, were contrary to the public interest and harmful to the integrity of the Ontario capital markets.

23. Staff reserve the right to make such further and other allegations as Staff may submit and the Commission may permit.

DATED AT TORONTO this 21st day of August 2008.

1.3 News Releases

1.3.1 Ontario Court of Justice Finds Howard Rash Guilty of Contravening the Securities Act

FOR IMMEDIATE RELEASE
August 21, 2008

ONTARIO COURT OF JUSTICE FINDS HOWARD RASH GUILTY OF CONTRAVENING THE SECURITIES ACT

TORONTO – On August 8, 2008, Justice Robert Bigelow of the Ontario Court of Justice found Mr. Howard Rash guilty of two offences under 122(1)(c) of the Securities Act (Ontario). Mr. Rash pleaded guilty to trading in securities contrary to the registration requirement and an illegal distribution of securities.

During 2002 and 2003, Mr. Rash was a supervisor of a sales office in Toronto, Ontario that sold securities in Discovery Biotech Inc. Mr. Rash admitted that he wrongly relied upon the exemption provided in OSC Rule 45-501 in supervising the sale of Discovery securities by those under his direction and control.

Mr. Rash received a suspended sentence and a two-year term of probation. Under the terms of his probation order, Mr. Rash is banned from working in the securities industry in Ontario during the period of his probation. Under a separate order of the Ontario Securities Commission dated July 12, 2007, Howard Rash has been cease-traded permanently in the province of Ontario.

Requests for copies of the transcript and exhibits may be made to the Ontario Court of Justice.

For media inquiries:
Wendy Dey
Director, Communications
& Public Affairs
416-593-8120

Laurie Gillett
Manager, Public Affairs
416-595-8913

Carolyn Shaw-Rimmington
Assistant Manager,
Public Affairs
416-593-2361

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

1.4 Notices from the Office of the Secretary

1.4.1 New Life Capital Corp. et al.

FOR IMMEDIATE RELEASE
August 21, 2008

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

AND

IN THE MATTER OF
NEW LIFE CAPITAL CORP.,
NEW LIFE CAPITAL INVESTMENTS INC.,
NEW LIFE CAPITAL ADVANTAGE INC.,
NEW LIFE CAPITAL STRATEGIES INC.,
1660690 ONTARIO LTD., L. JEFFREY POGACHAR,
PAOLA LOMBARDI AND ALAN S. PRICE

TORONTO – The Commission issued an Order extending the Temporary Order to September 22, 2008 in the above named matter.

The hearing is adjourned to September 19, 2008 at 2:30 p.m.

A copy of the Order dated August 21, 2008 is available at **www.osc.gov.on.ca**.

OFFICE OF THE SECRETARY
JOHN P. STEVENSON
SECRETARY

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1.4.2 Rex Diamond Mining Corporation et al.

FOR IMMEDIATE RELEASE
August 21, 2008

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

AND

IN THE MATTER OF
REX DIAMOND MINING CORPORATION,
SERGE MULLER AND BENOIT HOLEMANS

TORONTO – The Commission issued its Reasons and Decision in the above named matter today.

A copy of the Reasons and Decision dated August 21, 2008 is available at **www.osc.gov.on.ca**.

OFFICE OF THE SECRETARY
JOHN P. STEVENSON
SECRETARY

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1.4.3 Sunwide Finance Inc. et al.

FOR IMMEDIATE RELEASE
August 22, 2008

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

AND

IN THE MATTER OF
SUNWIDE FINANCE INC., SUN WIDE GROUP,
SUN WIDE GROUP FINANCIAL
INSURERS & UNDERWRITERS, BRYAN BOWLES,
ROBERT DRURY, STEVEN JOHNSON,
FRANK R. KAPLAN, RAFAEL PANGILINAN,
LORENZO MARCOS D. ROMERO,
AND GEORGE SUTTON

TORONTO – The Office of the Secretary issued a Notice of Hearing scheduling a hearing in the above named matter to be held on September 3, 2008 at 9:00 a.m.

A copy of the Notice of Hearing dated August 21, 2008 and Statement of Allegations of Staff of the Ontario Securities Commission dated August 21, 2008 are available at **www.osc.gov.on.ca**.

OFFICE OF THE SECRETARY
JOHN P. STEVENSON
SECRETARY

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Chapter 2

Decisions, Orders and Rulings

2.1 Decisions

2.1.1 GLG Life Tech Corporation

Headnote

National Policy 11-203 Process For Exemptive Relief Applications in Multiple Jurisdictions -Confidentiality – An issuer wants to keep certain information in material contracts confidential – The record provides intimate financial, personal or other information; the disclosure of the information would be detrimental to the person affected; the information would be of limited value to any investment decision by the public.

Applicable Legislative Provision

Securities Act, R.S.O. 1990, c. S.5, as am., s. 140(2).

Applicable Instrument

National Instrument 51-102 Continuous Disclosure Obligations, Part 12.

June 16, 2008

IN THE MATTER OF
THE SECURITIES LEGISLATION OF
BRITISH COLUMBIA AND ONTARIO
(the Jurisdictions)

AND

IN THE MATTER OF
THE PROCESS FOR EXEMPTIVE RELIEF
APPLICATIONS IN MULTIPLE JURISDICTIONS

AND

IN THE MATTER OF
GLG LIFE TECH CORPORATION
(the Filer)

DECISION

Background

1 The securities regulatory authority or regulator in each of the Jurisdictions (the Decision Maker) has received an application from the Filer for a decision under the securities legislation of the Jurisdictions (the Legislation) that, pursuant to the confidentiality provisions of the Legislation:

(a) an amendment to a supply agreement (the Amendment) dated as of April 30, 2008 between the Filer and a purchaser of its stevia products (the Purchaser), filed by the Filer on June 3, 2008 (the Original Filed Agreement) on the System for Electronic Document Analysis and Retrieval (SEDAR) be held in confidence (and therefore not available to the public for inspection) for an indefinite period, to the extent permitted by law; and

(b) the application be held in confidence for sixty days following the date of the decision document, to the extent permitted by law (collectively, the Exemption Sought).

Under the Process for Exemptive Relief Applications in Multiple Jurisdictions (for a dual application):

(a) the British Columbia Securities Commission is the principal regulator for this application;

(b) the Filer has provided notice that section 4.7(1) of Multilateral Instrument 11-102 *Passport System* (MI 11-102) is intended to be relied upon in the Province of Alberta; and

(c) the decision is the decision of the principal regulator and evidences the decision of the securities regulatory authority or regulator in Ontario.

Interpretation

2 Terms defined in MI 11-102 and National Instrument 14-101 *Definitions* have the same meaning if used in this decision, unless otherwise defined.

Representations

3 The decision is based on the following facts represented by the Filer:

1. the Filer is a reporting issuer in each of the Jurisdictions and in Alberta;

2. the head office of the Filer is located in Vancouver, British Columbia;

3. the Filer is not in default of its obligations under the Legislation;

4. on June 3, 2008, the Filer inadvertently filed on SEDAR the Original Filed Agreement pursuant to its obligation to file material contracts under National Instrument 51-102 *Continuous Disclosure Obligations*;

5. the Original Filed Agreement contains certain extremely confidential business terms relating to the price by which the Filer will supply stevia to the Purchaser under the Amendment (the Sensitive Business Information); the Filer believes that disclosure of this information is seriously prejudicial to the interests of the Filer and the Purchaser;

6. on the basis of the foregoing, it was the intention of the Filer that the Original Filed Agreement be redacted so as to remove the Sensitive Business Information, however, on June 4, 2008, it came to the Filer's attention that the Original Filed Agreement had been filed without the Sensitive Business Information having been removed;

7. the Filer believes that the Sensitive Business Information is extremely prejudicial to the Filer and further believes that the desirability of avoiding disclosure of the Sensitive Business Information in the interests of the Filer and the Purchaser outweighs:

   (i) the desirability of adhering to the principal that material filed with the Commission be available to the public for inspection; and

   (ii) the public's interest in having the Sensitive Business Information disclosed;

8. the Sensitive Business Information does not contain information in relation to the Filer or the securities of the Filer that would be material to an investor for purposes of making an investment decision;

9. the Filer is permitted to file a redacted version of the Amendment pursuant to section 12.2 of NI 51-102; and

10. the Filer will request CDS Inc. to instruct the subscribers to the SEDAR-SCRIBE service to delete the Original Filed Agreement from their files.

Decision

4 Each of the Decision Makers is satisfied that the decision meets the test set out in the Legislation for the Decision Maker to make the decision.

The decisions of the Decision Makers under the Legislation is that the Exemption Sought is granted on the condition that the Filer replace the Original Filed Agreement currently filed on SEDAR with a version of the Amendment in which the Sensitive Business Information has been redacted.

"Martin Eady, CA"
Director, Corporate Finance
British Columbia Securities Commission

2.1.2 IG Templeton World Allocation Fund et al.

Headnote

NP 11-203 Process for Exemptive Relief Applications in Multiple Jurisdictions – Approval of mutual fund mergers – approval required because mergers do not meet the criteria for pre-approval – differences in investment objectives – merger not a "qualifying exchange" –securityholders of terminating and continuing funds provided with timely and adequate disclosure regarding the merger.

Applicable Legislative Provisions

National Instrument 81-102 Mutual Funds ss. 5.5(1)(b), 5.6.

August, 14 2008

IN THE MATTER OF
THE SECURITIES LEGISLATION OF
MANITOBA AND ONTARIO
(the "Jurisdictions")

AND

IN THE MATTER OF
THE PROCESS FOR EXEMPTIVE RELIEF
APPLICATIONS IN MULTIPLE JURISDICTIONS

AND

IN THE MATTER OF
THE MERGERS OF
IG TEMPLETON WORLD ALLOCATION FUND,
IG FI U.S. EQUITY FUND, IG FI U.S. EQUITY CLASS,
IG FI GLOBAL EQUITY FUND AND
IG FI GLOBAL EQUITY CLASS
(the "Terminating Funds") into
INVESTORS TACTICAL ASSET ALLOCATION FUND,
IG AGF U.S. GROWTH FUND,
IG AGF U.S. GROWTH CLASS,
INVESTORS GLOBAL FUND AND
INVESTORS GLOBAL CLASS
(the "Continuing Funds" and collectively with
the Terminating Funds referred to as the "Funds")

AND

IN THE MATTER OF
I.G. INVESTMENT MANAGEMENT, LTD.
(referred to as the "Investors Group" and
collectively with the Funds referred to the "Filers")

DECISION

Background

The securities regulatory authority or regulator in each of the Jurisdictions (the "Decision Maker") has received an application from the Filers for a decision under the securities legislation of the Jurisdictions (the "Legislation") for:

- approval under paragraph 5.5(1)(b) of National Instrument 81-102 ("NI 81-102") of the Mergers of the Terminating Funds into the applicable Continuing Funds (as defined below in paragraph number 6, referred to as the "Proposed Mergers"); and

- relief from the simplified prospectus and financial statements delivery requirements contained in subsection 5.6(1)(f)(ii) of NI 81-102 in respect of the Proposed Mergers and all future mergers of mutual funds managed by Investors Group or an affiliate of Investors Group (referred to as the "Future Mergers" and collectively with the Proposed Mergers, the "Mergers").

(the "Requested Relief")

Under the Process for Exemptive Relief Applications in Multiple Jurisdictions (for a dual application):

(a) The Manitoba Securities Commission is the principal regulator for this application;

(b) the Filers have provided notice that section 4.7(1) of Multi-Lateral Instrument 11-102 Passport System (MI 11-102) is intended to be relied upon in British Columbia, Alberta, Saskatchewan, Quebec, New Brunswick, Nova Scotia, Prince Edward Island, Newfoundland and Labrador, Yukon, Nunavut and the North West Territories; and

(c) the decision is the decision of the Principal Regulator and evidences the decision of the securities regulatory authority or regulator in Ontario.

Interpretation

Defined terms contained in National Instrument 14-101 – *Definitions* and MI 11-102 have the same meaning if used in this decision, unless they are otherwise defined herein below:

- IG Templeton World Allocation Fund, Investors Tactical Asset Allocation Fund, IG FI U.S. Equity Fund, and IG FI Global Equity Fund are herein collectively referred to as the "Unit Trust Funds";

- IG FI U.S. Equity Class, IG FI Global Equity Class, IG AGF U.S. Growth Class and Investors Global Class are hereinafter collectively referred to as the "Corporate Class Funds".

Representations

This decision is based on the following facts represented by the Filers:

1. Investors Group is a corporation continued under the laws of Ontario. It is the trustee and manager of the Unit Trust Funds and the manager of the

Corporate Class Funds (collectively, the "Funds"). I.G. Investment Management, Ltd. is registered as a Portfolio Manager in Manitoba; as an Investment Counsel and Portfolio Manager in Ontario; and as an Unrestricted Practice Advisor in Quebec. It is also registered as an Advisor under the Commodity Futures Act in Manitoba. The head office of Investors Group is in Winnipeg, Manitoba and, accordingly, Manitoba is the principal regulator. To the best of its knowledge and belief, Investors Group is not in default of securities legislation.

2. Investors Group Corporate Class Inc. (the "Corporation") is the issuer of the Corporate Class Funds.

3. All of the Funds are open-end mutual funds continued under a Master Declaration of Trust under the laws of Manitoba (in the case of the Unit Trust Funds), or governed by the *Canada Business Corporations Act* (in the case of the Corporate Class Funds).

4. All of the Funds are reporting issuers under the Legislation in each Jurisdiction and are not on the list of defaulting reporting issuers maintained under the Legislation in each Jurisdiction, and are not in default of any of the requirements of the securities legislation of any of the provinces and territories of Canada. The securities of each of the Funds are qualified for distribution in each of the Jurisdictions pursuant to their own simplified prospectus and AIF (referred to as the "Masterseries Prospectus" for the Unit Trust Funds) dated July 14, 2008 (and referred to as the "Corporate Class Prospectus" for the Corporate Class Funds) also dated July 14, 2008, except for Series ''Z" and "S" units issued by certain of the Funds which are not qualified by prospectus as indicated in paragraph number 5.

5. Each Unit Trust Fund issues 3 series of units to retail purchasers. Each Corporate Class Fund issues 2 series of shares to retail purchasers. IG FI U.S. Equity Fund and Investors Global Fund also issue Series "Z" units to certain accredited institutional investors, being fund-of-funds sponsored by Investors Group, which are not qualified by prospectus. Investors Global Fund also issues Series "S" units for purchase by an IG/GWL Segregated Fund, which is also not qualified by prospectus.

6. Investors Group proposes that each Terminating Fund be merged into an applicable Continuing Fund, as follows:

   (i) IG Templeton World Allocation Fund will merge into Investors Tactical Asset Allocation Fund;

   (ii) IG FI U.S. Equity Fund will merge into IG AGF U.S. Growth Fund;

   (iii) IG FI U.S. Equity Class will merge into IG AGF U.S. Growth Class;

   (iv) IG FI Global Equity Fund will merge into Investors Global Fund; and

   (v) IG FI Global Class will merge into Investors Global Class.

7. Meetings of the securityholders of the Terminating Funds are being convened on or about September 2, 2008, to approve the Proposed Mergers of the Terminating Funds. Meetings of the security-holders of the Continuing Corporate Class Funds are also being convened as required by the provisions of the CBCA to approve changes to their Articles of Incorporation in order to facilitate the Proposed Mergers with their respective Terminating Funds. A notice of meeting, a management information circular and a proxy in connection with the meetings of securityholders of the Terminating Funds and Continuing Corporate Class Funds (collectively, the "Meeting Materials"), were mailed to securityholders of the Terminating Funds on August 8, 2008, and were filed via SEDAR that same date.

8. Investors Group has determined that the Proposed Mergers of the Unit Trust Funds will not be a material change to the relevant Continuing Funds due to the small size of the Terminating Funds relative to the relevant Continuing Funds. The Proposed Mergers involving the Continiuing Corporate Class Funds will entail an amendment to the Articles of Incorporation of the Corporation that requires the approval of the shareholders of the Continuing Corporate Class Funds pursuant to the *Canada Business Corporations Act*. Investors Group confirms that these approvals in connection with the Proposed Mergers of the Corporate Class Funds will also be sought.

9. The tax implications of the Proposed Mergers, as well as the material differences between each Terminating Fund and the applicable Continuing Fund, will be described in the Meeting Materials so securityholders of the Terminating Funds will be fully informed when considering whether to approve the Proposed Merger of their Fund at the Meeting of their Fund. Accordingly, implicit in the approval by securityholders of the Proposed Mergers is the acceptance by the securityholders of the Terminating Funds of the proposed tax treatment and their adoption of the investment objective, strategy and fee structure of the applicable Continuing Fund.

10. An Amendment to the simplified prospectus and annual information form of each Terminating Fund, and a material change report, was filed on

SEDAR with respect to the Mergers as required by the Legislation of the Jurisdictions on or after June 23, 2008.

11. The Terminating Funds will merge into the Continuing Funds on or about the close of business on September 5, 2008, and the Continuing Funds will continue as publicly offered open-end mutual funds.

12. The Terminating Funds will be wound up as soon as reasonably possible following the Proposed Mergers.

13. No sales charges will be payable in connection with the acquisition by the Continuing Funds of the investment portfolios of the Terminating Funds.

14. Securityholders of the Terminating Funds will continue to have the right to redeem securities of the Terminating Funds for cash at any time up to the close of business on the business day immediately before the effective date of the Proposed Mergers.

15. Other than circumstances in which the securities regulatory authority of a Jurisdiction has expressly exempted the Funds therefrom, each of the Funds follows the standard investment restrictions and practices established under the Legislation of the Jurisdictions.

16. The net asset values of each series of all the Funds are calculated on a daily basis on each day that the Manager is open for business.

17. The Continuing Funds and the Terminating Funds have substantially similar fundamental investment objectives, although in some instances their strategies may differ.

18. The portfolio securities and other assets of the Terminating Funds to be acquired by the Continuing Funds arising from the Proposed Mergers are currently (or will be) acceptable prior to the effective date of the Proposed Mergers to the Portfolio Advisor of the Continuing Fund, or will be rationalized prior to or after the Mergers.

19. Investors Group will pay for all costs associated with the Meetings, including legal, proxy solicitation, printing, and mailing expenses, as well as any brokerage transaction fees associated with any Proposed Merger related trades referred to in paragraph 18, and regulatory fees.

20. The fee structures of the Terminating Funds is generally the same as the fee structures of the Continuing Funds and, in some cases, the annual management fees and administration fees of the Continuing Funds are lower than those of the Terminating Funds.

21. Investors Group does not intend to send the most recent simplified prospectus and annual and interim financial statements of the relevant Continuing Fund to securityholders of the Terminating Funds. Instead, Investors Group will send to each securityholder of the Terminating Funds:

    (a) a tailored document, consisting of the Part A and the Part B for the relevant Continuing Fund, as set out in the current simplified prospectus of the Continuing Fund filed on SEDAR; and

    (b) a management information circular fully describing the relevant Proposed Merger, which prominently discloses that the most recent audited annual and un-audited interim financial statements of the Continuing Funds can be obtained by accessing the same at the Investors Group website or the SEDAR website, or requesting the same from Investors Group by toll-free number, by fax, or by contacting their servicing advisor at Investor Group ("Investors Group Consultant"), all as described in the Management Information Circular.

22. Approval of the Mergers is required because one or more of the Mergers does not satisfy all of the criteria for pre-approved reorganizations and transfers set out in section 5.6 of NI 81-102 in the following ways:

    (a) contrary to section 5.6(1)(a)(ii), a reasonable person may not consider the Investors Tactical Asset Allocation Fund as having a substantially similar fundamental investment strategy as the IG Templeton World Allocation Fund;

    (b) contrary to section 5.6(1)(b), the Proposed Mergers of IG Templeton World Allocation Fund into Investors Tactical Asset Allocation Fund, and IG FI U.S. Equity Fund into IG AGF U.S. Growth Fund will not occur on a tax-deferred basis as a "qualifying exchange" within the meaning of section 132.2 of the Tax Act or a tax-deferred transaction under sub-section 85(1), 85.1(1), 86(1) or 87(1) of the Tax Act;

    (c) contrary to section 5.6(1)(d)(ii), most of the portfolio assets of the Terminating Funds are not likely to be acceptable to the Portfolio Advisors of the Continuing Funds;

    (d) in addition, contrary to subparagraph 5.6(1)(f)(ii) of NI 81-102, Investors Group would not be permitted to send a tailored

simplified prospectus of the Continuing Funds, nor provide access to the annual and interim financial statements of the Continuing Funds, instead of mailing the same to investors in the Terminating Funds.

23. Except as noted above, the Proposed Mergers will otherwise comply with all of the other criteria for pre-approved reorganizations and transfers set out in section 5.6 of NI 81-102.

24. The Proposed Mergers will reduce duplication between the Funds, thereby increasing operational efficiency as trading costs and other common expenses of each Continuing Fund will be spread across a greater pool of assets, also allowing for greater diversification. The Mergers will also eliminate the duplication of time, effort and costs associated with the audit, board review and other compliance requirements arising from having multiple mandates.

25. On June 23, 2008, the Independent Review Committee of the Funds provided a positive recommendation with respect to the Proposed Mergers and has determined that they achieve a fair and reasonable result for the Funds and their securityholders, and such recommendation was included in the Management Information Circular described in paragraph number 7.

Decision

Each of the Decision Makers is satisfied that the decision meets the test set out in the Legislation of the Decision Maker to make the decision.

The Decision of the Decision Makers under the Legislation is that the Requested Relief is granted, provided that:

1. In connection with Mergers:

   (a) the information circular sent to securityholders in connection with a Merger provides sufficient information about the Merger to permit security-holders to make an informed decision about the Merger;

   (b) the information circular sent to securityholders in connection with a Merger prominently discloses that securityholders can obtain the most recent interim and annual financial statements of the applicable continuing fund by accessing the SEDAR website at www.sedar.com, by accessing the Investors Group website, by calling Investors Group's toll-free telephone number, by faxing a request to Investors Group or by contacting an Investors Group Consultant;

   (c) upon request by a securityholder for financial statements of an applicable continuing fund, Investors Group will make best efforts to provide the securityholder with the financial statements of the applicable continuing fund in a timely manner so that the securityholder can make an informed decision regarding a Merger;

   (d) each applicable continuing fund and terminating fund with respect to a Merger have an unqualified audit report in respect of their last completed financial period; and

   (e) the meeting materials sent to securityholders in respect of a Merger includes a tailored simplified prospectus consisting of:

      (i) the current Part A of the simplified prospectus of the applicable Continuing Fund; and

      (ii) the current Part B of the simplified prospectus of the applicable Continuing Fund.

2. This decision with respect to Future Mergers will terminate one year after the publication in final form of any legislation or rule dealing with matters in paragraph 5.5(1)(b) of NI 81-102.

"Doug R Brown"
Director – Legal & Enforcement
The Manitoba Securities Commission

2.1.3 First Nations Finance Authority - MRRS Decision

Headnote

Mutual Reliance Review System for Exemptive Relief Applications – Securities Act(Ontario), ss. 25 and 53 - Application for relief from the registration requirement and prospectus requirement in respect of certain trades in debt securities of filer - debt securities analogous to debt securities of or guaranteed by any municipal corporation in Canada, or debt securities secured by or payable out of rates or taxes levied under the law of a jurisdiction of Canada on property in the jurisdiction and to be collected by or through the municipality in which the property is situated - Filer's structure and obligations are substantially similar to a municipal finance authority and other municipal corporations - Filer's borrowing program provides comparable protections and rights for debt securityholders to those found in municipal borrowing programs - The federal statute governing the Filer mandates the establishment of reserve funds to support the Filer's repayment obligations under the debt securities - Filer will only issue debt securities - Filer will provide prospective purchasers of debt securities with a comprehensive disclosure document - Relief granted, subject to conditions.

Applicable Ontario Statutory Provisions

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

August 19, 2008

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

AND

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

AND

IN THE MATTER OF
FIRST NATIONS FINANCE AUTHORITY
(the Filer)

MRRS DECISION DOCUMENT

Background

1 The local securities regulatory authority or regulator (the Decision Maker) in each of the Jurisdictions has received an application from the Filer for a decision under the securities legislation of the Jurisdictions (the Legislation) that the dealer registration requirements and the prospectus requirements of the Legislation do not apply to trades in debt securities of the Filer (the Requested Relief);

Under the Mutual Reliance Review System for Exemptive Relief Applications

(a) the British Columbia Securities Commission is the principal regulator for this application,

(b) this MRRS decision document evidences the decision of each Decision Maker.

Interpretation

2 Defined terms contained in National Instrument 14-101 *Definitions* have the same meaning in this decision unless they are defined in this decision.

Representations

3 This decision is based on the following facts represented by the Filer:

1. the Government of Canada introduced the *First Nations Fiscal and Statistical Management Act* (the Federal Act) in order to promote the inherent right of self-government for aboriginals;

2. the Federal Act provides First Nations with access to capital markets available to other governments, strengthens the real property tax systems of First Nations, and provides greater representation for taxpayers by providing assistance to those First Nations that choose to exercise real property taxation jurisdiction on reserve lands;

3. the Federal Act came into force on April 1, 2006;

4. the Filer was established as a statutory corporation when the Federal Act came into force;

5. the Filer does not have any share capital, nor is it considered a “reporting issuer” (as defined in the Legislation) in any of the Jurisdictions;

6. from time to time, the Filer will issue debt “securities” as defined in section 57 of the Federal Act (the Securities) to promote economic development through the application of real property tax revenues and other revenues to support borrowing on capital markets for the development of public infrastructure and

other purposes that is otherwise available to other governmental bodies in Canada;

7. the Federal Act establishes a structure for First Nation borrowing from the Filer where property taxes will be used to repay incurred debt; the structure is modeled on, and is substantially similar to, the British Columbia municipal model, as operated by the Municipal Finance Authority of British Columbia (the MFABC) under the *Municipal Finance Authority Act* (British Columbia);

8. independent regulatory functions are provided by both the First Nations Financial Management Board (the FMB), and the First Nations Tax Commission (the FNTC); together, the FNTC and FMB fulfill a role substantially similar to the role of the Inspector of Municipalities under the *Local Government Act* (British Columbia) in respect of the regulation of municipalities in British Columbia; the FMB approves the financial management laws of First Nations who are entering into property taxation, certify financial management systems, practices and standards, monitor financial management performance, and intervenes in exceptional circumstances by way of co-management or third-party management arrangements;

9. under the Federal Act:

   (a) the FNTC must approve First Nation property tax revenue laws before they are enacted;

   (b) the FNTC must also approve borrowing laws of the First Nation authorizing borrowing by the First Nation from the Filer; and

   (c) the Filer shall not make a long-term loan to a borrowing member for the purpose of financing capital infrastructure for the provision of local services on reserve lands unless the FNTC has approved the borrowing laws of the borrowing member and the loan is to be paid out of the property tax revenues of the borrowing member in priority to other creditors of the borrowing member;

10. under the Federal Act, a First Nation applies to the Filer to become a borrowing member; the Filer only accepts the First Nation as a borrowing member if the FMB has issued a certificate to the First Nation under section 50(3) of the Federal Act; before a certificate is issued, the FMB may review the First Nation's financial management system or financial performance for compliance with standards established by the FMB under section 55 of the Federal Act and the regulations made under the Federal Act;

11. under the Federal Act, the Filer must establish:

   (a) a sinking fund to fulfill its repayment obligations to the holders of each Security issued by the Filer;

   (b) a debt reserve fund to make payments or sinking fund contributions for which insufficient moneys are available from borrowing members; and

   (c) a fund for the enhancement of the Filer's credit rating;

12. the Filer will engage a rating agency to conduct a formal credit rating for the Filer prior to its first issuance of Securities; and

13. the Filer will provide a bond circular to each prospective purchaser of Securities before that purchaser's first purchase of Securities that sets out:

   (a) the terms and conditions of the Securities;

   (b) the use of proceeds;

   (c) a summary description of the Filer and its business;

   (d) risk factors applicable to an investment in the Securities;

   (e) the procedure to be followed to subscribe for Securities;

   (f) the tax consequences of an investment in the Securities by a Canadian purchaser resident in Canada; and

   (g) the most recent annual and interim financial statements for the Filer.

Decision

4 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 Requested Relief is granted, provided that:

(a) in Ontario and Newfoundland and Labrador, the exemption from the dealer registration requirement is not available for a market intermediary except for a trade in a Security with a registered dealer that is an affiliate of the market intermediary; and

(b) for each Jurisdiction, this decision will terminate seven years after the date of this decision.

"Douglas M. Hyndman"
Chair
British Columbia Securities Commission

2.1.4 Thomson Reuters Corporation

Headnote

NP 11-203 – decision exempting the Filer from the requirement in s. 3.1 of NI 52-107 that financial statements be prepared in accordance with Canadian GAAP for so long as the Filer prepares its financial statements in accordance with IFRS-IASB – for financial periods beginning on or after January 1, 2009 –Filer must provide specified disclosure regarding change to IFRS-IASB – if the Filer files interim financial statements prepared in accordance with Canadian GAAP in the year that the Filer adopts IFRS-IASB, those interim financial statements must be restated using IFRS-IASB - Filer wishes to change to IFRS-IASB to reduce the complexity of its financial statement preparation process.

Applicable Legislative Provisions

National Instrument 52-107 Acceptable Accounting Principles, Auditing Standards and Reporting Currency, s. 3.1.

August 22, 2008

IN THE MATTER OF
THE SECURITIES LEGISLATION OF
ONTARIO
(the Jurisdiction)

AND

IN THE MATTER OF
THE PROCESS FOR EXEMPTIVE RELIEF
APPLICATIONS IN MULTIPLE JURISDICTIONS

AND

IN THE MATTER OF
THOMSON REUTERS CORPORATION
(the Filer)

DECISION

Background

The principal regulator in the Jurisdiction has received an application from the Filer for a decision under the securities legislation of the Jurisdiction of the principal regulator (the Legislation) exempting the Filer from the requirement in section 3.1 of National Instrument 52-107 — *Acceptable Accounting Principles, Auditing Standards and Reporting Currency* (NI 52-107) that financial statements be prepared in accordance with Canadian GAAP, for financial periods beginning on or after January 1, 2009 (the Exemption Sought), for so long as the Filer prepares its financial statements in accordance with International Financial Reporting Standards as issued by the International Accounting Standards Board (IFRS-IASB).

Under the Process for Exemptive Relief Applications in Multiple Jurisdictions (for a passport application):

(a) the Ontario Securities Commission is the principal regulator for this application, and

(b) the Filer has provided notice that section 4.7(1) of Multilateral Instrument 11-102 *Passport System* (MI 11-102) is intended to be relied upon in British Columbia, Alberta, Saskatchewan, Manitoba, Quebec, New Brunswick, Nova Scotia, Prince Edward Island and Newfoundland and Labrador (the Passport Jurisdictions).

Interpretation

Terms defined in National Instrument 14-101 *Definitions* and MI 11-102 have the same meaning if used in this decision, unless otherwise defined.

Representations

This decision is based on the following facts represented by the Filer:

1. The Filer is a corporation incorporated under the *Business Corporations Act* (Ontario) pursuant to articles of incorporation dated December 28, 1977. The registered office of the Filer is located at Suite 2706, Toronto Dominion Bank Tower, Toronto-Dominion Centre, Toronto, Ontario M5K 1A1.

2. The Filer is a reporting issuer or equivalent in the Jurisdiction and each of the Passport Jurisdictions. The Filer is not, to its knowledge, in default of its reporting issuer obligations under the Legislation or the securities legislation of the Passport Jurisdictions.

3. The Filer and Thomson Reuters PLC, a public limited company governed by the laws of England and Wales, are the parent companies of a unified group known as Thomson Reuters that operates under a dual listed company structure (the DLC Structure). Thomson Reuters principal executive office is located at 3 Times Square, New York, New York 10036.

4. Thomson Reuters had unaudited pro forma consolidated revenues of approximately US$12.4 billion in 2007.

5. The Filer's common shares are listed on the Toronto Stock Exchange and the New York Stock Exchange under the symbol "TRI". Thomson Reuters PLC's ordinary shares are listed on the London Stock Exchange under the symbol "TRIL" and its American Depositary Shares, each representing six Thomson Reuters PLC ordinary shares, are listed on the Nasdaq Global Select Market under the symbol "TRIN".

6. Thomson Reuters is subject to a diverse set of financial reporting requirements and prepares financial statements in accordance with Canadian generally accepted accounting principles (Canadian GAAP), International Financial Reporting Standards as adopted by the European Union and generally accepted accounting principles in the United States (US GAAP) as a result of its stock exchange listings in Toronto, London and New York.

7. The Canadian Accounting Standards Board has confirmed that publicly accountable enterprises will be required to prepare their financial statements in accordance with IFRS-IASB for interim and annual financial statements relating to fiscal years beginning on or after January 1, 2011.

8. NI 52-107 sets out acceptable accounting principles for financial reporting under the Legislation by domestic issuers, foreign issuers, registrants and other market participants. Under NI 52-107, a domestic issuer must use Canadian GAAP with the exception that a registrant with the United States Securities and Exchange Commission may use US GAAP. Under NI 52-107, only foreign issuers may use IFRS-IASB.

9. In CSA Staff Notice 52-321 *Early Adoption of International Financial Reporting Standards, Use of US GAAP and Reference to IFRS-IASB*, staff of the Canadian Securities Administrators recognized that some issuers may wish to prepare their financial statements in accordance with IFRS-IASB for periods beginning prior to January 1, 2011 and indicated that staff were prepared to recommend exemptive relief on a case by case basis to permit a domestic issuer to do so, despite section 3.1 of NI 52-107.

10. Subject to obtaining the Exemption Sought, the Filer intends to adopt IFRS-IASB effective January 1, 2009.

11. The Filer believes that the adoption of IFRS-IASB will avoid potential confusion for the users of its financial statements because the reporting requirements of all its primary regulators would be satisfied using one accounting standard. Additionally, the use of a single accounting standard would eliminate substantial complexity and cost from the Filer's financial statement preparation process.

12. The Filer has evaluated, and is satisfied as to, its overall readiness to transition from Canadian GAAP to IFRS-IASB effective January 1, 2009, including the readiness of its staff, board of directors, audit committee, auditors, investors and other market participants to deal with the change.

13. The Filer has considered the implications of adopting IFRS-IASB effective January 1, 2009 on its obligations under securities legislation including, but not limited to, those relating to CEO and CFO certifications, business acquisition

reports, offering documents, and previously released material forward-looking information.

14. The Filer will disclose relevant information about its changeover to IFRS-IASB in its management's discussion and analysis for the interim periods leading up to its changeover date as contemplated by CSA Staff Notice 52-320 *Disclosure of Expected Changes in Accounting Policies Relating to Changeover to International Financial Reporting Standards*. In particular, based on its intention to adopt IFRS-IASB effective January 1, 2009, the Filer will discuss the following in its management's discussion and analysis for the interim periods ended June 30, 2008 and ending September 30, 2008:

    (a) the key elements and timing of its changeover plan;

    (b) accounting policy and implementation decisions the Filer has made or will have to make;

    (c) major differences the Filer has identified between its current accounting policies and those it expects to apply under IFRS-IASB; and

    (d) the impact of the changeover on the key line items presented in the Filer's interim financial statements for those periods.

Decision

The principal regulator is satisfied that the decision meets the test set out in the Legislation for the principal regulator to make the decision.

The decision of the principal regulator under the Legislation is that the Exemption Sought is granted, subject to all of the following conditions:

(a) for so long as the Filer prepares its financial statements for financial periods beginning on or after January 1, 2009 in accordance with IFRS-IASB;

(b) provided that the Filer provides all of the communication as described and in the manner set out in paragraph 14; and

(c) provided that if the Filer files interim financial statements prepared in accordance with Canadian GAAP in the year that the Filer adopts IFRS-IASB, upon the adoption of IFRS-IASB the Filer will restate any previous interim statements for the financial year in which it adopted IFRS-IASB that were originally prepared using Canadian GAAP.

"Jo-Anne Matear"
Assistant Manager, Corporate Finance

2.1.5 Brookfield Asset Management Inc.

Headnote

NP 11-203 – decision exempting the Filer from the requirement in s. 3.1 of NI 52-107 that financial statements be prepared in accordance with Canadian GAAP for so long as the Filer prepares its financial statements in accordance with IFRS-IASB – for financial periods beginning on or after January 1, 2009 – Filer must provide specified disclosure regarding change to IFRS-IASB – if the Filer files interim financial statements prepared in accordance with Canadian GAAP in the year that the Filer adopts IFRS-IASB, those interim financial statements must be restated using IFRS-IASB – Filer wishes to change to IFRS-IASB to reduce the complexity of its financial statement preparation process

Applicable Legislative Provisions

National Instrument 52-107 Acceptable Accounting Principles, Auditing Standards and Reporting Currency, s. 3.1.

August 25, 2008

IN THE MATTER OF
THE SECURITIES LEGISLATION OF
ONTARIO
(the Jurisdiction)

AND

IN THE MATTER OF
THE PROCESS FOR EXEMPTIVE RELIEF
APPLICATIONS IN MULTIPLE JURISDICTIONS

AND

IN THE MATTER OF
BROOKFIELD ASSET MANAGEMENT INC.
(the Filer)

DECISION

Background

The principal regulator in the Jurisdiction has received an application from the Filer for a decision under the securities legislation of the Jurisdiction of the principal regulator (the Legislation) exempting the Filer from the requirement in Section 3.1 of National Instrument 52-107 — *Acceptable Accounting Principles, Auditing Standards and Reporting Currency* (NI 52-107) that financial statements be prepared in accordance with Canadian GAAP for financial periods beginning on or after January 1, 2009 (the Exemption Sought), for so long as the Filer prepares the financial statements in accordance with International Financial Reporting Standards as issued by the International Accounting Standards Board (IFRS-IASB).

Under the Process for Exemptive Relief Applications in Multiple Jurisdictions (for a passport application):

(a) the Ontario Securities Commission is the principal regulator for this application, and

(b) the Filer has provided notice that section 4.7(1) of Multilateral Instrument 11-102 *Passport System* (MI 11-102) is intended to be relied upon in British Columbia, Alberta, Saskatchewan, Manitoba, Quebec, New Brunswick, Nova Scotia, Prince Edward Island, Newfoundland and Labrador, the Northwest Territories, Yukon and the Nunavut Territory (the Passport Jurisdictions).

Interpretation

Terms defined in National Instrument 14-101 *Definitions* and MI 11-102 have the same meaning if used in this decision, unless otherwise defined.

Representations

This decision is based on the following facts represented by the Filer:

1. The Filer is a corporation amalgamated under the Business Corporations Act (Ontario) pursuant to articles of amalgamation dated January 1, 2005. The head office of the Filer is located at Brookfield Place, 181 Bay Street, Suite 300, P.O. Box 762, Toronto, Ontario M5J 2T3;

2. The Filer is a reporting issuer or equivalent in the Jurisdiction and each of the Passport Jurisdictions. The Filer is not, to its knowledge, in default of its reporting issuer obligations under the Legislation or the securities legislation of the Passport Jurisdictions. The Filer's securities are listed on the Toronto Stock Exchange, the New York Stock Exchange and the Euronext Amsterdam Exchange. The Filer is also a registrant with the United States Securities and Exchange Commission (SEC) and a foreign private issuer in the United States;

3. The Filer is a global asset management company focused on property, power and infrastructure assets and has approximately US$95 billion of assets under management. It owns and manages large portfolios of premier office properties and hydroelectric power generation facilities as well as transmission and timberland operations. The Filer conducts operations in North and South America, Europe, the Middle East and Australia;

4. The Filer and its subsidiaries, which include both Canadian reporting issuers and SEC registrants, are subject to a diverse set of financial reporting requirements and prepare their financial statements in accordance with Canadian generally accepted accounting principles (Canadian GAAP), IFRS-IASB, generally accepted accounting principles in the United States (US GAAP) and others, including generally accepted accounting principles in Chile and Brazil;

5. The Canadian Accounting Standards Board has confirmed that publicly accountable enterprises will be required to prepare their financial statements in accordance with IFRS-IASB for interim and annual financial statements relating to fiscal years beginning on or after January 1, 2011.

6. NI 52-107 sets out acceptable accounting principles for financial reporting under the Legislation by domestic issuers, foreign issuers, registrants and other market participants. Under NI 52-107, a domestic issuer must use Canadian GAAP with the exception that an SEC registrant may use US GAAP. Under NI 52-107, only foreign issuers may use IFRS-IASB;

7. In CSA Staff Notice 52-321 *Early Adoption of International Financial Reporting Standards, Use of US GAAP and Reference to IFRS-IASB*, staff of the Canadian Securities Administrators recognized that some issuers may wish to prepare their financial statements in accordance with IFRS-IASB for periods beginning prior to January 1, 2011 and indicated that staff were prepared to recommend exemptive relief on a case by case basis to permit a domestic issuer to do so, despite Section 3.1 of NI 52-107;

8. Subject to obtaining the Exemption Sought the Filer intends to adopt IFRS-IASB effective January 1, 2009 for its financial statements for periods beginning on and after January 1, 2009;

9. The Filer believes that the adoption of IFRS-IASB for financial periods beginning on or after January 1, 2009 would be in the best interests of the Filer and users of its financial information because it will result in additional financial information, such as the fair value of certain assets, that will enhance stakeholders' understanding of the Filer's results of operations and financial position and will reduce the number of bases of accounting prepared by the Filer;

10. The Filer is implementing a comprehensive IFRS-IASB conversion plan;

11. The Filer has carefully assessed the readiness of its staff, board of directors, audit committee, auditors, investors and other market participants for the adoption by the Filer of IFRS-IASB for financial periods beginning on January 1, 2009 and has concluded that they will be adequately prepared for the Filer's adoption of IFRS-IASB for periods beginning on January 1, 2009;

12. The Filer has considered the implications of adopting IFRS-IASB before January 1, 2011 on its obligations under securities legislation including, but not limited to, those relating to CEO and CFO certifications, business acquisition reports, offering documents, and previously released material forward looking information;

13. The Filer will disclose relevant information about its conversion to IFRS-IASB as contemplated by CSA Staff Notice 52-320 *Disclosure of Expected Changes in Accounting Policies Relating to Changeover to International Financial Reporting Standards*, in its management's discussion and analysis for the periods ending prior to January 1, 2009 as follows:

    (a) for the interim period ended June 30, 2008, the key elements and timing of its conversion plan to adopt IFRS-IASB;

    (b) for the interim period ended September 30, 2008, the exemptions available under IFRS 1 *First-time Adoption of International Financial Reporting Standards* (IFRS 1) that the Filer expects to apply in preparing financial statements in accordance with IFRS-IASB and the areas of accounting policy significant to the Filer by describing the major identified differences between the Filer's current accounting policies and those the Filer is required or expects to apply in preparing financial statements in accordance with IFRS-IASB;

    (c) as soon as it is available, but at the latest for the year ended December 31, 2008, the impact of adopting IFRS-IASB on the key line items in the Filer's financial statements and, to the extent the Filer has quantified such information, quantitative information regarding the impact of adopting IFRS-IASB on the key line items in the Filer's financial statements.

