The Ontario Securities Commission

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October 3, 2008

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

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Notices / News Releases

1.1 Notices

1.1.1 Current Proceedings Before The Ontario Securities Commission

OCTOBER 3, 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
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Carol S. Perry	—	CSP
Suresh Thakrar, FIBC	—	ST
Wendell S. Wigle, Q.C.	—	WSW

SCHEDULED OSC HEARINGS

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: ST/MCH
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: WSW/ST
October 14, 2008 10:00 a.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
October 17, 2008 9:00 a.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

October 17, 2008 9:00 a.m.	**Stanton De Freitas** s. 127 and 127.1 P. Foy in attendance for Staff Panel: JEAT/ST
October 17, 2008 9:00 a.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
October 20, 2008 10:00 a.m.	**Shane Suman and Monie Rahman** s. 127 & 127(1) C. Price in attendance for Staff Panel: JEAT/DLK/MCH
October 21, 2008 2:30 p.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
October 27, 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 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 19, 2008 10:00 a.m.	**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** s. 127 C. Price in attendance for Staff Panel: JEAT/CSP

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: DLK/CSP
November 27, 2008 2:00 p.m.	**Global Partners Capital, Asia Pacific Energy Inc., 1666475 Ontario Inc. operating as "Asian Pacific Energy", Alex Pidgeon, Kit Ching Pan also known as Christine Pan, Hau Wai Cheung, also known as Peter Cheung, Tony Cheung, Mike Davidson, or Peter McDonald, Gurdip Singh Gahunia also known as Michael Gahunia or Shawn Miller, Basis Marcellinius Toussaint also known as Peter Beckford, and Rafique Jiwani also known as Ralph Jay** s.127 M. Boswell in attendance for Staff Panel: DLK/MCH
November 28, 2008 10:00 a.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
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
December 8, 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: ST/CSP/DLK
January 5, 2009 TBA	**FactorCorp Inc., FactorCorp Financial Inc. and Mark Twerdun** s. 127 M. Mackewn 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
January 26, 2009 10:00 a.m.	**Darren Delage** s. 127 M. Adams 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

TBA **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

TBA **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

TBA **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

TBA **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

TBA **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

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 Notice of Minister of Finance Approval – Memorandum of Understanding Regarding Canadian Investor Protection Fund and Notice of Commission Approval – Order Approving Canadian Investor Protection Fund as a Compensation Fund

NOTICE OF MINISTER OF FINANCE APPROVAL

MEMORANDUM OF UNDERSTANDING REGARDING CANADIAN INVESTOR PROTECTION FUND

NOTICE OF COMMISSION APPROVAL

ORDER APPROVING CANADIAN INVESTOR PROTECTION FUND AS A COMPENSATION FUND

On September 19, 2008, the Minister of Finance for Ontario approved an amended and restated memorandum of understanding (MOU) between the Canadian Securities Administrators (CSA) and the Canadian Investor Protection Fund (CIPF). The MOU takes effect on September 30, 2008. The MOU was published in the Bulletin on July 25, 2008, at (2008) 31 OSCB 7557.

The Commission has also approved an amended and restated order (Order) approving CIPF as a compensation fund pursuant to section 110 of the regulation to the *Securities Act* (Ontario) and section 23 of the regulation to the *Commodity Futures Act* (Ontario). The Order takes effect on September 30, 2008. The Order is published in Chapter 2 of this Bulletin.

1.3 News Releases

1.3.1 Canadian Securities Regulators Respond to Current Capital Market Events

FOR IMMEDIATE RELEASE
September 26, 2008

CANADIAN SECURITIES REGULATORS RESPOND TO CURRENT CAPITAL MARKET EVENTS

Toronto – In light of recent developments in the financial markets, the Canadian Securities Administrators (CSA) and the Investment Industry Regulatory Organization of Canada (IIROC) continue to closely monitor events both here at home and internationally to determine whether additional regulatory responses are necessary.

Members of the CSA have taken, or are taking, the following actions:

- Temporarily prohibited short selling of the common shares of certain financial sector issuers that are listed on the Toronto Stock Exchange and are also interlisted in the United States, where the U.S. Securities and Exchange Commission has issued a broad ban on short selling of financial issuers;
- Initiated a fact-finding review of money market funds and other market participants by way of a combination of questionnaires and selected on-site reviews to assess potential exposure to assets that are impaired or made illiquid. In light of current market conditions, continuous disclosure reviews of investment funds are also ongoing;
- Created a special committee in late 2007 that has considered and will be recommending regulatory responses to aspects of the seizure of the non-bank sponsored asset-backed commercial paper (ABCP) market in Canada;
- Monitoring continuous disclosure by reporting issuers with a particular emphasis on the banking and financial services sector and highly leveraged reporting issuers;
- Monitoring, through IIROC, trading on the markets to assess if they continue to be fair and orderly and determine whether further steps should be taken;
- Collaborating with other Canadian regulatory authorities that oversee the Canadian financial industry to share information and coordinate actions;

- Working closely with regulators around the world and actively monitoring international developments.

"The CSA is actively engaged in an examination of the issues related to the current market events and will continue to take regulatory action, where appropriate, to protect investors and market integrity in these extraordinary times," said Jean St-Gelais, CSA Chair and President and Chief Executive Officer of the Autorité des marchés financiers (Québec).

IIROC has taken, or is taking, the following actions:

- Issued two Notices providing a reminder to Participants and Access Persons respecting their obligations generally in the handling of a short sale and specific guidance on the obligations of Participants and Access Persons in complying with the Temporary Order issued by the CSA;

- Increasing its surveillance of short selling activity on Canadian marketplaces and, in particular, short selling activity in securities of issuers in the financial sector that are not covered by the Temporary Order;

- Closely monitoring regulatory capital position of all dealer member firms to assess impact of current market conditions and in particular market volatility;

- Conducted regulatory study and will be making recommendations concerning the manufacture and distribution by IIROC member firms of third party ABCP in Canada.

The CSA, the council of the securities regulators of Canada's provinces and territories, co-ordinates and harmonizes regulation for the Canadian capital markets.

IIROC is the national self-regulatory organization which oversees all investment dealers and trading activity on debt and equity marketplaces in Canada.

For media inquiries:

Laurie Gillett
Ontario Securities Commission
416-595-8913

Barbara Shourounis
Saskatchewan Financial Services Commission
306-787-5842

Sylvain Théberge
Autorité des marchés financiers
514-940-2176

Andrew Poon
British Columbia Securities Commission
604-899-6880

Natalie MacLellan
Nova Scotia Securities Commission
902-424-8586

Mark Dickey
Alberta Securities Commission
403-297-4481

Ainsley Cunningham
Manitoba Securities Commission
204-945-4733

Wendy Connors-Beckett
New Brunswick Securities Commission
506-643-7745

Mark Gallant
Prince Edward Island
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902-368-4552

Doug Connolly
Financial Services Regulation Division
Newfoundland and Labrador
709-729-2594

Louis Arki
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867-975-6587

Donn MacDougall
Securities Registry
Northwest Territories
867-920-8984

Fred Pretorius
Yukon Securities Office
867-667-5225

Connie Craddock
IIROC
416-943-5870

1.4 Notices from the Office of the Secretary

1.4.1 Hollinger Inc. et al.

FOR IMMEDIATE RELEASE
September 25, 2008

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

AND

HOLLINGER INC., CONRAD M. BLACK,
F. DAVID RADLER, JOHN A. BOULTBEE,
AND PETER Y. ATKINSON

TORONTO – The Commission today issued a consent order adjourning the hearing currently scheduled for September 26, 2008 to February 16, 2009, at 9:30 a.m., for the purpose of addressing the scheduling of this proceeding.

A copy of the Order dated September 25, 2008 is available at **www.osc.gov.on.ca**.

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1.4.2 David Berry

FOR IMMEDIATE RELEASE
September 30, 2008

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

AND

IN THE MATTER OF
A REQUEST FOR A HEARING AND REVIEW
OF A DECISION OF A HEARING PANEL OF
MARKET REGULATION SERVICES INC.

AND

IN THE MATTER OF
A REQUEST BY TSX INC. TO INTERVENE IN
THE HEARING AND REVIEW

AND

IN THE MATTER OF
DAVID BERRY

TORONTO – The Commission issued an Order yesterday granting the TSX limited intervenor status to participate at the Hearing and Review on October 29, 2008.

A copy of the Order dated September 30, 2008 is available at **www.osc.gov.on.ca**.

OFFICE OF THE SECRETARY
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1.4.3 Daniel Duic

FOR IMMEDIATE RELEASE
September 30, 2008

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

AND

IN THE MATTER OF
DANIEL DUIC

TORONTO – The Commission issued its Reasons For Decision on Sanctions and Costs in the above named matter.

A copy of the Reasons For Decision on Sanctions and Costs dated September 29, 2008 is available at **www.osc.gov.on.ca**.

OFFICE OF THE SECRETARY
JOHN P. STEVENSON
SECRETARY

1.4.4 Matthew Scott Sinclair

FOR IMMEDIATE RELEASE
October 1, 2008

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

AND

IN THE MATTER OF
MATTHEW SCOTT SINCLAIR

TORONTO – The Commission issued an order in the above matter which provides that the hearing of this matter shall be scheduled to proceed for five days commencing on Monday, April 13, 2009, at 10:00 a.m. or on such other date as is agreed by the parties and determined by the Office of the Secretary.

A copy of the Order dated September 30, 2008 is available at **www.osc.gov.on.ca**.

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1.4.5 Al-Tar Energy Corp. et al.

FOR IMMEDIATE RELEASE
October 1, 2008

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

AND

IN THE MATTER OF
AL-TAR ENERGY CORP.,
ALBERTA ENERGY CORP.,
DRAGO GOLD CORP., DAVID C. CAMPBELL,
ABEL DA SILVA, ERIC F. O'BRIEN AND
JULIAN M. SYLVESTER

TORONTO – The Commission issued an Order pursuant to subsections 127(1) and 127(8) which provides that the Second Temporary Order is extended until the end of the hearing on the merits.