Decision

1. The principal regulator is satisfied that the decision meets the test set out in the Legislation for the principal regulator to make the decision.

2. The decision of the principal regulator under the Legislation is that the Exemption Sought is granted, subject to all of the following conditions:

    (a) for so long as the Filer prepares its financial statements for financial periods beginning on or after January 1, 2009 in accordance with IFRS-IASB;

    (b) provided that the Filer provides all of the communication as described and in the manner set out in paragraph 13; and

    (c) provided that if the Filer files interim financial statements prepared in accordance with Canadian GAAP for one or more interim periods in the year that the Filer adopts IFRS-IASB, those interim financial statements originally prepared in accordance with Canadian GAAP be restated in accordance with IFRS-IASB.

"Jo-Anne Matear"
Assistant Manager, Corporate Finance

2.1.6 Sentry Select Capital Corp. et al.

Headnote

Transfer of assets between an non-redeemable investment fund and a mutual fund in connection with proposed merger exempted from the self-dealing prohibition in paragraph 118(2)(b) of the Act and subsection 115(6) of the Regulation – Merger subject to unitholder approval – All costs of the Merger to be borne by the Manager.

Applicable Legislative Provisions

Securities Act, R.S.O. 1990, c. S.5, as am., ss. 118(2)(b), 121(2)(a)(ii).
Ontario Regulation 1015 - General Regulation made under the Securities Act, R.R.O. 1990, Reg. 1015, as am., s. 115(6).

August 19, 2008

IN THE MATTER OF
THE SECURITIES LEGISLATION OF
ONTARIO

AND

IN THE MATTER OF
SENTRY SELECT CAPITAL CORP.
(the "Filer")

AND

COMMERCIAL AND INDUSTRIAL SECURITIES INCOME TRUST AND
SENTRY SELECT CANADIAN INCOME FUND
(collectively, the "Funds")

DECISION

Background

The Ontario Securities Commission (the "**Decision Maker**") has received an application from the Filer for a decision under the securities legislation of Ontario (the "**Legislation**") granting relief from:

(a) the restriction in paragraph 118(2)(b) of the *Securities Act* (Ontario) (the "**Act**") which prohibits a portfolio manager from purchasing or selling the securities of any issuer from or to the account of the portfolio manager, and

(b) the restriction in subsection 115(6) of Ontario Regulation 1015, which prohibits a purchase or sale of any security in which an associate of an investment counsel has a direct or indirect beneficial interest from or to any portfolio managed or supervised by the investment counsel,

in connection with a proposed merger between Commercial and Industrial Securities Income Trust (the "Terminating Fund") and Sentry Select Canadian Income Fund (the "**Continuing Fund**") (the "**Requested Relief**").

Interpretation

Defined terms contained in National Instrument 14-101 - *Definitions* have the same meaning in this decision unless they are defined in this decision.

Representations

This decision is based on the following facts represented by the Filer:

1. The Filer intends to merge the Terminating Fund and the Continuing Fund (the "**Merger**"), which will involve the transfer of assets of the Terminating Fund in exchange for Series A Units of the Continuing Fund (the "**Continuing Fund Units**").

2. At the time the Merger is effected, the Filer will be the "portfolio manager" or "investment counsel" for each of the Terminating Fund and the Continuing Fund for purposes of the Legislation.

3. The Filer is registered in Ontario as an adviser under the categories of Investment Counsel and Portfolio Manager.

4. The Filer is the manager and trustee of the Funds.

5. Each Fund was established pursuant to a declaration of trust under the laws of the Province of Ontario. The Terminating Fund is a "non-redeemable investment trust" as defined in the Legislation. The Continuing Fund is a mutual fund for purposes of the Legislation.

6. The Terminating Fund offered its units in all of the Provinces of Canada pursuant to a final prospectus dated May 30, 2002 and its units were, until August 14, 2008, listed on the Toronto Stock Exchange ("**TSX"**).

7. The Continuing Fund offers its units in all of the Provinces of Canada on a continuous basis pursuant to a simplified prospectus dated August 10, 2007.

8. Unitholders of the Terminating Fund approved the Merger at a special meeting of unitholders held on August 13, 2008 (the "**Meeting**"). In connection with the Meeting, the Filer, as manager of the Terminating Fund (the "**Manager**") sent to the unitholders of the Terminating Fund a notice of special unitholders meeting and management information circular each dated May 22, 2008 and a related form of proxy (collectively, the "**Meeting Materials**").

9. It is proposed that the Merger will occur on or about August 20, 2008 (the "**Merger Date**"), subject to regulatory approvals, where necessary.

10. Unitholders of the Terminating Fund were provided with tax disclosure about the ramifications of the Merger in the Meeting Materials.

11. As required by National Instrument 81-107 *Independent Review Committee for Investment Funds*, an Independent Review Committee ("**IRC**") has been appointed for the Funds, and the Filer presented the terms of the Merger to the IRC for a recommendation. The IRC reviewed the proposed Merger and it was recommended that it be put to unitholders of the Terminating Fund for their consideration on the basis that the Merger would achieve a fair and reasonable result for each of the Funds.

12. The Terminating Fund and the Continuing Fund will jointly elect for the Merger to be completed on a tax-deferred basis.

13. The Merger is expected to take place using the following steps:

    (a) the Terminating Fund will transfer all of its assets to the Continuing Fund in exchange for Series A Units of the Continuing Fund and the assumption by the Continuing Fund of all of the liabilities of the Terminating Fund. The Series A Units of the Continuing Fund received by the Terminating Fund will have an aggregate net asset value ("**NAV**") equal to the NAV of the Terminating Fund and will be issued at the NAV per Series A Unit of the Continuing Fund in each case as of the close of business on the business day prior to Merger Date.

    (b) immediately thereafter, the Series A Units of the Continuing Fund received by the Terminating Fund will be distributed to unitholders of the Terminating Fund in proportion to the number of units they held in the Terminating Fund. Each unitholder will receive units of the Continuing Fund having the same aggregate NAV as their units of the Terminating Fund as of the close of business on the business day prior to the Merger Date.

    (c) as soon as reasonably possible following the Merger, the Terminating Fund will be wound up.

    (d) the Filer will issue a press release forthwith after the Merger is completed announcing the completion of the Merger and the ratio by which units of the Terminating Fund were exchanged for Series A Units of the Continuing Fund. The records of the broker or other intermediary through whom a unitholder holds his, her or its units should reflect the Merger within five business days after the Merger.

14. All costs and expenses associated with the Merger will be borne by the Filer. No sales charges, redemption fees or other fees or commissions will be payable by unitholders of the Funds in connection with the Merger.

15. The transfer of the investment portfolio of the Terminating Fund to the Continuing Fund as a step in the Merger may be considered a sale of securities caused by the "portfolio manager" from the Terminating Fund to the account of an associate of the "portfolio manager", contrary to the Legislation.

16. The transfer of the investment portfolio of the Terminating Fund to the Continuing Fund as a step in the Merger may be considered a sale of securities in which an associate of an investment counsel has a direct or indirect beneficial interest to a portfolio managed or supervised by the investment counsel, contrary to the Legislation.

17. The Funds have similar investment objectives and valuation procedures.

18. In the opinion of the Filer, the Merger will not adversely affect unitholders of the Terminating Fund or the Continuing Fund and will in fact be in the best interests of unitholders of each of the Funds.

19. In the absence of this order, the Filer would be prohibited from purchasing and selling the securities of the Terminating Fund in connection with the Merger.

Decision

The 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 Maker under the Legislation is that the Requested Relief is granted.

"David L. Knight"
Commissioner

"Kevin J. Kelly"
Commissioner

2.1.7 Peak Gold Ltd. - s. 1(10)

Headnote

National Policy 11-203 Process For Exemptive Relief Applications in Multiple Jurisdictions – application for an order that the issuer is not a reporting issuer.

Ontario Statutes

Securities Act, R.S.O. 1990, c. S.5, as am., s. 1(10).

August 25, 2008

Peak Gold Ltd.
3110 - 666 Burrard Street
Vancouver, BC
V6C 2X8

Dear Sir:

RE: Peak Gold Ltd. (the "Applicant") - Application for a decision under the securities legislation of Ontario, Alberta, Manitoba, Quebec and Prince Edward Island (the "Jurisdictions") that the Applicant is not a reporting issuer

The Applicant has applied to the local securities regulatory authority or regulator (the "Decision Maker") in each of the Jurisdictions for a decision under the securities legislation (the "Legislation") of the Jurisdictions that the Applicant is not a reporting issuer.

As the Applicant has represented to the Decision Makers that:

(a) the outstanding securities of the Applicant, including debt securities, are beneficially owned, directly or indirectly, by fewer than 15 security holders in each of the Jurisdictions and fewer than 51 security holders in total in Canada;

(b) no securities of the Applicant are traded on a marketplace as defined in National Instrument 21-101 *Marketplace Operation*;

(c) the Applicant is applying for a decision that it is not a reporting issuer in all of the Jurisdictions in which it is currently a reporting issuer; and

(d) the Applicant is not in default of any of its obligations under the Legislation as a reporting issuer,

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 and orders that the Applicant is not a reporting issuer.

"Erez Blumberger"
Manager, Corporate Finance
Ontario Securities Commission

2.1.8 Highground Capital Inc. - s. 1(10)

Headnote

National Policy 11-203 Process For Exemptive Relief Applications in Multiple Jurisdictions – Issuer deemed to no longer be a reporting issuer under securities legislation.

Applicable Legislative Provisions

Securities Act, R.S.O. 1990, c. S.5, as am., s. 1(10).

August 27, 2008

Highground Capital Inc.
2845 Bristol Circle
Oakville, Ontario
L6H 7H7

Dear Sirs/Mesdames:

Re: Highground Capital Inc. (the Applicant) - application for a decision under the securities legislation of Ontario and Alberta (the Jurisdictions) that the Applicant is not a reporting issuer

The Applicant has applied to the local securities regulatory authority or regulator (the Decision Maker) in each of the Jurisdictions for a decision under the securities legislation (the Legislation) of the Jurisdictions that the Applicant is not a reporting issuer.

As the Applicant has represented to the Decision Makers that:

(a) the outstanding securities of the Applicant, including debt securities, are beneficially owned, directly or indirectly, by fewer than 15 security holders in each of the jurisdictions in Canada and fewer than 51 security holders in total in Canada;

(b) no securities of the Applicant are traded on a marketplace as defined in National Instrument 21-101 Marketplace Operation;

(c) the Applicant is applying for a decision that it is not a reporting issuer in all of the jurisdictions in Canada in which it is currently a reporting issuer; and

(d) the Applicant is not in default of any of its obligations under the Legislation as a reporting issuer,

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 and orders that the Applicant is not a reporting issuer.

"Jo-Anne Matear"
Assistant Manager, Corporate Finance
Ontario Securities Commission

2.2 Orders

2.2.1 KeyBanc Capital Markets Inc. - s. 147 of the Act and s. 6.1 of OSC Rule 13-502 Fees

Headnote

Relief from section 6.5 of OSC Rule 45-501 Ontario Prospectus Exemptions - Relief granted to applicant dealer from s. 6.5 for forward-looking information in offering memoranda provided to accredited investors in connection with private placements by foreign issuer - such private placements are generally small part of larger distributions of securities by foreign issuers outside Canada pursuant to foreign offering documents - relief subject to conditions - Relief also granted from section 4.1 of OSC Rule 13-502 Fees.

Applicable Legislative Provisions

Securities Act (Ontario), s. 147.
OSC Rule 13-502 Fees, s. 4.1.
OSC Rule 45-501 Ontario Prospectus Exemptions,s. 6.5.

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

AND

IN THE MATTER OF
KEYBANC CAPITAL MARKETS INC.

ORDER
(Section 147 of the Act
and
Section 6.1 of Rule 13-502 Fees)

WHEREAS effective December 31, 2007 Ontario Securities Commission Rule 45-501 – Ontario Prospectus Exemptions ("**Rule 45-501**") was amended to, among other things, require that an offering memorandum used in Ontario which contains forward-looking information comply with certain new provisions of National Instrument 51-102 – *Continuous Disclosure Obligations* ("**NI 51-102**");

AND UPON the application (the "**Application**") of KeyBanc Capital Markets Inc. (the "**Applicant**") to the Ontario Securities Commission (the "**Commission**") for an order pursuant to Section 147 of the Securities Act, R.S.O. 1990, c. S.5, as amended (the "**Act**") to provide that Section 6.5 of Rule 45-501 shall not be applicable to an offering memorandum of a non-Canadian issuer that is not a reporting issuer in Ontario (each, a "**Foreign Issuer**") provided to a prospective purchaser in Ontario by the Applicants;

AND UPON the Application of the Applicant to the Director for an exemption pursuant to Section 6.1 of OSC Rule 13-502 – *Fees* ("**Rule 13-502**") to provide that Section 4.1 of Rule 13-502 shall not be applicable to the Applicants;

AND UPON the Applicant having represented to the Commission that:

1. The Applicant is incorporated under the laws of Ohio.

2. The Applicant is registered with the OSC as an international dealer.

3. The Applicant offers and sells securities of Foreign Issuers on private placement basis to purchasers in Ontario relying on the "accredited investor" prospectus exemption under Section 2.3 of National Instrument 45-106 – *Prospectus and Registration Exemptions*.

4. The offerings by private placement of securities of a Foreign Issuer (each, a "**Foreign Issuer Private Placement**") in Ontario are part of a distribution of securities of a Foreign Issuer offered primarily outside of Canada pursuant to a prospectus, offering memorandum or other offering document (each, a "**Foreign Offering Document**") prepared in accordance with the requirements of the United States or other non-Canadian jurisdictions.

5. In a Foreign Issuer Private Placement, a Foreign Offering Document is generally accompanied by a "wrapper" or is otherwise supplemented with disclosure prescribed by Ontario securities law and with disclosure of certain additional information for the benefit of Ontario investors and provided by the Applicant to Ontario prospective purchasers as a Foreign Issuer's offering memorandum within the meaning of Section 1(1) of the Act.

6. In a Foreign Issuer Private Placement, a Foreign Issuer that intends to rely on the civil liability safe harbour with respect to forward-looking statements provided by Section 21E of the U.S. Securities Exchange Act of 1934, as amended (the "Exchange Act") or Section 27A of the U.S. Securities Act of 1933, as amended (the "U.S. Securities Act"), will generally include in its Foreign Offering Document disclosure with respect to "forward-looking statements" within the meaning of Section 21E of the Exchange Act and Section 27A of the U.S. Securities Act to enable the Foreign Issuer to rely on the civil liability safe harbour provided with respect to forward-looking statements.

7. Other Foreign Issuers conducting a Foreign Issuer Private Placement that include forward looking information in their Foreign Offering Document will generally include disclosure of related material risk factors potentially affecting the forward looking information.

8. The disclosure with respect to forward looking information contained in a Foreign Offering Document used in a Foreign Issuer Private Placement in Ontario will not necessarily include all of the disclosure prescribed for offering memoranda by section 6.5 of Rule 45-501.

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

AND UPON the Commission being satisfied that it would not be prejudicial to the public interest to make this Order;

IT IS ORDERED, pursuant to section 147 of the Act, that offering memoranda delivered by or on behalf of the Applicant to prospective purchasers that are accredited investors in connection with Foreign Issuer Private Placements shall not be subject to Section 6.5 of Rule 45-501, provided that a Foreign Offering Document contains or is accompanied by either:

(a) the disclosure required in order for an issuer to rely on the safe harbour provided by Section 21E of the Exchange Act or by Section 27A of the U.S. Securities Act with respect to forward looking information, whether or not such safe harbour is applicable; or

(b) a statement that "This offering is being made by a non-Canadian issuer using disclosure documents prepared in accordance with non-Canadian securities laws. Prospective purchasers should be aware that these requirements may differ significantly from those of Ontario. The forward looking information included or incorporated by reference herein may not be accompanied by the disclosure and explanations that would be required of a Canadian issuer under Ontario securities law."

DATED at Toronto, this 1st day of August, 2008.

"Lawrence E. Ritchie"
Vice-Chair
Ontario Securities Commission

"Paulette L. Kennedy"
Commissioner
Ontario Securities Commission

AND UPON the Director being satisfied that it would not be prejudicial to the public interest to make this Order;

IT IS ORDERED, pursuant to Section 6.1 of Rule 13-502, that the Application shall not be subject to Section 4.1 of Rule 13-502.

DATED at Toronto, this 1st day of August, 2008.

"Lisa Enright"
Assistant Manager, Corporate Finance
Ontario Securities Commission

2.2.2 New Life Capital Corp. et al. - s. 127

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

AND

IN THE MATTER OF
NEW LIFE CAPITAL CORP.,
NEW LIFE CAPITAL INVESTMENTS INC.,
NEW LIFE CAPITAL ADVANTAGE INC.,
NEW LIFE CAPITAL STRATEGIES INC.,
1660690 ONTARIO LTD., L. JEFFREY POGACHAR,
PAOLA LOMBARDI AND ALAN S. PRICE

ORDER
(Section 127 of the Securities Act)

WHEREAS the Ontario Securities Commission (the "Commission") issued a temporary cease trade order on August 6, 2008 in respect of New Life Capital Corp., New Life Capital Investments Inc., New Life Capital Advantage Inc., New Life Capital Strategies Inc., 1660690 Ontario Ltd., L. Jeffrey Pogachar ("Pogachar"), Paula Lombardi ("Lombardi") and Alan S. Price ("Price") (collectively, the "Respondents") (the "Temporary Order");

AND WHEREAS the Temporary Order ordered that (1) pursuant to clause 2 of section 127(1) and section 127(5) of the Act, trading in securities of and by the Respondents shall cease; (2) pursuant to clause 3 of section 127(1) and section 127(5) of the Act, any exemptions contained in Ontario securities law not do not apply to any of the Respondents; and (3) this Order shall not prevent or prohibit any future payments in the way of premiums owing from time to time in respect of insurance policies which were purchased by the Respondents on or before the date of this Order;

AND WHEREAS the Commission further ordered that the Temporary Order is continued until the hearing scheduled for August 21, 2008;

AND WHEREAS on August 15, 2008, the Commission ordered the following exemptions to the Temporary Order: (1) Pogachar, Lombardi and Price may each hold one account to trade securities; (2) each account must be held with a registered dealer to whom this Order and any preceding Orders in this matter must be given at the time of opening the account or before any trading occurs in the account; and (3) the only securities that may be traded in each account are: (a) those listed and posted for trading on the TSX, TSX Venture Exchange, Bourse de Montreal or New York Stock Exchange; (b) those issued by a mutual fund which is a reporting issuer; or (c) a fixed income security;

AND WHEREAS the Respondents are represented by counsel and have been served with the Temporary Order, the Notice of Hearing dated August 7, 2008, the Statement of Allegations dated August 7, 2008 and the Affidavit of Stephanie Collins sworn August 7, 2008 (the "Collins Affidavit");

AND WHEREAS Staff has filed the Collins Affidavit in support of Staff's request to extend the Temporary Order;

AND WHEREAS Staff and the Respondents have requested an adjournment to permit Staff to continue the investigation and to permit the Respondents to respond to the Statement of Allegations dated August 7, 2008;

AND WHEREAS on August 21, 2008, Staff of the Commission ("Staff") and counsel for the Respondents appeared before the Commission;

AND WHEREAS Staff and counsel for the Respondents consent to an extension of the Temporary Order until September 22, 2008 and an adjournment of the hearing to September 19, 2008, at 2:30 p.m.;

IT IS ORDERED that the Temporary Order is continued until September 22, 2008, and the hearing is adjourned to September 19, 2008 at 2:30 p.m., or such other date as is agreed by Staff and the Respondents and determined by the Office of the Secretary.

DATED at Toronto this 21st day of August, 2008.

"Wendell Wigle"

"Suresh Thakrar"

2.2.3 Campbell Lutyens & Co. Ltd. - s. 147 of the Act and s. 6.1 of OSC Rule 13-502 Fees

Headnote

Relief from section 6.5 of OSC Rule 45-501 Ontario Prospectus Exemptions - Relief granted to applicant dealer from s. 6.5 for forward-looking information in offering memoranda provided to accredited investors in connection with private placements by foreign issuer - such private placements are generally small part of larger distributions of securities by foreign issuers outside Canada pursuant to foreign offering documents - relief subject to conditions - Relief also granted from section 4.1 of OSC Rule 13-502 Fees.

Applicable Legislative Provisions

Securities Act (Ontario), s. 147.
OSC Rule 13-502 Fees, s. 4.1.
OSC Rule 45-501 Ontario Prospectus Exemptions, s. 6.5.

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

AND

IN THE MATTER OF
CAMPBELL LUTYENS & CO. LTD.

ORDER
(Section 147 of the Act
and
Section 6.1 of Rule 13-502 Fees)

WHEREAS effective December 31, 2007 Ontario Securities Commission Rule 45-501 – *Ontario Prospectus Exemptions* ("**Rule 45-501**") was amended to, among other things, require that an offering memorandum used in Ontario which contains forward-looking information comply with certain new provisions of National Instrument 51-102 – *Continuous Disclosure Obligations* ("**NI 51-102**");

AND UPON the application (the "**Application**") of Campbell Lutyens & Co. Ltd. (the "**Applicant**") to the Ontario Securities Commission (the "**Commission**") for an order pursuant to Section 147 of the Act to provide that Section 6.5 of Rule 45-501 shall not be applicable to an offering memorandum of a non-Canadian issuer that is not a reporting issuer in Ontario (each, a "**Foreign Issuer**") provided to a prospective purchaser in Ontario by the Applicant;

AND UPON the Application of the Applicant to the Director for an exemption pursuant to Section 6.1 of OSC Rule 13-502 – *Fees* ("**Rule 13-502**") to provide that Section 4.1 of Rule 13-502 shall not be applicable to the Applicant;

AND UPON the Applicant having represented to the Commission that:

1. The Applicant is organized under the laws of the United Kingdom.

2. The Applicant is registered with the Commission in the category of international dealer.

3. The Applicant offers and sells securities of Foreign Issuers on a private placement basis to purchasers in Ontario relying on the "accredited investor" prospectus exemption under Section 2.3 of National Instrument 45-106 – *Prospectus and Registration Exemptions*.

4. The offerings by private placement of securities of a Foreign Issuer (each, a "**Foreign Issuer Private Placement**") in Ontario are part of a distribution of securities of a Foreign Issuer offered primarily outside of Canada pursuant to a prospectus, offering memorandum or other offering document (each, a "**Foreign Offering Document**") prepared in accordance with the requirements of the United States or other non-Canadian jurisdictions.

5. In a Foreign Issuer Private Placement, a Foreign Offering Document is generally accompanied by a "wrapper" or is otherwise supplemented with disclosure prescribed by Ontario securities law and with disclosure of certain additional information for the benefit of Ontario investors and provided by the Applicant to Ontario prospective purchasers as a Foreign Issuer's offering memorandum within the meaning of Section 1(1) of the Act.

6. In a Foreign Issuer Private Placement, a Foreign Issuer that intends to rely on the civil liability safe harbour with respect to forward-looking statements provided by Section 21E of the U.S. Securities Exchange Act of 1934, as amended (the "**Exchange Act**") or Section 27A of the U.S. Securities Act of 1933, as amended (the "**U.S. Securities Act**"), will generally include in its Foreign Offering Document disclosure with respect to "forward-looking statements" within the meaning of Section 21E of the Exchange Act and Section 27A of the U.S. Securities Act to enable the Foreign Issuer to rely on the civil liability safe harbour provided with respect to forward-looking statements.

7. Other Foreign Issuers conducting a Foreign Issuer Private Placement that include forward looking information in their Foreign Offering Document will generally include disclosure of related material risk factors potentially affecting the forward looking information.

8. The disclosure with respect to forward looking information contained in a Foreign Offering Document used in a Foreign Issuer Private Placement in Ontario will not necessarily include all of the disclosure prescribed for offering memoranda by section 6.5 of Rule 45-501.

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

AND UPON the Commission being satisfied that it would not be prejudicial to the public interest to make this Order;

IT IS ORDERED, pursuant to section 147 of the Act, that offering memoranda delivered by or on behalf of the Applicant to prospective purchasers that are accredited investors in connection with Foreign Issuer Private Placements shall not be subject to Section 6.5 of Rule 45-501, provided that a Foreign Offering Document contains or is accompanied by either:

(a) the disclosure required in order for an issuer to rely on the safe harbour provided by Section 21E of the Exchange Act or by Section 27A of the U.S. Securities Act with respect to forward looking information, whether or not such safe harbour is applicable; or

(b) a statement that "This offering is being made by a non-Canadian issuer using disclosure documents prepared in accordance with non-Canadian securities laws. Prospective purchasers should be aware that these requirements may differ significantly from those of Ontario. The forward looking information included or incorporated by reference herein may not be accompanied by the disclosure and explanations that would be required of a Canadian issuer under Ontario securities law."

DATED at Toronto, this 1st day of August, 2008

"Lawrence E. Ritchie"
Vice-Chair
Ontario Securities Commission

"Paulette L. Kennedy"
Commissioner
Ontario Securities Commission

AND UPON the Director being satisfied that it would not be prejudicial to the public interest to make this Order;

IT IS ORDERED, pursuant to Section 6.1 of Rule 13-502, that the Application shall not be subject to Section 4.1 of Rule 13-502.

DATED at Toronto, this 1st day of August, 2008

"Lisa Enright"
Assistant Manager, Corporate Finance
Ontario Securities Commission

2.2.4 Wachovia Capital Markets, LLC - s. 147 of the Act and s. 6.1 of OSC Rule 13-502 Fees

Headnote

Relief from section 6.5 of OSC Rule 45-501 Ontario Prospectus Exemptions - Relief granted to applicant dealer from s. 6.5 for forward-looking information in offering memoranda provided to accredited investors in connection with private placements by foreign issuer - such private placements are generally small part of larger distributions of securities by foreign issuers outside Canada pursuant to foreign offering documents - relief subject to conditions - Relief also granted from section 4.1 of OSC Rule 13-502 Fees.

Applicable Legislative Provisions

Securities Act (Ontario), s. 147.
OSC Rule 13-502 Fees, s. 4.1.
OSC Rule 45-501 Ontario Prospectus Exemptions, s. 6.5.

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

AND

IN THE MATTER OF
WACHOVIA CAPITAL MARKETS, LLC

ORDER
(Section 147 of the Act
and
Section 6.1 of Rule 13-502 Fees)

WHEREAS effective December 31, 2007 Ontario Securities Commission Rule 45-501 - *Ontario Prospectus Exemptions* ("**Rule 45-501**") was amended to, among other things, require that an offering memorandum used in Ontario which contains forward-looking information comply with certain new provisions of National Instrument 51-102 - *Continuous Disclosure Obligations* ("**NI 51-102**");

AND UPON the application (the "**Application**") of Wachovia Capital Markets, LLC (the "**Applicant**") to the Ontario Securities Commission (the "**Commission**") for an order pursuant to Section 147 of the Securities Act, R.S.O. 1990, c. S.5, as amended (the "**Act**") to provide that Section 6.5 of Rule 45-501 shall not be applicable to an offering memorandum of a non-Canadian issuer that is not a reporting issuer in Ontario (each, a "**Foreign Issuer**") provided to a prospective purchaser in Ontario by the Applicant;

AND UPON the Application of the Applicant to the Director for an exemption pursuant to Section 6.1 of OSC Rule 13-502 - *Fees* ("**Rule 13-502**") to provide that Section 4.1 of Rule 13-502 shall not be applicable to the Applicant;

AND UPON the Applicant having represented to the Commission that:

1. The Applicant is incorporated or otherwise organized under the laws of Delaware.

2. The Applicant is registered with the OSC as an international dealer.

3. The Applicant offers and sells securities of Foreign Issuers on a private placement basis to purchasers in Ontario relying on the "accredited investor" prospectus exemption under Section 2.3 of National Instrument 45-106 - *Prospectus and Registration Exemptions*.

4. The offerings by private placement of securities of a Foreign Issuer (each, a "**Foreign Issuer Private Placement**") in Ontario are part of a distribution of securities of a Foreign Issuer offered primarily outside of Canada pursuant to a prospectus, offering memorandum or other offering document (each, a "**Foreign Offering Document**") prepared in accordance with the requirements of the United States or other non-Canadian jurisdictions.

5. In a Foreign Issuer Private Placement, a Foreign Offering Document is generally accompanied by a "wrapper" or is otherwise supplemented with disclosure prescribed by Ontario securities law and with disclosure of certain additional information for the benefit of Ontario investors and provided by the Applicant to Ontario prospective purchasers as a Foreign Issuer's offering memorandum within the meaning of Section l(1) of the Act.

6. In a Foreign Issuer Private Placement, a Foreign Issuer that intends to rely on the civil liability safe harbour with respect to forward-looking statements provided by Section 21E of the U.S. Securities Exchange Act of 1934, as amended (the "**Exchange Act**") or Section 27A of the U.S. Securities Act of 1933, as amended (the "**U.S. Securities Act**"), will generally include in its Foreign Offering Document disclosure with respect to "forward-looking statements" within the meaning of Section 21E of the Exchange Act and Section 27A of the U.S. Securities Act to enable the Foreign Issuer to rely on the civil liability safe harbour provided with respect to forward-looking statements.

7. Other Foreign Issuers conducting a Foreign Issuer Private Placement that include forward looking information in their Foreign Offering Document will generally include disclosure of related material risk factors potentially affecting the forward-looking information.

8. The disclosure with respect to forward-looking information contained in a Foreign Offering Document used in a Foreign Issuer Private Placement in Ontario will not necessarily include all of the disclosure prescribed for offering memoranda by section 6.5 of Rule 45-501.

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

AND UPON the Commission being satisfied that it would not be prejudicial to the public interest to make this Order;

IT IS ORDERED, pursuant to section 147 of the Act, that offering memoranda delivered by or on behalf of the Applicant to prospective purchasers that are accredited investors in connection with Foreign Issuer Private Placements shall not be subject to Section 6.5 of Rule 45-501, provided that a Foreign Offering Document contains or is accompanied by either:

(a) the disclosure required in order for an issuer to rely on the safe harbour provided by Section 21E of the Exchange Act or by Section 27A of the U.S. Securities Act with respect to forward-looking information, whether or not such safe harbour is applicable; or

(b) a statement that "This offering is being made by a non-Canadian issuer using disclosure documents prepared in accordance with non-Canadian securities laws. Prospective purchasers should be aware that these requirements may differ significantly from those of Ontario. The forward-looking information included or incorporated by reference herein may not be accompanied by the disclosure and explanations that would be required of a Canadian issuer under Ontario securities law."

DATED at Toronto this 15th day of August, 2008.

"James E.A. Turner"
Commissioner
Ontario Securities Commission

"Suresh Thakrar"
Commissioner
Ontario Securities Commission

AND UPON the Director being satisfied that it would not be prejudicial to the public interest to make this Order;

IT IS ORDERED, pursuant to Section 6.1 of Rule 13-502, that the Application shall not be subject to Section 4.1 of Rule 13-502.

DATED at Toronto this 19th day of August, 2008.

"Erez Blumberger"
Manager
Corporate Finance

2.2.5 Deutsche Bank Trust Company Americas et al. - s. 46(4) of the OBCA

Headnote

Order pursuant to subsection 46(4) of the Business Corporations Act (Ontario) - trust indenture to be governed by the United States Trust Indenture Act of 1939, as amended, in connection with a proposed public offering of debt securities of an issuer in the United States and Canada - trustee to be appointed under the trust indenture undertakes to file with the Commission and on SEDAR a submission to the non-exclusive jurisdiction of the courts and administrative tribunals of Ontario and appointment of an agent for service of process in Ontario - any pricing supplement or prospectus supplement under which the debt securities will be offered in Ontario will include disclosure about the existence of this order and a statement regarding the risks associated with the purchase of debt securities of the issuer under the trust indenture by a holder in Ontario as a result of the absence of a local trustee appointed under the trust indenture - trust indenture exempted from the requirements of Part V of the Business Corporations Act (Ontario).

Statutes Cited

Business Corporations Act, R.S.O. 1990, c. B.16, as am., ss. 46(2), 46(3), 46(4), Part V.
Securities Act, R.S.O. 1990, c. S.5, as am.
Trust Indenture Act of 1939, 53 Stat. 1149 (1939), 15 U.S.C., Secs. 77aaa-77bbb, as am.

June 24, 2008

IN THE MATTER OF
THE BUSINESS CORPORATIONS ACT,
R.S.O. 1990, C.B.16, AS AMENDED
(the "OBCA")

AND

IN THE MATTER OF
DEUTSCHE BANK TRUST COMPANY AMERICAS,
ENBRIDGE FINANCE COMPANY INC. AND
ENBRIDGE INC.

ORDER
(Subsection 46(4) of the OBCA)

UPON the application (the "Application") of Deutsche Bank Trust Company Americas (the "Applicant") to the Ontario Securities Commission (the "Commission") for an order that:

(a) pursuant to subsection 46(4) of the OBCA, a trust indenture of Enbridge Finance Company Inc. (the "Issuer") and Enbridge Inc. (the "Guarantor") be exempt from the requirements of Part V of the OBCA; and

(b) the Application and this order be held in confidence by the Commission until the earlier of (i) the date on which the Issuer publicly announces the Proposed Offering (as defined below), and (ii) the date that is 60 days after the date of this order, to the extent permitted by law;

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

AND UPON it being represented by the Guarantor and the Applicant to the Commission that:

1. The Guarantor is a corporation existing under the *Canada Business Corporations Act* (the "CBCA") and is a reporting issuer not in default under the Securities Act, R.S.O. 1990, c. S.5, as amended (the "Act"), and the regulations thereunder.

2. The Issuer is a wholly-owned subsidiary of the Guarantor incorporated under the CBCA and will become a reporting issuer under the Act upon the filing of a prospectus in connection with the Securities (as defined below).

3. The Applicant is a United States ("U.S.") based financial institution and will be, pursuant to the terms of an indenture (the "Indenture") to be made between the Issuer, the Guarantor and the Applicant, the trustee in respect of unsecured debentures, notes, or other evidence of indebtedness of the Issuer to be issued thereunder (the "Securities").

4. The Applicant is a body corporate incorporated under the laws of New York and is not resident in or authorized to do business in the Province of Ontario as trustee. The Applicant will be the sole trustee under the Indenture.

5. The Securities are to be offered by the Issuer primarily to the public in the U.S. and are to be registered under the U.S. *Securities Act of 1933*, as amended, pursuant to a shelf registration statement on Form F-10 (the "Registration Statement") in respect of a base shelf prospectus to be filed with the U.S. Securities and Exchange Commission (the "SEC") pursuant to the multijurisdictional disclosure system.

6. It is proposed that a base shelf prospectus (the "Canadian Base Shelf Prospectus") will be filed with the Commission and each other securities regulator in Canada pursuant to National Instrument 44-101 - *Short Form Prospectus Distributions* and National Instrument 44-102 - *Shelf Distributions* that will qualify the Securities issued thereunder for distribution in Canada (the "Proposed Offering"). The Indenture will be filed by the Issuer with the Commission in connection with the filing of the Canadian Base Shelf Prospectus.

7. It is proposed that the Securities are to be sold by the Issuer through certain undetermined investment banks (collectively, the "Underwriters"), as underwriters, pursuant to the terms of agreements to be entered into among the Underwriters, the Issuer and the Guarantor from time to time.

8. The Issuer may offer Securities for sale from time to time in Canada, under the Canadian Base Shelf Prospectus and one or more related prospectus supplements following the Issuer's receipt of a final receipt for the Canadian Base Shelf Prospectus. Specific issuances of Securities may be offered concurrently in Canada and the United States.

9. It is not currently anticipated that the Securities issued in Canada pursuant to the Proposed Offering will be listed on any stock exchange in Canada, but listing may occur in the future.

10. As the Issuer intends to file the Canadian Base Shelf Prospectus with the Commission, Part V of the OBCA will apply to the Indenture by virtue of subsection 46(2) of the OBCA.

11. As a result of filing the Registration Statement with the SEC pursuant to which the Securities will be offered in the U.S., the Indenture will be subject to and governed by the U.S. *Trust Indenture Act of 1939* (the "Trust Indenture Act"), which regulates the issue of debt securities under trust indentures in the U.S. in a manner consistent with Part V of the OBCA.

12. The Indenture will be governed by the laws of the State of New York, will provide that there shall always be a trustee thereunder that satisfies the requirements of sections 310(a)(1), 310(a)(2) and 310(b) of the Trust Indenture Act and will contain provisions in conformity with the requirements of the Trust Indenture Act.

13. Because the Trust Indenture Act regulates the issue of debt securities under trust indentures in the U.S. in a manner that is consistent with Part V of the OBCA, holders of Securities in Ontario will not, subject to paragraph 14, derive any additional material benefit from having the Indenture be subject to Part V of the OBCA.

14. Prior to or concurrently with the Issuer filing the Canadian Base Shelf Prospectus with the Commission, the Applicant has undertaken in favour of the Commission to file on SEDAR a submission to the non-exclusive jurisdiction of the courts and administrative tribunals of Ontario and appointment of an agent for service of process in Ontario (a "Submission to Jurisdiction and Appointment of Agent for Service of Process").

15. The Guarantor has advised the Applicant that any Canadian pricing supplement or prospectus supplement under which the Securities will be offered in Canada will disclose the existence of this order and state that the Applicant, its officers and directors, and the assets of the Applicant are located outside of Ontario and, as a result, it may be difficult for a holder of Securities to enforce rights against the Applicant, its officers or directors, or the Applicant's assets and that the holder may have to enforce rights against the Applicant in the United States.

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

IT IS ORDERED pursuant to subsection 46(4) of the OBCA, that the Indenture is exempt from Part V of the OBCA, provided that:

(i) the Indenture is governed by and subject to the Trust Indenture Act; and

(ii) prior to or concurrently with the Issuer's filing of the Canadian Base Shelf Prospectus with the Commission, the Applicant, or any trustee that replaces the Applicant under the terms of the Indenture, has filed with the Commission and on SEDAR a Submission to Jurisdiction and Appointment of Agent for Service of Process.

IT IS ORDERED that the Application and this order be held in confidence by the Commission until the earlier of: (i) the date on which the Issuer publicly announces the Proposed Offering; and (ii) the date that is 60 days after the date of this order, to the extent permitted by law.

"Kevin J. Kelly"
Commissioner

"Mary Conden"
Commissioner

2.2.6 La Imperial Resources Inc. - s. 144

Headnote

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

Statutes Cited

Securities Act, R.S.O. 1990, c. S.5, as am., ss. 127, 144.

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

AND

IN THE MATTER OF
LA IMPERIAL RESOURCES INC.

ORDER
(Section 144)

WHEREAS the securities of La Imperial Resources Inc. (the "Filer") are subject to a temporary cease trade order made by the Director on August 15, 2008 under paragraph 2.1 of subsection 127(1) and subsection 127(5) of the Act (the "Temporary Order"), directing that all trading in and acquisitions of the securities of the Filer, whether direct or indirect, cease for a period of fifteen days from the date of the Temporary Order;

AND WHEREAS the Filer has applied to the Ontario Securities Commission (the "Commission") pursuant to section 144 of the Act (the "Application") for a revocation of the Temporary Order;

AND UPON the Filer has represented to the Commission that:

1. The Filer was incorporated on October 4, 2004 under the Canada Business Corporations Act. On March 13, 2007, the Filer was extra-provincially registered as a company under the Business Corporations Act (British Columbia).

2. The Filer is a reporting issuer under the securities legislation of the Provinces of British Columbia and Ontario.

3. The authorized share capital of the Filer consists of an unlimited number of common shares with no par value, of which 12,085,970 common shares were issued and outstanding as of August 18, 2008. Other than its common shares, the Filer has no securities, including debt securities, outstanding.

4. The Temporary Order was issued as a result of the Filer's failure to file its interim financial statements for the nine-month period ended May 31, 2008 (the "Interim Statements") and its management's discussion and analysis relating to the Interim Statements.

5. The British Columbia Securities Commission (the "BCSC") also issued a cease trade order (the "BC CTO") dated August 13, 2008 relating to failure to file the Interim Statements.

6. On August 15, 2008, the Filer filed on SEDAR the Interim Statements and the related management's discussion and analysis.