A copy of the Order dated September 30, 2008 is available at **www.osc.gov.on.ca**.

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Chapter 2

Decisions, Orders and Rulings

2.1 Decisions

2.1.1 Targanta Therapeutics Corporation

Headnote

Dual Application for relief from the prospectus and registration requirements in connection with first trades – Non-reporting issuer - Section 2.14 of National Instrument 45-102 respecting Resale of Securities is not available as Canadian residents hold more than 10% of outstanding Common Shares – No market for the securities of the issuer in Canada - exemption conditional on resale occurring over NASDAQ or outside of Canada.

Applicable Legislative Provisions

Securities Act (Ontario) ss. 74(1), 53(1).
National Instrument 45-102 Resale of Securities, s. 2.14.

TRANSLATION

September 5, 2008

IN THE MATTER OF
THE SECURITIES LEGISLATION OF
QUÉBEC AND ONTARIO
(THE "JURISDICTIONS")

AND

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

AND

IN THE MATTER OF
TARGANTA THERAPEUTICS CORPORATION
("TARGANTA US" OR THE "FILER")

DECISION

Background

The securities regulatory authority or regulator in each of the Jurisdictions ("**Decision Maker**") has received an application from the Filer for a decision under the securities legislation of the Jurisdictions ("**Legislation**") for the exemption from the obligations to prepare a prospectus and to register as a dealer for the resale of Targanta US' common shares ("**Common Shares**") by the Canadian Shareholders (as defined below) and, upon the exercise of options, by the Optionees (as defined below) through the facilities of The NASDAQ Global Market ("**NASDAQ**") ("**Requested Exemptive Relief**").

In Québec, the exemption sought is being requested pursuant to Section 263 of the Securities Act (Québec) ("**Québec Act**") and in Ontario, pursuant to Section 74(1) of the Securities Act (Ontario) ("**Ontario Act**").

The requirements for which the exemptions are being sought are set forth in the following sections of the Legislation:

a) the obligation to prepare a prospectus for the resale of the Common Shares is prescribed by Section 11 of the Québec Act and Section 53 of the Ontario Act; and

b) the obligation to register as a dealer for the resale of the Common Shares is prescribed by Section 148 of the Québec Act and Section 25 of the Ontario Act.

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

a) the Autorité des marchés financiers is the principal regulator for this application; and

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

Interpretation

Terms defined in National Instrument 14-101 *Definitions* and Regulation 11-102 *respecting Passport System*, elsewhere referred to as Multilateral Instrument 11-102 *Passport System*, have the same meaning if used in this decision, unless otherwise defined.

Representations

This Order is based upon the following representations by the Filer:

1.1 Background

(i) Targanta US was incorporated under the laws of the State of Delaware. The principal executive offices of Targanta US are located at 222 Third Avenue, Suite 2300, Cambridge, Massachusetts.

(ii) Targanta US is not a reporting issuer or its equivalent in any jurisdiction of Canada and has no present intention of becoming a reporting

issuer or its equivalent in any jurisdiction of Canada.

(iii) Targanta US is a registrant with the **SEC** and is subject to the requirements of the **1934 Act** and the rules and regulations of NASDAQ.

(iv) To the knowledge of Targanta US, Targanta US is not in default of the Legislation or securities legislation in the United States of America.

(v) On October 15, 2007, Targanta US completed an initial public offering ("**IPO**") of its Common Shares in the United States under an amended Form S-1 Registration Statement filed with the SEC, which became effective October 9, 2007.

(vi) The Common Shares trade on NASDAQ under the symbol "TARG".

(vii) Targanta US has two Canadian subsidiaries:

A. Targanta Therapeutics Inc. ("**Targanta Québec**"), a corporation incorporated under the *Canada Business Corporations Act* ("**CBCA**") on May 20, 1997 with a head office in St-Laurent, Québec; and

B. Targanta Therapeutics (Ontario) Inc. ("**Targanta Ontario**"), a corporation incorporated under the CBCA on December 22, 2005 with a head office in Toronto, Ontario (Targanta Ontario and Targanta Québec are collectively referred to as the "**Subsidiaries**" and together with Targanta US as the "**Targanta Group**").

(viii) Neither of the Subsidiaries is a reporting issuer or its equivalent in any jurisdiction of Canada and neither has any intention of becoming a reporting issuer or its equivalent in any jurisdiction of Canada.

(ix) Each of the Subsidiaries is a "private issuer" and Targanta US was, until the closing of the IPO, a "private issuer" within the meaning of Section 2.4 of Regulation 45-106 respecting prospectus and registration exemptions ("**Regulation 45-106**").

(x) As a result of a financing round completed December 23, 2005 and a concurrent reorganisation of the Targanta Group, the shareholders resident in Quebec only held, prior to the IPO, shares of one or more series or classes of exchangeable shares of Targanta Québec, the shareholders resident in Ontario only held preferred classes or series of exchangeable shares of Targanta Ontario and Targanta US held all of the common shares of Targanta Québec and Targanta Ontario.

(xi) Immediately prior to the closing of the IPO, Targanta US exercised its right to purchase all of the exchangeable shares of Targanta Québec and Targanta Ontario so that all of the Canadian Shareholders (as defined below) received Common Shares.

(xii) The holders of Common Shares resident in Quebec ("**Quebec Shareholders**") and resident in Ontario ("**Ontario Shareholders**") who obtained Common Shares before the completion of the IPO all belong to a category of investors set forth in section 2.4(2) of Regulation 45-106 (the Quebec Shareholders and Ontario Shareholders collectively referred to as "**Canadian Shareholders**").

(xiii) Pursuant to Rule 144 promulgated under the 1933 Act, the statutory holding period which applied to the Common Shares held by the Canadian Shareholders expired on April 11, 2008.

1.2 Specific Representations relating to the Canadian Shareholders

(i) The Canadian Shareholders wish to have the option of selling their Common Shares through the facilities of NASDAQ.

(ii) The Québec Shareholders collectively own 1,880,160 Common Shares representing in the aggregate 8.97% of Targanta US' outstanding 20,971,834 Common Shares as of June 30, 2008.

(iii) Over 99% of the Common Shares owned by the Québec Shareholders are owned by five institutional shareholders which are accredited investors within the meaning of Regulation 45-106. The other Québec Shareholders are fourteen individuals composed of founders and former or current directors, officers or employees of Targanta Québec and other persons listed in Section 2.4(2) of Regulation 45-106.

(iv) The Ontario Shareholders, three Ontario labour sponsored investment funds, own collectively 2,607,036 Common Shares representing 12.43% of Targanta US' 20,971,834 Common Shares outstanding on June 30, 2008.

(v) As of June 30, 2008, the Canadian Shareholders collectively owned 4,487,196 Common Shares representing 21.4% of the Common Shares.

(vi) A geographical survey of beneficial holders of Common Shares dated as of April 4, 2008, the date of Targanta US' most recent annual general meeting, lists eight beneficial holders of Common Shares other than the Canadian Shareholders (the "**Additional Canadian Holders**") located in three Canadian provinces holding in the aggregate 7,135 Common Shares (0.034% of the

20,971,834 outstanding shares as of June 30, 2008) or a *de minimis* amount.

(vii) To the knowledge of Targanta US, the Additional Canadian Holders acquired their Common Shares on the secondary market through the facilities of NASDAQ.

1.3 Specific Representations relating to the Optionees

(i) The group comprising holders of options to purchase Common Shares resident in Canada ("**Optionees**") is comprised of the following persons:

A. Holders of options to purchase Common Shares granted under the Stock Option Plans (as defined below) resident in Quebec ("**Quebec Optionees**") and resident in Ontario ("**Ontario Optionee**"); and

B. Holders of options to purchase Common Shares to be granted in the future under the 2007 Plan (as defined below).

(ii) The Ontario Optionee is a former member of the scientific advisory board of Targanta Québec.

(iii) The Ontario Optionee may in the future receive Common Shares upon the exercise of his options granted under the Targanta Québec Plan (as defined below).

(iv) The Québec Optionees are comprised of founders and former or current directors, officers and employees of Targanta Québec.

(v) Optionees may in the future receive Common Shares upon the exercise of their options granted under any of the following three stock option plans:

A. The Targanta Québec Re-Amended and Restated Stock Option Plan ("**Targanta Québec Plan**"):

B. The Targanta US 2005 Stock Option Plan, adopted on December 23, 2005, as amended ("**2005 Plan**"):

C. The Targanta US 2007 Stock Option and Incentive Plan, as amended ("**2007 Plan**"):

(The Targanta Québec Plan, the 2005 Plan and the 2007 Plan are referred to collectively as the "**Stock Option Plans**")

(vi) The Targanta Quebec Plan and 2005 Plan were each closed at the time of the restructuring and IPO while the 2007 Plan is still in force and options to purchase Common Shares will continue to be granted in the future to directors, officers and employees of Targanta Quebec.

(vii) The Common Shares issuable under the 2005 Plan and 2007 Plan have been registered by Targanta US with the SEC on a Form S-8 registration statement under the 1933 Act.

(viii) All employees in the Targanta Group may obtain via the corporate internet an information document containing the content prescribed by the 1933 Act in respect of the 2005 Plan and the plan administrator will deliver, together with the 2007 Plan documents and stock option plan agreements, an information document containing the content prescribed by the 1933 Act in respect of the 2007 Plan to all future Optionees in accordance with the 1933 Act. In addition, all employees in the Targanta Group may obtain via the corporate intranet the information document in respect of the 2007 Plan.

(ix) The Stock Option Plans were and are adhered to on a voluntary basis.

(x) As of June 30, 2008, options had been granted and were outstanding to purchase a total of 3,685,391 Common Shares pursuant to the Stock Option Plans representing 17.57% of the 20,971,834 outstanding Common Shares as of June 30, 2008 of which 353,319 options to purchase Common Shares representing 1.7% of the outstanding Common Shares were held by Québec and Ontario residents.