7. On August 15, 2008, the BCSC issued a full revocation of the BC CTO.

8. Except for the Temporary Order, the Filer is not in default of any requirement of the Act or the rules or regulation made under the Act.

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

AND UPON the Director being satisfied that it would not be prejudicial to the public interest to revoke the Temporary Order;

IT IS ORDERED, under section 144 of the Act, that the Temporary Order is revoked.

DATED this 22nd day of August, 2008.

"Jo-Anne Matear"
Assistant Manager, Corporate Finance Branch

2.2.7 BlueCrest Capital Management Limited - s. 218 of the Regulation

Headnote

Application for an order, pursuant to section 218 of the Regulation, exempting the Applicant from the requirement in section 213 of the Regulation that the Applicant be incorporated, or otherwise formed or created, under the laws of Canada or a province or territory of Canada, for the Applicant to be registered under the Act as a dealer in the category of limited market dealer.

Regulation Cited

R.R.O. 1990, Regulation 1015, am. to O. Reg. 500/06, ss. 213, 218.

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
BLUECREST CAPITAL MANAGEMENT LIMITED

ORDER
(Section 218 of the Regulation)

UPON the application (the **Application**) of BlueCrest Capital Management Limited (the **Applican**t) to the Ontario Securities Commission (the **Commission**) for an order, pursuant to section 218 of the Regulation, exempting the Applicant from the requirement in section 213 of the Regulation that the Applicant be incorporated, or otherwise formed or created, under the laws of Canada or a province or territory of Canada, in order for the Applicant to be registered under the Act as a dealer in the category of limited market dealer;

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

AND UPON the Applicant having represented to the Commission that:

1. The Applicant is a private limited company formed under the laws of England and Wales. The head office of the Applicant is located in London, United Kingdom.

2. The Applicant is authorized and registered by the Financial Services Authority in the United Kingdom. The Applicant is also registered as an investment adviser with the United States Securities and Exchange Commission.

3. The Applicant provides stock and share dealing services, portfolio management, intermediary and custodian services to individuals and institutions.

4. The Applicant is not presently registered in any capacity under the Act. The Applicant intends to apply to the Commission for registration under the Act as a dealer in the category of limited market dealer on a non-resident basis.

5. In Ontario, the Applicant intends to, among other things, market and sell privately placed securities to accredited investors on an exempt basis pursuant to the registration and prospectus exemptions contained in National Instrument 45-106 – *Prospectus and Registration Exemptions*.

6. Section 213 of the Regulation provides that a registered dealer that is not an individual must be a company incorporated, or a person formed or created, under the laws of Canada or a province or territory of Canada.

7. The Applicant is not resident in Canada, will not maintain an office in Canada and will only participate in limited market dealer activities in Ontario. The Applicant does not require a separate Canadian company in order to carry out its proposed limited market dealer activities in Ontario. It is more efficient and cost-effective for the Applicant to carry out those activities through the existing company.

8. Without the relief requested, the Applicant would not meet the requirements of the Regulation for registration as a dealer in the category of limited market dealer because it is not a company incorporated, or a person formed or created, under the laws of Canada or a province or territory of Canada.

AND UPON being satisfied that to make this order would not be prejudicial to the public interest;

IT IS ORDERED, pursuant to section 218 of the Regulation, and in connection with the registration of the Applicant as a dealer under the Act in the category of limited market dealer, that section 213 of the Regulation shall not apply to the Applicant for a period of three years, provided that:

1. The Applicant appoints an agent for service of process in Ontario.

2. The Applicant shall provide to each client resident in Ontario a statement in writing disclosing the non-resident status of the Applicant, the Applicant's jurisdiction of residence, the name and address of the Applicant's agent for service of

process in Ontario, and the nature of risks to clients that legal rights may not be enforceable.

3. The Applicant will not change its agent for service of process in Ontario without giving the Commission 30 days prior notice of such change by filing a new Submission to Jurisdiction and Appointment of Agent for Service of Process.

4. The Applicant and each of its registered directors or officers irrevocably and unconditionally submits to the non-exclusive jurisdiction of the judicial, quasi-judicial, and administrative tribunals of Ontario and any administrative proceedings in Ontario, in any proceedings arising out of or related to or concerning its registration under the Act or its activities in Ontario as a registrant.

5. The Applicant will not have custody of, or maintain customer accounts in relation to securities, funds, and other assets of clients resident in Ontario.

6. The Applicant will inform the Director immediately upon the Applicant becoming aware:

   (a) that it has ceased to be authorized and registered by the Financial Services Authority in the United Kingdom; or

   (b) of its registration in any other jurisdiction not being renewed or being suspended or revoked; or

   (c) that it is the subject of a regulatory proceeding, investigation or disciplinary action by any financial services or securities regulatory authority or self-regulatory authority; or

   (d) that the registration of its salespersons, officers, directors or partners who are registered in Ontario have not been renewed or have been suspended or revoked in any Canadian or foreign jurisdiction; or

   (e) that any of its salespersons, officers, directors or partners who are registered in Ontario are the subject of a regulatory proceeding, investigation or disciplinary action by any financial services or securities regulatory authority or self-regulatory authority in any Canadian or foreign jurisdiction.

7. The Applicant will pay the increased compliance and case assessment costs of the Commission due to the Applicant's location outside Ontario, including the cost of hiring a third party to perform a compliance review on behalf of the Commission.

8. The Applicant will make its books and records outside Ontario, including electronic records, readily accessible in Ontario, and will produce physical records for the Commission within a reasonable time if requested.

9. If the laws of the jurisdiction in which the Applicant's books and records are located prohibit production of the books and records in Ontario without the consent of the relevant client the Applicant shall, upon a request by the Commission:

   (a) so advise the Commission; and

   (b) use its best efforts to obtain the client's consent to the production of the books and records.

10. The Applicant will, upon the Commission's request, provide a representative to assist the Commission in compliance and enforcement matters.

11. The Applicant and each of its registered directors, officers or partners will comply, at the Applicant's expense, with requests under the Commission's investigation powers and orders under the Act in relation to the Applicant's dealings with Ontario clients, including producing documents and witnesses in Ontario, submitting to audit or search and seizure process or consenting to an asset freeze, to the extent such powers would be enforceable against the Applicant if the Applicant were resident in Ontario.

12. If the laws of the Applicant's jurisdiction of residence that are otherwise applicable to the giving of evidence or production of documents prohibit the Applicant or the witnesses from giving the evidence without the consent or leave of the relevant client or any third party, including a court of competent jurisdiction, the Applicant shall:

   (a) so advise the Commission; and

   (b) use its best efforts to obtain the client's consent to the giving of the evidence.

13. The Applicant will maintain appropriate registration and regulatory organization membership in the jurisdiction of its principal operations, and if required, in its jurisdiction of residence.

August 22, 2008

"Suresh Thakrar"

"Mary G. Condon"

2.2.8 IGM Financial Inc. - s. 104(2)(c)

Headnote

Clause 104(2)(c) - Issuer bid - relief from issuer bid requirements in sections 94 to 94.8 and 97 to 98.7 of the Act - Issuer proposes to purchase, at a discounted purchase price, approximately 1,000,000 of its common shares from one shareholder - due to discounted purchase price, proposed purchases cannot be made through TSX trading system - but for the fact that the proposed purchases cannot be made through the TSX trading system, the Issuer could otherwise acquire the subject shares in reliance upon the issuer bid exemption available under section 101.2 of the Act and in accordance with the TSX rules governing normal course issuer bid purchases - no adverse economic impact on or prejudice to issuer or public shareholders - proposed purchases exempt from issuer bid requirements in sections 94 to 94.8 and 97 to 98.7 of the Act, subject to conditions

Applicable Legislative Provisions

Securities Act, R.S.O. 1990, c. S.5, as am., ss. 94 to 94.8, 97 to 98.7, 104(2)(c).

August 22, 2008

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

AND

IN THE MATTER OF
IGM FINANCIAL INC.

ORDER
(Clause 104(2)(c))

UPON the application (the "**Application**") of IGM Financial Inc. (the "**Issuer**") to the Ontario Securities Commission (the "**Commission**") for an order pursuant to Section 104(2)(c) of the *Securities Act* (Ontario) (the "**Act**") exempting the Issuer from the requirements of Sections 94 to 94.8 and 97 to 98.7 of the Act (the "**Issuer Bid Requirements**") in connection with the proposed purchases (the "**Proposed Purchases**") of approximately (and in no event greater than) 1,000,000 (the "**Subject Shares**") of the Issuer's common shares (the "**Shares**") from Royal Bank of Canada and/or its affiliates (collectively, the "**Selling Shareholders**");

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

AND UPON the Issuer having represented to the Commission that:

1. The Issuer is a corporation governed by the *Canada Business Corporations Act*.
2. The head office of the Issuer is located at One Canada Centre, 447 Portage Avenue, Winnipeg, Manitoba, R3C 3B6.
3. The Issuer is a reporting issuer in each of the provinces and territories of Canada and the Shares are listed for trading on the Toronto Stock Exchange (the "**TSX**"). The Issuer is not in default of any requirement of the securities legislation in the jurisdictions in which it is a reporting issuer.
4. As at June 30, 2008, the authorized common share capital of the Issuer consisted of an unlimited number of Shares, of which 263,457,882 were issued and outstanding.
5. Pursuant to a "Notice of Intention to Make a Normal Course Issuer Bid" filed with the TSX and dated March 19, 2008 (the "**Notice**"), the Issuer is permitted to make normal course issuer bid (the "**Bid**") purchases (each a "**Bid Purchase**") to a maximum of 13,199,884 Shares. To date, 542,300 Shares have been purchased under the Bid.
6. In addition to making Bid Purchases by means of open market transactions, the Notice contemplates that the Issuer may purchase Shares by way of exempt offer.
7. The Issuer and the Selling Shareholders intend to enter into one or more agreements of purchase and sale (the "Agreement") pursuant to which the Issuer will agree to acquire, by one or more trades occurring prior to September 25, 2008, the Subject Shares from the Selling Shareholders for a purchase price (the "Purchase Price") that will be negotiated at arm's length between the Issuer and the Selling Shareholders. The Purchase Price will be at a discount to the prevailing market price and below the prevailing bid-ask price for the Shares.
8. The purchase of the Subject Shares by the Issuer pursuant to the Agreement will constitute an "issuer bid" for purposes of the Act, to which the Issuer Bid Requirements would otherwise apply.
9. Because the Purchase Price will be at a discount to the prevailing market price and below the bid-ask price for the Shares at the time of each trade, the Proposed Purchases cannot be made through the TSX trading system and, therefore, will not occur "through the facilities" of the TSX. As a result, the Issuer will be unable to acquire the Subject Shares from the Selling Shareholders in reliance upon the exemption from the Issuer Bid Requirements that is available pursuant to Section 101.2(1) of the Act.
10. But for the fact that the Purchase Price will be at a discount to the prevailing market price and below the bid-ask price for the Shares at the time of the trade, the Issuer could otherwise acquire the

Subject Shares as a "block purchase" (a "**Block Purchase**") in accordance with Section 629(l)7 of Part VI of the TSX Company Manual (the "**TSX Rules**") and Section 101.2(1) of the Act.

11. Each of the Selling Shareholders is at arm's length to the Issuer and is not an "insider" of the Issuer, an "associate" of an "insider" of the Issuer or an "associate" or "affiliate" of the Issuer, as such terms are defined in the Act. In addition, each Selling Shareholder is an "accredited investor" within the meaning of National Instrument 45-106 *Prospectus and Registration Exemptions* ("NI 45-106").

12. The Issuer will be able to acquire the Subject Shares from the Selling Shareholders in reliance upon the exemption from the dealer registration requirements of the Act that is available as a result of the combined effect of Section 2.16 of NI 45-106 and Section 4.1(a) of Commission Rule 45-501 *Ontario Prospectus and Registration Exemptions*.

13. The Issuer is of the view that the purchase of the Subject Shares at a lower price than the price at which the Issuer would be able to purchase the Shares under the Bid is an appropriate use of the Issuer's funds.

14. The purchase of Subject Shares will not affect control of the Issuer.

15. The Proposed Purchases will be carried out with a minimum of cost to the Issuer.

16. The market for the Shares is a "liquid market" within the meaning of Section 1.2 of Multilateral Instrument 61-101 *Protection of Minority Security Holders in Special Transactions*. The purchase of Subject Shares would not have any effect on the ability of other shareholders of the Issuer to sell their common shares in the market.

17. Other than the Purchase Price, no additional fee or other consideration will be paid in connection with the Proposed Purchases.

18. At the time that the Agreement is entered into by the Issuer and the Selling Shareholders, neither the Issuer nor the Selling Shareholders will be aware of any undisclosed "material change" or any undisclosed "material fact" (each as defined in the Act) in respect of the Issuer.

19. As at the date hereof, to the knowledge of the Issuer after reasonable inquiry, the Selling Shareholders own the Subject Shares and the Subject Shares were not acquired in anticipation of resale pursuant to the Proposed Purchases.

AND UPON the Commission being satisfied that it would not be prejudicial to the public interest for the Commission to grant the requested exemption;

IT IS ORDERED pursuant to Section 104(2)(c) of the Act that the Issuer be exempt from the Issuer Bid Requirements in connection with the Proposed Purchases, provided that:

(a) the Proposed Purchases will be taken into account by the Issuer when calculating the maximum annual aggregate limit for the Bid Purchases in accordance with the TSX Rules;

(b) the Issuer will refrain from conducting a Block Purchase in accordance with the TSX Rules during the calendar week it completes each Proposed Purchase and may not make any further Bid Purchases for the remainder of that calendar day;

(c) the Purchase Price is not higher than the last "independent trade" (as that term is used in paragraph 629(l)1 of the TSX Rules) of a board lot of Shares immediately prior to the execution of each Proposed Purchase;

(d) the Issuer will otherwise acquire any additional Shares pursuant to the Bid and in accordance with the TSX Rules;

(e) immediately following its purchase of the Subject Shares from the Selling Shareholders, the Issuer will report the purchase of the Subject Shares to the TSX;

(e) at the time the Agreement is entered into by the Issuer and the Selling Shareholders, neither the Issuer nor the Selling Shareholders will be aware of any undisclosed "material change or undisclosed "material fact" (each as defined in the Act) in respect of the Issuer; and

(f) the Issuer will issue a press release in connection with the Proposed Purchases.

"Suresh Thakrar"
Commissioner
Ontario Securities Commission

"Mary Condon"
Commissioner
Ontario Securities Commission

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Chapter 3

Reasons: Decisions, Orders and Rulings

3.1 OSC Decisions, Orders and Rulings

3.1.1 Rex Diamond Mining Corporation et al.

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

AND

IN THE MATTER OF
REX DIAMOND MINING CORPORATION, SERGE MULLER
AND BENOIT HOLEMANS

REASONS AND DECISION

Hearing:	December 10, 11, 12, 13, 14, 2007 March 31, 2008		
Decision:	August 21, 2008		
Panel:	Wendell S. Wigle, Q.C.	-	Commissioner and Chair of the Panel
	David L. Knight, FCA	-	Commissioner
	Kevin J. Kelly	-	Commissioner
Counsel:	John Corelli Shauna Flynn	-	For Staff of the Ontario Securities Commission
	Alistair Crawley Matthew Scott	-	For Rex Diamond Mining Corporation, Serge Muller, and Benoit Holemans

TABLE OF CONTENTS

REASONS AND DECISION

I. OVERVIEW

A. Introduction

[1] This was a hearing before the Ontario Securities Commission (the "Commission") to decide whether Rex Diamond Mining Corporation ("Rex"), Serge Muller ("Muller") and Benoit Holemans ("Holemans") (collectively, the "Respondents") breached the *Securities Act*, R.S.O. 1990, c. S.5, as amended (the "Act") and acted contrary to the public interest by: (1) failing to make timely disclosure of a material change in the business, operations and capital of Rex; and (2) providing misleading disclosure in public filings and (3) providing misleading information to Market Regulation Services Inc. ("RS").

[2] This proceeding was commenced by a Statement of Allegations and Notice of Hearing, dated February 8, 2007. An Amended Statement of Allegations was issued on December 4, 2007. The parties agreed that this proceeding should be bifurcated; first a hearing on the merits; and second, if necessary, a hearing to address sanctions.

[3] This case relates to Rex's diamond mining operations in Sierra Leone; specifically, mining lease 10/94 in the Kono District of Sierra Leone (the "Tongo Lease") and mining lease 9/94 in the Pujehun District of Sierra Leone (the "Zimmi Lease") (collectively, the "Leases").

[4] There is no dispute that Rex did not issue news releases or file material change reports with respect to: (1) notices received from the Sierra Leone Government indicating that the Leases might be cancelled; and (2) the December 11, 2003 notice of tender (the "Notice of Tender"), which announced that the Sierra Leone Government was seeking tenders from mining companies with respect to the Tongo Diamond Field area. Rex previously held these mining rights pursuant to the Tongo Lease. Staff alleges that Rex breached section 75 of the Act by failing to issue news releases and file material change reports in respect of these events.

[5] As well, Staff takes the position that Rex breached section 75 of the Act by failing to file a material change report, though it did issue a news release, after the Sierra Leone Government issued the tender evaluation on March 30, 2004 (the "Tender Evaluation"), which declared that Koidu Holdings SA was granted mining rights to the Tongo Diamond Field area and stated that Rex's Leases were cancelled in October 2003.

[6] In addition, Staff alleges that there was misleading disclosure in Rex's public filings during the period of February 2003 to November 2003 inclusive with respect to Rex's operations in Sierra Leone, and that the Respondents provided misleading statements to RS with respect to the Leases.

[7] On December 10, 2007, the hearing on the merits commenced and evidence was heard on December 10, 11, 12, 13 and 14, 2007. Following the close of evidence, we heard submissions on the merits on March 31, 2008.

B. Our Decision

[8] Upon reviewing all the evidence, the applicable law and the submissions made, we have concluded that:

(1) it is likely that there was a material change in the business, operations or capital of Rex when Rex received the following correspondence from the Government of Sierra Leone:

(a) the first warning letter dated January 3, 2003, which advised Rex that the Minerals Advisory Board recommended to the Minister of Mineral Resources that Rex's Leases be cancelled because Rex did not comply with the conditions set out in the Leases; and

(b) the second warning letter dated April 16, 2003, which advised Rex that its Leases were not in good standing and that Rex failed to honour its financial obligations;

(2) material changes did occur in the business, operations or capital of Rex when:

(a) Rex received the final notice warning letter dated June 4, 2003, from the Sierra Leone Government, which advised Rex that it had 90 days to comply with the conditions of the Leases or otherwise the Leases would be revoked;

(b) Rex became aware of the Notice of Tender on December 15, 2003; and

(c) the Government of Sierra Leone issued the Tender Evaluation on March 30, 2004.

(3) Rex should have issued news releases and filed material change reports following the events referred to in paragraphs (a) and (b), and should have filed a material change report as well as issuing a news release following the event described in paragraph (c). By failing to do so, Rex breached section 75 of the Act and acted contrary to the public interest;

(4) Rex acted contrary to the public interest by providing inaccurate and incomplete disclosure regarding its operations in Sierra Leone in each of its public filings of February 28, 2003, August 15, 2003 and November 28, 2003;

(5) Rex acted contrary to the public interest when it provided RS with an inaccurate and incomplete chronology of events; and

(6) Muller, as a director and the CEO of Rex, authorized or permitted, and Holemans, as the CFO of Rex, acquiesced in the conduct described in paragraphs (3) to (5) above, and thereby acted contrary to the public interest.

II. BACKGROUND

A. The Respondents

[9] The Respondents in this case are Rex, Muller and Holemans.

[10] Rex is a diamond mining company, originally established under the *Business Corporations Act* (Ontario) by Articles of Amalgamation dated September 14, 1995, and continued under the *Business Corporations Act* (Yukon) on July 31, 2000. Rex was listed on the Toronto Stock Exchange ("TSX"); however, effective October 2006 it is no longer trading on the TSX.

[11] Rex's head offices are in Belgium and its mining operations are located in South Africa, Mauritania, Paraguay and Sierra Leone. Rex's business is described in its Annual Information Forms of 2001, 2002 and 2003 as follows:

> Rex Diamond Mining Corporation is a vertically integrated diamond company with significant grass roots exploration in Mauritania, development projects in Sierra Leone, mining operations in South Africa, marketing and polishing in Antwerp and on-line retailing of diamonds and diamond jewelry. The corporate offices and decision-making centre of Rex are located in Antwerp, the capital of the diamond industry, handling over 80% of the world's rough diamond trade.

[12] It is Rex's operations in Sierra Leone that are the focus of Staff's Allegations.

[13] Muller is Rex's Chief Executive Officer ("CEO") and a Director. He is a Belgian citizen and resides in Zurich, Switzerland. He is also the founder and largest shareholder of Rex. Muller has over 40 years of experience working in the diamond industry. Muller began working in his family's diamond business when it held a "sight" at De Beers. As a sightholder, Muller's family was one of a few select customers of De Beers that were invited to "see" and buy diamonds from De Beers. In 1980 the diamond market crashed, and sightholders experienced significant losses on their diamond purchases when De Beers refused to drop their prices. At this time, Muller became directly involved with finding alternative sources of diamonds, and as a result, he became involved with purchasing rough diamonds on the open market in Sierra Leone and South Africa.

[14] Holemans is Rex's Chief Financial Officer ("CFO"). He is a Belgian citizen and resides in Antwerp, Belgium. He began working for Rex in 1995 and by 1997 he became Rex's CFO.

B. The Allegations

[15] It is alleged by Staff that Rex contravened section 75 of the Act and engaged in conduct contrary to the public interest by:

(1) failing to issue news releases or file material change reports forthwith disclosing the correspondence of the Sierra Leone Government received by Rex on January 3, 2003, April 16, 2003 and June 4, 2003, and the risk that the Sierra Leone Government would cancel Rex's Leases. According to Staff, this risk would have been clear to Rex on January 3, 2003, and in any event, by no later than June 4, 2003;

(2) failing to issue a news release or file a material change report forthwith disclosing the issuance of December 11, 2003 Notice of Tender, of which Rex became aware on December 15, 2003, and the effect this would have on the business and operations of Rex;

(3) failing to file a material change report forthwith disclosing that on March 30, 2004, the Sierra Leone Government issued the Tender Evaluation, which announced that the Leases held by Rex had been cancelled, and the effect this would have on the business and operations of Rex.

[16] Further, it is alleged that Muller as a director and the CEO of Rex and Holemans as Rex's CFO acted contrary to the public interest by authorizing, permitting or acquiescing in Rex's non-compliance with section 75 of the Act.

[17] In addition, it is alleged that Rex acted contrary to the public interest by providing misleading disclosure regarding its operations in Sierra Leone in each of its public filings of February 28, 2003, August 15, 2003 and November 28, 2003 and that Muller and Holemans, as officers and directors of Rex, authorized, permitted or acquiesced in Rex's provision of misleading disclosure in its public filings.

[18] During opening statements, Staff made some clarifications with respect to their allegations set out in paragraphs 14 and 15 in the Statement of Allegations, which relate to Rex's diamond trading business and Rex's Management Discussion and Analysis ("MD&A") filed November 28, 2003. Specifically, Staff stated "I'm not relying on that allegation about the rough diamonds. That's not going to be a part of [the] case before you". As a result, Staff explained that paragraph 15 of the Statement of Allegations should be amended by having the second sentence struck out as follows:

> 15. The information contained in the MD&A was misleading. ~~The "first shipment" of diamonds did not come from the properties covered by the Leases.~~ Further, it does not appear that there was a reasonable basis for Rex to state that imports were expected to reach a level of $2 million per month within a year. Rex's imports did not reach a level of $2 million per month. Rex never commenced any actual mining operations on the properties covered by the Leases.

[19] It is also alleged that Muller and Holemans authorized, permitted or acquiesced in Rex's provision of misleading information to RS. Staff alleges that the chronology of events provided to RS by Rex ("Rex's Chronology") contained misleading information and omitted key facts with respect to the Leases.

III. THE ISSUES

[20] Staff's allegations raise the following issues for our determination:

(1) did a material change occur in the business, operations or capital of Rex when:

  (a) Rex received correspondence dated January 3, 2003, April 16, 2003 and June 4, 2003, from the Sierra Leone Government, with respect to the risk of the cancellation of the Leases?

  (b) Rex became aware of the Notice of Tender on December 15, 2003?

  (c) the Government of Sierra Leone issued the Tender Evaluation on March 30, 2004?

(2) if a material change did occur, did Muller in his capacity as a director and CEO of Rex and Holemans in his capacity as Rex's CFO, authorize, acquiesce in or permit a breach by Rex of section 75 contrary to the public interest?

(3) did the Respondents act contrary to the public interest by providing misleading disclosure regarding its operations in Sierra Leone in each of its public filings of February 28, 2003, August 15, 2003 and November 28, 2003?

(4) did the Respondents act contrary to the public interest by misleading RS by providing an incomplete chronology?

IV. THE EVIDENCE

A. The Chronology of Events

[21] While the Statement of Allegations refers to events that took place in 2003 and 2004, it is necessary to examine the detailed history of Rex's operations in Sierra Leone to gain a comprehensive understanding of the events surrounding the Leases. The following section outlines the chronology of events in this matter.

1. Muller Acquires Mining Rights in Sierra Leone

[22] By 1987, Muller had arrangements with the Sierra Leone Government to purchase rough diamonds directly from the government-controlled National Diamond Mining Corporation ("NDMC"). Over time, Muller also became involved in financing production and controlling security at the mines in order to preserve his supply of diamonds.

[23] In the 1990s, the political situation in Sierra Leone deteriorated with a military overthrow of the Government and the privatization of mines. In exchange for $2 million owed to Muller by the NDMC, the new government offered Muller mining rights in the areas known as Tongo and Zimmi. As a result, in 1994, Muller obtained four mining leases:

1. ML 7/94: Block 13 in Kono (the "Block 13 Lease");
2. ML 8/94: No. 12 Slimes Dam and Tailings in Kono (the "Slimes Dam Lease");
3. ML 9/94: the Zimmi Lease; and
4. ML 10/94: the Tongo Lease.

2. 1995: Rex was Established

[24] In 1995, Rex was established in Ontario by Articles of Amalgamation which joined Kimberlex Resources Ltd. and Speer Darrow Management Inc.

[25] Muller received shares in Rex in exchange for transferring his interest in the South African mines and the four mining leases in Sierra Leone. This is how Rex came into ownership of the Leases at issue in this proceeding.

3. 1996: Rex Loses the Block 13 Lease

[26] In 1996, Rex lost ownership of the Block 13 Lease. According to correspondence to the Government of Sierra Leone from Rex's lawyer, dated April 10, 1996, the Government of Sierra Leone reissued the Block 13 Lease to a third party because Rex did not comply with its obligation to pursue mining activities. Rex took the position that such activities were impossible at the time owing to a force majeure in that area.

4. 1997: The Military Coup

[27] In May of 1997, there was an outbreak of hostilities and civil war in Sierra Leone which led to a military coup (the "Military Coup"). As a result, a force majeure was declared in Sierra Leone.

[28] Rex's Prospectus, dated August 27, 1997 (the "1997 Prospectus"), described the Military Coup as follows:

> On May 25, 1997, the 14-month-old civilian government of Sierra Leone was overthrown by a military coup and the Armed Forces Revolutionary Council ("AFRC") assumed power. Since the coup, there have been reports of widespread looting in the capital of Freetown, many foreign nationals have been evacuated and there has been several armed clashes among the AFRC and various Sierra Leone groups as well as between Nigerian peacekeeping troops based in Sierra Leone and local forces supportive of the coup.

[29] Rex reacted to the Military Coup by temporarily halting all operations in Sierra Leone and withdrawing all expatriate employees.

[30] In its 1997 Prospectus, Rex warned investors that there was "no guarantee" the political situation in the country would stabilize and that Rex did not know "when or if the Corporation will be able to resume operations".

[31] However, in the 1997 Prospectus, Rex assured investors that:

> Although the May 1997 political disruptions in Sierra Leone has delayed the implementation of Rex's operations in the country, Rex is confident that the importance of future diamond revenues to Sierra Leone, will likely see normalization of the business climate in the near future.

[32] The 1997 Prospectus also explained the status of the Leases and assured investors that despite the Military Coup, Rex intended to maintain its interests in Sierra Leone and had made appropriate arrangements with the respective Chieftain Councils and representatives of the land-owning families with respect to the surface rights applicable to the Leases.

5. Description of the Leases in the 1997 Prospectus

[33] Despite the Military Coup, the 1997 Prospectus positively described the properties of the Leases.

[34] With respect to the Tongo Lease, it was noted that four kimberlite dyke zones were discovered on this property.

[35] With respect to the Zimmi Lease, it was noted that it was an alluvial diamond property. The 1997 Prospectus described the property covered by the Zimmi Lease as follows:

> Geological reports based upon sampling programs carried out on the property indicate that the property contains deposits of large stones of high quality … The Corporation believes that the Zimmi property has the potential to produce alluvial diamonds at surface and the high grade paleo channels and other geophysical features indicate the possibility of kimberlite.

[36] The 1997 Prospectus also stated that Sierra Leone "has produced, and continues to produce many of the world's finest largest diamonds, the great majority from alluvial deposits".

6. The Rombouts Report

[37] The description of the properties covered by the Leases in the 1997 Prospectus was consistent with a report prepared in 1997 by Dr. Luc Rombouts (then a consulting geologist for Rex) (the "Rombouts Report").

[38] The Rombouts Report concluded that:

- with respect to the area covered by the Tongo Lease:
  - the Tongo kimberlite dykes may constitute a diamond resource worth US$1.65 billion down to a depth of 500 metres and US$3.31 billion if mining proceeded to a depth of 1,000 metres;
  - the Tongo Lease area covers the most important diamond-bearing kimberlite dykes zones: Lando, Kundu, Tongo and Peyima. The Rombouts Report states that these kimberlite dykes contain high quality gem stones, and the Lando kimberlite dyke is the richest and longest dyke and is a very attractive mining target; and
  - assuming an average value of US$175/carat for the Tongo diamonds, the ore should have an average value content of US$140/tonne.
- with respect to the area covered by the Zimmi Lease:
  - deeper alluvial gravels may be present underneath the present floodplain. The deeper channels should be explored and their diamond content quantified. The resources in the deeper channels of the Morro valley may amount to several million cubic metres. Kimerberlites are known just across the border in Liberia but could also be present on the Sierra Leonean side of the border. The Zimmi region has good diamond-bearing kimberlite exploration potential.

7. 1998: President Kabbah Returns to Power in Sierra Leone

[39] By May of 1998, the government fell and the government led by President Kabbah returned to power, albeit with some continuing political instability.

[40] Once the Kabbah government came back into power in Sierra Leone, Rex corresponded through its solicitors with the Government of Sierra Leone by letters dated May 19, 1998, June 4, 1998 and July 24, 1998, to determine the amounts it owed by way of rent and fees with respect to the Leases.

[41] In addition, by letters dated July 23, 1998 and August 10, 1998, Rex informed the Government of Sierra Leone that it wished to relinquish its mining rights with respect to the Slimes Dam Lease.

[42] On August 18, 1998, Rex received correspondence from the Government of Sierra Leone Mines Division, Ministry of Mineral Resources, stating that rent payments for the Slimes Dam Lease, Zimmi Lease and Tongo Lease amounted to US$285,597.50. Rex subsequently paid US$276,120.00 to the Sierra Leone Government for the rents of the Leases covering the periods March 1, 1997 to February 28, 1998 and March 1, 1998 until February 28, 1999. This amount excluded the Slimes Dam Lease which Rex relinquished.

[43] In addition, on August 18, 1998, Rex issued a news release stating that the Ministry of Mineral Resources of Sierra Leone gave written reconfirmation of Rex's Leases.

[44] By letter dated August 20, 1998, A. B. Omadachi, the Major for the Chief of Defence Staff of the Armed Forces of the Republic of Sierra Leone corresponded with Rex to inform Rex that it was cleared to carry out mining activities in the regions of Tongo and Zimmi and that these areas were safe.

[45] On November 30, 1998, Rex corresponded with the Minister of the Ministry of Mineral Resources in Sierra Leone to inform the Minister that due to the current security situation in the region, Rex had been unable to operate. The Ministry of Mineral Resources acknowledged this in a letter dated December 30, 1998 and expressed hope that Rex would be able to start mining operations in the Zimmi and Tongo regions when the security situation improved.

8. 1999: The Peace Treaty

[46] On July 13, 1999, a Peace Treaty was signed between the Government of Sierra Leone and the Revolutionary United Front.

[47] At this time, Rex informed shareholders in its Consolidated Financial Statements for the years ended March 31, 1999 and 1998 that normal mining operations could commence in the near future but there was no assurance that this would happen.

[48] Rex also informed its shareholders via its website that Rex's Leases were still in good standing. On June 28, 1999, Holemans wrote:

> The government has reconfirmed the good standing of our concessions one year ago and again three months ago (see also http://www.rexmining.com). The leases have all been paid for and we have consciously chosen not to make use of the "Force Majeure" clause during the war in order to avoid any possible discussion about our legal standing.
>
> Our aim is to develop an industrial mining operation in Sierra Leone requiring both capital and technical know-how, these are otherwise not available in the country. We are not interested in the small alluvial diggings, but in the Tongo Fields underground reserves and in the underdeveloped Zimmi Fields. We enjoy the support of the local population and the Paramount Chiefs in the surrounding villages who want to improve the living conditions in their communities.

[49] At this time, Rex's shareholders wrote to Rex to express concern that the drop in Rex's share price might be attributable to the jeopardy of the Leases in Sierra Leone. Rex assured investors that the Leases were still in good standing.

9. 2002: A More Stable Situation

[50] By letter dated March 18, 2002, the Director of Mines, A. R. Wurie, informed Rex that the *force majeure* was "officially lifted" on January 18, 2002. This letter also required Rex to comply with the Leases and commence mining operations. The Director specified that:

> This letter also serves as a notice for your company to put in place the necessary modalities for the resumption of the kimberlite operations within the time frame prescribed above.
>
> Failure to take necessary action to regularize and/or update your obligations as required, will result to the Ministry's assumption that you are no longer interested in the Licence.

[51] In return, Rex provided the Government of Sierra Leone with a Work Programme and signed an agreement with the Makpele Chiefdom to access the Zimmi property for mining.

[52] However, in its Consolidated Financial Statements for the years ended March 31, 2002 and 2001, Rex still cautioned that:

> The Company is subject to the considerations and risks of operating in South Africa, Sierra Leone and Mauritania. These include risks associated with the political and economic environment, foreign currency exchange and changes in legislation.

10. The 2002 Annual Information Form and 2002 Annual Report

[53] The 2002 Annual Information Form ("2002 AIF") along with the 2002 Annual Report also described Rex's outlook in Mauritania, South Africa and Sierra Leone at this time.

[54] With respect to Mauritania, the cost of holding exploration licences increased, Rex reduced its number of exploration permits, there were no important new discoveries and Rex slowly started to reduce expenses in Mauritania. Specifically, the 2002 Annual Report stated:

> … no mineral resource or reserve has been identified on any of the Mauritania properties and there can be no assurance that future exploration will result in the discovery of an economically viable mineral resource or mineral reserve.

[55] With respect to South Africa, it was noted that only one mine was in production and that the other two were on "care and maintenance". In addition, the 2002 Annual Report explained that Rex incurred a net loss of $9.0 million and this was mainly due to a decrease in Rex's diamond production in South Africa. This decrease in diamond production was the result of excessive rainfall and flooding of Rex's South African mines.

[56] With respect to Sierra Leone, the news was more positive. In its 2002 AIF, Rex referred to the increase in peace and stability in Sierra Leone:

> Security and stability is now gradually returning to Sierra Leone and the management believes that it will be in a position to resume its activities in Sierra Leone in the near future.

11. The October 1, 2002 News Release and the Fauvilla MOU

[57] On October 1, 2002, Rex issued a news release to announce that it had entered into a Memorandum of Understanding with Fauvilla Ltd. to operate alluvial diamond production on Rex's Zimmi property (the "Fauvilla MOU").

[58] Pursuant to the Fauvilla MOU:

> … Fauvilla has agreed to invest US$5,000,000 to begin operations on the "Zimmi" property. Rex will, however, retain 100% of the concession rights to the property. Fauvilla, a diamond mining company operating alluvial mines in West Africa, has also agreed to commence mining activities on "Zimmi" within 90 days. All costs associated with mining operations will be paid by Fauvilla. Rex and Fauvilla will also share the costs of development projects for the local community on the "Zimmi" property.

[59] In addition, the October 1, 2002 news release also mentioned that Rex completed a private placement to raise funds for Rex's operations in South Africa.

12. The January 3, 2003 Warning Letter

[60] By letter dated January 3, 2003, U. B. Kamara, for the Director of Mines, wrote to Rex to inform Rex that the Minerals Advisory Board recommended that the Minister of Mineral Resources terminate the Leases.

[61] The letter explained that this recommendation came about because Rex did not commence operations on the areas covered by the Leases and as a result, illicit mining was taking place.

[62] Specifically the January 3, 2003 letter stated:

> Moreover, despite the general calm situation in the country since the beginning of 2002 and the various notices sent to your company to start activities to bring these properties to production, you have steadfastly failed to do so and instead resorted to mobilizing people in high places to influence my office not to take action against your company for its blatant default of the provisions of the Mines and Mineral's Act and its Mining Leases.

> In view of the above and the several breaches of the terms of your leases, the Minerals Advisory Board has recommended to the Minister of Mineral Resources that your two leases in Pujehun ML 9/94 and Tongo Ml 10/94 be terminated.

13. Rex's Response and Actions Subsequent to the January 3, 2003 Warning Letter

[63] In response to the January 3, 2003 letter, a letter was sent on Rex's behalf by Zeev Morgenstern ("Morgenstern"), Rex's Managing Director, on January 7, 2003 to the Chief of the Makpele Chiefdom to confirm Rex's support of operating in the Makpele Chiefdom. This letter set out Rex's commitment to undertake a number of development projects in the Makpele Chiefdom.

[64] In return, the Makpele Chiefdom wrote to the Sierra Leone Government by letters dated January 7 and January 10, 2003 to support Rex's operations.

[65] By letter dated January 14, 2003, the Sierra Leone National Policy Advisory Committee ("NPAC") informed Rex that it was given another chance before the Leases would be terminated and imposed conditions on Rex. The NPAC stated:

> … the NPAC advises that Rex Mining Company be given one last chance to demonstrate its commitment and serious intentions by starting operations at its two mining concessions ML9/94 at Zimmi and ML10/94 at Tongo indicating when it intends to commence such operations. The Company should be requested to submit a detailed work programme, and an indication of actions to be undertaken within specific timeframes.

[66] Also, on January 14, 2003, Rex wrote to the Director of Mines of the Ministry of Mineral Resources to address the issues raised by the January 3, 2003 letter and to inform the Sierra Leone Government of mining operations steps being taken by Rex in connection with the property under the Leases.

[67] In addition, the Minister of Mineral Resources wrote to Rex on January 21, 2003 to remind Rex that a comprehensive "Work Programme" covering the conduct of all Rex's operations on the Leases needed to be submitted within two weeks.

[68] On February 3, 2003, Rex submitted its comprehensive "Work Programme" to the Ministry of Mineral Resources. At the same time, Rex also requested that:

> [the] Ministry [furnish] us with the necessary figures in order to facilitate our payment of Lease rent covering both Zimmi and Tongo which said payments will be effected ***immediately*** upon receipt of the said figures. [emphasis from original]

[69] On February 7, 2003, M. S. Deen, the Minister of Mineral Resources, wrote to Rex advising Rex that they accepted Rex's "Work Programme" in principle, and that Rex owed a total of US$282,000 on the Leases for the period of January 19, 2002 to January 18, 2004.

14. Rex's MD&A and News Release Filed February 28, 2003

[70] Rex's MD&A filed February 28, 2003, indicated that Rex was engaging in operations in Sierra Leone. The "Outlook" section stated that:

> In Sierra Leone heavy mining equipment is currently being moved into the Zimmi concession while the mining camp is being established. Dr. Luc Rombouts will head a team of geologists to conduct a geophysical and topographical survey in Tongo Fields in preparation for a drilling programme. The drilling programme planned for later in the year is to outline and quantify the diamond resources present in the kimberlite dykes.

[71] In addition, Rex issued a news release on February 28, 2003, which confirmed that "[in] Sierra Leone, Rex's partner, Fauvilla Ltd., is moving heavy mining equipment onto the Zimmi concession while the mining camp is being established".

15. The April 16, 2003 Warning Letter

[72] On April 16, 2003, A. R. Wurie, the Director of Mines for the Ministry of Mineral Resources wrote to Rex to inform it that the Leases were not in good standing. In particular, Rex did not fulfill its financial obligations under the Leases; however, it was recognized that Rex did start geological survey activities with respect to the Tongo Lease.

[73] Specifically, the Director of Mines gave Rex the following warning:

> In light of these activities, the Rex Mining Corporation has definitely contravened Section 100 (1) & (2) of the Mining and Minerals Act, a situation this Ministry and indeed Cabinet will not entertain much longer.
>
> You are therefore advised in your Company's interest to honour your financial obligations without further delay in order to avoid any unpleasant decisions that Government may take to redress the situation.