(xi) Targanta Québec currently has 32 employees residing in Québec who are eligible for option awards under the 2007 Plan. No resident of Québec will be induced to participate in the 2007 Plan by expectation of employment or continued employment.

(xii) The Targanta Group does not have any employees residing in Ontario.

1.4. Additional Representations

(i) The Filer sends to Canadian residents holding Common Shares all continuous disclosure documents required to be sent to holders of Common Shares under the 1933 Act.

(ii) Any resale of the Common Shares by the Canadian Shareholders and, upon the exercise of options, by the Optionees shall be made through the facilities of NASDAQ as there is no market for the Common Shares in Canada and none is expected to develop.

(iii) The Filer is under no obligation to file a prospectus. The Common Shares held by Canadian residents or which will be obtained upon the exercise of options by the Optionees are or will be subject to resale restrictions that may never expire. Preventing the Canadian Shareholders and Optionees who will obtain Common Shares upon the exercise of options from reselling the Common Shares unless a prospectus is filed is prejudicial to them and does not protect the integrity of the Canadian capital markets.

(iv) To the knowledge of Targanta US, the Filer meets all eligibility criteria for the resale exemption available for holders of securities of issuers, which are not reporting issuers under the Legislation, provided under Section 2.14 of *Regulation 45-102 respecting Resale of Securities*, except that residents of Canada hold more than 10% of outstanding Common Shares.

Decision

Each of the Decision Makers is satisfied that the exemptive relief application meets the test set out in the Legislation for the Decision Maker to make the decision. The decision of the Decision Makers under the Legislation is that the Requested Exemptive Relief is granted provided that:

1. The Filer is not a reporting issuer in any jurisdiction of Canada at the date of the trade; and

2. The trade is made through an exchange or market outside of Canada or to a person or company outside of Canada.

With respect only to the resale of Common Shares obtained by the exercise of options by Optionees under the 2007 Plan, the decision of the Decision Makers under the Legislation is that the Requested Exemptive Relief is granted provided that:

1. The Filer is not a reporting issuer in any jurisdiction of Canada at the date of the trade;

2. The trade is made through an exchange or market outside of Canada or to a person or company outside of Canada;

3. Residents of Canada do not, at the trade date, own directly or indirectly more than 10% of the outstanding Common Shares (excluding Common Shares obtained prior to Targanta US' IPO or Common Shares which may be obtained pursuant to convertible securities issued prior to the completion of Targanta US' IPO); and

4. The number of residents of Canada do not, at the trade date, represent more than 10% of the total number of direct or indirect owners of Common Shares (excluding Common Shares obtained prior to Targanta US' IPO or Common Shares which may be obtained pursuant to convertible securities issued prior to the completion of Targanta US' IPO) .

"Josée Deslauriers"
Director of Capital Markets
Autorité des marchés financiers

2.1.2 IGM Financial Inc. and Saxon Fund Management Inc.

Headnote

National Policy 11-203 Process For Exemptive Relief Applications in Multiple Jurisdictions - Approval granted for two consecutive indirect changes of control of a mutual fund manager - Public take-over bid by IGM Financial Inc. for outstanding common shares of Saxon Financial Inc. which, if successful, will involve an indirect change of control of Saxon Fund Management Inc. - IGM Financial Inc. to subsequently transfer shares of Saxon Financial Inc. to its subsidiary, Mackenzie Financial - Change of control not having any adverse effect on the management and administration of the Saxon Funds - National Instrument 81-102 Mutual Funds.

Applicable Legislative Provisions

National Instrument 81-102 Mutual Funds, s. 5.5(2).

September 19, 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
IGM FINANCIAL INC.
(the Filer)

AND

IN THE MATTER OF
SAXON FUND MANAGEMENT INC.
(the Manager)

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**) for a decision approving the indirect changes of control of the Manager of the Saxon Funds (as defined below) to the Filer, and subsequently to Mackenzie Financial Corporation (**Mackenzie Financial**), an affiliate of the Filer, under subsection 5.5(2) of National Instrument 81-102 *Mutual Funds* (**NI 81-102**) (the **Approval Sought**).

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, Québec, Nova Scotia, New Brunswick, Prince Edward Island, Newfoundland and Labrador, Northwest Territories, the Yukon Territory and Nunavut Territory.

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:

Change of Control

1. On August 5, 2008, the Filer announced that it would make a public take-over bid (the **Offer**) for all the outstanding common shares of Saxon Financial Inc. (**Saxon**). The Offer is open for acceptance until September 25, 2008, unless withdrawn, extended or varied.

2. The Filer mailed the Offer circular and other materials to Saxon's shareholders on August 19, 2008.

3. Saxon owns all of the outstanding shares of the Manager, the manager of the funds listed in Appendix A (the **Saxon Funds**).

4. The Offer, if successful, would result in the Filer acquiring sufficient securities of Saxon to control Saxon, thereby resulting in an indirect change of control of the Manager. The Filer plans on subsequently transferring the shares of Saxon to Mackenzie Financial, which would result in Mackenzie Financial acquiring indirect control of the Manager.

5. Security holders of the Saxon Funds have been advised of the proposed indirect changes of control of the Manager in accordance with the requirement in subsection 5.8(1) of NI 81-102 via notices mailed on August 15, 2008. By way of a decision of the Canadian securities regulatory authorities dated August 15, 2008, the Manager was allowed to abridge the 60-day change of control notice requirement prescribed under paragraph 5.8(1)(a) to 40 days, subject to certain conditions. The Offer will remain open for a sufficient period of time that the abridged 40-day period notice requirement will be met.

6. Both the Filer, through its affiliates, and Mackenzie Financial have considerable experience in the Canadian mutual fund industry through management of their respective families of funds.

7. The Filer, Mackenzie Financial and Saxon will examine ways to integrate back-office operations to reduce expenses both for their respective shareholders and the securityholders of the respective mutual funds they, and their affiliates, manage.

8. It has been agreed that Richard Howson, Chief Investment Officer of Saxon, and Robert Tattersall, President and Chief Executive Officer of Saxon will continue with the combined organization and will actively lead the investment team of Howson Tattersall Investment Counsel Limited, the portfolio manager of the Saxon Funds, through 2010.

9. It is possible that some changes to the management of the Manager will be made following the completion of the acquisition. It is expected any new directors and officers of the Manager to be appointed by the Filer or its affiliates will be persons who are already directors or officers of a registrant in at least one province of Canada, who are directors or senior officers of the Filer, or that are directors or officers of an entity that is already the manager of public mutual funds in Canada, and the integrity and competence of such persons would have already been established to the satisfaction of the securities regulatory authorities.

10. The Filer believes that the Offer will have no adverse effect on the management and administration of the Saxon Funds.

11. To the extent that any changes are made following completion of the Offer that constitute "significant changes" within the meaning of NI 81-102, amendments will be made as required by law to the prospectuses of the Saxon Funds or the IGM Funds (as defined below).

The Filer

12. The Filer was incorporated under the *Canada Business Corporations Act* on August 3, 1978.

13. The Filer's common shares are listed on the Toronto Stock Exchange (the **TSX**) under the symbol "IGM". The Filer is a personal financial services company and one of Canada's largest managers and distributors of mutual funds and other managed asset products, with $119.7 billion in total assets under management at June 30, 2008. Its activities are carried out through Investors Group Inc., Mackenzie Financial and Investment Planning Counsel Inc.

14. Mackenzie Financial was founded in 1967, and is an investment management firm providing investment advisory and related services. With $61 billion in assets under management at June 30, 2008, Mackenzie Financial distributes its products and services primarily through a diversified distribution network of third party financial advisors.

15. The Filer's mutual fund business activities are carried out through I.G. Investment Management, Ltd. and Mackenzie Financial (collectively, the **IGM Fund Managers**). Each IGM Fund Manager is indirectly wholly-owned by the Filer. Each IGM Fund Manager is currently registered under the Act as an adviser in the categories of investment counsel and portfolio manager, or similar categories, in each of the provinces and territories of Canada.

16. The IGM Fund Managers collectively manage in excess of 340 public mutual funds which are sold to the public under the family names Investors Group Units Fund Trusts, Investors Group Corporate Class Inc. Classes, Investors Group Income Funds Group, Investors Real Property Fund, Mackenzie Destination Funds, Counsel Group of Funds, Mackenzie Corporate Class Classes and Mackenzie Mutual Funds (collectively, the **IGM Funds**), among other investment products and services.

17. Additional information regarding the Filer and its subsidiaries is available in its annual information form dated March 20, 2008 and in the documents incorporated by reference therein, among other publicly available disclosure documents.

Saxon Financial Inc.

18. Saxon is a reporting issuer in each of the provinces and territories of Canada. Its shares are listed on the TSX under the symbol "SFI".

19. The head office of the Manager is in Ontario.

20. The principal business of Saxon is carried on through its wholly-owned subsidiaries: Howson Tattersall Investment Counsel Limited, an institutional investment management company; Howson Tattersall Private Asset Management Inc., a private client asset management company and the Manager, all of which are organized under the laws of Canada.

21. Securities of the Saxon Funds are sold to the public in each of the provinces and territories of Canada.

22. Additional information regarding Saxon and its subsidiaries is available in its annual information form dated March 27, 2008, among other publicly available disclosure documents.

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 Approval Sought is granted.

"Vera Nunes"
Assistant Manager, Investment Funds Branch
Ontario Securities Commission

APPENDIX "A"

SAXON FUNDS

Saxon Money Market Fund
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

2.1.3 Saxon Funds Management Limited

Headnote

National Policy 11-203 – Process for Exemptive Relief Applications in Multiple Jurisdictions – Approval of abridgement of notice period of change in indirect control of mutual fund manager to 40 days from 60 days – Decision conditional on no changes being made to the management, administration or portfolio management of the mutual funds for at least 60 days subsequent to notice being provided to unitholders.

Applicable Legislative Provisions

National Instrument 81-102 Mutual Funds, s. 5.8(1)(a).

August 15, 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
SAXON FUNDS MANAGEMENT LIMITED
(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") for relief to abridge the requirement of section 5.8(1)(a) of National Instrument 81-102 *Mutual Funds* (the "Notice Requirement") that notice of the indirect change of control (the "Change of Control Notice") of the Filer be given to the securityholders (the "Saxon Fund Unitholders") of the mutual funds managed by the Filer set out in Schedule A (the "Saxon Funds") at least 60 days before the Closing (as defined below) (the "Requested Relief").

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 for the equivalent provisions of the securities legislation of British Columbia, Alberta, Saskatchewan, Manitoba, Québec, Nova Scotia, New Brunswick, Prince Edward Island, Newfoundland and Labrador, Northwest Territories, the Yukon Territory and Nunavut Territory (together with Ontario, the "Jurisdictions").

Interpretation

Defined terms contained 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 laws of Canada. The Filer is a wholly-owned subsidiary of Saxon Financial Inc. ("SFI"). The Filer is the trustee and manager of the Saxon Funds. Units of the Saxon Funds are sold in all of the Jurisdictions pursuant to a simplified prospectus and annual information form dated May 9, 2008.

2. SFI is a reporting issuer in all of the Jurisdictions and is not on any list of defaulting issuers maintained in any Jurisdiction. The common shares of SFI are listed on the Toronto Stock Exchange (the "TSX") under the trading symbol SFI.

3. IGM Financial Inc. ("IGM") is a reporting issuer in all of the provinces and territories of Canada. The common shares of IGM are listed on the TSX under the trading symbol IGM.

4. On August 5, 2008 SFI and IGM issued press releases (the "Press Releases") announcing that they have entered into a support agreement pursuant to which IGM will offer to buy all of the issued and outstanding shares of SFI and pursuant to which SFI agreed to support and facilitate the Offer (as defined below). Assuming all conditions of the Offer are satisfied or waived, IGM will assume control of SFI.

5. IGM will be mailing a formal takeover bid offer to shareholders of SFI offering to purchase all of the issued and outstanding shares of SFI (the "Offer"). SFI will be mailing a formal directors' circulator indicating that the Board of Directors of SFI recommends to the shareholders that they accept the Offer.

6. The completion of the Offer is subject to the satisfaction of certain conditions. If IGM is successful in acquiring a sufficient number of shares of SFI under the Offer, IGM will indirectly acquire control of Saxon. IGM may complete its indirect acquisition (the "Closing") of Saxon as early as September 24, 2008.

7. Howson Tattersall Investment Counsel Limited ("HTIC") is the current portfolio advisor to the Saxon Funds and provide all portfolio management to the Saxon Funds. HTIC is a wholly-owned subsidiary of SFI.

8. The mutual fund business carried on by IGM is carried on by I. G. Investment Management, Ltd. and Mackenzie Financial Corporation (collectively, the "IGM Fund Managers"). Each IGM Fund Manager is indirectly wholly-owned by IGM. Each IGM Fund Manager is currently registered under the *Securities Act* (Ontario) as an adviser in the categories of investment counsel and portfolio manager and in similar categories in the other jurisdictions of Canada. The IGM Managers manage public mutual funds which are sold to the public under the family names Mackenzie Mutual Funds Investors Group Units Fund Trusts, Investors Group Corporate Class Inc. Classes, Investors Group Income Funds Group, and Investors Real Property Fund (collectively, the "IGM Funds"). IGM is one of the country's largest managers and distributors of mutual funds and other investment products and services, with $116.8 billion in total assets under management as at August 1, 2008.

9. The notice contemplated by section 5.8(1)(a) of the Legislation of the proposed indirect change in control of Saxon is expected to be mailed by Saxon to the Saxon Funds Unitholders on or about August 14, 2008 (the "Notice Date").

10. The Closing will not change the manager of the Saxon Funds. To the extent that any change is made after Closing which constitutes a "material change" to the Saxon Funds within the meaning of National Instrument 81-106 - *Investment Fund Continuous Disclosure* ("NI 81-106"), the Saxon Funds will comply with the continuous disclosure obligations set out in section 11.2 of NI 81-106. Further, any notices which are required to be delivered to, or approvals obtained from, the Canadian securities administrators or Saxon Unitholders in connection with any such material change will be delivered or obtained, as required under applicable Canadian securities legislation.

11. IGM intends to maintain the Saxon Funds as a separately managed fund family and to cause no changes to the management, administration or portfolio management of the Saxon Funds for at least 60 days following the Notice Date.

12. The Filer believes that abridging the period prescribed by paragraph 5.8(1)(a) of the Legislation to 40 days will not be prejudicial to the Saxon Funds Unitholders.

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 Requested Relief is granted provided that:

a) the Saxon Fund Unitholders are given at least 40 days notice of the indirect change of control of Saxon; and

b) no changes are made to the management, administration or portfolio management of the Saxon Funds for at least 60 days following the Notice Date.

"Vera Nunes"
Assistant Manager, Investment Funds

Schedule A

SAXON FUNDS

Saxon Balanced Fund
Saxon Bond Fund
Saxon Global Small Cap Fund
Saxon High Income Fund
Saxon International Equity Fund
Saxon Microcap Fund
Saxon Money Market Fund
Saxon Small Cap
Saxon Stock Fund
Saxon U.S. Equity Fund
Saxon U.S. Small Cap Fund
Saxon World Growth

2.1.4 Mackenzie Financial Corporation and Symmetry Managed Return Class

Headnote

National Policy 11-203 Process For Exemptive Relief Applications in Multiple Jurisdictions - Relief granted from multi-layering prohibition in paragraph 2.5(2)(b) of NI 81-102 to permit Symmetry Top Funds to invest in Symmetry Managed Return Pool, which is more than 10% invested in Symmetry Registered Fixed Income Pool through forward contracts - Three tier fund structure not complex and akin to current multi-layering exception in NI 81-102 - Transparent investment portfolio and accountability for portfolio management - National Instrument 81-102 Mutual Funds.

Applicable Legislative Provisions

National Instrument 81-102 Mutual Funds, ss. 2.5(2)(b), 19.1.

August 15, 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
MACKENZIE FINANCIAL CORPORATION
(the "Filer" or "Mackenzie")

AND

IN THE MATTER OF
SYMMETRY MANAGED RETURN CLASS

DECISION

Background

The principal regulator in the Jurisdiction has received an application from the Filer on behalf of the Symmetry Managed Return Class and other Symmetry mutual fund share classes of Mackenzie Financial Capital Corporation to be established by the Filer (together with the Symmetry Managed Return Class, the "**Symmetry Top Funds**") for a decision under the securities legislation of the Jurisdiction of the principal regulator (the "**Legislation**") exempting the Symmetry Top Funds from the restriction contained in clause 2.5(2)(b) of National Instrument 81-102 *Mutual Funds* ("**NI 81-102**") that a fund not invest in another fund if the other fund holds more than 10% of the market value of

its net assets in securities of other mutual funds (the "**Exemption Sought**").

Under the Process for Exemptive Relief Applications in Multiple Jurisdictions:

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, Newfoundland and Labrador, Prince Edward Island, Northwest Territories, Nunavut and Yukon (the "Other Jurisdictions").

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 defined in this decision.

Representations

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

1. Mackenzie is a corporation incorporated under the laws of Ontario. Its head office is in Toronto. Mackenzie is or will be the manager of the Symmetry Top Funds and Symmetry Managed Return Pool.

2. Each Symmetry Top Fund is, or will be, a class of shares of Mackenzie Financial Capital Corporation. Symmetry Managed Return Pool (and Symmetry Equity Pool) will be a class of shares of Multi-Class Investment Corp.

3. Each Symmetry Top Fund will be a fund-of-funds that gains exposure to equity and fixed income investments by investing in underlying Symmetry mutual fund share classes of Multi-Class Investment Corp. To gain fixed income exposure, each Symmetry Top Fund will invest a prescribed percentage of its assets in Symmetry Managed Return Pool.

4. Symmetry Managed Return Pool will be a Mackenzie managed mutual fund that seeks to achieve its investment objective by investing primarily in Canadian equity securities and by entering into forward contracts in order to provide the fund with a return determined with reference to the performance of a Canadian fixed income fund managed by Mackenzie, Symmetry Registered Fixed Income Pool. It is anticipated that the performance of Symmetry Managed Return Pool and Symmetry Registered Fixed Income Pool will differ only by the costs associated with the forward contracts.

5. The Symmetry Top Funds' investments in securities of the Symmetry Managed Return Pool will therefore result in a three-tier fund structure, contrary to the multi-layering restriction in paragraph 2.5(2)(b) of NI 81-102.

6. Symmetry Managed Return Class and Symmetry Registered Fixed Income Pool are currently qualified for distribution in Ontario and the Other Jurisdictions pursuant to a simplified prospectus dated December 7, 2007. A meeting of investors of Symmetry Managed Return Class has been called for September 19, 2008 to approve a change of investment objective to permit it to invest solely in Symmetry Managed Return Pool.

7. Each of the Symmetry Top Funds, the Symmetry Managed Return Pool and Symmetry Registered Fixed Income Pool is, or will be, an open-end mutual fund established under the laws of Ontario and is, or will be, a reporting issuer under the securities laws of Ontario and each of the Other Jurisdictions. Symmetry Managed Return Class and Symmetry Registered Fixed Income Pool are not in default of any requirements under applicable securities legislation.

8. An investment by the Symmetry Top Funds in securities of the Symmetry Managed Return Pool will in each case be made in accordance with the provisions of section 2.5 of NI 81-102, except for the requirement in paragraph 2.5(2)(b). There will accordingly be no duplication of fees between each tier of the three-tier fund structure.

9. An investment by the Symmetry Top Funds in securities of the Symmetry Managed Return Pool will represent the business judgment of responsible persons uninfluenced by considerations other than the best interests of the Symmetry Top Funds.