16. The June 4, 2003 Warning Letter

[74] On June 4, 2003, M. S. Deen, the Minister of Mineral Resources, gave final notice to Rex that in 90 days Rex's Leases would be cancelled because Rex did not embark on any meaningful operations on the property covered by the Leases. M. S. Deen explained that an inspection of the area covered by the Leases revealed that only artisanal mining was taking place on the area covered by the Zimmi Lease, and that this was inadequate mining activity which did not conform with Rex's comprehensive "Work Programme". The following reasons were given to support the final notice:

> So far, field inspections undertaken by no less a person than my Deputy Minister, on the instructions of Government, has clearly revealed that your operations in Zimmi are nothing more than extensive and intensive artisanal mining involving over 600 diggers apparently working under the usual "support system". We do appreciate your contribution to the Local Community in terms of employment, but you will agree with me that this type of mining is definitely not in consonance with the trial mining envisaged in your work programme. A well defined mining cut preferably with the use of earthmoving equipment and the treatment of extracted gravel in a mobile washing plant, would have been the most appropriate mining method employed by a Company of your status.
>
> You will recall that several assurances were given to the Director of Mines, in earlier correspondence that your Company would commence mining operations in accordance with your work programme in the first quarter of 2003, but so far no progress has been made in that direction even after you received my letter [dated February 7, 2003]

[75] Consequently, Rex was given 90 days notice to take appropriate action to fulfill its obligations under the Leases, otherwise the Government of Sierra Leone would be left with no alternative but to cancel Rex's Leases. The Minister of Mineral Resources emphasized that Rex's failure to meet its obligations under the Leases violated subsection 31 (1) and (2) of Sierra Leone's Mines and Minerals Act and that:

> … if after Ninety (90) days notice, your company fails to take appropriate action to fulfill its obligations under its licences, Government will be left with no alternative but to cancel the Mining Leases ML 9/94 and ML 10/94 held by Rex Mining Corporation …

[76] The June 4, 2003 letter also required Rex within 90 days to: (1) submit a full report of the artisanal mining now being carried out including disposal of the diamonds recovered in that mining activity; (2) provide a report on the basic geophysical prospecting undertaken on the property of the Tongo Lease; and (3) provide a more detailed work programme for the area under the Leases.

17. The July 28, 2003 Letter to Shareholders

[77] The July 28, 2003 letter to shareholders contained in Rex's 2003 Annual Report did not mention the correspondence from the Government of Sierra Leone relating to the Leases. With respect to Sierra Leone, all that was mentioned was that:

> … a team of geologists has been surveying the Tongo Fields Kimberlites in Sierra Leone, The subcontracting arrangement reached for the development of Zimmy [*sic*] in Sierra Leone is proceeding at a frustratingly slow pace.

[78] In contrast, approximately a page and half of the July 28, 2003 letter to shareholders discussed negative information about the status of the South Africa operations, in particular, the problems with currency appreciation, mining accidents and legislation changes in South Africa. Overall, the letter to shareholders emphasized that it was a challenging year for Rex's operations.

18. The August 15, 2003 Annual Information Form

[79] On August 15, 2003, Rex filed its 2003 Annual Information Form (the "2003 AIF"). Under "Trends", Rex stated:

> Peace and stability are returning to West Africa. This bodes well for the economic development of the sub-region and the rebuilding of industrial diamond mining in Sierra Leone, Guinea and Liberia.

[80] Under the "Description of the Business", Rex described the Sierra Leone properties as follows:

> … the Corporation holds two diamond-mining leases in Sierra Leone (the "Sierra Leone Properties"). As a result of political instability, the Corporation has halted operations in Sierra Leone (see "Sierra Leone Properties") but has a Memorandum of Understanding with Fauvilla Ltd. to start operations on the Zimmi alluvial property.

[81] In addition, the 2003 AIF stated:

> Security and stability is now gradually returning to Sierra Leone and management believes that it will be in a position to resume its activities in Sierra Leone in the near future.

[82] The 2003 AIF also favourably described the property covered by the Leases. With respect to the Zimmi Lease Rex stated that:

> The Corporation believes that the Zimmi property has the potential to produce alluvial diamonds at surface and that high-grade paleo channels and other geophysical features indicate the possibility of a primary kimberlite source. Under the MOU, Fauvilla has agreed to invest US$5,000,000 to begin operations on the "Zimmi property".

[83] With respect to the Tongo Lease, the 2003 AIF stated:

> The Tongo dykes are reputedly among the highest grade diamond-bearing dykes in the world. During fiscal 2003 a team was set up to start surveying the Tongo dyke system and a ground magnetic survey was carried out, as well as a topographical survey, allowing a better definition of the extent of the kimberlite dykes.

[84] As for Rex's operations in Mauritania, the 2003 AIF states that Rex reduced its diamond exploration holdings in that country. The seven permits Rex held were reduced to three, while only 2 applications for permits were made.

[85] With respect to South Africa, Rex's operations continued to struggle at this time.

19. Rex's MD&A Filed November 28, 2003

[86] Rex's MD&A filed November 28, 2003 contained positive information about Sierra Leone. It announced that a private placement had been completed and that "[the] gross proceeds of Cdn$3.6 million will be used to build up the rough supply from Sierra Leone and for general working capital purposes."

[87] The MD&A filed November 28, 2003 also discussed shipments of diamonds from Sierra Leone and Rex's expected output:

> The first shipment to Rex Antwerp of Sierra Leone rough diamonds have been sold in Antwerp during the month of November. Sierra Leone sales were strong, with high prices obtained, as the diamond market is in short supply. Imports from Sierra Leone are expected to reach a sustained level of $2 million per month within a year, thereby compensating for the currency exchange related losses of the South African operations.

[88] The "Outlook" section of Rex's MD&A filed November 28, 2003 also addressed problems that Rex's South African operations were experiencing. In particular, strikes in Rex's South African mines affected Rex's operations as well as currency fluctuations of the South African Rand.

[89] Rex's MD&A filed November 28, 2003 made no mention of the cancellation of the Leases or the threat of cancellation from the Government of Sierra Leone relating to the Leases.

20. December 2003: The Notice of Tender and the Fauvilla Letter

[90] On December 11, 2003 the Sierra Leone Government posted the Notice of Tender for the Tongo diamond field on its website http://www.statehouse-sl.org/ (the "Statehouse Website"). The Notice of Tender reads as follows:

> The Sierra Leone Government announces that the Tongo Diamond Field area, which was previously held by Rex Mining Company, is now open to tender for mining companies to explore for diamonds in Kimberlite dyke zones. The alluvials around Tongo have produced an estimated 15 million carats of 95% gem quality over the past 50 or so years. Up to 80 carat stones have been recovered but they are generally smaller but clearer than at Koidu.

[91] There is no record that Rex received written notification of the Notice of Tender or that the Leases were cancelled.

[92] The Evidence presented at the hearing revealed that Rex became aware of the Notice of Tender by a letter sent by fax from Fauvilla, dated December 15, 2003 (the "Fauvilla Letter"). The Fauvilla Letter informed Rex that:

> The Government of Sierra Leone has now formally issued a tender "for mining companies to explore for diamonds in Kimberlite dyke zones" in the Tongo Diamond Field area, "which was previously held by Rex Mining Company" to quote the official announcement.

[93] Further, the Fauvilla Letter inquired whether Rex could provide assurances whether the Leases were in good standing, whether they were cancelled, and whether there was any other information that "may materially impact the status of the aforementioned MOU and the value of the MOU as one of Fauvilla's assets".

[94] Muller questioned Morgenstern about the letter; however, the evidence shows that no action was taken with respect to the Fauvilla Letter.

21. January 2004 – The E-Mail Correspondence

[95] During January 2004, Rex received a number of e-mails with respect to the Notice of Tender.

[96] On January 23, 2004, Stephen Lay ("Lay"), a mining engineer hired by Rex wrote:

> Just to let you know that I have had a couple of enquiries about the Tongo field. In both cases they have said that Rex does not hold the licence any more and the [Government] is re-tendering it.

[97] In response on January 26, 2004, Holemans replied that the "re-tendering is a rumor". During his testimony, Holemans explained that this response was based on Muller's explanation that "… there is nothing really going on, it is a rumor…", despite the fact that the Notice of Tender was posted on the Sierra Leone website since December 11, 2003.

[98] On January 30, 2004, Rombouts wrote an e-mail to Muller to inform him of the following:

> The government of Sierra Leone has put out a tender for the sale of the Tongo property. For more details see the Sierra Leone government web-site at: www.statehouse-sl.org/min-ten-dec11.html. It is specifically mentioned that the property was previously held by Rex. *What do we have to do with this? A formal complaint to the government, a Press release (this is material information if confirmed) or any other ideas?* [emphasis added]

[99] Muller responded to this e-mail on January 31, 2004 and stated:

> I am aware of this offer. We have however until the 29 feb 2004 [*sic*] to pay our lease and this whole tender is cancelled. Of course the deposits of 5.000 USD in order to tender will not be returned. We will receive a formal letter from the Ministry of Mines on Monday to request the payment until that date. I find that the boys in SL jumped the gun, they must be either hungry or angry.

[100] We note that with respect to the February 29, 2004 date mentioned above, we were not provided with any other evidence that the Government of Sierra Leone gave Rex a deadline of February 29, 2004. At this time, Muller was involved in efforts to reinstate Rex's Leases; however, his testimony revealed that reinstatement discussions with the Sierra Leone Government were oral and not in writing.

22. February 2004 to March 2004

i. Rex's Negotiations with the Sierra Leone Government with Respect to the Leases

[101] According to Rex's Chronology which was provided to RS, in February 2004 discussions commenced with the Government of Sierra Leone regarding "the purported revocation and tender".

[102] At the hearing we were not provided with any documentation with respect to the "revocation and tender" negotiations. Specifically, Rex's Chronology states:

> Discussions continue throughout the month with Mohamed Deen, the Minister of Mineral Resources of Sierra Leone and Rashid A. Wurie, the Director of Mines, Ministry of Mineral Resources of Sierra Leone. *The discussions are informal and undocumented.* The Company is verbally informed that the tender is not likely to go ahead. [emphasis added]

ii. Shareholder Inquiries and Comments

[103] During the period of February 2004 to March 2004 a number of inquiries and comments were made about Rex and its Leases on the Stockhouse website http://www.stockhouse.com, which is an internet website used by investors and interested parties to post information on securities (the "Stockhouse Website"). In particular, the following posts were made on the website:

- "We were told over and over again that the company would resume their activity once peace was established. That time has come but Rex has abandoned its plans." (Posted February 5, 2004);
- "Walking away from the Sierra Leone permits makes absolutely no sense. These permits were held and religiously paid for each year even during the height of the civil war back in 2000. The company repeatedly stated that they would return to the country once peace was established. We are at that inflection point now." (Posted February 5, 2004);
- "In reaction on the previous article about the licences in Sierra Leone, somebody of [sic] the Belgian chatsite received an e-mail back from Rex that RXD has made an agreement with the Sierra Leone government and that news will be out in the coming days. That could explain the volume and price rise." (Posted February 18, 2004); and
- "It seems these guys don't think anything material is PR worthy at all and I wonder (especially given the wild price and trading swings) how long it will be before the OSC and TSE yank the carpet." (Posted March 3, 2004)

iii. RS's Investigation into Rex's Conduct

[104] Contact between RS and Rex commenced on February 19, 2004. On that date, RS had identified unusual trading patterns and contacted Rex's Canadian counsel to ask whether any information could account for the increase in share price. Counsel for Rex advised RS that there was a private placement in the works and that he would verify with Rex whether there was any other cause for the increase in share price.

[105] On February 24, 2004 RS again contacted Rex's Canadian counsel upon identifying fluctuation in Rex's share price. Specifically, Rex's opening price on February 23, 2004 was $1.20 per share and on February 24, 2004 Rex's shares opened at a price of $0.96 per share. Counsel for Rex advised RS that he was only aware of a private placement that was subject to a close on March 22, 2004, and that he had verified with Rex that there were no other corporate developments.

iv. The February 2004 Trading Data

[106] As referred to in the comments posted on the Stockhouse Website, the value of Rex's shares and the trading volume fluctuated significantly during February 2004.

[107] For the two week period commencing February 16, 2004, the volume of Rex shares traded varied from day to day. For example, on February 18, 2004 the daily volume was 135,443 and on February 19, 2004, the daily volume was 828,651. In comparison, a year earlier during February 2003 the daily volume never exceeded 73,350, and for the month of January 2004, the daily volume never exceeded 100,120. Overall, the trading data provided in evidence revealed that the volume of shares traded increased significantly.

[108] During this same period the price of Rex's shares fluctuated from as low as $0.93 per share (on February 16, 2004) to as high as $1.25 per share (on February 19, 2004).

[109] In addition, the number of trades executed also increased dramatically. For example, on February 19 and 20, 2004, 204 and 129 trades were executed respectively. This is a huge variation in comparison to the daily number of trades which took place in January 2004, which never exceeded more than 25 trades in a day. Comparatively, in February 2003, the number of trades never exceeded 17 on a single day.

23. March 30, 2004: The Tender Evaluation

i. The Sierra Leone Government Gives Public Notice of the Tongo Diamond Field Tender Evaluation

[110] On March 30, 2004, the Sierra Leone Government issued the Tender Evaluation.

[111] The Tender Evaluation stated that:

> The Government of Sierra Leone originally granted a Mining Lease for the Tongo Diamond Field to Rex Diamond Mining Corporation Limited, a small diamond mining and exploration company with its head office in Antwerp in February 1994.

[112] The Tender Evaluation also explained why the Leases had been revoked:

> Following the official declaration of peace, announced in early 2002, companies that had been active in Sierra Leone prior to the war were invited to continue their work. … A letter issued by the Ministry of Mines to exploration and mining companies in mid 2002 required them to confirm that they would restart their operations or give up their mineral rights. Rex Mining failed to commit sufficient resources to their exploration programmes. *As a result the Government cancelled their Tongo and Zimmi mining leases in October 2003.* [emphasis added]

[113] The Tender Evaluation declared Koidu Holdings SA as the winner of the Tongo diamond rights.

[114] Rex was not notified in any way by the Government of Sierra Leone of the Tender Evaluation. The Tender Evaluation was posted on the Government of Sierra Leone's Statehouse Website, but it was not posted on the website of the Ministry of Natural Resources of Sierra Leone.

ii. Rex's April 2, 2004 News Release in Response to the Tender Evaluation

[115] On April 2, 2004, Rex's management first became aware of the March 30, 2004 internet posting of the Tender Evaluation.

[116] As a result, Rex issued a news release on April 2, 2004 (the "April News Release"). The April News Release acknowledged that Rex learned that its Leases had been cancelled:

> The Government of Sierra Leone has announced that it has cancelled Rex's diamond mining leases. To date no formal cancellation notice has been forwarded to Rex. Negotiations were being held for a reinstatement until yesterday.

[117] Further, the April News Release also contained a quote from Muller which explained that:

> In 1997 Rex was the first company to resume operations in Sierra Leone after a long period of a brutal civil war. Force majeure was lifted in 2002 and in 2003 Rex had a team of geologists surveying the diamond deposits in view of commencing drilling in 2004. The decision of the government is opportunistic and arbitrary in nature. Rex has spent more than US $6 million in Sierra Leone over a period of 8 years; only 3 years were stable and peaceful and secure operations possible. This move is not only unwarranted, unjust and unjustified, but it will diminish the possibility for Tongo fissures ever to be developed. This will needlessly raise the risk profile of the country and debase that standard of law and title in Sierra Leone. Rex is in the business of producing diamonds from underground kimberlite fissures in South Africa. Rex's strategy provides for the transfer of technology, know-how and experience in underground fissure mining gained in South Africa to Sierra Leone. These fundamental factors confirm Rex to be the most appropriate developer for the Tongo fissures. This precipitous resolution is ill advised and prejudicially motivated.

24. Rex's Share Performance Subsequent to the Tender Evaluation

[118] The highest number of trades for the month of April 2004 was 109 and that occurred on April 2, 2004, the day Rex issued the April News Release, which disclosed the existence of the Tender Evaluation. For the rest of the month of April the number of trades did not exceed 39 per day. Investors reacted and the number of trades increased when knowledge of the Tender Evaluation was made public by Rex.

[119] On April 2, 2004, Rex's shares opened at $0.60 and on that same day Rex's shares traded for as low as $0.45, before closing at $0.57. Previously, on April 1, 2004, (prior to the April News Release) the opening price of Rex's shares was $0.74.

[120] During the first two weeks of April 2004, the volume of shares traded also fluctuated greatly. On April 2, 2004, the daily volume of shares was 511,630, which was the high for all of April 2004. This was uncharacteristically high compared to the daily volume for the rest of April 2004 which varied between a low of 13,190 (on April 6, 2004) to a high of 149,400 (on April 5, 2004).

25. April 2004 to August 2004: Rex Seeks Reinstatement of the Leases

[121] Subsequent to the April News Release, Muller and Morgenstern continued to correspond with the Government of Sierra Leone to try to reinstate the Leases to Rex.

[122] By letters dated April 5, 2004 and April 15, 2004, Rex wrote to the Minister of Ministry of Mines and Mineral Resources to request the reinstatement of the Zimmi Lease. The April 5, 2004 letter was signed by a representative of Rex and the April 15, 2004 letter was signed by Muller. Both letters stated that the Leases were "unfortunately withdrawn some time ago", but emphasized the "very cordial relationship between the Rex Mining Company and the people of Makpele Chiefdom and the fact that the Company is now fully ready in cash and materials for any mining operation".

[123] In addition, the Makpele Chiefdom corresponded with the Minister of the Ministry of Mines and Mineral Resources by letters dated May 5, 2004 and August 10, 2004 to support the reinstatement of the Zimmi Lease.

[124] On May 24, 2004, the Ministry of Mineral Resources wrote to the Makpele Chiefdom to explain its decision to cancel the Leases. According to the Ministry of Mineral Resources:

> [Rex] held onto this licence for over Nine (9) years without exercising its obligations under that Licence inspite of several notices from this Ministry even after the expiration of the force majeure in January 2002.
>
> This persistent inaction on the part of Rex resulted in the invocation of the relevant provisions of the Mines and Mineral Act, which was reinforced by a Cabinet decision, to extend the period for remedying the offences and eventually to cancel the Rex Mining Lease in October 2003.

[125] By letter dated June 1, 2004, the Minister of Mineral Resources informed the Makpele Chiefdom that the Ministry cannot cancel the decision taken by Cabinet to cancel the Leases. The Ministry further suggested by letter dated June 7, 2004, that the Makpele Chiefdom should encourage Rex to pay the outstanding fees of $282,000.

[126] By letter dated June 23, 2004, the Ministry of Mineral Resources advised Rex that it owed a total of US$141,000.00 for the Leases. In addition, Rex was informed that the Sierra Leone Government would only consider the appeal by the Makpele Chiefdom to reinstate the Leases after Rex effected full payment of the amounts owing.

[127] On July 23, 2004, Muller on behalf of Rex wrote to the Director of Mines, A.C. Wurie, of the Ministry of Mineral Resources, requesting that the Ministry reconsider their demand that Rex pay outstanding rents on the Leases. Rex reminded the Ministry that all prospecting/exploration and/or mining companies enjoyed the benefits of suspension of their obligations under their respective licenses throughout the *force majeure* period until January 18, 2002. Rex explained that:

> Since the force majeure period covered the period for which we already paid the lease rents, it is but reasonable to believe that our obligations (financial and technical) under the licence remained suspended until the 18th January 2002 after which the suspension should have been lifted.
>
> In light of the foregoing, the period for which the rents were paid, should have been rescheduled to take effect from 18th January 2002 in which case our payment should now cover the periods 18th January – 17th January 2003 and 18th January 2003 - 17th January 2004, thus eliminating the payment of any arrears of Mining Lease Rents by our Company.

[128] By letter dated August 4, 2004, the Director of Mines, A.C. Wurie, of the Ministry of Mineral Resources advised Rex that its indebtedness to the Government is now US$126,000, in light of the reduction to the Zimmi Lease. The Ministry also articulated its position with respect to several prior contested issues as follows:

(i) during the periods for which the Tongo lease rent was paid, the area was occupied by rebels and all of Rex's obligations under that license should have been suspended until January 18, 2002 when peace was officially announced;

(ii) in the case of Zimmi, the area was not occupied by rebels, and was therefore accessible;

(iii) although Rex honoured its financial obligation, Rex continuously defaulted on its technical obligation to conduct explorations and

(iv) the cancellation of Rex's Zimmi and Tongo Leases stands as a result of the company's failure to honour its obligations set out in the Leases.

26. October 2004: RS's Inquiries Regarding the April News Release

[129] On October 6, 2004, RS wrote to Rex to inform them that RS was conducting a review of the trading in the shares of Rex and that this was prompted by Rex's April News Release. In particular, RS requested Rex to provide a chronology of events leading up to the April News Release.

[130] In addition, RS also requested that Rex provide the following information:

- State when Rex first became aware that the Government of Sierra Leone cancelled their diamond mining leases. Who notified Rex that the Government had taken such action?

- A chronological listing of all events and developments, including but not limited to, meetings, telephone conversations and correspondence, from the date when discussions or communications commenced regarding the events announced until the time of the press release on April 2, 2004. In your response, please include dates, names of individuals involved, their business affiliations, their role in the events announced, and a brief summary of significant matter discussed.

[131] On October 28, 2004, Muller responded to RS's request, and provided RS with Rex's Chronology of the relevant events.

B. The Witnesses

[132] During the hearing, we heard and considered evidence from four witnesses. Staff called two witnesses Arlene Cristello ("Cristello"), a senior investigative trading analyst with RS, and Shauna Flynn ("Flynn"), an investigation counsel with the Commission. The Respondents called two witnesses, Muller and Holemans.

1. Cristello

[133] Cristello gave testimony regarding the chronology of events surrounding the cancellation of the Leases and RS's investigation into those events.

i. The RS Investigation

[134] In April 2004, Cristello was assigned to review Rex's conduct. Her involvement began after Rex issued the April News Release, which announced that Rex became aware that the Government of Sierra Leone cancelled the Tongo Lease.

[135] On October 6, 2004, Cristello addressed a letter to Muller, requesting a chronology of information leading up to the April News Release in order to determine at what point in time Rex was made aware that the Leases had been cancelled.

[136] On October 28, 2004, on behalf of Rex, Muller corresponded with RS and provided a chronology of the events with respect to Rex's Leases and Rex's policy respecting disclosure to RS. Cristello explained that the policy stated that materiality determinations/assessments were to be made by the CEO, the CFO, and the chief geologist.

[137] On November 18, 2004, Cristello sent her report to the TSX and the Commission recommending investigation into possible insider trading and timely disclosure violations.

ii. Analysis of Trading Data Relating to the April News Release

[138] Cristello gave testimony relating to the trading data for Rex in the context of the April News Release. Cristello explained that the trading price data for March 30, 2004, preceding the news release, showed a downward price movement which triggered RS to request information from Rex Diamond. According to Cristello, the trading data of April 2, 2004, following the news release, then showed a significant decrease in the price of Rex shares and a significant increase in trading volume.

[139] On the issue of trading price, on cross-examination Cristello speculated that the downward price movement could have been attributable to the issuance of the April News Release since the stock would likely have opened following the issuance of the news release.

[140] On the issue of trading volume specifically, Cristello testified that volume was significant because it was well above what would be considered the normal daily trading volume since the average daily volume during April 2004 was 57,524 shares.

iii. Disclosure Made to RS

[141] Cristello testified that a number of documents were not presented to RS by Rex during the course of their investigation. They include:

- the letter from U.B. Kamara, Director of Mines, dated January 3, 2003, which advised Rex, "[I]n view of the several breaches of the terms of your leases, the Mineral Advisory Board has recommended to the Minister of Mineral Resources that the leases be terminated";
- the letter from A.R. Wurie, Director of Mines, dated April 16, 2003 to Rex, which advised of continued breaches and warned the company to "honour financial obligations";
- the letter from M.S. Deen, Minister of Mineral Resources, dated June 4, 2003 to Rex issuing final notice that the Leases would be terminated in 90 days if Rex did not comply with the requests of the Sierra Leone Government; and
- the letter from Fauvilla, dated December 15, 2003, written by Yigal Shapiro to Muller advising that the Government has issued the Tender.

[142] Cristello explained that these documents were relevant and important to determine the exact date when Rex was made aware of the cancellation of the Leases and that RS would have expected to receive them in response to their October 6, 2004 letter.

[143] Failure to disclose these documents left RS with the impression that Rex had not become aware of the cancellation of the Leases until January 30, 2004. In fact, Cristello emphasized that RS was not aware of any communications between Rex and the Sierra Leone Government prior to January 30, 2004.

[144] The chronology provided by Rex to RS was incomplete and relied on by Cristello as a complete account of events and used to produce her analysis of the Rex file.

iv. Cancellation of the Leases

[145] With respect to the cancellation of the Leases, Cristello explained that from her understanding of the Sierra Leone Government's Notice of Tender dated December 11, 2003, the Leases were cancelled in October 2003. However, she had difficulty reconciling the various dates which were either hand-written or printed on the Notice of Tender version which was retrieved from the Statehouse website.

v. Disclosure in the Public Filings

[146] On the issue of disclosure, Cristello explained that upon review of several public filings, she grew concerned over the lack of disclosure regarding Sierra Leone and the Leases.

2. Flynn

[147] Flynn gave testimony relating to the documents submitted to the Commission by Rex and Staff's voluntary interviews with Muller and Holemans.

i. Staff's Investigation

[148] Flynn testified that Staff's investigation began with a letter dated June 6, 2005 in which she asked for all documents relating to the Sierra Leone properties for the period August 1, 2003 to April 4, 2004. Flynn testified that Staff received documentation through Rex's counsel on June 29, 2005, as well as at the voluntary interviews of Muller and Holemans, and subsequent to those interviews through answers to undertakings.

[149] Flynn testified that Staff did not obtain any information from the Government of Sierra Leone, nor were any requests made to the Government of Sierra Leone.

ii. Review of Correspondence Relating to the Cancellation of Leases

[150] In her testimony, Flynn reviewed correspondence between the Government of Sierra Leone and Rex as well as other documents relevant to the cancellation of the Leases. Her testimony described below helped to provide insight with respect to Rex's actions.

[151] Flynn testified that Rex made no reference in its chronology to the letters from March 18, 2002 to August 23, 2003. However, during cross-examination Flynn testified that correspondence dated from January 3, 2003 to June 4, 2003 was provided on a voluntarily basis by Rex to the Commission on June 29, 2005. Flynn further testified that these documents were provided in response to Staff's inquiry dated June 6, 2005.

[152] Flynn testified that she asked Muller why the information contained in the letters dated March 18, 2002 and January 3, 2003 was not disclosed, and she stated that Muller replied that since negotiations with the government were ongoing, Rex's officers determined that the information was not material and did not require disclosure.

[153] With respect to the Notice of Tender, Flynn testified that she received a copy of the Notice both from Rex and from RS but that it was unclear when it was posted: the Notice itself it is dated December 5, 2003; the printout attached, which seems to be an overview of news and information in Sierra Leone dates the Notice at December 11, 2003; and the chronology provided by Rex dates the Notice at December 10, 2003. Flynn testified that she did not determine the exact date but assumed that it was either posted on December 10 or 11, 2003. For the purpose of our Analysis we accept that that Notice of Tender was posted on December 11, 2003 and this is reflected in our chronology of events set out above.

[154] Flynn also reviewed a letter addressed to Muller dated December 15, 2003, written by Yigal Shapira on behalf of Fauvilla advising that the Sierra Leone Government had issued the Notice of Tender. Flynn testified that she asked Muller why this letter was not referred to in the chronology provided to RS. Muller explained that the letter was not provided at that time because it had been filed incorrectly and recovered during his review of the file for the purpose of the civil proceedings against Fauvilla. In cross-examination, Flynn further testified that the letter was indeed provided to Staff on a voluntary basis upon its recovery.

[155] Flynn also questioned Muller about the e-mail correspondence that took place in January 2004. Flynn testified that when asked to explain the basis for the e-mail correspondence, Muller had stated in his interview that Holemans had come to him for an answer, that he had then gone to both Morgenstern and A. R. Wurie to inquire further, and that Wurie had told him: "It's all about the mining leases and that they refuse to pay. We will cancel the tendering if we come to an agreement." Flynn testified that she inquired as to whether Muller had any documentation confirming the discussion with Wurie and that Muller advised that he did not have anything of the sort in writing.

[156] In addition, during her testimony, Flynn pointed out that the chronology provided by Rex to RS (and its representation that the company first became aware of the tender on January 30, 2004), it is not consistent with other documents, including the Fauvilla letter.

iii. Review of Documents Relating to Disclosure

[157] Flynn also reviewed various public documents and correspondence between the Government of Sierra Leone and Rex relevant to the disclosure of information relating to the cancellation of the leases.

[158] Flynn reviewed Rex's Consolidated Financial Statements for the years ended March 31, 2003 and 2002 and testified that they did not make any mention of the correspondence that was passing between the Sierra Leone Government and Rex regarding the possible cancellation of the Leases. In cross-examination, Flynn testified that the document does, in a footnote halfway down the page, contain general cautionary language that operations may or may not start up on the properties; however, there was still no mention of any specific risks.

[159] Further, Flynn reviewed the 2003 AIF and testified that it did not indicate that the Leases were the subject of correspondence with the government regarding their possible cancellation. In fact she explained that the document states that

Rex holds the leases until February 28, 2019. In cross-examination, Flynn testified that the document included cautionary language concerning the prospects in Sierra Leone, but again there is no mention of any specific risks that existed at the time the 2003 AIF was filed.

[160] Similarly, Flynn reviewed Rex's Annual Report filed August 19, 2003 and testified that it did not have any indication as to the correspondence that was passing between the Government of Sierra Leone and Rex regarding possible cancellation of the leases. During cross-examination, Flynn testified that Muller disclosed to shareholders on page 3 of the Annual Report that the arrangement with Fauvilla regarding Zimmi was not proceeding as hoped.

iv. Rent Pre-Payments

[161] Flynn reviewed in detail the issue of the rent pre-payments from 1997-1999 (when she explained that Rex chose not to take advantage of the *force majeure* clause but later tried to invoke the clause to recover the lease payments).

[162] To summarize, Rex paid $276,122 in rent for the Leases for the period 1997- 1999 despite not being engaged in actual mining in Sierra Leone during this time due to the *force majeure*. In its fiscal 1999 financial statements, Rex wrote down its mining assets and capitalized mining costs by $3,145,904, leaving only a net carrying value of $400,000 on its books for containerized and secured mining equipment on the ground in Sierra Leone.

3. Muller

[163] Muller's testimony focused on explaining how the Sierra Leone Government operates, and the type of approach that the Sierra Leone Government takes in its business dealings. The relevant excerpts of his testimony relating to the correspondence with respect to the cancellation of the Leases and content of the public disclosure documents are summarized below.

i. Review of the Correspondence Relating to the Cancellation of the Leases

[164] First, Muller reviewed the letter dated March 18, 2002 from the Sierra Leone Government to Rex, which advised the company that the force majeure was lifted. Muller testified that the letter was provided to Rex a couple of months later (July not March) which demonstrates inconsistency within the Government of Sierra Leone's records. Further, Muller explained that a team had been put in place to do the work and stated his view that the fact that the letter was sent to Rex not even a year after the force majeure was lifted signals that it was simply a malicious letter.

[165] Muller also reviewed the January 3, 2003 warning letter that the Leases were at risk of being terminated. Muller testified that "this is a typical letter that Usman Kamara would issue in order to try to extract from you something". Muller further emphasized that "it's not because [the letter] says so that it means so". He explained that action was not taken immediately upon receipt of this letter because "you never give a guy like this anything because he is corrupt". According to Muller, the January 3, 2003 warning letter was just a threat. He also stated that Morgenstern advised him that Usman was making trouble again and reminded him that it was not the first letter of that kind that Rex had received. Finally, Muller added "on a letter like that, the only thing you do is call the Director of Mines [who] tells you to disregard it". Muller testified that he did indeed call Wurie, the Director of Mines that same day.

[166] Muller also reviewed the correspondence from Rex in February 2003 relating to Rex's Work Programme and the outstanding payment on the Leases. Muller explained that Morgenstern sent this letter without consulting him. He testified that he asked Morgenstern to fix this problem because Rex had already paid the rent on the Leases. Muller explained that this letter was not an issue of importance to him since Sierra Leone was relatively low in importance and value for the company and that in his opinion this was understood by Rex's shareholders.

[167] Muller's testimony also addressed the April 16, 2003 warning letter. According to Muller, Wurie sent this letter because Wurie was likely coming under pressure from the Sierra Leone Government to ensure that the payments on the Leases were made. Muller explained that he did not disclose this letter because Rex had already paid the amounts owing on the Leases and was engaged in a negotiating process with the Sierra Leone Government. Muller explained that "the dispute itself between Rex and the Government is not sufficient to disclose". As for the Final Notice letter dated June 4, 2003 Muller testified that the response was made locally by Morgenstern.

[168] With respect to the Fauvilla Letter, Muller testified that he sought Morgenstern's opinion locally regarding who to deal with on this and that Morgenstern replied, "It's just a letter of intimidation. Don't ever give it attention. They just want to get you to back off after the court case that you are filing against them". As a result, Muller emphasized that this letter was not given attention and that it went into the "Fauvilla file", not the Sierra Leone file, and that it only resurfaced in the process of civil proceedings with Fauvilla in Israel. He added that neither the Fauvilla Letter nor the Notice of Tender were discussed at board meetings.

[169] In his testimony, Muller also addressed the e-mail correspondence that was exchanged in January of 2004, in particular the e-mail from Rombouts which raised the issue of materiality. Muller testified that Rombouts was simply "questioning whether the information was material" and that he did not engage in discussions with Rombouts about this matter because he felt that it was a temporary problem that could be solved by negotiation. Muller concluded that it was a matter of judgment and that he personally decided that it was not material information requiring disclosure.

[170] Muller also testified that when Holemans sought his advice with respect to the risk of the cancellation of the Leases, he called Wurie who in turn advised him, "it's all about the mining leases that you refuse to pay. We will cancel the tendering if we come to an agreement". Muller emphasized that he wrote to Rombouts exactly what Wurie had told him, that the Notice of Tender was simply a negotiating tactic to put pressure on Muller "to go ahead and fork over another $280,000". Muller reiterated that the Notice of Tender was not disclosed because the issue of the Leases was open to negotiation between himself, Morgenstern, and the Sierra Leone Government. However, Muller admitted that there is no written record of the negotiations as they were done over the phone or in person.

[171] With respect to the Tender Evaluation, Muller testified that he was not given direct notice of it and that it was the first time, to his knowledge, that a document like this was issued on the website of the Sierra Leone State House.

ii. Review of Documents Relating to Disclosure

[172] According to Muller, the risk of the cancellation of the Leases was a matter to be negotiated with the Sierra Leone Government, and as a result it was of no relevance and it was not mentioned in the February 28, 2003 news release. He explained that Rex had disagreements with the Sierra Leone Government on numerous occasions which had been successfully settled and in his view the threat of the cancellation of the Leases was an issue that could be settled with the Sierra Leone Government. He also testified that the issue was a material fact, but not material enough to stand on its own in a news release; however, the fact that a camp was being set up in order to mine was indeed worthy of disclosure and this was mentioned in the February 28, 2003 news release.

[173] With respect to the 2003 AIF, Muller gave the following explanation during his voluntary interview with Staff:

> My personal view at the time was that I wasn't willing to go and spend capital into Sierra Leone because I didn't think the country was safe and stable enough … However, on exploration, on surveying with Luc Rombouts under Tongo properties, I was willing to spend money. I brought in Fauvilla because Fauvilla claimed and they undertook to spend money that I wasn't willing to spend there.

[174] Muller also emphasized that the 2003 AIF contained cautionary language. In his words:

> it's a very measured statement … we do not promise to make big things, we resume activities. It's a very measured and very gradual wording and it reflects what my thinking at the time was. Don't rush into it. Go step by step. There's no need to go and spend extra money here. The ground is still warm. This is a war zone still.

[175] Further, Muller explained that Rombouts presented a program to the Sierra Leone Government, got approval for it, then organized logistics. Then the team carried on work for a few months.

[176] Muller also reviewed the MD&A filed November 28, 2003. He explained that the shipments of diamonds related to an agreement with Kassin Basma, not to Rex's mining activities/operations. He further explained that this agreement between Rex and Basma was not disclosed in public documents because it was "a verbal agreement with a trader". In addition, Muller explained his reasoning behind the wording of the MD&A as follows:

> In the ten years that Rex is a company, we always said that we are a company that is active in all the facets of the diamond trade, namely, exploration, mining, production and trade. … we never disclosed that we produced from these mines, just the opposite. We said that we moved equipment with Fauvilla. We did not say that Fauvilla produced the diamond. … Between survey on Tongo Fields, moving equipment with Fauvilla and production coming to Antwerp, there's a big gap, and there's nothing in between. So it's no one to jump that gap and say that we tried to mislead anybody by saying that we produced something, diamonds – we imported diamonds from Sierra Leone.

[177] Further, Muller testified that Rex expected imports of rough diamonds from Sierra Leone to reach a sustained level of $2 million dollars per year, and that he was dealing with the number one or number two diamond exporter in Sierra Leone whom he believed could easily provide the volume necessary for Rex to be importing $2 million per month within a year.

[178] Muller also reviewed Rex's news release dated April 2, 2004 announcing the Tender Evaluation and provided explanations for alleged misrepresentations regarding the company's investment in Sierra Leone. According to Muller, operations were not commenced in Sierra Leone because, although peace and stability returned to the region, it was still a very risky region.

4. Holemans

[179] The relevant excerpts of Holemans' testimony relating to the correspondence with respect to the cancellation of the Leases and content of the documents containing the public disclosure, are summarized below.

i. Review of the Correspondence Relating to the Cancellation of the Leases

[180] With respect to the January 3, 2003 warning letter, Holemans testified that he did not personally see or have any discussions regarding this letter, but stated that Muller and Morgenstern would have been aware of it. He added that in hindsight he did not know why a news release would not have been issued; however, Holemans conceded that although it was his and Muller's responsibility to make materiality assessments, he did not know why a news release was not issued at the time.

[181] With respect to the April 16, 2003 warning letter, Holemans testified that Rex did not pay the rents after specifically requesting rent figures because Muller had said that the rents were covered by the 1997 and 1998 pre-payments. He also added that Sierra Leone was "minor when you look to the whole group of operations" of Rex, and that Muller concluded that the information was not material. Holemans testified: "everything regarding Sierra Leone was totally Serge's hands. If he decided not to give this to me or bring it to my attention, I follow what he thinks on that."

[182] Holemans also testified that some of the correspondence from the Sierra Leone Government was never brought to his attention. For example, Holemans testified that the final notice letter dated June 4, 2003, the Notice of Tender and the Fauvilla Letter were not brought to his attention, and he did not know about them at the time.

[183] Holemans also testified with respect to the e-mail he sent to Lay on January 23, 2004. He explained that he told Lay the re-tendering was a "rumour" because this is what Muller instructed him to write. He added that Muller did not provide him any basis for that answer, despite the fact that the Notice of Tender had been posted on the Sierra Leone Government website since December 11, 2003; nevertheless, Holemans did not recall asking any further questions or discussing the matter with either Muller or Morgenstern.

[184] Holemans also informed us that he reviewed Rombouts' e-mail sent on January 31, 2004, which alerted Rex to the Notice of Tender and inquired whether this was material information. Holemans testified that he discussed the matter with Muller, and was aware of Muller's response that this was just a matter of paying the amounts outstanding on the Leases.

[185] With respect to the Tender Evaluation, Holemans testified that he became aware of it sometime in April, through his own searches on the internet. He also reviewed Rex's April News Release, which acknowledged the Tender Evaluation. Holemans testified that on April 2, 2004 the issue was 'material' because by then it was a fact that the leases had been cancelled, not withstanding his personal view that Sierra Leone was not important. He stated, "I went to [Muller], I said, now it's material because now we really lost it …" but Muller's reasoning throughout this time was that you don't have to issue a news release for every rumour.

[186] The transcript of Holemans' voluntary interview also stated that although Holemans would not have known that the cancellation of the Leases was a fact until April 2, 2004, Muller and Morgenstern would have known that it was a fact at a much earlier stage – through the series of letters dated January 3, 2003, April 16, 2003, and June 4, 2003.

[187] Further, Holemans added that Muller was engaged in negotiations with the Sierra Leone Government on this issue and that he was taken by surprise by news of the cancellation of the Leases. Finally, he noted a 'mistake' in the Rex news release where it is stated, "the Government of Sierra Leone has announced that it has cancelled Rex mining leases" (plural). He stated that reference should only be made to the Tongo Lease (singular).

ii. Review of Documents Relating to Disclosure

[188] Holemans reviewed the 2003 AIF and testified that there was a general understanding that since President Kabbah had returned to Sierra Leone stability would follow. He explained that the correspondence from the government regarding the cancellation of the Leases was not discussed in the public filings because he "did not have that information at that time".

[189] With respect to the MD&A filed February 28, 2003, Holemans testified that it referred to the Fauvilla MOU and the equipment which was purchased for $350,000. He explained that the drilling program was never commenced because it was too expensive to carry out and this was not disclosed by Rex because they did not feel that it was material at the time.

[190] Holemans also reviewed Rex's MD&A filed November 28, 2003. He testified that the representations about diamond purchases were arrived at with the diamond buyer in Sierra Leone, together with Muller and Morgenstern.

V. ANALYSIS

A. Did a Material Change Occur in the Business, Operations or Capital of Rex?

1. The Statutory Regime

[191] In this case, the Amended Statement of Allegations relates to conduct which took place in 2003 and 2004. The relevant sections of the Act which were in force at that time are set out in "Schedule A" of our Reasons and Decision.

2. Disclosure Obligations Under the Act

[192] Section 75 of the Act creates a disclosure obligation for reporting issuers when a material change occurs. Subsection 75(1) of the Act provides that "where a material change occurs in the affairs of a reporting issuer, it shall forthwith issue and file a news release authorized by a senior officer disclosing the nature and substance of the change". Subsection 75(2) requires the reporting issuer to file a report of a material change "as soon as practicable and in any event within ten days of the date on which the change occurs".