10. The three-tier fund structure that will result from a Symmetry Top Fund's investment in securities of the Symmetry Managed Return Pool will be akin to, and no more complex than, the three-tier fund structure currently permitted under paragraph 2.5(4)(a) of NI 81-102.

11. The prospectus of each Symmetry Top Fund will disclose that its fixed income exposure will be obtained through an investment in Symmetry Managed Return Pool, the return of which is linked to Symmetry Registered Fixed Income Pool. It will therefore be clear to investors that accountability for portfolio management is at the level of Symmetry Registered Fixed Income Pool. In addition, the Filer will comply with the requirement under National Instrument 81-106 *Investment Fund Continuous Disclosure* relating to top 25 disclosure in the Management Report of Fund Performance as if each Symmetry Top Fund were invested directly in Symmetry Registered

Fixed Income Pool. This will provide transparency to investors relating to the investment portfolio.

Decision

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

The decision of the principal regulator under the Legislation is that the Exemption Sought is granted to allow the Symmetry Top Funds to invest in securities of the Symmetry Managed Return Pool, provided such investments are made in compliance with each provision of section 2.5 of NI 81-102, except for paragraph 2.5(2)(b).

"Vera Nunes"
Assistant Manager, Investment Funds Branch
Ontario Securities Commission

2.1.5 Milagro Energy Inc.

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).

Citation: Milagro Energy Inc., 2008 ABASC 538

September 19, 2008

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

AND

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

AND

IN THE MATTER OF
MILAGRO ENERGY INC.
(the Filer)

DECISION

Background

The securities regulatory authority or regulator in each of the Jurisdictions (**Decision Maker**) has received an application from the Filer for a decision under the securities legislation of the Jurisdictions (the **Legislation**) that the Filer be deemed to have ceased to be a reporting issuer under the Legislation (the **Exemptive Relief Sought**).

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

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

(b) the decision is the decision of the principal regulator and evidences the decision of each other Decision Maker.

Interpretation

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

Representations

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

1. The Filer is a corporation governed by the laws of the Province of Alberta, with its head office in Alberta.

2. The Filer has 167,627,606 common shares issued and outstanding (the **Common Shares**).

3. Pursuant to an offer to purchase dated March 28, 2008 (the **Take-Over Bid**) and subsequent compulsory acquisition under the *Business Corporations Act* (Alberta) (the **ABCA**), Second Wave Holdings Ltd. (**Second Wave**), a wholly-owned subsidiary of Second Wave Petroleum Inc., acquired all of the Common Shares of the Filer.

4. The Filer's Common Shares were de-listed from the Toronto Stock Exchange May 30, 2008 and the Filer does not have any securities listed on any stock exchange.

5. The Filer is not in default of any of its obligations under the Legislation as a reporting issuer, other than the requirement to file its interim financial statements, related management discussion & analysis and officer certifications for the six month period ended June 30, 2008 (the **Filings**). As the Take-Over Bid resulted in Second Wave becoming sole beneficial holder of all of the Filer's Common Shares prior to the date on which the Filings were due, the Filings were not prepared or filed as required.

6. The outstanding securities of the Filer, including debt securities, are beneficially owned, directly or indirectly, by fewer than 15 security holders in each of the jurisdictions of Canada and fewer than 51 security holders in total in Canada.

7. No securities of the Filer are traded on any marketplace, as defined in National Instrument 21-101 *Marketplace Operation*.

8. The Filer ceased to be a reporting issuer in British Columbia on September 8, 2008 through the operation of British Columbia Instrument 11-502 *Voluntary Surrender of Reporting Issuer Status*. Upon granting this relief, the Filer will not be a reporting issuer or its equivalent in any of the Jurisdiction or British Columbia.

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

Decision

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 decision of the Decision Makers under the Legislation is that the Exemptive Relief Sought is granted.

"Blaine Young"
Associate Director, Corporate Finance
Alberta Securities Commission

2.1.6 Bick Financial Security Corporation

Headnote

Relief granted from the requirements of paragraph 11.2(1)(b) of NI 81-102 to permit a participating dealer to commingle cash received for the purchase or redemption of mutual fund securities with cash received for the purchase and sale of other securities or instruments it is permitted to sell.

Applicable Legislative Provisions

National Instrument 81-102 Mutual Funds, ss. 11.2(1)(b), 19.1.

August 5, 2008

IN THE MATTER OF
THE SECURITIES LEGISLATION OF
ONTARIO

AND

IN THE MATTER OF
BICK FINANCIAL SECURITY CORPORATION
(the Filer)

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 the prohibition in section 11.2(1)(b) of National Instrument 81-102 **Mutual Funds** (NI 81-102) (the Commingling Prohibition) which prohibits a participating dealer, or certain service providers, from commingling cash received for the purchase or redemption of mutual fund securities (Mutual Fund Cash) with cash received for the purchase or sale of guaranteed investment certificates (GICs) and other securities or instruments the participating dealer is permitted to sell (Other Cash) (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 is a corporation incorporated under the *Canada Business Corporations Act* and is registered as a limited market dealer and mutual fund dealer in Ontario only. The Filer's head office is located in Ontario. The Filer is not a reporting issuer. The Filer's principal business is acting as a mutual fund dealer.

2. The Filer is not in default of securities legislation in Ontario.

3. The Filer is a member of the Mutual Fund Dealers Association of Canada (the MFDA).

4. The Filer is a participating dealer (as defined in NI 81-102) in respect of various third party mutual funds. In addition to mutual fund securities, the Filer distributes GICs issued by Canadian trust companies and banks, third party and other securities (such as high interest savings accounts) and instruments that the Filer is permitted to trade or sell.

5. As a member of the MFDA, the Filer is subject to the rules and requirements of the MFDA (the MFDA Rules) on an ongoing basis, particularly those which set out requirements with respect to the handling and segregation of client cash. As a member of the MFDA, the Filer is expected to comply with all MFDA Rules.

6. The Filer proposes to pool Other Cash with Mutual Fund Cash in a trust settlement account established under section 11.3 of NI 81-102 (the Trust Account). The commingling of Other Cash with Mutual Fund Cash would facilitate significant administrative and systems economies that will enable the Filer to enhance its level of service to its client accounts at less cost to the Filer. The Trust Account is designated as a 'trust account' by the financial institution at which it is held.

7. The Commingling Prohibition prevents the Filer from commingling Mutual Fund Cash with Other Cash.

8. Prior to June 23, 2006, section 3.3.2(e) of the MFDA Rules (the MFDA Commingling Prohibition) also prohibited the commingling of Other Cash with Mutual Fund Cash. On June 23, 2006, the MFDA granted relief from the MFDA Commingling Prohibition to the Filer subject to the Filer obtaining similar relief from the Commingling Prohibition from an applicable Canadian jurisdiction. Should the Requested Relief be granted in Ontario, the Filer will provide the MFDA with notice that the Requested Relief has been granted.

9. Client purchases of mutual fund securities are processed by the Filer in the following manner:

   (a) the client places an order for specified mutual fund securities with the Filer and provides a cheque to the Filer for the applicable amount;

(b) the Filer deposits the client's cheque into the Trust Account;

(c) the Filer places the client's order with the relevant mutual fund company (the Mutual Fund Company) through FundSERV;

(d) the next business day, the Filer receives from the Mutual Fund Company confirmation of the client's order, including the number of units purchased (the Contract Transaction); and

(e) at the end of each business day, the Filer sends the Mutual Fund Company a cheque from the Trust Account for the total amount of all client orders owed to the Mutual Fund Company for business placed the previous day.

10. Redemption proceeds from mutual fund securities are provided to clients of the Filer by a Mutual Fund Company in one of the following three ways:

(a) by direct deposit to the client's bank account;

(b) by cheque made payable to the client and sent by the Mutual Fund Company directly to the client; or

(c) by payment to the Filer in trust for the client, if the client wishes to use the redemption proceeds to purchase other mutual fund securities. Under this option, redemption proceeds are first deposited by the Filer in the Trust Account and then used to purchase other mutual fund securities based on client instructions to the Filer.

11. Mutual Fund Cash or Other Cash related to a transaction initiated by one of the Filer's clients will not be used to settle a transaction initiated by any other client of the Filer.

12. The Filer currently has systems in place to be able to account for all of the monies it receives into and all of the monies that are to be paid out of the Trust Account in order to meet the policy objectives of section 11.2 of NI 81-102.

13. The Filer will maintain proper records with respect to client cash in a commingled account, and will ensure that the Trust Account is reconciled in accordance with MFDA Rules, and that Mutual Fund Cash and Other Cash are properly accounted for daily.

14. Except for the Commingling Prohibition, the Filer will comply with all other requirements prescribed in Part 11 of NI 81-102 with respect to the handling and segregation of client cash.

15. The Filer does not believe that the interests of its clients will be prejudiced in any way by the commingling of Other Cash with Mutual Fund Cash in the Trust Account.

16. Effective July 1, 2005, the MFDA Investor Protection Corporation (MFDA IPC) commenced offering coverage, within defined limits, to customers of MFDA members against losses suffered due to the insolvency of MFDA members. The Filer does not believe that the Requested Relief will affect coverage provided by the MFDA IPC.

17. In the absence of the Requested Relief, the commingling of Mutual Fund Cash with Other Cash in the Trust Account would contravene the Commingling Prohibition.

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 provided that this decision will terminate upon the coming into force of any change in the MFDA IPC rules which would reduce the coverage provided by the MFDA IPC relating to Mutual Fund Cash and Other Cash.

"Darren McKall"
Assistant Manager, Investment Funds
Ontario Securities Commission

2.1.7 Rainier Investment Management, Inc. - s. 6.1(1) of NI 31-102 National Registration Database and s. 6.1 of OSC Rule 13-502 Fees

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

Rules Cited

National Instrument 31-102 National Registration Database (2007) 30 OSCB 5430, s. 6.1.
Ontario Securities Commission Rule 13-502 Fees (2003) 26 OSCB 867, ss. 4.1, 6.1.

September 25, 2008

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

AND

IN THE MATTER OF
RAINIER INVESTMENT MANAGEMENT, INC.

DECISION
(Subsection 6.1(1) of National Instrument 31-102 National Registration Database and Section 6.1 of Ontario Securities Commission Rule 13-502 Fees)

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

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

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

1. The Applicant is incorporated under the laws of the State of Washington in the United States. The Applicant's head office is located in Seattle, Washington USA.

2. The Applicant is registered with the United States Securities and Exchange Commission as an investment adviser and carries on business as an investment adviser in the United States.

3. The Applicant is not registered in any capacity under the Act and is not a reporting issuer in any province or territory of Canada. However, the Applicant is in the process of applying to the Commission for registration under the Act as an adviser in the category of international adviser.

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

5. The Applicant anticipates encountering difficulties in setting up a Canadian based bank account for purposes of fulfilling the EFT Requirement.

6. The Applicant is registered with the Alberta Securities Commission (**ASC**) as an investment counsel and portfolio manager (foreign adviser). The ASC has granted the Applicant an exemption from the EFT Requirement in connection with the Applicant's registration in Alberta. Subject to the foregoing, the Applicant confirms that it is not registered in, and does not intend to register in, another category to which the EFT Requirement applies and that Ontario is the only jurisdiction in which it is seeking registration.

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

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

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

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

A. makes acceptable alternative arrangements with CDS for the payment of NRD fees and makes such payment within ten (10) business days of the date of the NRD filing or payment due date;

B. pays its participation fee under the Act to the Commission by cheque, draft, money order or other acceptable means at the

time of filing its application for annual renewal, which shall be no later than the first day of December in each year;

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

D. is not registered in any other Canadian jurisdiction in another category to which the EFT Requirement applies, or has received an exemption from the EFT Requirement in each jurisdiction to which the EFT Requirement applies.

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

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

"David M. Gilkes"
Manager, Registrant Regulation
Ontario Securities Commission

2.1.8 Goodman & Company, Investment Counsel Ltd.

Headnote

NP 11-203 – Process for Exemptive Relief Applications in Multiple Jurisdictions – Relief granted from self-dealing provisions in s. 118(2)(b) of the Act and s. 115(6) of the Reg. to permit certain funds to conduct inter-fund trades between mutual funds, pooled funds, closed-end funds and managed accounts – inter-fund trades will comply with conditions in s. 6.1(2) of National Instrument 81-107 – Independent Review Committee for Investment Funds (NI 81-107) including Independent Review Committee approval or client consent – trades involving exchange-traded securities are permitted to occur at "last sale price" as defined in the Universal Market Integrity Rules – relief also subject to pricing and transparency conditions.

Applicable Legislative Provisions

Securities Act (Ontario), ss. 118(2)(b), 121(2)(a)(ii), 147.
Ontario Regulation 1015 General Regulation, s. 115(6).
National Instrument 81-107 Independent Review Committee for Investment Funds, ss. 6.1(2) and 6.1(4).

September 19, 2008

IN THE MATTER OF
THE SECURITIES LEGISLATION OF
ONTARIO
AND
ALBERTA, SASKATCHEWAN, NOVA SCOTIA
AND NEWFOUNDLAND AND LABRADOR

AND

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

AND

IN THE MATTER OF
GOODMAN & COMPANY,
INVESTMENT COUNSEL LTD.
(the Filer) and the Existing Public Funds and
Existing Pooled Funds, the Existing Managed Accounts,
Future Public Funds, Future Pooled Funds and
Future Managed Accounts, all as defined below.

DECISION

Background

The securities regulatory authority or regulator in Ontario has received an application from the Filer for a decision under the securities legislation of the jurisdiction of the principal regulator (the **Legislation**) for an exemption from the prohibition in section 118(2)(b) of the Legislation (the **Act**) which prohibits a portfolio manager from knowingly causing an investment portfolio under its management to purchase or sell securities of an issuer from or to the account of a responsible person, any associate of a responsible person, or the portfolio manager in order to permit the portfolio manager of the Funds (as defined below) to cause the Funds to engage in trades (the **Inter-Fund Trades**) in securities of an issuer between any combination of any of the Public Funds, Pooled Funds and Managed Accounts (as defined below) (the **Passport Exemption**).

The securities regulatory authority or regulator in each of Ontario, Alberta, Saskatchewan, Nova Scotia and Newfoundland and Labrador) (the **First Jurisdictions**) (the **First Coordinated Exemptive Relief Decision Makers)** has received an application from the Filer for a decision under the securities legislation of the First Jurisdictions (the **Legislation**) for an exemption from the prohibition in section 115(6) of Ontario Regulation 1015 and the equivalent provisions in the securities legislation of First Jurisdictions which prohibit a purchase or sale of a security in which an investment counsel or any partner, officer or 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 order to permit Inter-Fund Trades (the **First Coordinated Exemptive Relief**).

The securities regulatory authority or regulator in each of Ontario and Newfoundland and Labrador (the **Second Jurisdictions**) (the **Second Coordinated Exemptive Relief Decision Makers** and together with the First Coordinated Exemptive Relief Decision Makers, the **Coordinated Exemptive Relief Decision Makers**)) has received an application for a decision under the securities legislation of the Second Jurisdictions (the **Legislation**) for an exemption from the prohibition in section 118(2)(b) of the Legislation and the equivalent provisions in the Second Jurisdictions which prohibit a portfolio manager from knowingly causing an investment portfolio under its management to purchase or sell securities of an issuer from or to the account of responsible person, any associate of a responsible person, or the portfolio manager in order to permit the Inter-Fund Trades (the **Second Coordinated Exemptive Relief** and together with the First Coordinated Exemptive Relief, the **Coordinated Exemptive Relief**).

Under the Process for Exemptive Relief Applications in Multiple Jurisdictions:

(a) the Ontario 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 British Columbia, Alberta, Saskatchewan, Manitoba, Quebec, New Brunswick, Nova Scotia, Prince Edward Island, Newfoundland & Labrador, Northwest Territories, Yukon and Nunavut,

(c) the decision is the decision of the principal regulator, and

(d) the decision evidences the decision of each Coordinated Exemptive Relief Decision Maker.

Interpretation

Terms defined in MI 11-102, National Instrument 14-101 *Definitions*, NI 81-102 and NI 81-107 have the same meaning if used in this decision, unless otherwise defined.

Existing Funds means collectively, the Existing Managed Accounts, the Existing Public Funds and the Existing Pooled Funds;

Existing Managed Account means each existing managed account of the Filer;

Existing Pooled Fund means each Pooled Fund listed in Appendix A;

Existing Public Fund means each Public Fund listed in Appendix A;

Filer means the Manager

Funds means collectively, the Public Funds, the Pooled Funds and the Managed Accounts;

Future Funds means collectively, the Future Public Funds, the Future Pooled Funds and the Future Managed Accounts;

Future Managed Account means each future managed account that may be established by the Manager;

Future Pooled Fund means each future Pooled Fund that may be established by the Manager;

Future Public Fund means each future Public Fund that may be established by the Manager;

Inter-Fund Trading Prohibition means section 118(2)(b) of the Legislation and the equivalent provision in the securities legislation of the applicable Jurisdiction and section 115(6) of Ontario Regulation 1015 and the equivalent provision in the securities legislation of the First Coordinated Exemptive Relief Decision Makers;

Last Sale Price has the same meaning as in the Universal Market Integrity Rules;

Managed Accounts means the Existing Managed Accounts and the Future Managed Accounts;

Manager means Goodman & Company, Investment Counsel Ltd., the manager of the Funds;

NI 81-102 Funds means the Public Funds that are subject to NI 81-102 and are reporting issuers;

Pooled Funds means collectively, the Future Pooled Funds and the Existing Pooled Funds;

Public Funds means collectively, the Existing Public Funds and the Future Public Funds;

Regulations means the regulations to the Act; and

TSX means the Toronto Stock Exchange.

Representations

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

1. Each of the Public Funds and Pooled Funds is or will be established under the laws of the Province of Ontario or of Canada as investment funds that are (a) open-ended mutual fund trusts, (b) open-ended mutual fund corporations, or (c) closed-ended limited partnerships and/or closed-ended trusts.

2. Each of the NI 81-102 Funds are or will be subject to the provisions of NI 81-102. The securities of each of the NI 81-102 Funds and the other Public Funds (being the closed-ended limited partnership and/or closed-ended trusts) are or will be qualified for distribution pursuant to simplified prospectuses and annual information forms or long form prospectuses, as the case may be, that have been prepared or will be prepared and filed in accordance with the securities legislation of each of the applicable provinces and territories of Canada. The securities of the Pooled Funds are or will be qualified for distribution on a private placement basis pursuant to an offering memorandum.

3. The investment management agreement or the documentation in respect of a Managed Account does or will contain the authorization of the client for the Filer to purchase securities from, or to sell securities to, another Fund.

4. Each of the Public Funds is or will be a reporting issuer in each of the provinces and territories of Canada. The Pooled Funds will not be reporting issuers.

5. The Filer is, or will be, the manager, trustee (where applicable), principal distributor and registrar of the Funds. The Filer and/or sub-advisors, including a related sub-advisor, may be the portfolio manager(s) of the Funds.

6. The Filer is a corporation incorporated under the laws of the Province of Ontario, and holds a registration in the categories of "investment counsel" and "portfolio manager" in Ontario. The Filer also holds a registration in the categories of "investment counsel" and "portfolio manager" or the equivalent in each of Québec, British Columbia, Alberta, Manitoba, Saskatchewan, Nova Scotia and New Brunswick. The head office of the Filer is in Toronto, Ontario.