[193] The Act is supplemented by National Policy 51-201 – Disclosure Standards ("NP 51-201"). Subsection 4.2(2) states that "… if there is any doubt about whether particular information is material, we encourage companies to err on the side of materiality and release information publicly".

[194] The definition of "material change" is set out in subsection 1(1) of the Act as follows:

> A change in the business, operations or capital of the issuer that would reasonably be expected to have a significant effect on the market price or value of any of the securities of the issuer.

[195] This definition can be broken down into two separate parts: the first part requires determining whether a change took place, and the second part requires assessing whether the change would reasonably be expected to have a significant effect on the price/value of the securities.

[196] The first part of the "material change" definition distinguishes a "material change" from a "material fact". Basically, not all material facts are significant enough to be classified as a change in the business, operations or capital of an issuer. As explained by the Commission in *Re AiT* (2008), 31 O.S.C.B. 712 at para. 210:

> Not all material facts will be significant enough to constitute a change in the business, operations or capital of the issuer, and therefore be a material change. The Act makes an important distinction between the definitions of a material fact and a material change in subsection 1(1). This distinction is fundamental to the various requirements under the Act since certain disclosure requirements are triggered by the occurrence of a material change (but not a material fact).

[197] Therefore, we must consider the events that took place and determine whether they are sufficient to constitute a material change or whether they are simply material facts which do not have to be disclosed pursuant to section 75 of the Act. This is imperative because material changes and material facts trigger different legal obligations:

> For example, only in the event of a material change does section 75 of the Act require an issuer to issue a news release and also file with the Commission a material change report on a timely basis, or alternatively file a confidential material change report with the Commission. In contrast, section 76 of the Act does not require disclosure of either material changes or material facts, but prohibits anyone from purchasing or selling securities with knowledge of a material fact or material change that has not been generally disclosed to the public. *(Re AiT*, *supra* at para. 210)

[198] Further the Commission emphasized in *Re AiT* that:

> The legislation clearly differentiates between material changes and material facts, setting up different disclosure obligations and restrictions for each. It clearly contemplated that issuers might be aware of a material fact and insiders must be prevented from trading with such knowledge (section 76 of the Act). However, the existence of a material fact alone does not give rise to the disclosure obligation under section 75 of the Act. (at para. 213)

[199] The second part of the "material change" definition is referred to as the market impact test. Section 4.1 of NP 51-201 confirms that the definition of "material change" is based on a market impact test. As explained by the Commission in *Re YBM Magnex et al.* (2003), 26 O.S.C.B. 5285:

> The test for materiality in the Act is objective and is one of market impact. An investor wants to know facts that would reasonably be expected to significantly affect the market price or value of securities. (at para. 91)

[200] Section 4.2 of NP 51-201 also recognizes that a determination of materiality is not always straightforward and there is no "simple bright-line standard or test". This has also been recently confirmed by the Commission in *Re AiT* where the Commission explained that:

> We agree that there is no "bright-line test". Instead, the assessment of whether a material change has taken place will depend on the circumstances and series of events that took place. This is because the determination of a material change is a question of mixed fact and law (*Re YBM Magnex et al.*, *supra* at para. 94). This determination requires ascertaining whether the existing facts fulfill the legal test. Each case will be unique, and the specific facts and circumstances will vary case by case. Since the fact scenarios will differ in all cases, it is impossible to articulate a bright-line test that will apply in all circumstances. (at para. 215)

[201] The assessment of whether a material change has occurred is a fact specific exercise. It is for this reason that we have set out an extremely detailed chronology of events above in order to provide a clear timeline of all the relevant facts. This fact intensive approach is consistent with the approach the Commission adopted in Re AiT, which was articulated as follows:

> … the determination of whether a material change occurred requires ascertaining whether the series of events that took place during the Relevant Period constitute a material change. As a result, this requires an in depth analysis of the facts in this case. (at para. 225)

[202] The parties also relied on American case law with respect to materiality. We note however, that the legal concepts found in American law are not worded identically to the Ontario Statute. Specifically, the Commission explained in *Re AiT* that:

> … the law in the United States does not include the concept of a "material change" as defined in our Act. The probability/magnitude test was formulated as an appropriate test for determining the materiality of speculative or contingent information. Although the American probability/magnitude test may be useful with respect to materiality, it is not particularly useful in determining whether a change has occurred, which is crucial in this case. As a result, we are wary of quoting and adhering to the American case law, especially when the American law does not incorporate the concept of a "material change" as the Ontario statute does. (at para. 207)

3. Best Disclosure Practices

[203] The Commission has often emphasized that disclosure forms the cornerstone of securities regulation (*Re Philip Services Corp.* (2006), 29 O.S.C.B. 3971 at para. 7). It benefits the capital markets because:

> Disclosure in securities markets encourages investing and therefore growth. Disclosure protects investors, aids in ensuring that securities markets operate in a free and open manner … (*Re YBM Magnex et. al.*, *supra* at para. 89)

[204] The purposes of the Act set out in section 1.1 to: (1) provide protection to investors from unfair, improper or fraudulent practices, and (2) foster fair and efficient capital markets and confidence in capital markets, are largely achieved through truthful and accurate disclosure. This is because enforcing requirements for timely, accurate and efficient disclosure is one of the primary means of fulfilling the Act's statutory purposes (see section 2.1 of the Act). As explained by the Commission in *Re AiT*:

> … through timely disclosure, fairness can be achieved for all investors participating in the capital markets. Disclosure serves to level the playing field such that all investors have access to the same information upon which to make investment decisions. (at para. 199)

[205] Because disclosure plays such an important role in ensuring that the capital markets are functioning on current, truthful and accurate information, it is essential that all market participants follow best disclosure practices. As explained by the Commission in *Re YBM Magnex et al.*, *supra* at paragraph 518, disclosure "enhances fairness of the market". In order for disclosure to accomplish its objectives, the information made public by issuers needs to be accurate. Premature and undesirable disclosure is unhelpful and does not enhance informed decision making in the capital markets.

[206] NP 51-201 provides guidance on best disclosure practices. Subsection 2.2(2) of NP 51-201 is of importance in our analysis and states:

> Announcement of material changes should be factual and balanced. Unfavourable news must be disclosed just as promptly and completely as favourable news. Companies that disclose positive news but withhold negative news could find their disclosure practices subject to scrutiny by securities regulators. A company's press release should contain enough detail to enable the media and investors to understand the substance and importance of the change it is disclosing.

[207] Subsection 2.2(2) of NP 51-201 clarifies the type and quality of information that should be disclosed. It is highly important the right kind of information is made public because otherwise inadequate disclosure will trigger incorrect market signals.

[208] Further guidance is also given in section 4.3 of NP 51-201, which provides examples of potential material information. For the purposes of the present case, the following examples of potential material information are relevant:

- any development that affects the company's resources, technology, products or markets;
- major disputes or disputes with major contractors or suppliers; and
- significant new contracts, products, patents or services or significant losses of contracts or business

[209] Furthermore, best disclosure practices dictate that when in doubt, an issuer should err on the side of disclosure. This is established in NP 51-201 at subsection 4.2(2) and in the Commission's case law:

> The concept of material change, like that of material fact, requires an exercise of judgment. If the decision is borderline, then the information should be considered material and disclosed. In our opinion, a supercritical interpretation of the meaning of material change does not support the goal of promoting disclosure or protecting the investing public. (*Re YBM Magnex et al.*, *supra* at para. 518)

4. Assessment of the Evidence

i. The Warning Letters dated January 3, 2003, April 16, 2003 and June 4, 2003

[210] On January 3, 2003 and April 16, 2003, Rex was warned by the Sierra Leone Government that the Leases were at risk of being cancelled. Then on June 5, 2003 the Sierra Leone Government sent an additional warning letter giving Rex 90 days notice that the Leases would be terminated if Rex did not comply with the Sierra Leone Government's conditions.

[211] We find that by the time Rex received the final notice warning letter dated June 5, 2003, and probably earlier in 2003, there was a very possible risk that the Leases would be cancelled by the Government of Sierra Leone, and this should have been communicated to the public by means of a material change report pursuant to section 75 of the Act. This is evident from the correspondence that was put into evidence before us. For example, the warning letters dated January 3, 2003, April 16, 2003 and June 4, 2003 all advised Rex that if it continued to fail to comply with the obligations set out in the Leases, the Leases would be revoked. The Notice of Tender issued December 11, 2003, reinforced the risk that Rex's Leases were in danger and the Tender Evaluation dated March 30, 2004, confirmed that Rex did indeed lose the Leases.

[212] Clearly, the risk was high that the Leases would be cancelled, otherwise Rex would not have engaged in the efforts it did to rectify the situation. In particular, Morgenstern, on behalf of Rex, contacted the Makpele Chiefdom to seek support from them and the Makpele did in fact support Rex and provided letters to the Sierra Leone Government to attempt to persuade the Government to allow Rex to keep the Leases. Also, Morgenstern, on behalf of Rex, sent correspondence to the Sierra Leone Government in February 2003 to ascertain the amounts owing on the Leases in order to take steps to make payments on the Leases.

[213] In our view, the Leases constituted an important asset to Rex as the public filings made reference to their high potential value. In addition, the Rombouts Report described the Tongo Lease as having a potential value to Rex of US$1,654 billion if mined to a depth of 500 metres, and US$3.31 billion if mined down to a 1,000 metres depth. Potential values in the range of billions of dollars undoubtedly establish that the Tongo Lease was an important asset.

[214] The value of mining assets is highly relevant in a material change determination as established by the Supreme Court of Canada in *Pezim v. British Columbia (Superintendent of Brokers)*, [1994] 2 S.C.R. 557, where the Court stated:

> In the mining industry, mineral properties are constantly being assessed to determine whether there is a change in the characterization of the property. Thus, from the point of view of investors, new information relating to a mining property (which is an asset) bears significantly on the question of that property's value. (at para. 87)

[215] The Leases had a high potential value to Rex, and developments concerning them would be of interest to shareholders. The fact that the Leases along with their high potential was at risk of being lost should have been disclosed in a material change report.

[216] In its public filings, Rex's disclosure with respect to Sierra Leone tended to be generally optimistic. While Rex's public filings did refer to the existence of some political uncertainty in Sierra Leone, Rex's public disclosure had an optimistic tone. A review of the evidence shows that the outlook was not entirely positive and the letters dated January 3, 2003, April 16, 2003 and June 4, 2003 involved a very possible risk to Rex's assets – the Leases. Without these Leases, Rex did not have the ability to produce diamonds in Sierra Leone. On this point, the Respondents took the position that a deal with Basma provided Rex with rough diamonds to export back to Belgium, but the evidence at the hearing revealed that this deal did not work out and Basma was corrupt. Therefore, Rex really needed the Leases in order to have access to rough diamonds.

ii. The Notice of Tender

[217] The Notice of Tender was issued on December 11, 2003. It clearly stated that it applied to mining areas previously belonging to Rex, which signaled that Rex's Leases had been revoked.

[218] As Staff pointed out to us in their submissions, "if investors are justifiably concerned about the estimated mineral content of mining property, so too must they be entitled to know whether the company holds that asset at all." The public should have been informed after Rex found out about the Notice of Tender which clearly indicated that Rex lost the Leases. That affected Rex's operations because it would no longer have legal entitlement to access the land and extract diamonds. We agree with Staff that "the loss of the Sierra Leone Leases eliminated any potential for Rex to generate future revenue from those operations" and in our view this constitutes a change in Rex's operations.

[219] Indeed, the Notice of Tender was significant in the minds of Rex's shareholders. During February and March 2004 investors made inquiries to Rex regarding the status of the Leases and postings about the status of the Leases were made by investors on the Stockhouse Website.

[220] Not only was there a failure to disclose the dispute regarding the Leases, but also there was a failure to disclose the loss of the Leases altogether after Rex learned about the Notice of Tender.

iii. The Tender Evaluation

[221] Similar to the Notice of Tender, the Tender Evaluation signaled that a change occurred in Rex's operations and assets because it established that the Leases once belonging to Rex had been officially transferred to another company. Rex's ability to operate in Sierra Leone was significantly changed.

iv. Market Impact

[222] It is evident that the risk that the Leases could be cancelled ? and especially the actual cancellation of the Leases ? constituted a change in Rex's business.

[223] The issue before us now is to determine whether this change was "material". In other words, is it reasonable to expect that there would be a significant effect on the market price or value of any of the securities of the issuer? We find that it was reasonable to expect a significant market impact for the reasons described below.

[224] The Notice of Tender was issued on or about December 11, 2003. It clearly stated that the property in question formerly belonged to Rex. Following the Notice of Tender in December 2003, in February 2004, rumours started to circulate about Rex's Leases and a number of queries and comments were posted on the internet and made reference to Rex's share price.

[225] At the same time fluctuations in the value of Rex's shares were occurring. As well the volume of shares traded and number of trades per day varied significantly from the norm.

[226] These day to day variations in the opening and closing prices of Rex's shares and the high trading volume were not the norm in Rex's daily trading patterns. This prompted RS to contact Rex on February 19, 2004 to inquire what events could possibly be triggering such huge share price fluctuations.

[227] In our view, abnormal fluctuations in share prices, volume and the number of trades per day demonstrate market impact, and indicate that the market is reacting to something. Investors reacted and trading activity, especially volume and number of trades per day increased. In our view this demonstrates that investors had an interest in Rex's operations in Sierra Leone, and they traded accordingly when they became aware of rumours regarding Sierra Leone. Indeed, after all these fluctuations in Rex's share price were taking place, an investor posted a comment on a website in early March commenting that there were wild price and trading swings and Rex had not disclosed any "PR worthy" information.

[228] The Tender Evaluation was issued on March 30, 2004. This made it official that Rex had lost the Leases. Rex issued a news release on April 2, 2004 to disclose this information to the public, and following the April News Release, Rex's share price fluctuated and the volume of shares traded was very high on April 2 and 5. To summarize, upon finding out about the cancellation of the Leases, the market reacted as follows:

- from April 1, 2004 to April 2, 2004, the opening price in Rex's shares decreased by 18.92%; and
- from April 1, 2004 to April 2, 2004, the closing price in Rex's shares decreased by 18.57%.

[229] The above numbers show that the market reacted to the announcement that Rex had lost its Leases. This shows that the investing public thought the Leases had important value to Rex.

[230] In their defence, the Respondents argued that Sierra Leone was not material and that the Leases were not the focus of Rex's activities at the time. The Respondents take the position that the Leases in Sierra Leone were "interesting but not material". We do not accept this submission. The Rombouts Report favourably described the area covered by the Leases as potentially having extremely high value. In addition, in an e-mail dated January 30, 2004, Rombouts mentioned that information with respect to the cancellation of the Leases "… is material information if confirmed…". The evidence also shows that Rex went through a lot of effort to negotiate with the Sierra Leone Government to have the Leases reinstated. Previously, when Rex lost a lease that did not have as important a value, they did not bother with such efforts, as in the case with the Block 13 Lease.

[231] The Respondents also submitted that:

> An analysis of the trading in shares of Rex in relation to news or events concerning Rex's mining leases in Sierra Leon reveals that, with the possible exception of news of the military coup on May 25, 1997, news or events relating to Rex's mining leases in Sierra Leone had no discernible affect on the Rex share price, and certainly had no "significant effect".

[232] We do not accept this submission. On April 2, 2003, there was an approximate 18% decrease in the value of Rex's shares accompanied by a very high volume of trading, when news of the Tender Evaluation and loss of the Leases became known to the public. In our view the market was reacting to the announcement that Rex lost the Leases.

[233] In addition, at this time, Rex's public filings mentioned that Rex's operations in South Africa were not performing well due to floods and a workers' strike. The outlook for Mauritania was also bleak. However, Rex never provided negative information about Sierra Leone. Conversely, in its 2003 AIF, Rex stated that peace and stability were returning to Sierra Leone and the impression was given that mining activities would soon resume as Rex had entered into the Fauvilla MOU. The MD&A filed on November 28, 2003 also focused on diamond shipments from Sierra Leone. Looked at as a whole, we find that the public filings show that Sierra Leone had a positive outlook and was important to Rex's future, especially considering that Rex's operations in South Africa and Mauritania were on the decline. As a result, we find that the Sierra Leone operations were material to Rex and that a reasonable investor would read the public filings and information about Sierra Leone as being positive for Rex.

[234] We find it problematic that Rex had knowledge of the fact that it could potentially lose its Leases and Rex never revealed the final notice warning letter dated June 5, 2003 to the public. In our view, Rex should have issued a material change report when it initially learned that there was a risk that it would lose the Leases. This is because the loss of a right to mine for diamonds would impact the operations of a diamond exploration company such as Rex and this in turn would affect Rex's ability to generate profit and share price would be affected accordingly.

B. If a material change did occur, did Muller in his capacity as a director and the CEO of Rex and Holemans in his capacity as Rex's CFO, authorize, acquiesce in or permit a breach by Rex of section 75 thereby acting contrary to the public interest?

1. Overview

[235] In our view, both Muller in his capacity as a director and the CEO of Rex and Holemans in his capacity as CFO, authorized, permitted or acquiesced in Rex's breach of section 75 of the Act. However, we recognize that Holemans' conduct is

not as blameworthy as Muller's conduct since Holemans lacked awareness of many of the events that transpired. This is explained further below.

2. Muller

[236] The testimony at the hearing revealed that Muller's opinion was given deference and that he determined that the Notice of Tender was not material. However, we note that at this same time others feared or recognized that it was in fact material. For example:

- Rombouts raised the issue of materiality to Rex in his e-mail dated January 30, 2004; and
- the Fauvilla Letter made reference to the fact that the Notice of Tender may materially impact the Fauvilla MOU and Rex's operations in Sierra Leone.

[237] Despite having knowledge of Rombouts' e-mail and the Fauvilla Letter, Muller unilaterally decided not to issue a material change report. Muller's actions concern us because he withheld important information about a change to Rex's assets, namely a Notice of Tender announced that Rex lost its Leases. The evidence demonstrates that Muller disregarded the correspondence he received from the Sierra Leone Government between January and June 2003 and he did not share this information with Holemans.

[238] Muller's testimony also revealed that Muller relied on his personal discretion when he made decisions with respect to disclosing information about the Leases to Holemans and to the public. Muller emphasized that he knew what was appropriate in the circumstances based on his experience in business dealings with officials from the Government of Sierra Leone. While we recognize that Muller has an in-depth understanding and knowledge of the mining business and significant experience dealing with the Sierra Leone Government, Muller's judgment as to what information should or should not be disclosed cannot take precedence over the disclosure obligations set out in the Act. As established by the Supreme Court of Canada, the business judgment rule does not apply to decisions regarding disclosure:

> … disclosure is a matter of legal obligation. The Business Judgment Rule is a concept well-developed in the context of business decisions but should not be used to qualify or undermine the duty of disclosure. (*Kerr v. Danier Leather Inc.*, [2007] 3 S.C.R. 331 at para. 54)

[239] The evidence demonstrates that Muller withheld information with respect to the cancellation of the Leases from Holemans and the public. As a result, we find that he authorized and permitted Rex to violate section 75 of the Act and thereby acted contrary to the public interest.

3. Holemans

[240] The evidence revealed that Holemans did not possess the same amount of information with respect to the problems relating to the Leases as Muller did. Holeman's knowledge was the following:

- matters relating to Sierra Leone and the Leases were in Muller's hands, and issues were brought to Holemans' attention only when Muller thought it was necessary;
- he did not personally see or have any discussions regarding the January 3, 2003 warning letter, the final notice letter dated June 4, 2003, the Notice of Tender and the Fauvilla Letter at the relevant times. Muller did not bring these documents to Holemans' attention;
- with respect to the April 16, 2003 warning letter, Holemans followed Muller's instructions that the rent payments did not have to be made because the rents were covered by the 1997 and 1998 pre-payments;
- with respect to the e-mail to Lay, Holeman's actions were based on Muller's instructions; and
- Holemans was surprised when he found out that the Leases were cancelled because Muller gave him the impression that problems with the Leases such as the rent payments were being negotiated with the Sierra Leone Government.

[241] Regardless of his limited knowledge of some of the events surrounding the Leases, Holemans was the CFO of Rex. As CFO, he occupied a position of authority, responsibility and trust within the company. He was ultimately responsible for Rex's financial reporting obligations and was named in Rex's disclosure policy as someone responsible for determining materiality. As CFO, Holemans ought to have known about and was required to make further inquiries with respect to the status of the Leases, rather than simply deferring to Muller's instructions. We find that Holemans acquiesced in Rex's violation of section 75 of the Act and thereby acted contrary to the public interest.

C. Did the Respondents act contrary to the public interest by providing misleading disclosure regarding its operations in Sierra Leone in each of its public filings of February 28, 2003, August 15, 2003 and November 28, 2003?

1. Rex's MD&A Filed February 28, 2003

[242] To summarize, the Outlook section of the MD&A filed February 28, 2003 informed the public that Rex was engaging in operations in Sierra Leone. In particular, a mining camp was being established and mining equipment was being positioned. This was also confirmed by Rex's news release issued on February 28, 2003.

[243] At the time Rex's MD&A was filed on February 28, 2003, Rex was aware that there was some controversy surrounding its Leases. This is evident from the description of the correspondence set out above. In particular, on January 3, 2003, the Government of Sierra Leone sent a warning letter to Rex informing Rex that the Minerals Advisory Board recommended to the Minister of Mineral Resources to terminate the Leases. In response, Rex wrote to the Makpele Chiefdom to secure their support, and Rex also wrote an extensive five page letter to the Director of Mines of Mineral Resources on January 14, 2003 outlining Rex's concerns "to defend [its] contractual rights that have so casually been trampled upon".

[244] While a decision was made on January 14, 2003 to give Rex another chance to meet its legal obligations under the Leases before the Leases would be terminated, the NPAC imposed conditions on Rex and required Rex to file a comprehensive "Work Programme" and comply with it, in additional to paying its financial obligations under the Leases.

[245] Rex's MD&A filed February 28, 2003 made no mention of these issues surrounding the Leases. While the Leases were not terminated at this time, there was still information that should have been communicated to the public, namely Rex had outstanding financial obligations relating to the Leases and Rex was expected to start mining operations on the areas covered by the Leases in order to comply with Sierra Leone's Mines and Minerals Act.

[246] Muller's testimony during the hearing revealed that on or about February 28, 2003, Rex did not have any intention of recommencing mining activities in Sierra Leone. Specifically Muller stated:

> We knew we had to do something because as soon as the *force majeure* was lifted we were being told that we should start doing something.
>
> …
>
> We should start doing something, but I was dragging my feet. I didn't really have intention, again, to go and spend serious money in that country because that country was not safe.

[247] The disclosure in the MD&A filed February 28, 2003 was inconsistent with this.

[248] A letter from the Minister of Mines of the Ministry of Mineral Resources dated June 4, 2003 stated that Rex did not commence mining operations as planned, and that the operations in Zimmi were of artisanal nature.

[249] On February 28, 2003, Rex had stated in its MD&A that mining equipment was being moved to Zimmi and that a drilling program was planned to take place. However, the above quoted letter was written to Rex on June 4, 2003 and it seems that the equipment and drilling program discussed in the public filing was not in place at the time the June 4, 2003 letter was sent to Rex.

[250] The evidence also reveals that Rex entered into the Fauvilla MOU to commence operations in Zimmi. However, in his testimony, Muller explained that he entered into this agreement because he was not willing to invest in Sierra Leone at the time and the Fauvilla MOU would therefore discharge his "moral obligation" to the local people and "would alleviate some of the pressure that [Rex] had from the Ministry of Mines".

[251] We find that Rex's MD&A filed February 28, 2003 was inaccurate. Muller's testimony revealed that Rex never had the intention of developing operations on the property covered by the Zimmi Lease, and the correspondence from the Government of Sierra Leone revealed that Rex did not commence operations and drilling with machinery as anticipated.

2. Rex's Annual Information Form for the Year Ended August 15, 2003

[252] The 2003 AIF was filed on August 15, 2003. At this time Rex had received the June 4, 2003 letter from the Minister of Mineral Resources which gave Rex final notice of 90 days that the Leases would be terminated if Rex did not fulfill its obligations under the Leases.

[253] However, Rex's 2003 AIF stated that it held the Leases until February 28, 2019, and there was no mention of the June 4, 2003 warning letter or the possibility that Rex's Leases might be cancelled by the Sierra Leone Government. Instead, the

language of the 2003 AIF gave the impression that the commencement of mining operations was imminent and that the future of diamond mining in Sierra Leone was promising.

[254] We find that it was inappropriate on the part of Rex to omit reference to the possibility that Leases were in danger of being terminated. An investor reading Rex's 2003 AIF would be given the impression that Rex's Leases were in good standing and had significant potential value and that mining operations might commence, while, in reality, at the time the 2003 AIF was filed, Rex was warned that the Leases were at risk of being terminated in the near future. This type of conduct is problematic because all relevant information should be contained in an AIF, not just positive information. It was contrary to the public interest that Rex withheld negative information about the company from the public at this time.

3. Rex's MD&A Filed November 28, 2003

[255] We note that Rex only provided positive information about Sierra Leone in the MD&A filed November 28, 2003.

[256] Like Rex's previous public filings discussed above, the MD&A filed November 28, 2003 did not make any reference to the possibility that the Leases may be cancelled by the Sierra Leone Government. This is a significant omission considering that at this time Rex had received warning letters in January, April and June 2003 and there was ample opportunity for Rex to disclose this information to the public.

4. The Importance of Full Disclosure

[257] Rex's public filings dated February 28, 2003, August 15, 2003 and November 28, 2003 were inaccurate and incomplete because they did not contain balanced information regarding Rex's activities and potential activities in Sierra Leone. Negative information relating to the Leases, which Rex had knowledge of from correspondence from the Government of Sierra Leone was omitted. This omission gave the public a distorted picture of Rex's affairs in Sierra Leone.

[258] Staff submitted that by providing favourable news in its public filings regarding the Leases but withholding negative news, Rex provided the public with an unbalanced and misleading view of its operations in Sierra Leone. We accept this submission and find that Rex's conduct was contrary to the public interest.

[259] Muller also testified that only the shareholders who asked about Sierra Leone and the Notice of Tender were told about the problems with the Leases. Therefore, not all members of the public were given equal access to information.

[260] As Staff pointed out in their submissions, this is problematic because:

> As secondary market trading makes up the vast majority of capital market trading in Ontario, investors who purchase in the secondary market rely on the public record of the issuer. In order for investors to be confident in the integrity of the capital markets, it is essential that the public record provide them with accurate information. In the present case, Rex's public record did not provide investors with full disclosure.

[261] Timely disclosure and equal access to information are fundamental to successful operation of the capital markets. The Commission has stated that:

> Disclosure is the cornerstone principle of securities regulation. All persons investing in securities should have equal access to information that may affect their investment decisions. The Act's focus on public disclosure of material facts in order to achieve market integrity would be meaningless without a requirement that such disclosure be accurate and complete and accessible to investors. (*Re Philip Services Corp.* (2006), 29 O.S.C.B. 3941 at para. 7)

[262] The courts have also recognized that investors are protected by disclosure of information enabling them to assess the risks involved in making an investment. For example:

> There can be no question but that the filing of a prospectus [and MD&A, AIF, Annual Report…etc.] and its acceptance by the commission [sic] is fundamental to the protection of the investing public who are contemplating purchase of the shares. (*Jones v. F.H. Deacon Hodgson Inc.* (1986), 56 O.R. (2d) 540 at 546 (H.C.)).

[263] We accept Staff's submission that for this principle to have meaning the onus must rest on the company to broadly disseminate information to the public. It should not be necessary for individual shareholders to make specific inquiries to the company's officers in order to find out information which should be made public by the company.

[264] This Commission dealt with the issue of misleading information in a news release and the failure to take appropriate action before approving financial statements in *Re Standard Trustco Ltd. et al* (1992), 15 O.S.C.B. 4322 at 24 and 25. The Commission stated that:

> A sound disclosure system is one of the underpinnings of the securities regulatory system. It is therefore generally accepted that the timely provision of reliable financial information by reporting issuers is in the public interest. Where a company provides misleading financial information to the public it is damaging to the capital markets and would be contrary to the public interest. If allowed to go unchecked, such behaviour could in time be very destructive of our capital markets. Accordingly, the Commission has the jurisdiction to sanction those who fail to take the steps that are necessary so that public disclosure is full, fair and balanced.

[265] Cases from the British Columbia Securities Commission ("BCSC") have also emphasized the importance of issuers providing disclosure of details regarding potential mining operations. Staff referred us to *Re Anthian Resources Inc.*, 1999 LNBCSC 132 and *Re Solaia Ventures Inc.*, 1998 LNBCSC 232. In *Re Anthian*, the BCSC expressed concern that a news release which announced the signing of a letter of intent to develop a group of mineral properties in Bolivia failed to disclose material details about the operations. In *Re Solaia*, the BCSC found that there were disclosure deficiencies because the issuer did not file a news release and material change reports concerning the status of the issuer's negotiations for a joint venture exploration. These two cases show that other Canadian regulators have found that it is important for mining companies to disclose detailed and accurate information about their operations to the investing public. Rex should have disclosed the risk that the Leases were in danger of being cancelled, the actual cancellation of the Leases, and that negotiations were underway to get the Leases reinstated.

[266] Rex's disclosure in its public filings was not full, fair and balanced. Rex's disclosure failed to mention issues relating to the Leases, including the ultimate cancellation in October 2003. We find this conduct to be contrary to the public interest.

[267] In addition, we are concerned by the fact that not only did Rex not make public disclosure about the status of the Leases, it only disclosed information about the Leases to investors who specifically inquired about this. Selective disclosure to only certain investors does not promote truthful and accurate disclosure to the capital markets as a whole.

D. Did the Respondents act contrary to the public interest by misleading RS by providing an incomplete chronology?

1. The Importance of Providing Complete and Accurate Information to Regulators

[268] Pursuant to section 1.1 of the Act, the Commission's mandate is to "(a) provide protection to investors from unfair, improper or fraudulent practices; and (b) to foster fair and efficient capital markets and confidence in capital markets."

[269] Section 2.1 of the Act states that "requirements for timely, accurate and efficient disclosure of information" and "requirements for the maintenance of high standards of fitness and business conduct to ensure honest and responsible conduct by market participants" are some of the primary means to achieve the purposes of the Act.

[270] In order for the Commission and self-regulatory organizations (SROs) like RS to monitor market participants, those involved in the capital markets must co-operate and provide accurate information to the regulators. As explained by the Ontario Court of Appeal in *Wilder v. Ontario (Securities Commission)*, *supra* at para. 21:

> The OSC is charged with the statutory obligation to do its best to ensure that those involved in the securities industry provide fair and accurate information so that public confidence in the integrity of capital markets is maintained. *It is difficult to imagine anything that could be more important to protecting the integrity of capital markets than ensuring that those involved in those markets, whether as direct participants or as advisers, provide full and accurate information to the OSC.* [emphasis added]

[271] This principle not only applies to the Commission, but also to all regulators of the capital markets and SROs. We accept Staff's submission that:

> RS falls within the framework of securities regulation, and it is therefore equally important that market participants provide full and accurate information to RS in response to inquiries.

[272] Keeping these general principles in mind, we will now examine the evidence and determine in the next section whether Rex cooperated and provided complete and accurate information to RS.

2. Rex did not Provide RS with Complete and Accurate Disclosure

[273] RS requested Rex to provide a chronology of events in order to help RS understand the sequence of events and the cause(s) of the fluctuations in Rex's share price. This information was relied on by Cristello in her analysis and report that was completed for RS; therefore, completeness and accuracy in the information provided to RS was extremely important and expected.

[274] The chronology provided by Rex failed to contain reference to a number of relevant documents and events. Cristello's testimony and the documentary evidence reviewed during the hearing revealed that Rex omitted from its chronology any mention of events or correspondence from the period of January 2003 to August 2003.

[275] For instance, Rex did not disclose to RS that it had received the following correspondence:

- the warning letter dated January 3, 2003 and subsequent correspondence up until January 21, 2003 between Rex and the Makpele Chiefdom and the Sierra Leone Government;
- correspondence in February 2003 from Rex to the Sierra Leone Government with respect to the amounts owed by Rex on the Leases;
- the warning letter dated April 16, 2003;
- the final notice warning letter dated June 4, 2003; and
- the Fauvilla Letter.

[276] With respect to the Fauvilla Letter, Muller testified that it was not included in the chronology provided by Rex to RS because it had not been properly placed in the "Sierra Leone file", instead it was placed in the "Fauvilla file". Muller only produced the Fauvilla Letter later during the Commission's investigation. We find it very troubling that the Fauvilla letter was not provided to RS at the outset because the Fauvilla letter made reference to the fact that termination of the Leases was material information if confirmed to be true.

[277] Moreover, Rex's chronology states that Rex only became aware of the Notice of Tender on January 30, 2004. This is untrue, as the Fauvilla Letter, which was sent by fax to Rex's offices in Antwerp on December 15, 2003, specifically mentioned the Notice of Tender and asked Rex whether its Leases were still in good standing. In addition, on January 23, 2003, Lay sent an e-mail to Holemans alerting him to the fact that there were inquiries that the Sierra Leone Government was re-tendering Rex's Leases.

[278] We note that Holemans was never told about the Fauvilla Letter and did not have knowledge of it; therefore, we do not find that Holemans misled RS with respect to the Fauvilla document.

[279] With respect to the omission of the correspondence in February 2003 relating to the amounts owing on the Leases, we note that in the chronology provided by Rex to RS, Rex took the position that it had pre-paid two years of rents. As pointed out to us in Staff's submissions, this is inconsistent with Rex's request for rent figures in Rex's February 3, 2003 letter to the Sierra Leone Ministry of Mineral Resources.

[280] With respect to the three warning letters that mentioned that the Leases were at risk of being cancelled, Muller testified that he placed these letters in his general filing of papers because he did not take them seriously. Only after receiving an e-mail from Rombouts did he create a "live file" on this issue. We note that these letters were only provided when Muller was asked a second time by the Commission's investigator.

[281] Clearly, Muller's conduct did not fulfill his obligations as a participant in the capital markets to provide true and accurate information to RS. This type of conduct is contrary to the public interest. As discussed above, providing truthful and accurate disclosure to regulators of the capital markets, including SROs is essential to prevent abuse of the capital markets.

[282] As for Holemans, the evidence revealed that he lacked awareness of some of the correspondence that was omitted from the chronology. As a result, his conduct cannot be considered as blameworthy as Muller's. However, we do note that Holemans was the CFO of Rex and he should have ensured in his role as CFO that sufficient processes were in place to ensure that such information was brought to his attention. Holemans should not have deferred to Muller's judgment on all issues. As CFO of Rex, Holemans should have made more enquiries when he suspected that Muller was in possession of information possibly relevant to Rex's operations. Therefore, we also find that Holemans engaged in conduct contrary to the public interest with respect to omitting information from the chronology provided by Rex to RS.

E. Muller and Holemans authorized, permitted or acquiesced in Rex's Breaches of the Act

[283] Section 129.2 of the Act is as follows:

> 129.2 For the purposes of this Act, if a company or a person other than an individual has not complied with Ontario securities law, a director or officer of the company or person who authorized, permitted or acquiesced in the non-compliance shall be deemed to also have not complied with Ontario securities law, whether or not any proceeding has been commenced against the company or person under Ontario securities law or any order has been made against the company or person under section 127.

[284] We find Muller and Holemans accountable for Rex's failure to provide accurate disclosure in the public filings and to RS.

VI. CONCLUSION

[285] Upon reviewing all the evidence, the applicable law and the submissions made, we have concluded that:

(1) it is likely that there was a material change in the business, operations or capital of Rex when Rex received the following correspondence from the Government of Sierra Leone:

  (a) the first warning letter dated January 3, 2003, which advised Rex that the Minerals Advisory Board recommended to the Minister of Mineral Resources that Rex's Leases be cancelled because Rex did not comply with the conditions set out in the Leases; and

  (b) the second warning letter dated April 16, 2003, which advised Rex that its Leases were not in good standing and that Rex failed to honour its financial obligations;

(2) material changes did occur in the business, operations or capital of Rex when:

  (a) Rex received the final notice warning letter dated June 4, 2003, from the Sierra Leone Government, which advised Rex that it had 90 days to comply with the conditions of the Leases or otherwise the Leases would be revoked;

  (b) Rex became aware of the Notice of Tender on December 15, 2003; and

  (c) the Government of Sierra Leone issued the Tender Evaluation on March 30, 2004.

(3) Rex should have issued news releases and filed material change reports following the events referred to in paragraphs (a) and (b), and should have filed a material change report as well as issuing a news release following the event described in paragraph (c). By failing to do so, Rex breached section 75 of the Act and acted contrary to the public interest;

(4) Rex acted contrary to the public interest by providing inaccurate and incomplete disclosure regarding its operations in Sierra Leone in each of its public filings of February 28, 2003, August 15, 2003 and November 28, 2003;

(5) Rex acted contrary to the public interest when it provided RS with an inaccurate and incomplete chronology of events; and

(6) Muller, as a director and the CEO of Rex, authorized or permitted, and Holemans, as the CFO of Rex, acquiesced in the conduct described in paragraphs (3) to (5) above, and thereby acted contrary to the public interest.

[286] The parties shall contact the Office of the Secretary within 10 days of this decision to set a date for a sanctions hearing, failing which a date will be fixed by the Office of the Secretary.

Dated at Toronto, this 21st day of August, 2008.

"Wendell Wigle"

Wendell S. Wigle, Q.C

"David Knight"

David L. Knight, FCA

"Kevin Kelly"

Kevin J. Kelly

SCHEDULE "A" – RELEVANT EXCERPTS FROM THE *SECURITIES ACT*

SECURITIES ACT

R.S.O. 1990, c. S.5, as am. S.O. 1992, c. 18, s. 56; 1993, c. 27, Sched.; 1994, c. 11. ss. 349-381; 1994, c. 33; 1997, c. 10, ss. 36-41; 1997, c. 19, s. 23; 1997, c. 31, s.179; 1997, c. 43, Sched. F, s. 13; 1999, c. 6, s. 60; 1999, c. 9, ss. 193-222 [s. 202 not in force at date of publication.]; 2001, c. 23, ss. 209-218.

1. (1) Definitions – In this Act,

…

"material change", where used in relation to the affairs of an issuer, means a change in the business, operations or capital of the issuer that would reasonably be expected to have a significant effect on the market price or value of any of the securities of the issuer and includes a decision to implement such a change made by the board of directors of the issuer or by senior management of the issuer who believe that confirmation of the decision by the board of directors is probable; ("changement important")

…

2.1 Principles to consider – In pursuing the purposes of this Act, the Commission shall have regard to the following fundamental principles:

1. Balancing the importance to be given to each of the purposes of this Act may be required in specific cases.

2. The primary means for achieving the purposes of this Act are,

   i. requirements for timely, accurate and efficient disclosure of information,

   ii. restrictions on fraudulent and unfair market practices and procedures, and

   iii. requirements for the maintenance of high standards of fitness and business conduct to ensure honest and responsible conduct by market participants.

…

75. (1) **Publication of material change** – Subject to subsection (3), where a material change occurs in the affairs of a reporting issuer, it shall forthwith issue and file a news release authorized by a senior officer disclosing the nature and substance of the change.

(2) **Report of material change** – Subject to subsection (3), the reporting issuer shall file a report of such material change in accordance with the regulations as soon as practicable and in any event within ten days of the date on which the change occurs.

OSA 75(2)

***Regulations*:** Reg.: 3; Reg.: Form 27; Reg.: Sch. I:35

(3) **Idem** – Where,

(a) in the opinion of the reporting issuer, the disclosure required by subsections (1) and (2) would be unduly detrimental to the interests of the reporting issuer; or

(b) the material change consists of a decision to implement a change made by senior management of the issuer who believe that confirmation of the decision by the board of directors is probably and senior management of the issuer has no reason to believe that persons with knowledge of the material change have made use of such knowledge in purchasing or selling securities of the issuer,

the reporting issuer may, in lieu of compliance with subsection (1), forthwith file with the Commission the report required under subsection (2) marked so as to indicate that it is confidential, together with written reasons for non-disclosure.

OSA 75(3)

Regulations: Reg.: Form 27.

(4) **Idem** – Where a report has been filed with the Commission under subsection (3), the reporting issuer shall advise the Commission in writing where it believes the report should continue to remain confidential within ten days of the date of filing of the initial report and every ten days thereafter until the material change is generally disclosed in the manner referred to in subsection (1) or, if the material change consists of a decision of the type referred to in clause (3)(b), until that decision has been rejected by the board of directors of the issuer

1994, c. 11, s. 349

Chapter 4

Cease Trading Orders

4.1.1 Temporary, Permanent & Rescinding Issuer Cease Trading Orders

Company Name	Date of Temporary Order	Date of Hearing	Date of Permanent Order	Date of Lapse/Revoke
La Imperial Resources Inc.	15 Aug 08	27 Aug 08		22 Aug 08
Valucap Investments Inc.	03 Sept 04	15 Sept 04		26 Aug 08

4.2.1 Temporary, Permanent & Rescinding Management Cease Trading Orders

Company Name	Date of Order or Temporary Order	Date of Hearing	Date of Permanent Order	Date of Lapse/ Expire	Date of Issuer Temporary Order

*** Nothing to report this week**

4.2.2 Outstanding Management & Insider Cease Trading Orders

Company Name	Date of Order or Temporary Order	Date of Hearing	Date of Permanent Order	Date of Lapse/ Expire	Date of Issuer Temporary Order
CoolBrands International Inc.	30 Nov 06	13 Dec 06	13 Dec 06		
Hip Interactive Corp.	04 July 05	15 July 05	15 July 05		
T S Telecom Ltd.	31 July 08	13 Aug 08	13 Aug 08		
OceanLake Commerce Inc.	01 Aug 08	14 Aug 08	14 Aug 08		
EnGlobe Corp.	18 Aug 08	29 Aug 08			

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Chapter 5

Rules and Policies

5.1.1 NP 12-203 Cease Trade Orders for Continuous Disclosure Defaults

NOTICE OF NATIONAL POLICY 12-203
CEASE TRADE ORDERS
FOR CONTINUOUS DISCLOSURE DEFAULTS

Introduction

The Canadian Securities Administrators (CSA regulators or we), have adopted National Policy 12-203 *Cease Trade Orders for Continuous Disclosure Defaults* (the Policy). The Policy provides guidance to reporting issuers, investors and market participants as to how we will generally respond to certain types of continuous disclosure defaults.

Background

On March 28, 2008, we published a proposed version of the Policy for comment. During the comment period, which ended on May 27, 2008, we received four comment letters. We thank the commenters for their submissions.

We have considered the comments and are publishing a summary of comments and responses as Appendix A to this notice. The summary includes the names of the commenters, a summary of their comments and our response. After considering the comments, we have made a number of minor changes to the version of the Policy that we published for comment. However, as these changes are not material, we are not republishing the Policy for a further comment period.

Substance and Purpose

The Policy

- modernizes, harmonizes and streamlines our existing practices relating to cease trade orders (CTOs) including general CTOs and management cease trade orders (MCTOs);
- provides guidance for issuers as to the circumstances in which the CSA regulators will issue a general CTO or an MCTO;
- explains factors the CSA regulators will consider when evaluating an application for an MCTO; and
- describes what other actions issuers need to undertake if we issue an MCTO.

The Policy replaces:

- CSA Staff Notice 57-301 – *Failing to File Financial Statements on Time – Management Cease Trade Orders*;
- CSA Staff Notice 57-303 – *Frequently Asked Questions Regarding Management Cease Trade Orders Issued as a Consequence of a Failure to File Financial Statements;* and
- Ontario Securities Commission Policy 57-603 – *Defaults by Reporting Issuers in Complying with Financial Statement Filing Requirements*.

These instruments have been rescinded with the adoption of the Policy.

Summary of the Policy

The Policy provides guidance as to how the CSA regulators will ordinarily respond to a specified default (as defined in part 2 of the Policy) by a reporting issuer. This response will usually be the issuer's principal regulator issuing either a general CTO or an MCTO.

The Policy describes the criteria the CSA regulators will apply when assessing whether to issue a general CTO or an MCTO and outlines what an issuer needs to include in its application for an MCTO. The Policy also describes what information an issuer must file during the period of an MCTO to support informed trading.

The Policy recommends that issuers monitor trading by management and other insiders during the period of default and reminds insiders of their trading prohibitions under securities legislation. Finally, the Policy discusses the effect of a CTO issued by a CSA regulator in one jurisdiction on trading in another jurisdiction.

Unpublished materials

In developing the Policy, we have not relied on any significant unpublished study, report, decision or other written materials.

Questions

Please refer your questions to any of:

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August 29, 2008

Appendix A
Summary of Comments
List of commenters

Commenter	Signatory	Date of Comment Letter
Market Regulation Services Inc.	Felix Mazer Policy Counsel Market Policy and General Counsel's Office	May 15, 2008
Ontario Bar Association Business Law Section Securities Law Subcommittee	Greg Goulin President Ontario Bar Association Paul J. Stoyan Chair, Business Law Section Ontario Bar Association	May 28, 2008
Research Capital	Vanessa M. Gardiner Director, Senior Vice-President and Chief Compliance Officer	April 15, 2008
Securities Transfer Association of Canada	William Speirs President	May 22, 2008

Copies of the original comment letters are available for review at the following websites:

- www.osc.gov.on.ca

Summary of comments

	Summary of comment	CSA response
A. General comments		
Adoption of a national policy relating to cease trade orders for continuous disclosure defaults	One commenter was generally supportive of the proposed adoption of a consistent national policy with respect to cease trade orders for continuous disclosure defaults. One commenter was generally in support of the policy and agreed that CTOs should be issued using mutual reliance principles. The commenter believed this will go a long way to harmonizing the treatment and administration of CTOs. This commenter also liked the concept of MCTOs which places responsibility and accountability on the management of an issuer while allowing investors to continue to trade. The other commenters did not express a view.	We thank the commenters for their support.
Concerns with the CTO database administered by the CSA	One commenter, although generally supportive of the policy, expressed concern with the ability of the investment dealer community to play its customary gatekeeper role given certain perceived deficiencies with the existing CSA database for CTOs. The commenter noted that the database lacks fields for certain information contained in certain CTOs including the names of persons restricted by the CTO, in the case of an MCTO. The commenter further noted that dealers are generally unable to block certain trading for issuers and individuals subject to CTOs, particularly where the issuer also trades on a foreign market, such as the U.S. OTC Bulletin Board market. The commenter also raised concerns relating to the integrity of the information in the CTO database. These concerns include the following: • In the CTO database, CUSIP numbers are not provided for all issuers. • CTO database names are not normalized, consistent or accurate. • Concerns relating to the manner in which information relating to MCTOs is entered into the database. The commenter provided some suggestions as to how the entering of this information into the database could be improved.	We have not made any changes to the policy in response to this comment as the comment is primarily focused on concerns with the CSA CTO database rather than the policy. However, CSA staff will consult with the commenter and other representatives of the dealer community to consider improvements to the CSA CTO database.

B. Specific comments		
Section 3.2 Why do we issue cease trade orders in response to a specified default?	One commenter requested that the Commissions consider implementing a system to allow investors who had purchased securities prior to the imposition of the CTO to register securities during the period the cease trade is in effect. The commenter noted that, at this time, these transactions are rejected by the transfer agents to ensure there is no possibility of their contravening the CTO. This situation comes up often when requests for transfer come in via the mail from locations outside the city in which the issuer's transfer agent is located. In these situations the seller has obtained payment and remains the "registered" holder while the purchaser is not able to register the securities in their name until the CTO is lifted. The other consideration is for investors to register securities prior to the record or effective date for an upcoming corporate event, assuming the CTO would not prevent the event or transaction from taking place. For example, a purchaser who is not able to register the securities may be left with having to claim their entitlement from the seller on an event such as a stock split. The commenter noted that some time ago securities legislation provided a mechanism whereby a transfer could be presented with an affidavit from the transferee/broker/beneficial owner; provided it was complete and properly executed, it would allow the transfer agent to process the transfer during the CTO. The commenter attached copies of these forms to this comment letter for information purposes.	We have not made any changes to the policy in response to this comment. Where a *bone fide* sale has occurred (i.e., beneficial ownership has passed from the investor to a subsequent purchaser) prior to the imposition of a CTO, but the transfer has not been registered by the time of the imposition of a CTO, we believe it is acceptable for the transfer agent to proceed to register the transfer. We would generally not consider the act of a transfer agent processing a transfer request, made in good faith and not as part of a plan or scheme to evade requirements of securities legislation, as constituting a trade prohibited by the CTO, where there was reasonable evidence (such as a sworn affidavit) to support the conclusion that the trade had in fact occurred prior to the date of imposition of the CTO. However, the securities that are the subject of the transfer request may remain subject to the CTO depending on the terms of the CTO.
Section 4.2 Contents of application (Expectation that the application should be filed at least two weeks in advance of the filing deadline)	One commenter expressed concern that the issuance of a general CTO in response to a specified default – unless the issuer applies in writing for an MCTO at least two weeks before a potential default – will result in an increased administrative burden for issuers and regulators and increased market disruptions from the greater incidence of general CTOs. The commenter believed that this aspect of proposed NP 12-203 would make the proposed application process under the policy substantially more onerous for issuers than under the current process described in OSC Policy 57-603 and in CSA Staff Notice 57-301. The commenter believed that, under the current regime, a general CTO would only be triggered by a continuing default, following the imposition of an MCTO.	The application process described in Part 4 of proposed NP 12-203 is generally similar to the current process described in OSC Policy 57-603 and in CSA Staff Notice 57-301. In particular, both Part 3 of OSC Policy 57-603 and CSA Staff Notice 57-301 currently provide that an eligible issuer should contact its principal regulator at least two weeks before the filing deadline and request that an MCTO be issued rather than a general CTO. They also describe the necessary supporting materials that should be included with the request, including an affidavit identifying the persons to be named in the MCTO. Accordingly, we do not believe the application process described in proposed

	The commenter indicated that they do not believe that it is typically the case that an issuer "will usually be able to determine that it will not comply with a specified requirement at least two weeks before its due date". The commenter stated that, in their experience it is sometimes very difficult for an issuer to know even days in advance of a filing due date that a default will occur. Often, a failure to file on time is caused by the late identification of a problem with the issuer's financial statements or other disclosure, or by delays in the completion of the audit process, the resolution of which requires input from third parties (including the issuer's auditors and counsel). The commenter believed that the proposed NP 12-203 framework may lead issuers to file "precautionary" applications to avoid triggering a general CTO if there is any possibility of a delay in completing required filings. Such applications would result in a significant administrative burden for issuers and securities regulators. In particular, requiring issuers to have prepared a detailed remediation plan for inclusion in the MCTO application two weeks before a potential default may be problematic – given that, during this same period, management will no doubt be very busy trying to resolve outstanding issues in the hope of avoiding a default in the first place. Issuers may also face challenging disclosure issues in making such "precautionary" applications, in determining whether the making of such an application is a material fact requiring a press release. Such a release may be premature if the application is being filed out of an abundance of caution – but could result in increased trading activity and a significant effect on the market price or value of the issuer's securities in anticipation of a default that never comes to pass. In light of these concerns with the two-week advance application requirement, the commenter suggested the following changes to proposed NP 12-203: • Issuers should be required to notify the regulators and issue a default announcement immediately upon management having a reasonable expectation that a filing deadline will not be met, but in any case no later than the due date of the filing; • Upon a specified default, an MCTO should generally be issued for a two-week period, after which it would automatically be converted into a general CTO unless the	NP 12-203 would represent a substantial change from current practice or result in a greater incidence of general CTOs. In addition, it is not currently the general practice of the CSA to a) issue a cease trade order only after "a continuing default" or b) issue a general CTO only following the imposition of an MCTO. Regulators may issue general CTOs immediately following a default. We have considered the comment relating to situations in which an issuer will be unable to determine whether it can comply with a specified requirement at least two weeks before its due date. We acknowledge that there will be situations where an issuer, notwithstanding the exercise of reasonable diligence, will be unable to determine whether it can comply with a specified requirement at least two weeks before its due date. Accordingly, we have amended the policy to reflect the commenter's concern. However, we believe that, in most cases, an issuer exercising reasonable diligence should be able to make this determination at least two weeks in advance of the deadline. The Canadian securities regulators will consider all relevant facts and circumstances in considering applications under the policy. If it is the case that an issuer could not, notwithstanding the exercise of reasonable diligence, make this determination at least two weeks before its due date, the issuer should include a brief explanation of the reasons for the delayed filing in its application.

	issuer files an application to maintain the MCTO; and • The application to maintain the MCTO would contain the same information currently proposed in NP 12-203 for MCTO applications. The commenter believed that providing issuers with a short grace period to prepare the MCTO application and remediation plan after a default occurs and before a general CTO is issued represents an appropriate balance between the competing objectives of maintaining liquidity and preventing trading in issuers' securities without sufficient secondary market disclosure.	
Part 6 – Effect of a CTO issued by a regulator in one jurisdiction on trading in another jurisdiction (Interaction with the RS Universal Market Integrity Rules (UMIR))	One commenter RS explained its role as a regulation services provider, including its role in administering and enforcing trading rules for the marketplaces it regulates. The commenter noted that, under its trading rules, if a Commission issues a general CTO, no order for the purchase or sale of a security may be executed on a marketplace or over-the-counter market governed by its trading rules. However, the trading rules do not recognize the concept of an MCTO and RS would not impose a regulatory halt in connection with an MCTO. RS further noted that, under its rules, any order entered on a marketplace must contain a marker that identifies the order as being entered on behalf of an insider. However, RS does not have the capacity to further distil trading by insiders named in an MCTO as opposed to insiders generally. RS expressed concern that the current text of Part 6 may provide a misleading description of the effect of a CTO with respect to the ability to trade in a security that is listed or quoted on a marketplace governed by its trading rules. RS suggested that language be added to make it clear that certain market participants may be subject to restrictions imposed by self-regulatory organizations including any exchange of which they are a member or a QTRS of which they are a user. RS further explained its process for imposing a regulatory halt as a result of the imposition of a general CTO. If a Commission issues a CTO with respect to an issuer whose securities are traded on a marketplace, RS imposes a regulatory halt on trading of those securities on all marketplaces for which RS serves as the regulation services provider. Such action is taken whether or not that commission that issued the CTO is the PR of the issuer. Once a regulatory halt has been imposed, no person	We thank the commenter for the comment and believe this provides a useful summary of the operation of the commenter's trading rules and the interaction of these rules with the CTO regime described in NP 12-203. We have revised Part 6 of proposed NP 12-203 in consultation with RS to clarify certain aspects of the policy that the commenter believed were unclear. CSA staff will continue to consult with RS to address any ongoing concerns.

	subject to UMIR may trade those securities on a marketplace, over-the-counter or on a foreign organized regulated market. Notwithstanding that the PR or another securities commission rescinds its CTO, the regulatory halt imposed by RS on all marketplaces for which RS serves as the regulation services provider will continue until all CTOs have been rescinded. RS noted that Part 6 of the Policy essentially provides a "yellow light" warning when conducting a trade off-marketplace or on a foreign organized regulated market in a security that is subject to a CTO. RS wished to emphasize that, in fact, its trading rules preclude such trading in many circumstances and was concerned that the cautionary nature of this Part of the Policy may be interpreted as providing an "over-ride" of the prohibitions imposed by its trading rules.	
Sample Form of Consent Appendix C	One commenter noted that item #9 in the proposed sample form of consent would prohibit individuals from trading in or acquiring an issuer's securities until two full business days after the required filings are made or until further order of the principal regulator. The commenter presumed that the objective of this provision was to provide sufficient time for capital markets participants to review and react to new material information that may be disclosed in filings made to remedy a default before trading by insiders is permitted. The commenter felt that, while that objective had merit, the provision was overly restrictive and inconsistent with the principles set out in National Policy 51-201 *Disclosure Standards* ("NP 51-201"). NP 51-201 encourages issuers to adopt a case-by-case approach to determining when material information may be considered to have been "generally disclosed". In the case of an MCTO being lifted, any new material information will be publicly filed on SEDAR and capital markets participants would have been made aware of its upcoming release through the issuer's bi-weekly updates. In these circumstances, where information is being broadly disseminated to a ready and waiting market, and given today's speed of information transmission through electronic means, a two business day holding period was unnecessary, as well as being unfairly restrictive for persons with no involvement in a particular default nor knowledge of material undisclosed information.	In certain jurisdictions, the current form of MCTO generally prohibits all trading in and all acquisitions of securities of the issuer until two business days following the receipt of all filings the issuer is required to make under applicable securities legislation. The reference to "two business days" in item 9 of the sample form of consent is intended to be consistent with this form. We generally agree with the commenter's description of the objective of this provision and the appropriate analysis for determining when material information may be considered to have been "generally disclosed". As part of an implementation strategy, CSA staff intend to review the forms of CTO and MCTO that are currently in use to determine whether they can be further harmonized. To the extent the current form of order is modified, we will accept corresponding modifications to the form of consent. We will also consider requests for a modification of this language on a case-by-case basis where the issuer is able to demonstrate that it is reasonable to consider information has been generally disclosed within a shorter time frame.

NATIONAL POLICY 12-203
CEASE TRADE ORDERS
FOR CONTINUOUS DISCLOSURE DEFAULTS

Part 1 – Introduction

1.1 What is the purpose of the policy?

This policy provides guidance to issuers, investors and other market participants as to how the Canadian Securities Administrators (CSA or we) will generally respond to certain types of serious continuous disclosure defaults (referred to as specified defaults in this policy) by a reporting issuer.

The policy provides guidance on the following questions:

1. When will a CSA securities regulatory authority or regulator (a CSA regulator) respond to a specified default by issuing a cease trade order (CTO)? What do we mean by the term "CTO"? Why do we issue CTOs?

2. When will a CSA regulator respond to a specified default by issuing a management cease trade order (MCTO)? What do we mean by the term "MCTO"? Why do we issue MCTOs?

3. If a CSA regulator issues an MCTO, what other actions will we ordinarily take in these circumstances? What do we expect from defaulting reporting issuers in these circumstances?

The guidance in this policy represents general guidance only. Each CSA regulator will decide how to respond to a specified default, including whether to issue a CTO (and if so, whether to issue a general CTO or an MCTO), on a case-by-case basis after considering all relevant facts and circumstances.

1.2 What is the scope of the policy?

(a) Application

This policy describes how the CSA regulators will ordinarily respond to a specified default by a reporting issuer. The term "specified default" is defined in part 2 of this policy and is based on the harmonized list of deficiencies developed by the CSA and described in CSA Notice 51-322 *Reporting Issuer Defaults* (CSA Notice 51-322). This notice describes the list of deficiencies that will generally result in a reporting issuer being noted in default of the securities laws of a particular jurisdiction.

The definition of "specified default" does not include certain defaults described in CSA Notice 51-322, such as a failure to file a material change report, or a failure to file technical disclosure or other reports required by National Instrument 43-101 *Standards of Disclosure for Mineral Projects* (NI 43-101) or National Instrument 51-101 *Standards of Disclosure for Oil and Gas Activities* (NI 51-101).

We have omitted these items from the definition because these filings will generally be non-periodic in nature, and in some cases it may be unclear whether the issuer has triggered a filing requirement. However, a CSA regulator may apply this policy if a reporting issuer is in default of a continuous disclosure requirement that is not included in the definition of specified default.

Similarly, a CSA regulator may apply this policy if a reporting issuer has made a required filing but the required filing is deficient in terms of content (a content deficiency). Examples of content deficiencies are set out in section 2 of CSA Notice 51-322.

(b) Mutual reliance principles

In deciding how to respond to a specified default, the CSA regulators will generally follow principles of mutual reliance. The issuer's principal regulator (PR) will normally be the one to decide whether to issue a CTO. The determination as to which regulator will act as PR will be based upon the principles set out in part 3 of National Policy 11-203 *Process for exemptive relief applications in multiple jurisdictions* (NP 11-203). This means that the PR will usually be the regulator in the jurisdiction where the reporting issuer's head office is located.

An issuer that wishes to apply for an MCTO under this policy must apply in the issuer's PR jurisdiction and send a copy of the application to the non-principal regulators in each other jurisdiction in which it is a reporting issuer. The issuer's PR will determine whether to issue a general CTO or an MCTO and, in the case of the latter, the appropriate scope of the MCTO. Non-principal regulators will ordinarily make the same decision as the PR on these questions. However, each regulator may still impose a general CTO if it believes it is appropriate.

(c) MCTOs issued under this policy are not a "penalty" or "sanction" for disclosure purposes

The CSA regulators do not consider MCTOs issued under this policy to be a "penalty or sanction" for the purposes of disclosure obligations in Canadian securities legislation relating to penalties or sanctions. They are not issued as part of an enforcement process and the regulators do not intend them to suggest a finding of fault or wrongdoing on the part of any individual named in the MCTO. For example, a defaulting issuer's board of directors might invite an individual to serve as an officer or director of the issuer to assist the issuer in remedying its default. The individual might have no prior involvement with the defaulting reporting issuer. The fact that the PR may subsequently name the individual in an MCTO does not mean the individual had any responsibility for the default, which occurred before the individual joined the issuer.

However, issuers are required to disclose MCTOs issued under this policy in accordance with the following disclosure requirements:

- Section 16.2 of Form 41-101F1 *Information Required in a Prospectus,*
- Item 16 of Form 44-101F1 *Short Form Prospectus*,
- Subsection 10.2(1) of Form 51-102F2 *Annual Information Form*, and
- Subsection 7.2 of Form 51-102F5 *Information Circular*.

If an issuer is required to include disclosure of an MCTO in a public filing, the issuer may supplement the disclosure with additional information explaining the circumstances of the MCTO.

(d) Regulators may consider other action, including enforcement action

If a reporting issuer is in default of a continuous disclosure requirement, the CSA regulators may also consider taking enforcement action against the reporting issuer, the directors and officers of the reporting issuer, or any other responsible party. Accordingly, nothing in this policy should be interpreted as limiting the discretion of the CSA regulators in responding to such a default through enforcement action.

Part 2 – Definitions and Interpretation

In this policy:

"alternative information guidelines" means the guidelines relating to a default announcement and default status report described in part 4 of this policy;

"cease trade order" and "CTO" mean an order under a provision of Canadian securities legislation, set out in Appendix A, that prohibits trading in securities of a reporting issuer, whether direct or indirect, by the persons or companies identified in the order, for such period as is specified in the order**;**

"default announcement" means a news release and report as described in section 4.3 of this policy;

"default status report" means a news release as described in section 4.4 of this policy;

"management cease trade order" and "MCTO" mean a CTO issued under this policy that prohibits trading in securities of a reporting issuer, whether direct or indirect, by

(a) the chief executive officer (CEO) of the reporting issuer,

(b) the chief financial officer (CFO) of the reporting issuer,

(c) at the discretion of the PR, the members of the board of directors of the reporting issuer or other persons or companies who had, or may have had, access directly or indirectly to any material fact or material change with respect to the reporting issuer that has not been generally disclosed, and

(d) in the case of a reporting issuer that does not have a CEO, CFO and/or a board of directors, individuals who perform similar functions to any of such positions;

"principal regulator" and "PR" mean an issuer's principal regulator as determined in accordance with part 3 of National Policy 11-203 *Process for exemptive relief applications in multiple jurisdictions* (NP 11-203).

"specified default" means a failure by a reporting issuer to comply with a specified requirement; and

"specified requirement" means the requirement to file within the time period prescribed by securities legislation

(a) annual financial statements;

(b) interim financial statements;

(c) annual or interim management's discussion and analysis (MD&A) or annual or interim management report of fund performance (MRFP);

(d) annual information form (AIF); or

(e) certification of filings under Multilateral Instrument 52-109 *Certification of Disclosure in Issuers' Annual and Interim Filings*.

In certain jurisdictions, the CSA regulators may issue cease trade orders and management cease trade orders that prohibit both trading in and acquisitions of securities of a reporting issuer. In these jurisdictions, references in this policy to a "trade" refers to both a trade in or acquisition of securities of the reporting issuer.

In Quebec, "trade" is not defined in the *Securities Act* (QSA). This policy covers all securities transactions that may be the object of an order provided for in paragraph 3 of section 265 of the QSA.

Part 3 – Regulatory responses to a specified default

3.1 Issuance of a general CTO or an MCTO

In the jurisdictions where the issuer is a reporting issuer, the CSA regulators will respond to a specified default by noting the issuer in default on their default lists. For more information about the CSA default lists, please refer to CSA Notice 51-322.

The CSA regulators will then ordinarily respond to a specified default in one of two ways:

- The issuer's PR may issue a CTO.
- Alternatively, if an issuer applies under part 4 of this policy, and demonstrates that it is able to comply with this policy, the issuer's PR may issue an MCTO instead.

The issuer's PR will decide whether to proceed with a CTO (including whether to issue an MCTO) after considering the principles, factors and criteria described in part 4 of this policy and any other facts and circumstances the PR considers relevant. If the issuer's PR decides an MCTO is appropriate, it will similarly decide whether to extend it to the issuer's board of directors or other persons or companies.

If the issuer's PR issues a CTO, the non-principal regulators in the jurisdictions in which the issuer is a reporting issuer will generally issue similar CTOs to ensure the CTO is effective in their jurisdictions. If the issuer's PR issues an MCTO, the non-principal regulators in the jurisdictions in which the issuer is a reporting issuer will generally issue similar MCTOs in respect of persons or companies named in the MCTO who reside in their jurisdiction.

The CSA regulators will generally not grant exemptive relief to a reporting issuer to extend a continuous disclosure filing deadline to enable an issuer to avoid a default. The deadlines relating to the specified requirements represent the CSA's view as to reasonable and appropriate deadlines that should apply to reporting issuers in a consistent manner. While we recognize that issuers may sometimes face difficulties in complying with filing deadlines due to circumstances beyond their control, we do not believe it is appropriate to vary a filing deadline simply to allow an issuer to avoid being in default. The CSA regulators will consider the issuer's circumstances in deciding what action, if any, is appropriate to respond to a default.

If a defaulting reporting issuer is insolvent and is the subject of a stay of proceedings or similar order under the *Companies' Creditors Arrangement Act*, R.S.C. 1985, c. C-36, as amended, or the *Bankruptcy and Insolvency Act*, R.S.C. 1985, c. B-3, as amended, or similar legislation, the CSA regulators will generally note the issuer in default but take no other action until the relevant stay is lifted, provided the issuer complies with the alternative information guidelines. In situations where this is not the case, or where the default is expected to continue for an extended period, the CSA regulators will determine whether further action is warranted after considering all relevant factors and circumstances.

3.2 Why do we issue cease trade orders in response to a specified default?

Historically, if a reporting issuer has failed to comply with a specified requirement, such as the requirement to file audited annual financial statements, the CSA regulators have generally responded to this default by issuing a CTO.

The CSA regulators have historically taken this action for the following reasons:

- Without adequate continuous disclosure, there may not be sufficient information in the securities marketplace to properly support informed trading decisions regarding securities of the issuer.

- The integrity and fairness, or confidence in the integrity and fairness, of the capital markets, may be compromised if trading in securities of the reporting issuer is permitted to continue during the period of default (when there is heightened potential that some people may have access to information that would normally be reflected in the continuous disclosure document that the reporting issuer is in default of filing).

We acknowledge that a CTO can impose a burden on issuers and investors because

- existing investors are unable to sell their securities, and prospective investors are unable to purchase securities of the issuer, while the CTO remains in effect, and

- issuers are generally unable to access financing while the CTO remains in effect.

Nevertheless, if a reporting issuer is in default of a specified requirement, our overriding concern is generally investor protection. Investors and prospective investors should be able to make an informed investment decision about the securities of the defaulting reporting issuer.

The practice of responding to a specified default with a CTO has a significant positive effect on general compliance. The prospect of a CTO creates a strong incentive for the reporting issuer's management to ensure that the reporting issuer does not go into default. Similarly, the issuance of a CTO once the issuer is in default creates a strong incentive on the part of management to diligently rectify the filing default.

Finally, a CTO represents a rapid, public response by the CSA regulators to a serious continuous disclosure default by a reporting issuer. This sends a message to issuers and investors that filing deadlines are important and that there will be serious consequences for a failure to file, helping to preserve integrity and fairness in the securities marketplace.

Part 4 – Applications for an MCTO as an alternative to a general CTO

4.1 Eligibility criteria

A CTO is an appropriate response to a specified default that is not likely to be rectified within a relatively short time and where the circumstances leading to the default are likely to continue. These circumstances include issuers that no longer have an active business, are insolvent, or have lost a majority of their board of directors.

If the outstanding filing is expected to be filed relatively quickly, and the default is not expected to be recurring, an MCTO may be an appropriate response to the default.

Issuers satisfying all of the following criteria are usually eligible for an MCTO:

- The outstanding filings will be filed as soon as they are available and within a reasonable period. In most cases, we expect this to be within two months. However, in exceptional circumstances, as determined by the PR, we may permit an issuer to take longer than two months to address the default.

- The issuer is generating revenue from its principal business or, if it is in the development stage, the issuer is actively pursuing the development of its products or properties.

- The issuer has the necessary financial and human resources, including a reasonable number of directors and officers in place, to address the default in a timely and effective manner and comply with all other continuous disclosure requirements (other than requirements reasonably linked to the specified default) for the duration of the default.

- The issuer's securities are listed on a Canadian stock exchange and there is an active, liquid market for those securities. Thinly traded issuers will generally not be considered eligible for an MCTO.

- The issuer is not on the defaulting reporting issuer list in any CSA jurisdiction for any reason other than the failure to comply with the specified requirement (and any other requirement that is reasonably linked to the specified requirement).

4.2 Contents of application

If an issuer satisfies the eligibility criteria set out above, it should contact its PR at least two weeks before the due date for the required filings and apply in writing for an MCTO instead of a general CTO against the issuer.

We acknowledge that there will be situations where an issuer, notwithstanding the exercise of reasonable diligence, will be unable to determine whether it can comply with a specified requirement at least two weeks before its due date. However, we believe that, in most cases, an issuer exercising reasonable diligence should be able to make this determination at least two weeks in advance of the deadline.

If an issuer, notwithstanding the exercise of reasonable diligence, is not able to make this determination at least two weeks before its due date, the issuer should include a brief explanation of the reasons for the delayed filing in its application.

In its application, the issuer should

- identify the specified default, the reasons for the default and the anticipated duration of the default;
- explain how the issuer satisfies each of the eligibility criteria described above;
- set out a detailed remediation plan that explains how the issuer proposes to remedy the default and includes a realistic timetable for remedying the default;
- include consents signed by the CEO and the CFO (or equivalent) to the issuance of an MCTO (see Appendix C);
- include a copy of the proposed or actual default announcement (see section 4.3);
- confirm that the issuer will comply with the alternative information guidelines described in sections 4.3 and 4.4 of this policy;
- include a copy of the issuer undertaking described in section 4.7 of this policy; and
- briefly describe the issuer's blackout policies and other policies and procedures relating to insider trading.

The issuer should send copies of the application to the regulators in all jurisdictions in which the issuer is a reporting issuer.

We will consider an issuer's history of complying with its continuous disclosure obligations when evaluating the issuer's request for an MCTO.

4.3 Alternative information guidelines – Default Announcement

If a reporting issuer determines that it will not comply, or subsequently determines that it has not complied, with a specified requirement, this will often represent a material change that the issuer should immediately communicate to the securities marketplace by way of a news release and material change report in accordance with part 7 of NI 51-102 *Continuous Disclosure Obligations*. In determining whether a failure to comply with a specified requirement is a material change, the issuer should consider both the events leading to the failure and the failure itself.

If the circumstances leading to the default, or the default, do not represent a material change, the issuer should nevertheless consider whether the circumstances involve important information that should be immediately communicated to the marketplace by way of news release.

The regulators will generally not exercise their discretion to issue an MCTO unless the issuer issues and files a default announcement containing the information set out below. If the default involves a material change, the material change report may contain this information, in which case a separate default announcement is not necessary. The default announcement should be authorized by the CEO or the CFO (or equivalent) of the reporting issuer, be approved by the board or audit committee and be prepared and filed with the CSA regulators on SEDAR in the same manner as a news release and material change report referred to in part 7 of NI 51-102. An issuer will usually be able to determine that it will not comply with a specified requirement at least two weeks before its due date and, as soon as it makes this determination, should issue the default announcement.

The default announcement should:

(i) identify the relevant specified requirement and the (anticipated) default;

(ii) disclose in detail the reason(s) for the (anticipated) default;

(iii) disclose the current plans of the reporting issuer to remedy the default, including the date it anticipates remedying the default;

(iv) confirm that the reporting issuer intends to satisfy the provisions of the alternative information guidelines so long as it remains in default of a specified requirement;

(v) disclose relevant particulars of any insolvency proceeding to which the reporting issuer is subject, including the nature and timing of information that is required to be provided to creditors, and confirm that the reporting issuer intends to file with the CSA regulators throughout the period in which it is in default, the same information it provides to its creditors when the information is provided to the creditors and in the same manner as it would file a material change report under part 7 of NI 51-102; and

(vi) subject to section 4.5 of this policy, disclose any other material information concerning the affairs of the reporting issuer that has not been generally disclosed.

A default announcement is not needed if the issuer is in default of a previous specified requirement, has followed the provisions of section 4.3 regarding a default announcement of that earlier default and is complying with the provisions of section 4.4 regarding default status reports.

4.4 Alternative information guidelines – Default Status Reports

After the default announcement, and during the period of the MCTO, the regulators will generally exercise their discretion to issue a general CTO unless the defaulting reporting issuer issues bi-weekly default status reports, in the form of news releases, containing the following information:

(i) any material changes to the information contained in the default announcement or subsequent default status reports, including a description of all actions taken to remedy the default and the status of any investigations into any events which may have contributed to the default;

(ii) particulars of any failure by the defaulting reporting issuer in fulfilling its stated intentions with respect to satisfying the provisions of the alternative information guidelines;

(iii) information regarding any (anticipated) specified default subsequent to the default which is the subject of the default announcement; and

(iv) subject to section 4.5 of this policy, any other material information concerning the affairs of the reporting issuer that has not been generally disclosed.

Where there are no changes otherwise required to be disclosed in items (i) to (iv), this fact should be disclosed in a default status report.

To keep the market continuously informed of any developments during the period of default, the issuer should issue default status reports every two weeks following the default announcement. If a CSA regulator, at any time, issues a general CTO against an issuer, default status reports will no longer be necessary.

Every default status report should be prepared, authorized, filed and communicated to the securities marketplace in the same manner as that specified in section 4.3 for a default announcement.

4.5 Confidential material information

The alternative information guidelines in this policy supplement the material change reporting requirements in NI 51-102 and should be interpreted in a similar manner. Similar to the procedures in NI 51-102, an issuer may omit confidential material information from default status announcement or default status reports if in the opinion of the issuer, and if that opinion is arrived at in a reasonable manner, disclosure of the applicable material information would be unduly detrimental to the interests of the reporting issuer.

4.6 Compliance with other continuous disclosure requirements

The alternative disclosure described in sections 4.3 and 4.4 of this policy supplement the issuer's disclosure record during the period of default. It does not provide an alternative to the continuous disclosure requirements under Canadian securities legislation.

If a reporting issuer is in default of a specified requirement, the issuer must still comply with all other applicable continuous disclosure requirements, other than requirements reasonably linked to the specified requirement in question. For example, an issuer that has not filed its financial statements on time will also be unable to comply with the requirement to file management's discussion and analysis under NI 51-102. However, failure to comply with a requirement to file audited financial statements in accordance with the requirements of part 4 of NI 51-102 does not excuse compliance with other requirements of NI 51-102 such as the requirement to file an Annual Information Form in accordance with part 6 of NI 51-102 or material change reports in accordance with part 7 of NI 51-102.

4.7 Issuer undertaking to cease certain trading activities

The reporting issuer should include with the application an undertaking that, for so long as the issuer is in default of the specified requirement in question, the issuer will not, directly or indirectly, issue securities to or acquire securities from an insider or employee of the issuer except in accordance with legally binding obligations to do so existing as of the date of the continuous disclosure default. The issuer should address the undertaking to the securities regulatory authorities of each jurisdiction in which the issuer is a reporting issuer.

4.8 Information respecting defaulting reporting issuers subject to insolvency proceedings

As explained in section 3.1, if a defaulting reporting issuer is insolvent and under Court protection, the CSA will generally note the issuer in default but take no other action until the relevant stay is lifted provided the issuer complies with the alternative information guidelines.

If a defaulting reporting issuer is the subject of insolvency proceedings but not under court protection, we will consider an application for an MCTO in cases where

(a) the issuer retains title to its assets,

(b) the issuer's directors and officers continue to manage the affairs of the issuer, and

(c) the issuer

  (i) files a default announcement,

  (ii) files default status reports,

  (iii) files a report disclosing the information it provides to its creditors

    - simultaneously with delivery to its creditors, and
    - in the same manner as a report of a material change referred to in part 7 of NI 51-102; and

  (iv) otherwise complies with this policy.

If the issuer chooses to file the information provided to creditors with a material change report, then, for purposes of filing on SEDAR, this must be contained in the same electronic document as the material change report.

4.9 Financial information in default announcements and default status reports

Any unaudited financial information that is communicated to the marketplace should, except in certain circumstances involving insolvency, be directly derived from financial statements prepared and presented in accordance with generally accepted accounting principles. In default announcements and default status reports, this information should be accompanied by cautionary language that the information has been prepared by management of the defaulting reporting issuer and is unaudited.

4.10 Default correction announcement

Once the specified default is remedied, the reporting issuer should consider communicating that information to the securities marketplace in the same manner as that specified in this policy for a default announcement.

Part 5 – Trading by management and other insiders during the period of default

Issuers in default of a specified requirement should closely monitor and generally restrict trading by management and other insiders due to the increased risk that such persons may have access to material undisclosed information. Such information may include information that would otherwise have been reflected in the continuous disclosure filing that is the subject of the default, information about any investigation into the events that may have led to the default, and information about the status of remediation activities.

We remind management and other insiders that they should carefully consider the insider trading prohibitions under securities legislation before entering into any transaction involving securities of the issuer in default.

The CSA have articulated in National Policy 51-201 *Disclosure Standards* detailed best practices for issuers for disclosure and information containment and have provided an interpretation of insider trading laws. Issuers should adopt written disclosure policies to assist directors, officers and employees and other representatives in discharging timely disclosure obligations. Written disclosure policies should also provide guidance on how to maintain the confidentiality of corporate information and to prevent improper trading on inside information. Adopting the CSA best practices may assist issuers to take all reasonable steps to preserve the confidentiality of non-public information.

We also remind issuers and other market participants that an officer or other insider of a reporting issuer in default will generally be unable to sell securities acquired from the issuer on an exempt basis because of the resale restrictions in section 2.5(2)(7) and s. 2.6(3)(5) of National Instrument 45-102 *Resale of Securities*.

Part 6 – Effect of a CTO issued by a regulator in one jurisdiction on trading in another jurisdiction

Presently, all marketplaces (including exchanges, alternative trading systems and quotation and trade reporting systems) in Canada have retained Investment Industry Regulatory Organization of Canada (IIROC) as their regulation services provider. Under the Universal Market Integrity Rules (UMIR), which have been adopted by IIROC, if a securities commission issues a CTO with respect to an issuer whose securities are traded on a marketplace, IIROC imposes a regulatory halt on trading of those securities on all marketplaces for which IIROC acts as the regulation services provider. Such halt is taken whether or not the CSA regulator that issued the CTO is the PR of the issuer and once the halt is imposed by IIROC, no person subject to UMIR may trade those securities on any marketplace in Canada, over-the-counter or on a foreign organized regulated market. Therefore, the remainder of the guidance in this part deals with market participants who are not otherwise subject to the jurisdiction of IIROC.

Market participants should be cautious about trading in a security in one jurisdiction if a CSA regulator in another jurisdiction has issued a CTO. In most cases, if an issuer's PR issued a CTO in response to a failure by the issuer to comply with a material continuous disclosure requirement, the non-principal regulator will issue a reciprocal CTO on similar terms and conditions.

Continuous disclosure obligations reflect the minimum requirements we feel are necessary to generate sufficient public disclosure to permit investors to make informed investment decisions. The issuance of a CTO by the issuer's PR will generally mean that an issuer has not met the required standard and that there is a significant risk of harm to investors if trading is allowed to continue. Accordingly, market participants should carefully consider the existence of the material continuous disclosure default, and the determination of the issuer's PR, before effecting a trade in a non-principal regulator jurisdiction. Although a trade in one jurisdiction may not violate a CTO in another jurisdiction, the trading activity may still be contrary to the public interest and therefore subject to enforcement or other administrative proceedings.

If a market participant intends to execute a trade in securities of a cease-traded issuer on an exchange or marketplace outside of Canada, the market participant should carefully consider whether the trade may nevertheless be considered to be or include a trade within one or more jurisdictions in Canada where a CTO is in effect. For example, a transaction may be a trade in another jurisdiction if "acts in furtherance of the trade" occur within that jurisdiction. A transaction may also be a trade in another jurisdiction if there are connecting factors or other facts and circumstances that indicate that the securities may not "come to rest" outside Canada but may be resold to investors in a jurisdiction where a CTO is in effect.

Part 7 – Effective date

This policy comes into force on September 1, 2008.

Appendix A
Statutory Provisions for Cease Trade Orders

Jurisdiction	Legislative reference
British Columbia	Sections 161 and 164 of the *Securities Act* (British Columbia)
Alberta	Sections 33.1 and 198 of the *Securities Act* (Alberta)
Saskatchewan	Section 134.1 of *The Securities Act, 1988*
Manitoba	Sections 147.1 and 148 of the *Securities Act* (Manitoba)
Ontario	Section 127 of the *Securities Act* (Ontario)
Quebec	Section 265 of the *Securities Act* (Quebec)
Newfoundland and Labrador	Section 127(1) of the Securities Act (Newfoundland and Labrador)
Nova Scotia	Section 134 of the *Securities Act* (Nova Scotia)
New Brunswick	Section 188.2 of the *Securities Act* (New Brunswick)

Appendix B
Lists of defaulting reporting issuers

Certain securities regulatory authorities maintain lists that identify those reporting issuers that have been noted in default in the relevant jurisdiction. The lists identify the name of the reporting issuer, and the nature and description of the default. The lists, together with the harmonized categories of default and nomenclature used to identify each category, can be found on the following websites:

www.bcsc.bc.ca

www.albertasecurities.com

www.sfsc.gov.sk.ca

www.msc.gov.mb.ca

www.osc.gov.on.ca

www.lautorite.qc.ca

www.nbsc-cvmnb.ca

www.gov.ns.ca/nssc

Certain securities regulatory authorities have also published policies or notices containing information relating to defaults by reporting issuers. These local polices or notices are:

Alberta:	Alberta Securities Commission Policy 51-601 – *Reporting Issuers List*
Saskatchewan:	Saskatchewan Policy Statement 51-601 – *Reporting Issuers in Default*
Manitoba:	Manitoba Securities Commission Local Policy 51-601 – *Reporting Issuers List*
Ontario:	Ontario Securities Commission Policy 51-601 – *Reporting Issuer Defaults*
Quebec:	AMF Notice on Reporting Issuer Defaults
New Brunswick:	New Brunswick Securities Commission Policy 51-601 – *Reporting Issuers List*
Nova Scotia	Nova Scotia Securities Commission Policy 51-601 – *Reporting Issuers List*

Appendix C
Sample Form of Consent

CONSENT

To: [*Name of Issuer's Principal Regulator*], as principal regulator,

And to: [*Name(s) of other CSA regulator(s) in whose jurisdiction(s) the Issuer is a reporting issuer*] (collectively with the principal regulator, the CSA regulators)

Re: **Consent to issuance of management cease trade order**

I, [*name of individual providing the consent*] hereby confirm as follows:

1. I am the [*name of position with the Issuer, e.g., the chief executive officer or chief financial officer*] of [*name of Issuer*] (the Issuer).