7. Certain of the Public Funds and Pooled Funds are “associates” of the Filer.

8. The Filer and each of the Funds are not in default of securities legislation in any jurisdiction of Canada.

9. The Filer is currently compliant with and acting in reliance on NI 81-107 and has established an independent review committee (IRC) for the Existing Public Funds. The Filer will establish an IRC for the Future Public Funds and an IRC for the Pooled Funds all in accordance with the requirements of NI 81-107.

10. The mandate of the IRC of a Pooled Fund, among other things, will include approving Inter-Fund Trades between the Pooled Fund and another Pooled Fund, an NI 81-102 Fund, a Public Fund and/or a Managed Account. The IRC of the Pooled Funds will be composed by the Filer in accordance with the requirements of section 3.7 of NI 81-107 and will be expected to comply with the standard of care set out in section 3.9 of NI 81-107. Further , the IRC of the Pooled Funds will not approve Inter-Fund Trades between a Pooled Fund, another Pooled Fund, a NI 81-102 Fund or other Public Fund and/or a Managed Account unless it has made the determination set out in section 5.2(2) of NI 81-107.

11. Purchases and sales of securities involving NI 81-102 Funds or other Public Funds will be referred to the IRC of NI 81-102 Funds or Public Funds, as the case may be, under section 5.2(1) of NI 81-107 and will be subject to the requirements of section 5.2(2) of NI 81-107.

12. The Filer has established policies and procedures to enable the Public Funds to engage in Inter-Fund Trades, and such policies and procedures will be revised and extended to the Pooled Funds for Inter-Fund Trades.

13. The Filer wishes to be able to permit any Fund to engage in Inter-Fund Trades with another Fund. More specifically, that would include Inter-Fund Trades between all different combinations of Public Funds, Pooled Funds and Managed Accounts. Different sections of the Act, the Regulations, NI 81-102 and NI 81-107 impose different prohibitions and exceptions on different types of Funds with respect to Inter-Fund Trades: Section 118(2)(b) of the Act and Section 115(6) of the Regulations prohibit every type of Fund from such Inter-Fund Trades while other provisions may only prohibit certain types of Funds in certain circumstances from such trades.

14. The Filer has determined that it would be in the interests of the NI 81-102 Funds, the Public Funds, the Pooled Funds and the Managed Accounts to receive the Passport Exemption and the Coordinated Exemptive Relief.

15. The Filer is able to rely upon the exemption in section 6.1(4) of NI 81-107 which grants Section 118(2)(b) Relief and Section 115(6) Relief only in connection with Inter-Fund Trades between Public Funds. An exemption for Inter-Fund Trades involving Pooled Funds and Managed Accounts is not provided for in section 6.1(4) of NI 81-107. Inter-Fund Trades involving only Public Funds will be conducted in accordance with the exemption codified under section 6.1(4) of NI 81-107.

16. The Filer considers that it would be in the bests interests of the Funds if an Inter-Fund Trade could be made at the last sale price, as defined in the Universal Market Integrity Rules (**UMIR**) created by the **Investment Industry Regulatory Organization of Canada** (formerly, **Market Regulation Services Inc.**) (as defined above, the **Last Sale Price**), prior to the execution of the trade since this will result in the trade being done at the price which is closest to the price at the time the decision to make the trade is made.

17. CSA Staff Notice 81-317 – *Frequently Asked Questions on National Instrument 81-107 Independent Review Committee for Investment Funds* (**Notice 31- 317**) was published on March 30, 2007. Section B-7 of Notice 31-317 provides that the CSA would consider applications for exemptive relief to permit inter-fund trades of exchange-traded securities at the last sale price upon appropriate terms and conditions.

Decision

Each of the principal regulator and the Coordinated Exemptive Relief Decision Makers is satisfied that the decision meets the test set out in the Legislation for the relevant regulator or securities regulatory authority to make the decision.

The decision of the principal regulator and the Coordinated Exemptive Relief Decision Makers under the Legislation is that the Passport Exemption and the Coordinated Exemptive Relief are granted provided that the following conditions are satisfied for Inter-Fund Trades:

(a) the Inter-Fund Trade is consistent with the investment objective of the Public Fund, the Pooled Fund or the Managed Account;

(b) in respect of the Inter-Fund Trading Prohibition as it applies to a Public Fund trading with a Pooled Fund or a Managed Account:

  (i) the IRC of the Public Fund has approved the Inter-Fund Trade in respect of the Public Fund under subsection 5.2 of NI 81-107;

  (ii) if the transaction is with a Pooled Fund, the IRC of the Pooled Fund has approved the Inter-Fund Trade in respect of the Pooled Fund on the same terms as are required under subsection 5.2 of NI 81-107;

  (iii) if the Inter-Fund Trade is with a Managed Account, the investment management agreement or other documentation in respect of the Managed Account authorizes the Inter-Fund Trade;

  (iv) for exchange-traded securities, the Inter-Fund Trade is executed at the Last Sale Price of the security and the Inter-Fund Trade complies with subparagraph 6.1(2)(c), 6.1(2)((d), 6.1(2)(f) and 6.1(2)(g) of NI 81-107; and

  (v) for all other securities, the Inter-fund Trade complies with subparagraphs 6.1(2)(c) to (g) of NI 81-107;

(c) in respect of the Inter-Fund Trading Prohibition as it applies to a Public Fund trading with a Public Fund;

  (i) for exchange-traded securities, the Inter-Fund Trade is executed at the Last Sale Price of the security and the Inter-Fund Trade complies with subparagraph 6.1(2)(a), 6.1(2)(b), 6.1(2)(c), 6.1(2)(d), 6.1(2)(f) and 6.1(2)(g) of NI 81-107; and

  (ii) for all other securities, the Inter-Fund Trade complies with subparagraphs 6.1(2)(a) to (g) of NI 81-107;

(d) in respect of the Inter-Fund Trading Prohibition as it applies to a Pooled Fund:

(i) the IRC of the Pooled Fund has approved the Inter-Fund Trade in respect of the Pooled Fund on the same terms as are required under subsection 5.2 of NI 81-107:

(ii) if the Inter-Fund Trade is with a Public Fund, or another Pooled Fund, the IRC of the Public Fund or the other Pooled Fund, as the case may be, has approved the Inter-Fund Trade in respect of the Public Fund or the other Pooled Fund, on the same terms as are required under subsection 5.2 of NI 81-107;

(iii) if the Inter-Fund Trade is with a Managed Account the investment management agreement or other documentation in respect of the Managed Account authorizes the Inter-Fund Trade;

(iv) for exchange-traded securities, the Inter-fund Trade is executed at the Last Sale Price of the security and the Inter-Fund Trade complies with subparagraph 6.1(2)(c), 6.1(2)(d), 6.1(2)(f) and 6.1(2)(g) of NI 81-107; and

(v) for all other securities, the Inter-Fund Trade complies with subparagraphs 6.1(2)(c) to (g) of NI 81-107;

(e) in respect of the Inter-Fund Trading Prohibition as it applies to a Managed Account:

(i) the investment management agreement or other documentation in respect of the Managed Account authorizes the Inter-Fund Trade, as does the investment management agreement or other documentation in respect of the other Managed Account, if the Inter-Fund Trade is with another Managed Account;

(ii) if the Inter-Fund Trade is with a Pooled Fund, or a Public Fund, the IRC of the Pooled Fund or Public Fund, as the case may be, has approved the Inter-Fund Trade in respect of the Pooled Fund or Pooled Fund on the same terms as are required under subsection 5.2 of NI 81-107;

(iii) for exchange-traded securities, the Inter-fund Trade is executed at the Last Sale Price of the security and the Inter-Fund Trade complies with subparagraph 6.1(2)(c), 6.1(2)(d), 6.1(2)(f) and 6.1(2)(g) of NI 81-107; and

(iv) for all other securities, the Inter-Fund Trade complies with subparagraphs 6.1(2)(c) to (g) of NI 81-107.

“David L. Knight”

“Margot C. Howard”

Appendix A

PUBLIC FUNDS

DIVERSIFUNDS
diversiTrust Income Fund
diversiTrust Stable Income Fund
diversiTrust Income+ Fund
diversiTrust Energy Income Fund
diversiYield Income Fund
diversiGlobal Dividend Value Fund

CDR FUNDS
Canada Dominion Resources 2007 Limited Partnership

CMP FUNDS
CMP Gold Trust
CMP 2007 Resource Limited Partnership

DPF INDIA OPPORTUNITIES FUND

NI 81-102 Funds (also PUBLIC FUNDS)

DYNAMIC FUNDS
Dynamic Focus+ Balanced Fund
Dynamic Focus+ Diversified Income Trust Fund
Dynamic Focus+ Energy Income Trust Fund
Dynamic Focus+ Equity Fund
Dynamic Focus+ Real Estate Fund
Dynamic Focus+ Resource Fund
Dynamic Focus+ Small Business Fund
Dynamic Focus+ Wealth Management Fund
Dynamic Advantage Bond Fund
Dynamic Canadian Bond Fund
Dynamic Dividend Fund
Dynamic Dividend Income Fund
Dynamic Dollar-Cost Averaging Fund
Dynamic High Yield Bond Fund
Dynamic Money Market Fund
Dynamic Real Return Bond Fund
Dynamic Power American Currency Neutral Fund
Dynamic Power American Growth Fund
Dynamic Power Balanced Fund
Dynamic Power Canadian Growth Fund
Dynamic Power Small Cap Fund
Dynamic Diversified Real Asset Fund
Dynamic Precious Metals Fund
Dynamic Strategic All Income Portfolio
Dynamic Strategic Growth Portfolio
Dynamic Global Infrastructure Fund
Dynamic American Value Fund
Dynamic Canadian Dividend Fund
Dynamic Dividend Value Fund
Dynamic European Value Fund
Dynamic Far East Value Fund
Dynamic Global Discovery Fund
Dynamic Global Dividend Value Fund
Dynamic Global Value Fund
Dynamic Global Value Balanced Fund
Dynamic Value Balanced Fund
Dynamic Value Fund of Canada
DynamicEdge Balanced Portfolio
DynamicEdge Balanced Growth Portfolio