2. The Issuer is a [*nature of entity, e.g., a corporation incorporated under the Canada Business Corporations Act*] with a head office located in [*province or territory*].

3. The Issuer is a reporting issuer in [*identify all jurisdictions in which the issuer is a reporting issuer*]. The Issuer's principal regulator, as determined in accordance with part 3 of National Policy 11-203 *Process for exemptive relief applications in multiple jurisdictions* (NP 11-203) is [*name of principal regulator*].

4. The Issuer [*is*] [*is not*] [*delete as applicable*] a "venture issuer" as defined in National Instrument 51-102 *Continuous Disclosure Obligations* (NI 51-102). The Issuer has a financial year ending [*state the issuer's year end, e.g., December 31*].

5. On or about [*identify the deadline for filing*] (the filing deadline), the Issuer will be required to file [*briefly describe the required filings, e.g.,*

   a. *audited annual financial statements for the year ended December 31, 2007, as required by Part 4 of NI 51-102;*

   b. *management's discussion and analysis (MD&A) relating to the audited annual financial statements, as required by Part 5 of NI 51-102; and*

   c. *CEO and CFO certificates relating to the audited annual financial statements, as required by National Instrument 52-109 Certification of Disclosure in Issuers' Annual and Interim Filings (collectively, the required filings).*

6. The Issuer has determined that it may not be able to make the required filings by the filing deadline. The Issuer wishes to apply to the CSA regulators for a management cease trade order (an MCTO) as an alternative to a general cease trade order in accordance with National Policy 12-203 *Cease Trade Orders for Continuous Disclosure Defaults* (NP 12-203).

7. I am providing this consent in support of the Issuer's application for an MCTO in accordance with Part 4 of NP 12-203.

8. I hereby consent to the issuance of an MCTO against me by the Issuer's principal regulator under the applicable statutory authority listed in Appendix A to NP 12-203.

9. Specifically, I understand that the MCTO will prohibit me from trading in or acquiring securities of the Issuer, directly or indirectly, until two full business days following the receipt by the principal regulator of all filings the Issuer is required to make under the securities legislation of the principal regulator or until further Order of the principal regulator.

10. I hereby further consent to the issuance of any substantially similar MCTO that another CSA regulator may consider necessary to issue by reason of the default described above.

11. I hereby waive any requirement of a hearing, as may be provided for under the applicable statutory authority listed in Appendix A to NP 12-203, and any corresponding notice of hearing, in respect of the issuance of the MCTO.

DATED this day of [DATE]

by : _____
Name:
Title:

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

REPORTS OF TRADES SUBMITTED ON FORMS 45-106F1 AND 45-501F1

Transaction Date	No of Purchasers	Issuer/Security	Total Purchase Price ($)	No of Securities Distributed
08/01/2008	1	Accel - KKR Capital Partners III, LP - Limited Partnership Interest	7,689,750.00	1.00
08/05/2008	15	Arctic Star Diamond Corp. - Flow-Through Units	907,000.00	9,070,000.00
05/26/2008 to 06/02/2008	7	Argenta Oil & Gas Inc. - Common Share Purchase Warrant	1,306,250.00	2,450,000.00
05/26/2008 to 06/02/2008	7	Argenta Oil & Gas Inc. - Common Shares	1,306,250.00	8,000,000.00
07/16/2008 to 07/19/2008	4	Bison Income Trust II - Units	78,134.30	7,813.43
07/18/2008	10	Canadian Arrow Mines Limited - Flow-Through Shares	1,499,452.50	4,284,150.00
08/08/2008	2	CardioComm Solutions Inc. - Units	350,000.00	3,500,000.00
07/21/2008	1	CPI Capital Partners Asia Pacific II (Cayman) LP - Units	10,025,000.00	10,000.00
07/21/2008	1	CPI Capital Partners Asia Pacific II (Delaware) LP - Units	250,625.00	250,000.00
07/30/2008	97	Cuadrilla Resources Corp. - Common Shares	2,397,760.40	3,996,267.00
07/11/2008	1	Drakkar Energy Ltd. - Common Shares	19,714.50	13,143.00
08/11/2008	2	DynaMotive Energy Systems Corporation - Common Shares	196,571.00	510,475.00
07/28/2008	13	Ecosynthetix Inc. - Preferred Shares	3,250,000.00	180,804.00
08/06/2008	5	Empire Mining Corporation - Units	2,079,999.00	6,933,332.00
07/31/2008	20	FCI Energy Opportunities (Cdn) L.P. - Limited Partnership Units	14,800,000.00	148,000.00
08/07/2008	1	First Leaside Elite Limited Partnership - Units	141,843.00	141,843.00
08/07/2008	1	First Leaside Finance Inc. - Units	150,000.00	150,000.00
08/07/2008	1	First Leaside Fund - Units	3,896.43	3,707.00
08/06/2008 to 08/12/2008	2	First Leaside Fund - Units	45,000.00	45,000.00
08/06/2008 to 08/07/2008	2	First Leaside Fund - Units	27,000.00	27,000.00

Transaction Date	No of Purchasers	Issuer/Security	Total Purchase Price ($)	No of Securities Distributed
08/07/2008	1	First Leaside Visions I Limited Partnership - Unit	100,000.00	1.00
08/07/2008	2	First Leaside Wealth Management Inc. - Notes	111,872.00	111,872.00
08/07/2008	1	First Leaside Wealth Management Inc. - Preferred Shares	25,000.00	25,000.00
08/18/2007	3	Forent Energy LTD. - Flow-Through Shares	3,506,005.00	3,048,700.00
07/25/2008	3	Forterra Environmental Corp. - Units	34,349.85	228,999.00
08/14/2008	46	Fox Resources Ltd. - Common Shares	210,000.00	700,000.00
08/14/2008	25	Fox Resources Ltd. - Flow-Through Shares	180,000.00	450,000.00
07/16/2008 to 07/18/2008	17	Garson Gold Corp. - Common Shares	1,693,004.75	11,286,697.00
08/04/2008 to 08/08/2008	14	General Motors Acceptance Corporation of Canada, Limited - Notes	3,841,656.78	3,841,656.78
08/13/2008	11	GGL Diamond Corp. - Flow-Through Shares	475,000.00	1,900,000.00
08/13/2008	9	GGL Diamond Corp. - Units	571,000.00	2,855,000.00
08/08/2008 to 08/15/2008	11	Green Breeze Energy Systems Inc. - Common Shares	360,000.00	180,000.00
08/11/2008	3	Gridpoint Systems Inc. - Notes	213,520.03	2.00
08/11/2008	1	HTN Inc. - Common Shares	120,000.00	2,400,000.00
08/11/2008 to 08/13/2008	3	Kodiak Exploration Limited - Common Shares	15,000.00	8,642.00
08/12/2008	2	Kodiak Oil & Gas Corp. - Common Shares	213,160.00	73,000.00
07/01/2007 to 06/30/2008	2	Legg Mason Absolute Return Master Trust - Units	97,379,066.69	10,795,067.64
07/01/2007 to 06/30/2008	27	Legg Mason Accufund - Units	23,029,928.10	1,028,088.36
07/01/2007 to 06/30/2008	40	Legg Mason Batterymarch Canadian Core Equity Fund - Units	58,004,203.92	484,767,395.13
07/01/2007 to 06/30/2008	3	Legg Mason Batterymarch Canadian Small Cap Fund - Units	20,950,294.05	861,352.31
07/01/2007 to 06/30/2008	1	Legg Mason Batterymarch North American Equity Fund - Units	15,344,309.01	59,505.31
07/01/2007 to 06/30/2008	174	Legg Mason Batterymarch U.S. Equity Fund - Units	104,504,148.80	913,554.67
07/01/2007 to 06/30/2008	103	Legg Mason Brandywine Fundamental Value U.S. Equity Fund - Units	10,987,856.28	1,043,454.52
07/01/2007 to 07/30/2008	5	Legg Mason Brandywine Global Equity Fund - Units	38,875,942.57	3,901,981.45

Transaction Date	No of Purchasers	Issuer/Security	Total Purchase Price ($)	No of Securities Distributed
07/01/2007 to 06/30/2008	5	Legg Mason Brandywine Global Fixed Income Fund - Units	159,075,716.62	16,965,914.69
07/01/2007 to 06/30/2008	419	Legg Mason Brandywine International Equity Fund - Units	100,929,031.87	4,249,333.35
07/01/2007 to 06/30/2008	23	Legg Mason Diversified - Units	121,650,645.32	772,805.52
07/01/2007 to 06/30/2008	18	Legg Mason Private Capital Management U.S. Equity Fund - Units	11,921,463.34	1,129,474.72
07/01/2007 to 06/30/2008	409	Legg Mason U.S. Value Fund - Units	54,898,687.12	7,113,687.07
07/01/2007 to 06/30/2008	89	Legg Mason Western Asset Canadian Core Bond Fund - Units	144,089,564.42	6,006,124.86
07/01/2007 to 06/30/2008	5	Legg Mason Western Asset Canadian Income Fund - Units	25,775,108.81	165,243.07
07/01/2007 to 06/30/2008	159	Legg Mason Western Asset Canadian Money Market Fund - Units	2,102,220,190.40	NA
08/05/2008	3	Long Harbour Capital Corp. - Common Shares	70,000.00	200,000.00
03/27/2008 to 05/22/2008	80	Longbow Capital Limited Partnership #17 - Limited Partnership Units	8,484,000.00	8,484.00
06/13/2008 to 07/10/2008	69	Longbow Capital Limited Partnership #17 - Limited Partnership Units	6,066,000.00	6,066.00
07/16/2008	15	Manicouagan Minerals Inc. - Common Shares	1,180,000.00	5,900,000.00
06/30/2008	13	Marport Deep Sea Technologies Inc. - Common Shares	1,455,000.00	1,455,000.00
08/14/2008	10	Mashup Arts Inc. - Common Shares	952,355.50	2,721,014.00
08/05/2008	31	Merit Mining Corp. - Debentures	1,060,000.00	4.00
06/12/2008	14	MicroPlanet Technology Corp. - Units	6,918,535.00	10,643,900.00
07/18/2008	2	MicroPlanet Technology Corp. - Units	159,250.00	245,000.00
08/01/2008	1	Millennium International Ltd. - Preferred Shares	820,240.00	NA
12/01/2007	1	Millennium International Ltd. - Preferred Shares	1,244,622.00	NA
08/12/2008	1	Multimedia Nova Corporation - Common Shares	50,000.00	100,000.00
06/12/2008	1	National Australia Bank Limited - Notes	5,112,500.00	5,000,000.00
07/25/2008	1	Nayarit Gold Inc. - Common Shares	280,000.00	500,000.00
08/16/2008	18	Nelson Financial Group Ltd. - Notes	1,852,384.50	18.00
07/17/2008 to 07/21/2008	5	Newport Canadian Equity Fund - Units	185,000.00	1,263.03

Transaction Date	No of Purchasers	Issuer/Security	Total Purchase Price ($)	No of Securities Distributed
07/18/2008 to 07/21/2008	3	Newport Fixed Income Fund - Units	49,000.00	483.98
07/17/2008 to 07/21/2008	3	Newport Global Equity Fund - Units	155,000.00	2,195.32
07/16/2008 to 07/21/2008	8	Newport Yield Fund - Units	139,585.12	1,182.80
08/07/2008	24	North Peace Energy Corp. - Flow-Through Shares	5,999,994.00	3,636,360.00
08/07/2008	49	North Peace Energy Corp. - Units	19,999,950.00	13,333,300.00
08/14/2008	3	Octopz Inc. - Debenture	1,085,000.00	1.00
07/31/2008	1	Pacific & Western Bank of Canada - Common Shares	12,920,000.00	12,920,000.00
12/31/2007	25	PetLynx Corporation - Common Shares	274,000.00	2,750,000.00
08/05/2008	4	Platinum 5 Acres and a Mule Limited Partnership - Limited Partnership Units	700,000.00	28.00
07/24/2008	5	Royal Bank Principal Protected UBS Commodity Portfolio Algorithmic Strategy System - Units	3,500,000.00	260,000.00
08/08/2008	8	SeaMiles Limited - Common Shares	498,900.00	190,000.00
08/07/2008	58	Secure Energy Services Inc. - Common Shares	34,821,100.00	10,300,000.00
06/06/2008	5	Sextant Strategic Opportunities Hedge Fund LP - Units	221,500.00	6,680.60
06/13/2008	8	Sextant Strategic Opportunities Hedge Fund LP - Units	365,470.00	11,200.40
08/15/2008	8	Shear Minerals Ltd. - Common Shares	1,041,500.00	3,962,000.00
08/15/2008	1	Shear Minerals Ltd. - Units	100,000.00	604,000.00
08/07/2008	20	Silverback Energy Ltd. - Common Shares	1,015,000.00	1,015,000.00
08/07/2008	7	Silverback Energy Ltd. - Flow-Through Shares	177,000.00	177,000.00
07/08/2008	17	Slater Mining Corporation - Common Shares	360,000.00	3,600,000.00
08/11/2008	1	Solutia Inc. - Common Shares	2,775,760.00	200,000.00
08/05/2008	2	Sprylogics International Corp. - Units	34,500.00	230,000.00
07/28/2008	1	Takara Resources Inc. - Common Shares	28,000.00	200,000.00
07/01/2007 to 06/30/2008	1	The GS+A Global Fund - Trust Units	122,587.91	1,024.36
07/01/2007 to 06/30/2008	277	The GS+A Growth Fund - Trust Units	27,132,664.49	283,125.94

Transaction Date	No of Purchasers	Issuer/Security	Total Purchase Price ($)	No of Securities Distributed
07/01/2007 to 06/30/2008	153	The GS+A Premium Income Fund - Trust Units	17,527,201.36	98,389.63
07/01/2007 to 06/30/2008	3	The GS+A Small-Cap Fund - Trust Units	801,461.90	4,182.53
08/01/2007 to 06/30/2008	506	The GS+A Value Fund - Trust Units	69,226,737.34	314,462.20
07/04/2008	1	The Rosseau Resort Developments Inc. - Unit	499,900.00	1.00
06/12/2008 to 06/17/2008	4	Trez Capital Corporation - Mortgage	600,000.00	3.00
08/05/2008	1	UBS Active Commodity Certificates Maturing 31 December 2012 - Units	24,136.37	22.00
08/08/2008	1	UCP III Co-Investments (A), L.P. - Limited Partnership Unit	29,094,000.00	1.00
08/08/2008	1	Unison Capital Partners III (A) L.P. - Limited Partnership Interest	96,980,000.00	1.00
07/22/2008 to 07/28/2008	6	Unitech Energy Resources Inc. - Common Shares	110,000.00	2,200,000.00
07/22/2008 to 07/28/2008	5	Unitech Energy Resources Inc. - Flow-Through Shares	133,249.97	1,903,571.00
07/22/2008 to 07/28/2008	25	Unitech Energy Resources Inc. - Units	431,892.00	3,599,100.00
08/01/2008	29	Velo Energy Inc. - Common Shares	1,500,000.00	30,000,000.00
08/08/2008	1	Vencan Gold Corporation - Units	250,000.00	5,000,000.00
08/13/2008	4	Vencan Gold Corporation - Units	326,500.00	6,530,000.00
04/30/2008	8	Wescorp Energy Inc. - Units	360,000.00	8.00
07/15/2008	55	West Hawk Development Corp. - Flow-Through Shares	5,955,499.90	17,015,714.00
07/15/2008	65	West Hawk Development Corp. - Units	5,671,354.80	18,904,516.00
08/06/2008	41	Weststar Resources Corp. - Units	438,000.00	3,650,000.00
08/07/2008 to 08/11/2008	2	Wimberly Apartments Limited Partnership - Units	144,975.71	196,082.00
07/23/2008	2	XTO Energy Inc. - Common Shares	9,684,000.00	200,000.00

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Chapter 11

IPOs, New Issues and Secondary Financings

Issuer Name:
Azimut Exploration Inc.
Principal Regulator - Quebec
Type and Date:
Preliminary Short Form Prospectus dated August 25, 2008
NP 11-202 Receipt dated August 26, 2008
Offering Price and Description:
$ * - * Common Shares and * Flow-Through Common Shares Price: $ * per Common Share and $ * per Flow-Through Share
Underwriter(s) or Distributor(s):
Blackmont Capital Inc.
National Bank Financial Inc.
Laurentian Bank Securities Inc.
Industrial Alliance Securities Inc.
Toll Cross Securities Inc.
Desjardins Securities Inc.
Promoter(s):
-
Project #1309971

Issuer Name:
Biomatera inc.
Principal Regulator - Quebec
Type and Date:
Preliminary Prospectus dated August 20, 2008
NP 11-202 Receipt dated August 21, 2008
Offering Price and Description:
Minimum * Units ($ *) - Maximum * Units ($ *) Price - $ * per Unit
Underwriter(s) or Distributor(s):
Northern Securities Inc.
Promoter(s):
Sylvie Otis
Project #1308280

Issuer Name:
CanElson Drilling Inc.
Principal Regulator - Alberta
Type and Date:
Preliminary CPC Prospectus dated August 19, 2008
NP 11-202 Receipt dated August 20, 2008
Offering Price and Description:
$200,000.00 - 1,000,000 Common Shares Price: $0.20 per Common Share
Underwriter(s) or Distributor(s):
Lightyear Capital Inc.
Promoter(s):
Elson J. McDougald
Randy Hawkings
Project #1308214

Issuer Name:
CFI Trust
Principal Regulator - Ontario
Type and Date:
Preliminary Short Form Base Shelf Prospectus dated August 25, 2008
NP 11-202 Receipt dated August 26, 2008
Offering Price and Description:
Up to $500,000,000 of Receivables-Backed Notes
Underwriter(s) or Distributor(s):
-
Promoter(s):
Corpfinance International Limited
Project #1310217

Issuer Name:
Challenger Energy Corp.
Principal Regulator - Alberta
Type and Date:
Preliminary Short Form Prospectus dated August 21, 2008
NP 11-202 Receipt dated August 21, 2008
Offering Price and Description:
$44,000,00.00 - * Units Price: $ * per Unit
Underwriter(s) or Distributor(s):
Blackmont Capital Inc.
Thomas Weisel Partners Canada Inc.
Wolverton Securities Ltd.
Promoter(s):
-
Project #1308511

Issuer Name:
Debuts Diamonds Inc
Type and Date:
Preliminary Non-Offering Prospectus dated August 14, 2008
Receipted on August 20, 2008
Offering Price and Description:
-
Underwriter(s) or Distributor(s):
-
Promoter(s):
Frank Smeenk
Project #1307327

Issuer Name:
Keyera Facilities Income Fund
Principal Regulator - Alberta
Type and Date:
Preliminary Short Form Base Shelf Prospectus dated August 22, 2008
NP 11-202 Receipt dated August 22, 2008
Offering Price and Description:
$1,000,000,000.00 - Trust Units Subscription Receipts Debt Securities
Underwriter(s) or Distributor(s):
-
Promoter(s):
-
Project #1309377

Issuer Name:
MagMinerals Potash Corp.
Principal Regulator - Ontario
Type and Date:
Preliminary Prospectus dated August 25, 2008
NP 11-202 Receipt dated August 26, 2008
Offering Price and Description:
$ * - * Common Shares Price: $ * per Common Share
Underwriter(s) or Distributor(s):
Cormark Securities Inc.
Paradigm Capital Inc.
Promoter(s):
MagIndustries Corp.
Project #1309965

Issuer Name:
Mavrix Explore 2008 - II FT Limited Partnership
Principal Regulator - Ontario
Type and Date:
Preliminary Prospectus dated August 22, 2008
NP 11-202 Receipt dated August 25, 2008
Offering Price and Description:
$5,000,000.00 to $50,000,000.00 - 500,000 Units to 5,000,000 Units Minimum Subscription: 500 Units Price: $10 per Unit
Underwriter(s) or Distributor(s):
Canaccord Capital Corporation
CIBC World Markets Inc.
Dundee Securities Corporation
BMO Nesbit Burns Inc.
Scotia Capital Inc.
TD Securities Inc.
Blackmont Capital Inc.
M Partners Inc.
Raymond James Ltd.
Wellington West Capital Inc.
Argosy Securities Inc.
Desjardins Securities Inc.
MGI Securities Inc.
Research Capital Corporation
Promoter(s):
Mavrix Explore 2008 - II FT Management Limited
Mavrix Fund Management Inc.
Project #1309592

Issuer Name:
Oroplata Exploration Inc.
Principal Regulator - Quebec
Type and Date:
Preliminary Prospectus dated August 20, 2008
NP 11-202 Receipt dated August 21, 2008
Offering Price and Description:
Minimum - * Units - Maximum - * Units $ * Price - $ * per Unit Minimum Subscription - * Units
Underwriter(s) or Distributor(s):
Northern Securities Inc.
Promoter(s):
Arianne Resources Inc.
Project #1308420

Issuer Name:
BMG BullionFund
Principal Regulator - Ontario
Type and Date:
Final Simplified Prospectus dated August 25, 2008
NP 11-202 Receipt dated August 26, 2008
Offering Price and Description:
Mutual fund trust units at net asset value
Underwriter(s) or Distributor(s):
-
Promoter(s):
-
Project #1299480

Issuer Name:
Doorway Capital Corp.
Principal Regulator - Ontario
Type and Date:
Final Prospectus dated August 19, 2008
NP 11-202 Receipt dated August 21, 2008
Offering Price and Description:
$400,000.00 - 2,000,000 common shares Price: $0.20 per common share
Underwriter(s) or Distributor(s):
Leede Financial Markets Inc.
Promoter(s):
Peter Clausi
Project #1290990

Issuer Name:
Gaz Métro inc.
Principal Regulator - Quebec
Type and Date:
Final Short Form Base Shelf Prospectus dated August 20, 2008
NP 11-202 Receipt dated August 22, 2008
Offering Price and Description:
$400,000,000.00 - SERIES L FIRST MORTGAGE BONDS guaranteed by Gaz Métro Limited Partnership
Underwriter(s) or Distributor(s):
-
Promoter(s):
-
Project #1300772

Issuer Name:
Horizons Global Contrarian Fund
Principal Regulator - Ontario
Type and Date:
Final Prospectus dated August 21, 2008
NP 11-202 Receipt dated August 26, 2008
Offering Price and Description:
Investment trust units at net asset value
Underwriter(s) or Distributor(s):
-
Promoter(s):
-
Project #1295754

Issuer Name:
ID Watchdog, Inc.
Principal Regulator - British Columbia
Type and Date:
Final Prospectus dated August 14, 2008
NP 11-202 Receipt dated August 26, 2008
Offering Price and Description:
$10,200,000.00 - 17,000,000 Units Each Unit consisting of one Ordinary Share and one-half of one Ordinary Share Purchase Warrant Price: $0.60 per Unit
Underwriter(s) or Distributor(s):
Bolder Investment Partners, Ltd.
Promoter(s):
Daryl F. Yurek
Project #1289684

Issuer Name:
New Flyer Industries Canada ULC
New Flyer Industries Inc.
Principal Regulator - Ontario
Type and Date:
Final Short Form Prospectus dated August 22, 2008
NP 11-202 Receipt dated August 22, 2008
Offering Price and Description:
C$102,402,720.00 - 9,143,100 Income Deposit Securities Price: C$11.20 per IDS
Underwriter(s) or Distributor(s):
CIBC World Markets Inc.
BMO Nesbitt Burns Inc.
Scotia Capital Inc.
TD Securities Inc.
Cormark Securities Inc.
Promoter(s):
-
Project #1306758/1306757

Issuer Name:
Pacific Rubiales Energy Corp.
Principal Regulator - Ontario
Type and Date:
Final Short Form Prospectus dated August 22, 2008
NP 11-202 Receipt dated August 26, 2008
Offering Price and Description:
$220,000,000.00 - 8% Convertible Unsecured Subordinated Debentur
Underwriter(s) or Distributor(s):
GMP Securities L.P.
Canaccord Capital Corporation
Cormark Securities Inc.
Macquarie Capital Markets Canada Ltd.
Thomas Weisel Partners Canada Inc.
Promoter(s):
-
Project #1300375

Issuer Name:
Pan Caribbean Minerals Inc.
Principal Regulator - Ontario
Type and Date:
Final Prospectus dated August 18, 2008
NP 11-202 Receipt dated August 20, 2008
Offering Price and Description:
$2,000,000.00 - 5,000,000 Units $0.40 per Unit
Underwriter(s) or Distributor(s):
PI Financial Corp.
Promoter(s):
Andre Audet
Marc Carbonneau
Marc L'Heureux
Project #1280780

Issuer Name:
QRS Capital Corp.
Principal Regulator - Ontario
Type and Date:
Final Prospectus dated August 21, 2008
NP 11-202 Receipt dated August 26, 2008
Offering Price and Description:
$200,000.00 or 2,000,000 Common Shares PRICE: $0.10 per Common Share
Underwriter(s) or Distributor(s):
Canacord Capital Corporation
Promoter(s):
John Seaman
Project #1282346

Issuer Name:
Series O and Series F Units (unless otherwise indicated) of:
RBC Private Short-Term Income Pool
RBC Private Canadian Bond Pool
RBC Private Corporate Bond Pool
RBC Private Income Pool (Series O, Series F and Series T Units)
RBC Private Global Bond Pool
RBC Private Canadian Dividend Pool
RBC Private Canadian Growth and Income Equity Pool
RBC Private Canadian Equity Pool
RBC Private Canadian Value Equity Pool
RBC Private O'Shaughnessy Canadian Equity Pool (Series O Units only)
RBC Private Core Canadian Equity Pool
RBC Private Canadian Mid Cap Equity Pool
RBC Private U.S. Equity Pool
RBC Private U.S. Value Equity Pool
RBC Private O'Shaughnessy U.S. Value Equity Pool (Series O Units only)
RBC Private U.S. Growth Equity Pool
RBC Private O'Shaughnessy U.S. Growth Equity Pool (Series O Units only)
RBC Private U.S. Mid Cap Equity Pool
RBC Private U.S. Small Cap Equity Pool
RBC Private International Equity Pool
RBC Private EAFE Equity Pool
RBC Private Overseas Equity Pool
RBC Private European Equity Pool
RBC Private Asian Equity Pool
RBC Private Global Dividend Growth Pool
RBC Private World Equity Pool
Principal Regulator - Ontario
Type and Date:
Final Simplified Prospectuses dated August 22, 2008
NP 11-202 Receipt dated August 22, 2008
Offering Price and Description:
Mutual fund trust units at net asset value
Underwriter(s) or Distributor(s):
RBC Asset Management Inc.
The Royal Trust Company
Promoter(s):
-
Project #1293750

Issuer Name:
Investor Series Units and B -Series Units of:
Saxon Money Market Fund
and
Investor Series Units , B-Series Units, Advisor Series Units and F -Series Units of:
Saxon Bond Fund
Saxon Balanced Fund
Saxon High Income Fund
Saxon Stock Fund
Saxon Small Cap
Saxon Microcap Fund
Saxon U.S. Equity Fund
Saxon U.S. Small Cap Fund
Saxon International Equity Fund
Saxon World Growth
Saxon Global Small Cap Fund
Principal Regulator - Ontario
Type and Date:
Amendment #1 dated August 12, 2008 to the Simplified Prospectuses and Annual Information Forms dated May 9, 2008
NP 11-202 Receipt dated August 22, 2008
Offering Price and Description:
-
Underwriter(s) or Distributor(s):
MD Management Limited
Promoter(s):
Saxon Fund Management Limited
Project #1243849

Issuer Name:
Class A Units and Class O Units (unless otherwise indicated) of:
Sceptre Income & Growth Fund (also Class F Units)
Sceptre Bond Fund
Sceptre High Income Fund (also Class F Units)
Sceptre Canadian Equity Fund (also Class F Units)
Sceptre Equity Growth Fund (also Class F Units)
Sceptre U.S. Equity Fund (Class O Units only)
Sceptre International Equity Fund (also Class F Units)
Sceptre Global Equity Fund
Sceptre Money Market Fund
Sceptre Large Cap Canadian Equity Fund (Class O Units only)
(formerly Sceptre Private Client Canadian Equity Portfolio)
Principal Regulator - Ontario
Type and Date:
Final Simplified Prospectuses dated August 22, 2008
NP 11-202 Receipt dated August 25, 2008
Offering Price and Description:
Class A , F and O Units @ Net Asset Value
Underwriter(s) or Distributor(s):
Sceptre Investment Counsel Limited
Promoter(s):
Sceptre Investment Counsel Limited
Project #1295939

Issuer Name:
SENTRY SELECT BALANCED CLASS
SENTRY SELECT CANADIAN ENERGY GROWTH CLASS
SENTRY SELECT CANADIAN INCOME CLASS
SENTRY SELECT CANADIAN RESOURCE CLASS
SENTRY SELECT MINING OPPORTUNITIES CLASS
SENTRY SELECT MONEY MARKET CLASS
SENTRY SELECT PRECIOUS METALS GROWTH CLASS
of
SENTRY SELECT CORPORATE CLASS LTD
Principal Regulator - Ontario
Type and Date:
Amendment #1 dated August 18, 2008 to the Simplified Prospectuses dated April 14, 2008
NP 11-202 Receipt dated August 21, 2008
Offering Price and Description:
-
Underwriter(s) or Distributor(s):
Sentry Select Capital Corp.
Promoter(s):
Sentry Select Capital Corp.
Project #1226094

Issuer Name:
Series A Units, Series F Units and Series I Units (and Series B Units as indicated) of:
Sentry Select Balanced Fund
Sentry Select Canadian Energy Growth Fund
Sentry Select Canadian Income Fund
Sentry Select Diversified Total Return Fund
Sentry Select Dividend Fund
Sentry Select Global Small Cap Fund
Sentry Select Global Value Fund
Sentry Select Growth & Income Fund
Sentry Select Money Market Fund (also Series B Units)
Sentry Select Precious Metals Growth Fund
Sentry Select REIT Fund
Sentry Select Small Cap Income Fund
Principal Regulator - Ontario
Type and Date:
Final Simplified Prospectuses dated August 20, 2008
NP 11-202 Receipt dated August 21, 2008
Offering Price and Description:
Series A Units, Series F Units, Series I Units and Series B Units @ Net Asset Value
Underwriter(s) or Distributor(s):
NCE Financial Corporation
Sentry Select Capital Corp.
Promoter(s):
Sentry Select Capital Corp.
Project #1291432

Issuer Name:
Terminal City Capital Inc.
Principal Regulator - British Columbia
Type and Date:
Amendment #1 dated August 20, 2008 to the CPC Prospectus dated May 28, 2008
NP 11-202 Receipt dated August 22, 2008
Offering Price and Description:
$200,000.00 to $1,350,000 - 1,333,334 to 9,000,000 Common Shares Price: $0.15 per Common Share
Underwriter(s) or Distributor(s):
Canaccord Capital Corporation
Promoter(s):
Andrzej Kowalski
Project #1261917

Issuer Name:
Union Gas Limited
Principal Regulator - Ontario
Type and Date:
Final Short Form Base Shelf Prospectus dated August 22, 2008
NP 11-202 Receipt dated August 22, 2008
Offering Price and Description:
$700,000,000.00 - MEDIUM TERM NOTES (UNSECURED)
Underwriter(s) or Distributor(s):
BMO Nesbitt Burns Inc.
CIBC World Markets Inc.
Scotia Capital Inc.
TD Securities Inc.
Promoter(s):
-
Project #1306615

Issuer Name:
VentureLink Brighter Future Fund Inc.
Type and Date:
Final Prospectus dated August 25, 2008
Receipted on August 26, 2008
Offering Price and Description:
Class A Shares, Series III, Class A Shares, Series IV and Class A Shares, Series VI @ Net Asset Value
Underwriter(s) or Distributor(s):
-
Promoter(s):
-
Project #1296044

Issuer Name:
VentureLink Diversified Income Fund Inc.
Type and Date:
Final Prospectus dated August 25, 2008
Receipted on August 26, 2008
Offering Price and Description:
Class A Shares, Series III, Class A Shares, Series IV and Class A Shares, Series VI @ Net Asset Value
Underwriter(s) or Distributor(s):
VL Advisors Inc.
Promoter(s):
-
Project #1295989

Issuer Name:
VentureLink Financial Services Innovation Fund Inc.
Type and Date:
Final Prospectus dated August 25, 2008
Receipted on August 26, 2008
Offering Price and Description:
Class A Shares, Series III, Class A Shares, Series IV and Class A Shares, Series VI @ Net Asset Value
Underwriter(s) or Distributor(s):
-
Promoter(s):
-
Project #1295995

Issuer Name:
March Resources Corp.
Principal Jurisdiction - Alberta
Type and Date:
Preliminary Short Form Prospectus dated June 19, 2008
Withdrawn on August 22, 2008
Offering Price and Description:
MINIMUM: 23,333,333 UNITS ($7,000,000.00); MAXIMUM: 33,333,333 UNITS ($10,000,000.00) Price: $0.30 per Unit
Underwriter(s) or Distributor(s):
Blackmont Capital Inc.
Canaccord Capital Corporation
Jones, Gable & Company Limited
Promoter(s):
David M. Antony
Project #1284386

Issuer Name:
Eight Seas Capital Corporation
Principal Jurisdiction – British Columbia
Type and Date:
Preliminary CPC Prospectus dated February 22, 2008
Closed on August 26, 2008
Offering Price and Description:
-
Underwriter(s) or Distributor(s):
-
Promoter(s):
-
Project #1219388

Chapter 12

Registrations

12.1.1 Registrants

Type	Company	Category of Registration	Effective Date
Voluntary Surrender of Registration	MCA Securities Inc.	Investment Dealer	August 20, 2008
New Registration	Stanton Asset Management Inc.	Investment Counsel and Portfolio Manager	August 20, 2008
Change in Category	Guardian Group of Funds Ltd	From: Mutual Fund Dealer & Limited Market Dealer & Investment Counsel & Portfolio Manager To: Mutual Fund Dealer & Limited Marker Dealer	August 21, 2008
New Registration	Alpha ATS L.P.	Investment Dealer	August 26, 2008
New Registration	Credit Agricole Asset Management Canada Inc.	Extra-Provincial Investment Counsel & Portfolio Manager	August 26, 2008
Change in Category	Societe Generale Valeurs Mobilieres Inc.	From: Limited Market Dealer To: Investment Dealer	August 26, 2008

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Chapter 13

SRO Notices and Disciplinary Proceedings

13.1.1 MFDA Hearing Panel Approves Settlement Agreement with Sterling Mutuals Inc.

NEWS RELEASE
For immediate release

MFDA HEARING PANEL APPROVES SETTLEMENT AGREEMENT WITH STERLING MUTUALS INC.

August 21, 2008 (Toronto, Ontario) – A Settlement Hearing in the matter of Sterling Mutuals Inc. was held today before a Hearing Panel of the Central Regional Council of the Mutual Fund Dealers Association of Canada ("MFDA"). The Hearing Panel approved the Settlement Agreement between the MFDA and Sterling Mutuals Inc. The following is a summary of the Orders made by the Hearing Panel:

- A fine in the amount of $50,000;
- Retain an independent monitor to resolve the compliance deficiencies; and
- Costs in the amount of $5,000

The Hearing Panel advised that it would issue written reasons in due course.

A copy of the Settlement Agreement with Sterling Mutuals Inc. is available on the MFDA website at www.mfda.ca.

The Mutual Fund Dealers Association of Canada is the self-regulatory organization for Canadian mutual fund dealers. The MFDA regulates the operations, standards of practice and business conduct of its 158 Members and their approximately 75,000 Approved Persons with a mandate to protect investors and the public interest.

For further information, please contact:
Shaun Devlin
Vice-President, Enforcement
(416) 943-4672 or sdevlin@mfda.ca

13.1.2 CDS Rule Amendment Notice – Technical Amendments to CDS Procedures – ITP Stats: Trade Details File and Report

CDS CLEARING AND DEPOSITORY SERVICES INC. (CDS®)

TECHNICAL AMENDMENTS TO CDS PROCEDURES

ITP STATS: TRADE DETAILS FILE AND REPORT

NOTICE OF EFFECTIVE DATE

A. DESCRIPTION OF THE AMENDMENTS

Background

The National Instrument 24 – 101 ("NI 24 – 101") rule requires participants involved in institutional trading to have a process in place to allow for trade matching within a prescribed period of time, and to report exceptions to the regulators.

Currently CDS generates reports that provide participants with their performance statistics broken down by trading buckets (i.e. various time periods between when a trade is entered or confirmed on CDSX® and the trade date). The Institutional Trade Processing ("ITP") Working Group, via the CDS Strategic Development Review Committee ("SDRC") Debt subcommittee, have requested that the details of the trades contained in each of these buckets be provided in a file and a report to allow participants to identify and investigate trades that do not meet the performance standard.

The Procedures marked for the amendments may be accessed at the CDS website at:

http://www.cds.ca/cdsclearinghome.nsf/Pages/-EN-blacklined?Open

Description of Proposed Amendments

The following procedures will be impacted by this initiative:

CDS Reporting Procedures:

- Chapter 15 Institutional Trade Processing Reports, Section 15.6

B. REASONS FOR TECHNICAL CLASSIFICATION

The amendments proposed pursuant to this Notice are considered technical amendments as they are matters of a technical nature in routine operating procedures and administrative practices relating to the settlement services, and they are required to ensure consistency or compliance with an existing rule, securities legislation or other regulatory requirement.

C. EFFECTIVE DATE OF THE RULE

Pursuant to Appendix A ("Rule Protocol Regarding The Review And Approval Of CDS Rules By The OSC") of the Recognition and Designation Order, as amended on November 1, 2006, and Annexe A ("Protocole d'examen et d'approbation des Règles de Services de Dépot et de Compensation CDS Inc. par l'Autorité des marchés financiers") of AMF Decision 2006-PDG-0180, made effective on November 1, 2006, CDS has determined that these amendments will be effective on **September 15, 2008**.

These amendments were reviewed and approved by the SDRC on **July 31, 2008**.

D. QUESTIONS

Questions regarding this notice may be directed to:

Eduarda Matos
Legal Counsel
The Canadian Depository for Securities Limited
85 Richmond Street West
Toronto, Ontario M5H 2C9

Telephone: 416-365-3567
Fax: 416-365-1984
e-mail: attention@cds.ca

JAMIE ANDERSON
Managing Director, Legal

13.1.3 Joint Notice and Request for Comment of Certain Recognizing Regulators of the Mutual Fund Dealers Association of Canada – Application to Amend Recognition Orders

JOINT NOTICE AND REQUEST FOR COMMENT OF CERTAIN RECOGNIZING REGULATORS OF THE MUTUAL FUND DEALERS ASSOCIATION OF CANADA – APPLICATION TO AMEND RECOGNITION ORDERS

The Mutual Fund Dealers Association of Canada (the MFDA) has submitted an application to the securities regulatory authority in each of British Columbia, Ontario, Saskatchewan, and Nova Scotia (the Applicable Jurisdictions) to amend the orders of each of the Applicable Jurisdictions recognizing the MFDA as a self-regulatory organization (the Recognition Orders). The MFDA requested the amendments in order to extend the suspension of MFDA Rule 2.4.1, which currently expires on December 31, 2008, to December 31, 2010.

The Applicable Jurisdictions are publishing for comment the MFDA's application and related documents, all of which you can find on the Applicable Jurisdictions' websites or in their bulletins, where applicable.

We are seeking comments on all aspects of the application and related documents.

A. PURPOSE FOR PROPOSED CHANGE TO THE RECOGNITION ORDERS

Rule 2.4.1 requires MFDA Members to pay any remuneration for business conducted by MFDA Approved Persons on the Members' behalf directly to and in the name of the Approved Persons. The MFDA is requesting that the Applicable Jurisdictions extend the suspension of the rule to give it time to develop proposed amendments that would allow Approved Persons to direct remuneration in respect of business they conduct on behalf of MFDA Members to non-registered corporations, subject to certain conditions.

B. PREVIOUS EXTENSIONS OF THE SUSPENSION OF MFDA RULE 2.4.1

The Applicable Jurisdictions have previously extended the suspension of Rule 2.4.1.

These extensions were granted on the understanding and condition that Approved Persons are conducting all activities requiring registration on behalf of and through the facilities of MFDA Members, as employees or agents of those Members, and not on behalf of or through the non-registered corporation (i.e. not as an employee or agent of the non-registered corporation), regardless of whether they direct the Members to pay their remuneration for those activities to the non-registered corporation.

C. CURRENT APPLICATION TO EXTEND THE SUSPENSION OF MFDA RULE 2.4.1

The MFDA has requested an extension of the suspension of Rule 2.4.1 until December 31, 2010.

Staff of the Ontario Securities Commission, the Nova Scotia Securities Commission and the Saskatchewan Financial Services Commission will consider an extension of the suspension until March 31, 2010, with a requirement for the MFDA to submit its proposed amendments to Rule 2.4.1 by May 31, 2009. These staff are of the view that a March 31, 2010 expiry date would provide sufficient time to consider the regulatory impact of proposed amendments to MFDA Rule 2.4.1.

OSC, NSSC and SFSC staff do not support any further extensions. An expiry date of March 31, 2010 would provide sufficient time for MFDA Members and Approved Persons to restructure any commission direction arrangements, to ensure compliance with Rule 2.4.1, should the MFDA not submit a proposal by May 31, 2009.

BCSC staff is of the view that an extension is necessary to allow the MFDA time to develop amendments to Rule 2.4.1. However, BCSC staff is not taking a position on the appropriate length of the extension or future extensions at this time. In addition to commenting on matters relating to the substance of the application to extend the suspension of Rule 2.4.1, BC staff asks that you also comment on the appropriate date for the submission of the rule amendments and the expiry of the suspension.

D. COMMENT PROCESS

We ask you to provide your comments in writing and to send them on or before September 29, 2008, to:

c/o Sarah Corrigall-Brown
British Columbia Securities Commission
701 West Georgia Street
Vancouver, BC V7Y 1L2

Email: scorrigall-brown@bcsc.bc.ca

We cannot keep submissions confidential. We will publish a summary of written comments we receive during the comment period.

If you have questions about this notice, you may contact:

Sarah Corrigall-Brown
British Columbia Securities Commission
(604) 899-6738

Curtis Brezinski
Saskatchewan Financial Services Commission
(306) 787-5876

Jonathan Sylvestre
Ontario Securities Commission
(416) 593-2378

Shirley Lee
Nova Scotia Securities Commission
(902) 424-5441

If you have any questions about the MFDA's application, you may contact any of the people listed above, or you may contact:

Paige Ward
Director of Policy and Regulatory Affairs
Mutual Fund Dealers Association of Canada
(416) 943-5838

August 29, 2008

July 16, 2008

Executive Director
British Columbia Securities Commission
P.O. Box 10142, Pacific Centre
701 West Georgia Street
Vancouver, B.C.
V7Y 1L2

The Secretary to the Commission
Ontario Securities Commission
20 Queen Street West
Suite 1900, P.O. Box 55
Toronto, Ontario
M4S 3S8

The Secretary to the Commission
Saskatchewan Financial Services Commission
1919 Saskatchewan Drive
6th Floor
Regina, Saskatchewan
S4P 3V7

The Secretary to the Commission
Nova Scotia Securities Commission
2nd Floor, Joseph Howe Building
P.O. Box 468
1690 Hollis Street
Halifax, Nova Scotia
B3J J39

Dear Sirs/Mesdames:

Re: Mutual Fund Dealers Association of Canada
Application for amendment and restatement of terms and conditions of order recognizing self-regulatory organization

1. APPLICATION

(a) Summary

This application is made by the Mutual Fund Dealers Association of Canada ("MFDA") concurrently to each of the British Columbia Securities Commission, the Ontario Securities Commission, the Saskatchewan Financial Services Commission and the Nova Scotia Securities Commission (respectively, the "BCSC", "OSC", "SFSC" and "NSSC" and, together, the "Commissions") for an amendment and restatement of the terms and conditions of the Order of each such Commission recognizing the MFDA as a self-regulatory organization ("SRO") pursuant to section 24(a) of the *Securities Act* (British Columbia), section 21.1(1) of the *Securities Act* (Ontario), section 21(2) of the *Securities Act, 1998* (Saskatchewan) and section 30(1) of the *Securities Act* (Nova Scotia), (respectively, the "OSA", "BCSA", "SSA" and "NSSA" and together, the "Legislation"). In 2004, the BCSC, OSC, SFSC and NSSC approved an application by the MFDA to amend and restate its Orders in respect of recognition of the MFDA. The date of the amended and restated Orders in respect of recognition of the MFDA referred to above by each of the BCSC, OSC, SFSC and NSSC are, respectively, June 3, 2004, March 30, 2004, April 16, 2004, and April 8, 2004. Further variation orders amending s. 14 of Schedule "A" to the Orders were made by the BCSC, OSC, SFSC and NSSC on November 17, 2006, November 17, 2006, November 9, 2006 and November 8, 2006, respectively. The Orders of the respective Commissions recognizing the MFDA as an SRO are referred to individually and collectively in this application as an "Order" or the "Orders" and the terms and conditions attached as Schedule A to each such order are referred to individually and collectively as "Terms and Conditions".

(b) Authority for Application

This application is made to the respective Commissions pursuant to Section 171 of the BCSA, Section 144 of the OSA, Section 158(3) of the SSA and Section 151 of the NSSA.

(c) Terms and Conditions to be Amended

The Term and Condition of the BCSC, OSC, SFSC and NSSC Orders to be amended is Section 14 (Suspension of MFDA Rule 2.4.1).

2. THE APPLICANT

The MFDA is a non-share capital corporation under Part II of the *Canada Corporations Act* incorporated on June 19, 1998 and has been recognized as an SRO pursuant to the Orders of the Commissions referred to in paragraph 1 of this Application.

3. BASIS OF APPLICATION

Section 14 of the Terms and Conditions provides for the suspension of MFDA Rule 2.4.1 (the "Rule") relating to the payment of remuneration in respect of Approved Persons by Members of the MFDA in the Provinces of British Columbia, Saskatchewan, Ontario and Nova Scotia. The suspension of the Rule, originally to expire on December 31, 2004 has been extended by the Commissions to December 31, 2008. The MFDA is requesting that the suspension period for the Rule be extended until December 31, 2010. The extension is being requested to allow the MFDA time to develop proposed amendments to Rule 2.4.1 that will allow Approved Persons to direct remuneration in respect of business conducted by them on behalf of a Member to a non-registered corporation, subject to conditions.

Over the course of the suspension period for the Rule, the MFDA has had the opportunity to review the effect of the suspension on the application of other MFDA Rules and its potential effect on other investor protection issues. MFDA staff estimates that of the approximately 75,000 registered Approved Persons, approximately 35,000 are those of bank-owned Members that do not rely on the suspension of the Rule and that a high proportion of the approximately 40,000 Approved Persons that remain are likely to rely on its suspension. Despite these large numbers and the fact that the suspension has been in place for several years, the MFDA has not experienced any effect on the regulatory liability of Approved Persons arising from the payment of commissions to corporations and is unaware of any changes in the industry that might increase the risk of negative impacts since the last suspension was granted. In addition, the payment of commissions to non-registered corporations is a long-standing business practice that predates the establishment of the MFDA and concerns have been expressed that it would be disruptive to industry to disallow it. Based on this information, the MFDA is satisfied that the arrangements currently in place do not raise investor protection concerns and that allowing them to continue would not be contrary to the public interest.

MFDA Rule 1.1 provides that, in general, no Member or Approved Person may, directly or indirectly, engage in any securities related business unless it is carried on for the account of the Member, through its facilities and in accordance with the By-laws and Rules. Each Approved Person who conducts or participates in any securities related business in respect of a Member must comply with the By-laws and Rules as they relate to the Member or such Approved Person.

Rule 1.1.4 and Rule 1.1.5 set out the required terms for the Member/Approved Person employment or agency relationships permitted under the MFDA Rules, including the Member's obligation to supervise the activity of the Approved Person and the Approved Person's responsibility to comply with MFDA requirements and conduct business through the Member. Rule 1.2.1(d) sets out a number of limitations on non-securities related business that Approved Persons may conduct outside the Member and disclosure requirements where Approved Persons engage in such activity. MFDA Member Regulation Notice MR-0002 sets out the conditions for reliance on relief from Rule 2.4.1. The sample form agreement contained in Schedule "A" to MR-0002 (or an equivalent agreement) must be executed by any Approved Person that seeks to rely on the relief from Rule 2.4.1. This agreement provides for access by regulators, the MFDA and the Member to books and records of the corporation to which commissions have been directed and requires the corporation to cooperate in the event of any review for compliance with regulatory requirements.

The Rules noted above have been implemented to ensure that all securities related business conducted by Members and Approved Persons is done through the Member firm and in accordance with MFDA By-laws and Rules. The MFDA is of the view that the requirements and regulatory oversight built into Rule 1 address any concerns that might arise in connection with registrants somehow escaping regulatory liability by directing commissions to non-registered corporations. The MFDA is satisfied that the existing provisions properly address the issue as it has not faced challenges to its jurisdiction and there are no cases where clients have been at risk based on the entity to which commissions are paid.

In each compliance review that is completed, MFDA staff test to ensure that Members and Approved Persons comply with the requirements of all MFDA By-laws, Rules and Policies through a variety of interviews and substantive testing methods. Along with other requirements, MFDA staff looks at compliance with Rule 1.1.1 in all compliance reviews regardless of the relationship between the Member and the Approved Person (e.g. employer/employee or principal/agent) or how the Approved Person receives commissions. Where Approved Persons rely on the suspension of Rule 2.4.1, staff test to ensure that the requirements set out in Member Regulation Notice MR-0002 have been satisfied and that contracts are in place allowing access to MFDA and commission staff to the corporate books and records of all entities to which commissions have been directed.

As noted, the MFDA historically has not observed issues related to the avoidance of regulatory or civil liability for securities related activities or other issues resulting from the suspension of the Rule. On occasion, MFDA staff does detect evidence that Approved Persons have conducted registerable activities through an unlicensed corporation outside of the Member. Approved Persons engaging in such conduct, irrespective of whether they do so as individuals or through a personal corporation, are acting in contravention of Rule 1 and any such instances that are discovered during compliance reviews are referred to Enforcement for appropriate action. In any case where an Approved Person fails to provide access to books and records (corporate or personal), the MFDA considers such refusal to be a failure to cooperate and enforcement action is taken in all instances where Approved Persons fail to provide access to such records.

The MFDA is aware that commission payment structures employed by Members and Approved Persons have been permitted by tax authorities in some cases and disallowed in others. The outcomes of each particular tax ruling appear to be extremely fact specific. On the basis that the history of such arrangements does not show a significant risk to Member solvency, the MFDA does not believe the potential for negative tax rulings poses any great significance from an investor protection perspective. Negative tax rulings would, in any event, be addressed in a manner similar to any other negative ruling under the requirements of applicable legislation. Similar to any other lawsuit/potential financial liability that a Member might face, the MFDA would require the Member to record information in respect of any negative tax ruling on the Member's Financial Questionnaire and Report ("FQR") as a contingent liability.

The MFDA does not monitor Member or Approved Person compliance with tax legislation and this position is consistent for both Approved Persons that receive their commissions directly and those that have commissions directed to corporations. As compliance with tax legislation is subject to independent regulatory oversight, the MFDA is of the view that it is unnecessary to exercise jurisdiction in this area and has not, to date, seen the need to implement tax compliance requirements in the existing principal-agent rule.

(a) Supporting Documentation

Submitted with this application are the following supporting documents in original or photocopied form:

(i) a draft order amending and restating the Terms and Conditions of the Order on the basis described herein; and

(ii) draft revised Terms and Conditions contained in Schedule A to the Orders reflecting the amendments described herein.

This application has been reviewed and approved by, and is signed and made by, duly authorized officers of the MFDA and such officers confirm the truth of the facts contained herein. In addition to the undersigned officers, representatives of MFDA counsel, Borden Ladner Gervais LLP, are authorized to discuss this application and any matter related to it with the Commissions.

Yours very truly,

MUTUAL FUND DEALERS ASSOCIATION OF CANADA

By: "Larry Waite"
President and Chief Executive Officer

By: "Mark T. Gordon"
Executive Vice-President

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

AND

IN THE MATTER OF
MUTUAL FUND DEALERS ASSOCIATION OF CANADA/
ASSOCIATION CANADIENNE DES COURTIERS DE FONDS MUTUELS
(THE "MFDA")

AMENDMENT AND RESTATEMENT
OF RECOGNITION ORDER
(Section 144)

WHEREAS the Commission issued an order dated February 6, 2001, recognizing the MFDA as a self-regulatory organization for mutual fund dealers pursuant to section 21.1 of the Act ("Original Order");

AND WHEREAS the Commission issued an order dated March 30, 2004, amending and restating the terms and conditions of the Original Order;

AND WHEREAS the Commission issued an order dated November 3, 2006, varying the terms and conditions of the Original Order, as amended by the order dated March 30, 2004 ("Previous Order");

AND WHEREAS the MFDA requested in an application dated March 18, 2008 that Schedule A to the Previous Order be amended to delete the definition of "Public Director", which application is currently under consideration by the Commission;

AND WHEREAS the Commission has determined that it is not prejudicial to the public interest to issue an order that amends and restates the Previous Order to amend Schedule A to this order to extend the suspension of Rule 2.4.1 until December 31, 2010, to allow time for the MFDA to develop proposed amendments to Rule 2.4.1 regarding the direction of commissions to unregistered corporations;

IT IS ORDERED pursuant to section 144 of the Act that the Previous Order be amended and restated as follows:

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

AND

IN THE MATTER OF
MUTUAL FUND DEALERS ASSOCIATION OF CANADA/
ASSOCIATION CANADIENNE DES COURTIERS DE FONDS MUTUELS
(the "MFDA")

RECOGNITION ORDER
(Section 21.1)

WHEREAS the Commission recognized the MFDA as a self-regulatory organization for mutual fund dealers on February 6, 2001 ("~~Previous~~Original Order"), subject to terms and conditions;

AND WHEREAS the Commission issued an order dated March 30, 2004, amending and restating the terms and conditions of the Original Order;

AND WHEREAS the Commission issued an order dated November 3, 2006, varying the terms and conditions of the Original Order, as amended by order dated March 30, 2004 ("Previous Order");

AND WHEREAS the MFDA requested in an application dated ~~October 24, 2003~~March 18, 2008, that ~~certain~~ changes be made to the Previous Order to remove the definition of public director, which application is currently under consideration by the Commission;

AND WHEREAS the MFDA has requested in an application dated July 17, 2008, that Schedule A to the Previous Order be amended to extend the suspension of MFDA Rule 2.4.1 until December 31, 2010;

AND WHEREAS the Board of Directors of the MFDA has passed amendments to the MFDA's by-laws to change the MFDA's governance structure in order to provide for a proper balance among the interests of MFDA members and appropriate representation of individuals who represent the public interest on the MFDA Board of Directors and its committees and bodies;

AND WHEREAS the MFDA intends to enter into arrangements with other parties, subject to the consent of the Commission, for such other parties to perform the function of enforcing compliance by MFDA members, who conduct securities-related business in Quebec, with the MFDA's or such other parties' substantially similar by-laws, rules, regulations, policies, forms, and other similar instruments;

AND WHEREAS certain terms and conditions of the Previous Order were transitional in nature and the Commission is satisfied that the MFDA has met those terms and conditions;

AND WHEREAS the MFDA will continue to regulate, in accordance with its Rules, the operations and the standards of practice and business conduct of its members and their Approved Persons as defined under its Rules;

AND WHEREAS the Commission has considered the application and related submissions of the MFDA for continued recognition as a self-regulatory organization for mutual fund dealers;

AND WHEREAS the Commission has received certain representations and acknowledgements from the MFDA in connection with the MFDA's continued recognition as a self-regulatory organization;

AND WHEREAS the Commission considers it appropriate to set out in an order the terms and conditions of MFDA's continued recognition as a self-regulatory organization for mutual fund dealers, which terms and conditions are set out in Schedule A attached;

AND WHEREAS the MFDA has agreed to the terms and conditions set out in Schedule A;

AND WHEREAS the Commission is satisfied that MFDA recognition continues to be in the public interest;

THE COMMISSION HEREBY AMENDS AND RESTATES the MFDA's recognition as a self-regulatory organization so that the recognition pursuant to section 21.1 of the Act continues, subject to the terms and conditions attached as Schedule A.

March 30, 2004.

"Susan Wolburgh Jenah" "David A. Brown"

SCHEDULE A

TERMS AND CONDITIONS OF RECOGNITION OF THE MUTUTAL FUND DEALERS ASSOCIATION OF CANADA AS A SELF-REGULATORY ORGANIZATION FOR MUTUAL FUND DEALERS

1. DEFINITIONS

For the purposes of this Schedule:

"Approved Person" has the same meaning as that under the MFDA rules, as amended by the MFDA and approved by the Commission from time to time;

"member" means a member of the MFDA;

"rules" means the by-laws, rules, regulations, policies, forms, and other similar instruments of the MFDA; and

"securities legislation" has the same meaning as that defined in National Instrument 14-101.

2. STATUS

The MFDA is and shall remain a not-for-profit corporation.

3. CORPORATE GOVERNANCE

(A) The MFDA's arrangements with respect to the appointment, removal from office and functions of the persons ultimately responsible for making or enforcing the rules of the MFDA, being the Board of Directors (the "Board"), shall secure a proper balance between the interests of the different members of the MFDA in order to ensure diversity of representation on the Board. In recognition that the protection of the public interest is a primary goal of the MFDA, a reasonable number and proportion of directors on the Board and on the committees of the Board shall be and remain during their term of office Public Directors and a Public Director is a director:

(i) who is not a current director (other than a Public Director), officer or employee of, or of an associate or affiliate of:

(a) the MFDA,

(b) any protection or contingency fund in which Members (at the time the director holds the relevant office) are required to participate, or

(c) the Investment Funds Institute of Canada or the Investment Dealers Association of Canada;

(ii) who is not a current director, partner, significant shareholder, officer, employee or agent of a Member, or of an associate or affiliate of a Member, of:

(a) the MFDA,

(b) any protection or contingency fund in which Members (at the time the director holds the relevant office) are required to participate, or

(c) the Investment Funds Institute of Canada or the Investment Dealers Association of Canada;

(iii) who is not a current employee of a federal, provincial or territorial government or a current employee of an agency of the Crown in respect of such government;

(iv) who is not a current member of the federal House of Commons or member of a provincial or territorial legislative assembly;

(v) who has not, in the two years prior to election as a Public Director, held a position described in (i)-(iv) above;

(vi) who is not:

(a) an individual who provides goods or services to and receives direct significant compensation from, or

(b) an individual who is a director, partner, significant shareholder, officer or employee of an entity that receives significant revenue from services the entity provides to, if such individual's compensation from that entity is significantly affected by the services such individual provides to,

the MFDA or any protection or contingency fund in which Members are required to participate, or a Member of the MFDA; and

(vii) who is not a member of the immediate family of the persons listed in (i)-(vi) above.

For the purposes of this definition:

(a) "significant compensation" and "significant revenue" means compensation or revenue the loss of which would have, or appear to have, a material impact on the individual or entity, and

(b) "significant shareholder" means an individual who has an ownership interest in the voting securities of an entity, or who is a director, partner, officer, employee or agent of an entity that has an ownership interest in the voting securities of another entity, which voting securities in either case carry more than 10% of the voting rights attached to all voting securities for the time being outstanding.

(B) The MFDA's governance structure shall provide for:

(i) at least 50% of its directors, other than its President and Chief Executive Officer, shall be Public Directors;

(ii) the President and Chief Executive Officer of the MFDA is deemed to be neither a Public Director nor a non-Public Director;

(iii) appropriate representation of Public Directors on committees and bodies of the Board, in particular:

(a) at least 50% of directors on the governance committee of the Board shall be Public Directors,

(b) a majority of directors on the audit committee of the Board shall be Public Directors,

(c) at least 50% of directors on the executive committee of the Board, if any, shall be Public Directors,

(d) meetings of the Board shall have a quorum requirement of a reasonable number and proportion of Public Directors and non-Public Directors, with at least two Public Directors, and

(e) meetings of any committee or body of the Board shall have a quorum requirement of a reasonable number and proportion of Public Directors and non-Public Directors, provided that if the committee or body has Public Directors then the quorum must require at least one Public Director be present;

(iv) the remaining number of directors serving on the Board and on the above referred to committees and bodies of the Board, shall consist of directors representing the different members of the MFDA to ensure diversity of representation on the Board in accordance with paragraph (A);

(v) appropriate qualification, remuneration, and conflict of interest provisions and provisions with respect to the limitation of liability of and indemnification protection for directors, officers and employees of the MFDA; and

(vi) a chief executive officer and other officers, all of whom, except for the chair of the Board, are independent of any member.

4. FEES

(A) Any and all fees imposed by the MFDA on its members shall be equitably allocated and bear a reasonable relation to the costs of regulating members, carrying out the MFDA's objects and protecting the public interest. Fees shall not have the effect of creating unreasonable barriers to membership and shall be designed to ensure that the MFDA has sufficient revenues to discharge its responsibilities.

(B) The MFDA's process for setting fees shall be fair, transparent, and appropriate.

5. COMPENSATION OR CONTINGENCY TRUST FUNDS

The MFDA shall co-operate with compensation funds or contingency trust funds that are from time to time considered by the Commission under securities legislation to be compensation funds or contingency trust funds for mutual fund dealers and with any such fund that has applied to the Commission to be considered such funds (the "IPPs"). The MFDA shall ensure that its rules give it the power to assess members, and require members to pay such assessments, on account of assessments or levies made by or in respect of an IPP.

6. MEMBERSHIP REQUIREMENTS

(A) The MFDA's rules shall permit all properly registered mutual fund dealers who satisfy the membership criteria to become members thereof and shall provide for the non-transferability of membership.

(B) Without limiting the generality of the foregoing, the MFDA's rules shall provide for:

(i) reasonable financial and operational requirements, including minimum capital and capital adequacy, debt subordination, bonding, insurance, record-keeping, new account, knowledge of clients, suitability of trades, supervisory practices, segregation, protection of clients' funds and securities, operation of accounts, risk management, internal control and compliance (including a written compliance program), client statement, settlement, order taking, order processing, account inquiries, confirmation and back office requirements;

(ii) reasonable proficiency requirements (including training, education and experience) with respect to Approved Persons of members;

(iii) consideration of disciplinary history, including breaches of applicable securities legislation, the rules of other self regulatory organizations or MFDA rules, prior involvement in criminal, relevant quasi-criminal, administrative or insolvency proceedings or civil proceedings involving business conduct or alleging fraudulent conduct or deceit, and prior business and other conduct generally, of applicants for membership and any partners, directors and officers, in order that membership may, where appropriate, be refused where any of the foregoing have previously engaged in improper conduct, and shall be refused where the past conduct of any of the foregoing affords reasonable grounds for belief that the applicant's business would not be conducted with integrity;

(iv) reasonable consideration of relationships with other members and other business activities to ensure the appropriateness thereof; and

(v) consideration of the ownership of applicants for membership under the criteria established in paragraph 6(E).

(C) The MFDA shall require members to confirm to the MFDA that persons that it wishes to sponsor, employ or associate with as Approved Persons comply with applicable securities legislation and are properly registered.

(D) The MFDA rules shall require a member to give prior notice to the MFDA before any person or company acquires a material registered or beneficial interest in securities or indebtedness of or any other ownership interest in the member, directly or indirectly, or becomes a transferee of any such interests, or before the member engages in any business combination, merger, amalgamation, redemption or repurchase of securities, dissolution or acquisition of assets. In each case there may be appropriate exceptions in the case of publicly traded securities, de minimis transactions that do not involve changes in de facto or legal control or the acquisitions of material interests or assets, and non-participating indebtedness.

(E) The MFDA rules shall require approval by the MFDA in respect of all persons or companies proposing to acquire an ownership interest in a member in the circumstances outlined in paragraph 6(D) and, except as provided in paragraph 6(F), for approval of all persons or companies that satisfy criteria providing for:

(i) consideration of disciplinary history, including breaches of applicable securities legislation, the rules of other self-regulatory organizations or MFDA rules, involvement in criminal, relevant quasi-criminal, administrative or insolvency proceedings or civil proceedings involving business conduct or alleging fraudulent conduct or deceit, and prior business and other conduct generally; and

(ii) reasonable consideration of relationships with other members and involvement in other business activities to ensure the appropriateness thereof.

(F) The MFDA rules shall give the MFDA the right to refuse approval of all persons or companies that are proposing to acquire an ownership interest in a member in the circumstances outlined in paragraph 6(D) who do not agree to:

(i) submit to the jurisdiction of the MFDA and comply with its rules;

(ii) notify the MFDA of any changes in his, her or its relationship with the member or of any involvement in criminal, relevant quasi-criminal, administrative or insolvency proceedings or in civil proceedings involving business conduct or alleging fraudulent conduct or deceit;

(iii) accept service by mail in addition to any other permitted methods of service;

(iv) authorize the MFDA to co-operate with other regulatory and self-regulatory organizations, including sharing information with these organizations; and

(v) provide the MFDA with such information as it may from time to time request and full access to and copies of any records.

(G) The MFDA shall notify the Commission forthwith of members whose rights and privileges will be suspended or terminated or whose membership will be terminated, and in each case the MFDA shall identify the member, the reasons for the proposed suspension or termination and provide a description of the steps being taken to ensure that the member's clients are being dealt with appropriately.

7. COMPLIANCE BY MEMBERS WITH MFDA RULES

(A) The MFDA shall enforce, as a matter of contract between itself and its members, compliance by its members and their Approved Persons with the rules of the MFDA and the MFDA shall cooperate with the Commission in ensuring compliance with applicable securities legislation relating to the operations, standards of practice and business conduct of members and Approved Persons, without prejudice to any action that may be taken by the Commission under securities legislation.

(B) The MFDA shall conduct periodic reviews of its members and the members' Approved Persons to ensure compliance by its members and the members' Approved Persons with the rules of the MFDA and shall conduct such reviews at a frequency requested by the Commission or its staff. The MFDA shall provide notice to staff of the Commission of any material violations of securities legislation of which it becomes aware in the ordinary course operation of its business. The MFDA shall also cooperate with the Commission in the conduct of reviews of its members and the members' Approved Persons as requested by the Commission or its staff, to ensure compliance by its members and their Approved Persons with applicable securities legislation.

(C) The MFDA shall promptly report to the Commission when:

(i) any member has failed to file on a timely basis any required financial, operational or other report;

(ii) early warning thresholds established by the MFDA that would reasonably be expected to raise concerns about a member's liquidity, risk-adjusted capital or profitability have been triggered by any member; and

(iii) any condition exists with respect to a member which, in the opinion of the MFDA, could give rise to payments being made out of an IPP, including any condition which, alone or together with other conditions, could, if appropriate corrective action is not taken, reasonably be expected to:

(a) inhibit the member from promptly completing securities transactions, promptly segregating clients' securities as required or promptly discharging its responsibilities to clients, other members or creditors,

(b) result in material financial loss, or

(c) result in material misstatement of the member's financial statements.

The MFDA shall, in each case, identify the member, describe the circumstances that gave rise to the reportable event and describe the MFDA's proposed response to ensure the identified circumstances are resolved.

(D) The MFDA shall promptly report to the Commission actual or apparent misconduct by members and their Approved Persons and others where investors, creditors, members, an IPP or the MFDA may reasonably be expected to suffer serious damage as a consequence thereof, including where the solvency of a member is at risk, fraud is present or there exist serious deficiencies in supervision or internal controls or non-compliance with MFDA rules or securities legislation. The MFDA shall, in each case, identify the member, the Approved Persons, or others, and the misconduct or deficiency as well as the MFDA's proposed response to ensure that the identified problem is resolved.

(E) The MFDA shall advise the Commission promptly following the taking of any action by it with respect to any member in financial difficulty.

(F) The MFDA shall promptly advise each other self-regulatory organization and IPP of which a member is a participant or which provides compensatory coverage in respect of the member, of any actual or apparent material breach of the rules thereof of which the MFDA becomes aware.

8. DISCIPLINE OF MEMBERS AND APPROVED PERSONS

(A) The MFDA shall, as a matter of contract, have the right to and shall appropriately discipline its members and their Approved Persons for violations of the rules of the MFDA and shall cooperate with the Commission in the enforcement of applicable securities legislation relating to the operations, standards of practice and business conduct of the members and Approved Persons, without prejudice to any action that may be taken by the Commission under securities legislation.

(B) The MFDA rules shall enable it to prevent the resignation of a member from the MFDA if the MFDA considers that any matter affecting the member or any registered or beneficial holder of a direct or indirect ownership interest in securities, indebtedness or other interests in the member, or in a person or company associated or affiliated with the member or affecting the member's Approved Persons or any of them, should be investigated or that the member or any such person, company or Approved Person should be disciplined.

(C) The MFDA shall require its members and their Approved Persons to be subject to the MFDA's review, enforcement and disciplinary procedures.

(D) The MFDA shall notify

(i) the Commission in writing, and

(ii) the public and the media

(a) of any disciplinary or settlement hearing, as soon as practicable and in any event not less than 14 days prior to the date of the hearing, and

(b) of the disposition of any disciplinary action or settlement, including any discipline imposed, and shall promptly make available any written decision and reasons.

(E) Any notification required under paragraph 8 (D) shall include, in addition to any other information specified in paragraph 8 (D), the names of the member and the relevant Approved Persons together with a summary of circumstances that gave rise to the proceedings.

(F) The MFDA shall maintain a register to be made available to the public, summarizing the information which is required to be disclosed to the Commission under paragraphs 8 (D) and (E).

(G) The information given to the Commission under paragraphs 8 (D) and (E) will be published by the Commission unless the Commission determines otherwise.

(H) The MFDA shall at least annually review all material settlements involving its members or their Approved Persons and their clients with a view to determining whether any action is warranted, and the MFDA shall prohibit members and their Approved Persons from imposing confidentiality restrictions on clients vis-à-vis the MFDA or the Commission, whether as part of a resolution of a dispute or otherwise.

(I) Disciplinary and settlement hearings shall be open to the public and media except where confidentiality is required for the protection of confidential matters. The criteria and any changes thereto for determining these exceptions shall be specified and submitted to the Commission for approval.

9. DUE PROCESS

The MFDA shall ensure that the requirements of the MFDA relating to admission to membership, the imposition of limitations or conditions on membership, denial of membership and termination of membership are fair and reasonable, including in respect of notice, an opportunity to be heard or make representations, the keeping of a record, the giving of reasons and provision for appeals.

10. PURPOSE OF RULES

(A) The MFDA shall, subject to the terms and conditions of its recognition and the jurisdiction and oversight of the Commission in accordance with securities legislation, establish such rules as are necessary or appropriate to govern and regulate all aspects of its business and affairs and shall in so doing:

(i) seek to ensure compliance by members and their Approved Persons with applicable securities legislation relating to the operations, standards of practice and business conduct of the members;

(ii) seek to prevent fraudulent and manipulative acts and practices and to promote the protection of investors, just and equitable principles of trade and high standards of operations, business conduct and ethics;

(iii) seek to promote public confidence in and public understanding of the goals and activities of the MFDA and to improve the competence of members and their Approved Persons;

(iv) seek to standardize industry practices where appropriate for investor protection;

(v) seek to provide for appropriate discipline;

and shall not:

(vi) permit unfair discrimination among investors, mutual funds, members or others; or

(vii) impose any barrier to competition that is not appropriate.

(B) Unless otherwise approved by the Commission, the rules of the MFDA governing the conduct of member business regulated by the MFDA shall afford investors protection at least equivalent to that afforded by securities legislation, provided that higher standards in the public interest shall be permitted and are encouraged.

11. RULES AND RULE-MAKING

(A) No new rules, changes to rules (which shall include any revocation in whole or in part of a rule) or suspension of rules shall be made effective by the MFDA without prior approval of the Commission. Any such rules, changes or suspensions shall be justified by reference to the permitted purposes thereof (having regard to paragraph 10). The approval process shall be subject to a memorandum of understanding between the Commission and the MFDA to be established regarding the review and approval of rules and amendments and suspensions thereto.

(B) Prior to proposing a new rule, changes to a rule (which shall include any revocation in whole or in part of a rule) or a suspension of a rule, the Board shall have determined that the entry into force of such rule or change or the suspension of the rule would be in the public interest and every proposed new rule, change or suspension must be accompanied by a statement to that effect.

(C) All rules, changes to rules and suspensions of rules adopted by the Board must be filed with the Commission.

(D) A copy of all written notices relevant to the rules or to the business and activities of members, their Approved Persons or other employees or agents to assist in the interpretation, application of and compliance with the rules and legislation relevant to such business and activities shall be provided to the Commission.

(E) The MFDA shall, wherever practicable, document its interpretations of its rules and distribute copies of that documentation to its members and the Commission.

12. OPERATIONAL ARRANGEMENTS AND RESOURCES

(A) The MFDA shall have adequate arrangements and resources for the effective monitoring and enforcement of compliance with its rules. With the consent of the Commission, the arrangements for monitoring and enforcement may make provision for the following:

(i) one or more parts of those functions to be performed (and without affecting its responsibility) by another body or person that is able and willing to perform it; and

(ii) its members and their Approved Persons to be deemed to be in compliance with its rules by complying with the substantially similar rules of such other body or person.

The Commission's consent may be varied or revoked from time to time and may be subject to terms and conditions.

(B) The MFDA shall respond promptly and effectively to public inquiries and generally shall have effective arrangements for the investigation of complaints (including anonymous complaints) against its members or their Approved Persons. With the consent of the Commission, such arrangements may make provision for one or more parts of that function to be performed on behalf of the MFDA (and without affecting its responsibility) by another body or person that is able and willing to perform it. The Commission's consent may be varied or revoked from time to time and may be subject to terms and conditions. The MFDA and any other body or person performing such function on behalf of the MFDA shall not refrain from investigating complaints due to the anonymity of the complainant where the complaint is otherwise worthy of investigation and sufficiently detailed to permit investigation.

(C) The MFDA shall ensure that it is accessible to the public and shall designate and make available to the public the names and telephone numbers of persons to be contacted for various purposes, including making complaints and enquiries.

(D) The arrangements and resources referred to in paragraphs (A) and (B) above shall consist at a minimum of:

(i) a sufficient complement of qualified staff, including professional and other appropriately trained staff;

(ii) an adequate supervisory structure;

(iii) adequate management information systems;

(iv) a compliance department and an enforcement department with appropriate reporting structures directly to senior management, and with written procedures wherever practicable;

(v) procedures and structures that minimize or eliminate conflicts of interest within the MFDA;

(vi) inquiry and complaint procedures and a public information facility, including with respect to the discipline history of members and their Approved Persons;

(vii) guidelines regarding appropriate disciplinary sanctions; and

(viii) the capacity and expertise to hold disciplinary hearings (including regarding proposed settlements) utilizing public representatives within the meaning of the current section 19.5 of the MFDA's By-Law No. 1 together with member representatives.

(E) The MFDA shall cooperate and assist with any reviews, scheduled or unscheduled, of its self-regulatory functions by an IPP or the Commission. In addition, in the event that the Commission is of the view that there has been a serious actual or apparent failure in the MFDA's fulfilment of its self-regulatory functions, the MFDA shall, where requested by the Commission, undergo an independent third party review on terms and by

a person or persons satisfactory to or determined by the Commission, which review shall be at the expense of the MFDA.

(F) The MFDA shall cooperate and assist with any reviews, scheduled or unscheduled, of its corporate governance structure by the Commission. In addition, in the event that the Commission is of the view that there has been a serious weakness in the MFDA's corporate governance structure, the MFDA shall upon the request of the Commission undergo an independent third party review on terms and by a person or persons satisfactory to or determined by the Commission, which review shall be at the expense of the MFDA.

(G) The MFDA shall not make material changes to its organizational structure, which would affect its self-regulatory functions, without prior approval of the Commission.

(H) The MFDA shall comply with reporting requirements set out in Appendix A, as amended from time to time by the Commission or its staff. The MFDA shall also provide the Commission with other reports, documents and information as the Commission or its staff may be reasonably request.

13. INFORMATION SHARING

The MFDA shall cooperate, by sharing information and otherwise, with IPPs, the Commission and its staff, and other Canadian federal, provincial and territorial recognized self-regulatory organizations and regulatory authorities, including without limitation, those responsible for the supervision or regulation of securities firms, financial institutions, insurance matters and competition matters. The Commission and its staff shall have unrestricted access to the books and records, management, staff and systems of the MFDA.

14. SUSPENSION OF MFDA RULE 2.4.1

MFDA Rule 2.4.1 is suspended and will continue to be suspended until December 31, ~~2008~~2010, in the Provinces of British Columbia, Saskatchewan, ~~Manitoba,~~ Ontario and Nova Scotia, and during such period the MFDA shall comply with the following conditions:

~~(A) the MFDA shall co-operate with the Commission and its staff, including participating on any joint industry and regulatory committee struck by the Commission and its staff, in their efforts to develop amendments to applicable securities legislation that would, among other things, allow an Approved Person to carry on securities related business (within the meaning of the MFDA rules) through a corporation, while preserving that Approved Person's and the member's liability to clients for the Approved Person's actions;~~

(~~B~~A) the MFDA shall, as a condition of a member or Approved Person being entitled to rely on the suspension of Rule 2.4.1, require that the member and its Approved Persons agree, and cause any recipient of commissions on behalf of Approved Persons that is itself not registered as a dealer or a salesperson to agree, to provide to the MFDA, the Commission and the applicable member access to its books and records for the purpose of determining compliance with the rules of the MFDA and applicable securities legislation;

(~~C~~B) the MFDA shall ensure in connection with the suspension of Rule 2.4.1 that members and Approved Persons comply with the remaining Rules, with specific reference to Rule 1 Business Structures and Qualifications, Rule 1.2.1(d) Dual Occupations and the requirement noted above in paragraph (~~B~~A);

(~~D~~C) the MFDA shall ensure that members applying for membership are made aware of the requirements of Rule 1 by delivering to each applicant a copy of its Notice MR-0002; and

(~~E~~D) the MFDA shall not accept a member whose relationship with its Approved Persons does not comply with the rules of the MFDA and in particular, Rule 1, unless the MFDA has granted exemptive relief to that applicant under the authority granted to the Board of Directors under section 38 By-law No. 1.

APPENDIX A

Reporting Requirements

1. Prior Notification

1.1 The MFDA shall advise the Commission in advance of any proposed material changes or reductions in its financial review program or operational and sales compliance review programs, including as to procedures or scope, or any proposed changes in its external audit instructions and of any proposed material changes or reductions in the operation of its investigation or enforcement programs.

2. Immediate Notification

2.1 The MFDA shall give the Commission notice of new directors, officers and committee chairpersons, including a 5 year employment history and information as to the involvement in criminal, relevant quasi-criminal, administrative or insolvency proceedings and civil proceedings involving business conduct or alleging fraudulent conduct or deceit in respect of each such person.

3. Annual Reporting

The MFDA shall within 120 days of its fiscal year end file the following information and reports to the Commission:

3.1 The MFDA's self-regulatory staff complement, by function, and of any material changes or reductions in self-regulatory staff, by function;

3.2 Copy or summary of self-assessment by management of the MFDA's performance of its self-regulatory responsibilities and any proposed actions arising therefrom. The self-assessment shall, for each of the MFDA's member regulatory functions, set performance measurements against which performance can be compared, and identify major successes, significant problem areas, plans to resolve these problems, recruitment and training plans, and other information as reasonably requested by the Commission or its staff; and

3.3 The MFDA's budget and audited financial statements.

13.1.4 CDS Rule Amendment Notice − Technical Amendments to CDS Procedures − Spanish Maple Bonds

CDS CLEARING AND DEPOSITORY SERVICES INC. (CDS®)

TECHNICAL AMENDMENTS TO CDS PROCEDURES

SPANISH MAPLE BONDS

NOTICE OF EFFECTIVE DATE

A. DESCRIPTION OF THE AMENDMENTS

Background

Maple bonds are currently eligible for CDS if they meet eligibility requirements. CDS has been advised by a number of underwriters that one or more Spanish issuers are now considering issuing maple bonds.

Because Spanish tax law is unique in that it requires the participant holding a security to provide the issuer with a list of eligible beneficial owners if an exemption to the non-resident withholding tax on entitlement payments is claimed, the issuer of Spanish maple bonds will advise, in both the offering memorandum, and in individual issuer notices relating to interest payments, the procedures that are to be followed if claiming tax relief. Specifically, participants will need to provide their beneficial owner information to a third party as instructed by the issuer in the event they request tax relief at source.

CDS proposes to include in CDS's external procedures a reference to eligibility requirements and the related third party contact information. CDS participants will be advised that they are responsible for contacting and interacting directly with the third party as designated by the issuer.

The Procedures marked for the amendments may be accessed at the CDS website at:

http://www.cds.ca/cdsclearinghome.nsf/Pages/-EN-blacklined?Open

Description of Proposed Amendments

The following procedures will be impacted by this initiative:

CDSX Procedures and User Guide:
- Chapter 1 Introduction to CDSX, Section 1.4
- Chapter 3 Issue Activities, Section 3.2.6
- Chapter 8 Entitlement Activities, Section on Entitlement Activities

B. REASONS FOR TECHNICAL CLASSIFICATION

The amendments proposed pursuant to this Notice are considered technical amendments as they are matters of a technical nature in routine operating procedures and administrative practices relating to the settlement services.

C. EFFECTIVE DATE OF THE RULE

Pursuant to Appendix A ("Rule Protocol Regarding The Review And Approval Of CDS Rules By The OSC") of the Recognition and Designation Order, as amended on November 1, 2006, and Annexe A ("Protocole d'examen et d'approbation des Règles de Services de Dépot et de Compensation CDS Inc. par l'Autorité des marchés financiers") of AMF Decision 2006-PDG-0180, made effective on November 1, 2006, CDS has determined that these amendments will be effective on **September 15, 2008**.

These amendments were reviewed and approved by the CDS Strategic Development Review Committee ("SDRC") on **July 31, 2008**.

D. QUESTIONS

Questions regarding this notice may be directed to:

Eduarda Matos
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e-mail: attention@cds.ca

JAMIE ANDERSON
Managing Director, Legal

Index