DynamicEdge Equity Portfolio
DynamicEdge Growth Portfolio
Dynamic Dividend Income Class
Dynamic Money Market Class
Dynamic Power American Growth Class
Dynamic Power Canadian Growth Class
Dynamic Power Global Balanced Class
Dynamic Power Global Growth Class
Dynamic Power Global Navigator Class
Dynamic Canadian Dividend Class
Dynamic Canadian Value Class
Dynamic EAFE Value Class
Dynamic Global Dividend Value Class
Dynamic Global Discovery Class
Dynamic Global Value Class
Dynamic Energy Class
Dynamic Value Balanced Class
DynamicEdge Balanced Class Portfolio
DynamicEdge Balanced Growth Class Portfolio
DynamicEdge Equity Class Portfolio
DynamicEdge Growth Class Portfolio
DMP Canadian Dividend Class
DMP Canadian Value Class
DMP Global Value Class
DMP Power Canadian Growth Class
DMP Power Global Growth Class
DMP Resource Class
DMP Value Balanced Class

MARQUIS INVESTMENT PROGRAM
Marquis Canadian Bond Pool
Marquis High Yield U.S. Bond Pool
Marquis Canadian Equity Pool
Marquis Enhanced Canadian Equity Pool
Marquis U.S. Equity Pool
Marquis International Equity Pool
Marquis Global Equity Pool
Marquis Diversified Defensive Portfolio
Marquis Diversified Conservative Portfolio
Marquis Diversified Balanced Portfolio
Marquis Diversified Growth Portfolio
Marquis Diversified High Growth Portfolio
Marquis Diversified All Equity Portfolio
Marquis Diversified All Income Portfolio
Marquis MultiPartners Growth Portfolio
Marquis MultiPartners High Growth Portfolio
Marquis MultiPartners Equity Portfolio

RADIANT STRATEGIC PORTFOLIOS
Radiant All Equity Portfolio
Radiant All Income Portfolio
Radiant Balanced Portfolio
Radiant Bond Portfolio
Radiant Conservative Portfolio
Radiant Defensive Portfolio
Radiant Growth Portfolio
Radiant High Growth Portfolio

POOLED FUNDS

Dynamic Alpha Performance Fund
Dynamic Contrarian Fund
Dynamic Focus+ Alternative Fund

Dynamic Income Opportunities Fund
Dynamic Power Emerging Markets Fund
Dynamic Power Hedge Fund
Dynamic Quantitative Hedge Fund
Goodman Private Wealth Management Balanced Pool
CDR 2007 Private Flow-Through Limited Partnership

2.1.9 Nexen Inc.

Headnote

National Policy 11-203 – Process For Exemptive Relief Applications in Multiple Jurisdictions – Issuer exempt from certain disclosure requirements of NI 51-101 subject to conditions including the condition to provide a modified statement of reserves data and other oil and gas information containing the information contemplated by, and consistent with, US Disclosure Requirements – Issuer has already obtained the relief in a prior order and would be unduly disadvantaged in competing for investment capital if not exempted from certain disclosure requirements of NI 51-101 – Modified annual oil and gas forms and reliance on US Disclosure Requirements – National Instrument 51-101 Standards of Disclosure for Oil and Gas Activities.

Applicable Legislative Provisions

National Instrument 51-101 Standards of Disclosure for Oil and Gas Activities.

Citation: Nexen Inc., 2008 ABASC 554

September 29, 2008

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

AND

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

AND

IN THE MATTER OF
NEXEN INC.
(the Filer)

DECISION

Background

The securities regulatory authority or regulator in each of the Jurisdictions (**Decision Maker**) has received an application from the Filer for a decision under the securities legislation of the Jurisdictions (the **Legislation**) that the Filer be exempted from the requirements contained in the Legislation:

(a) to disclose information concerning oil and gas activities in accordance with the following sections of National Instrument 51-101 *Standards of Disclosure for Oil and Gas Activities* (**NI 51-101**):

(i) section 2.1;

(ii) A. sections 5.2(a)(iii) and (iv),

B. sections 5.2(b) and (c), and

C. section 5.3,

but only in respect of reserves as disclosed in accordance with US Disclosure Requirements defined below; and

(iii) sections 5.8, 5.15(a), 5.15(b)(i) and 5.15(b)(iv);

including as those requirements pertain to prospectuses, annual information forms and other disclosure documents (collectively, the **Specified Canadian Disclosure Requirements**); and

(b) that the qualified reserves evaluator appointed under section 3.2 of NI 51-101 be independent of the Filer (the **Independent Evaluator Requirement**).

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

(a) the Alberta 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 11-10**2) is intended to be relied upon in each of the provinces and territories of Canada other than Ontario; 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

Unless otherwise defined, the terms herein have the meaning set out in National Instrument 14-101 *Definitions*, MI 11-102 and CSA Staff Notice 51-324 *Glossary to NI 51-101 Standards of Disclosure for Oil and Gas Activities*.

Representations

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

1. The Filer is exempted from certain requirements of NI 51-101 pursuant to a decision document dated January 30, 2004 issued under the Mutual Reliance Review System for Exemptive Relief Applications (the **Original Decision**).

2. As a result of the amendments that were made to NI 51-101 on December 28, 2007, the Original Decision will terminate on December 28, 2008 as it relates to the Canadian Disclosure Requirements as defined in the Original Decision. The Filer acknowledges that this decision will supercede and replace the Original Decision in its entirety as of the effective date of this decision.

3. The basic circumstances upon which the decision to grant the relief contained in the Original Decision was based continue to apply to the Filer and the relief requested by the Filer represents a grandfathering of the relief in the Original Decision, modified as required.

4. The head office of the Filer is located in Calgary, Alberta.

5. The Filer is an oil and gas issuer that produced an average of more than 100,000 BOEs of oil and gas (converted in the ratio 6 Mcf of gas to 1 bbl of oil) per day in its most recent financial year.

6. The Filer is a reporting issuer or equivalent in each of the provinces and territories of Canada and is not in default of securities legislation in any of the provinces or territories of Canada.

7. The Filer currently has registered securities under the 1934 Act.

8. The Filer is active in capital markets outside Canada where it competes for capital with foreign issuers, and has offered and intends to continue to offer securities in the US.

9. A significant portion of the Filer's securities are held, or its security holders are located, outside of Canada.

10. The disclosure requirements relating to reserves and oil and gas activities under US securities legislation (including disclosure requirements or guidelines issued or referenced by the SEC), as interpreted and applied by the SEC (**US Disclosure Requirements**) are different from the oil and gas disclosure requirements prescribed by the Legislation.

11. For purposes of making an investment decision or providing investment analysis or advice, a significant portion of the Filer's investors, lenders and investment analysts in both Canada and the US routinely compare the Filer to US and international oil and gas issuers and, accordingly, comparability of its disclosure to their disclosure is of primary relevance to market participants.

12. Compliance with the Specified Canadian Disclosure Requirements would disadvantage the Filer in competing for investment capital.

13. The Filer's internally-generated reserves data are as reliable as independently-generated reserves data for the following reasons:

(a) the Filer has qualified reserves evaluators within the meaning of NI 51-101; and

(b) the Filer has a well-established reserves evaluation process that is at least as rigorous as would be the case were it to rely upon independent reserves evaluators or auditors.

14. The Filer has adopted written evaluation practices and procedures using the COGE Handbook modified to the extent necessary to reflect the definitions and standards under US Disclosure Requirements.

Decision

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 decision of the Decision Makers under the Legislation is that:

1. the Filer is exempt from the Specified Canadian Disclosure Requirements for so long as:

(a) **Annual Filings** – the Filer files with the securities regulatory authorities the following not later than the date on which it is required by the Legislation to file audited financial statements for its most recent financial year:

(i) a modified statement of reserves data and other oil and gas information relating to its oil and gas activities containing the information contemplated by, and consistent with, US Disclosure Requirements;

(ii) a modified report of qualified reserves evaluators in a form acceptable to the principal regulator; and

(iii) a modified report of management and directors on reserves data and other information in a form acceptable to the principal regulator;

(b) **Use of COGE Handbook** – the Filer's estimates of reserves and related future net revenue (or, where applicable, related standardized measure of discounted future net cash flows (the standardized measure)) are prepared or audited in accordance with the standards of the COGE Handbook modified to the extent necessary to reflect the terminology and standards of the US Disclosure Requirements;

(c) **Consistent Disclosure** – subject to changes in the US Disclosure Requirements and NI 51-101 and related policies, the Filer is consistent in its application of standards relating to oil and gas information and its disclosure of such information, within and between reporting periods, and without limiting the generality of the foregoing, in any disclosure made to the public, the Filer's estimates of reserves and related future net revenue (or, where applicable, related standardized measure) must be consistent with the reserves and related future net revenue (or, where applicable, related standardized measure) reported in its most recent filing with the Decision Maker;

(d) **Disclosure of Reserves** – if the Filer discloses probable reserves (which must be categorized in accordance with the COGE Handbook) separately from US proved reserves and a portion of the probable reserves includes US proved reserves, the Filer discloses that portion and explains the reason for the overlapping volume (which arises from the application of two different categorization systems);

(e) **Disclosure of this Decision and Effect** – the Filer

(i) at least annually, files on SEDAR (either as a separate document or in its annual information form) a statement:

A. of the Filer’s reliance on this decision;

B. that explains generally the nature of the information that the Filer has disclosed or intends to disclose in the year in reliance on this decision and that identifies the standards and the source of the standards being applied (if not otherwise readily apparent); and

C. to the effect that the information that the Filer has disclosed or intends to disclose in the year in reliance on this decision may differ from the corresponding information prepared in accordance with NI 51-101 standards (if that is the case), and briefly describes the principal differences between the standards applied and the requirements of NI 51-101; and

(ii) includes, reasonably proximate to all other written disclosure that the Filer makes in reliance on this decision, a statement:

A. of the Filer's reliance on this decision;

B. that explains generally the nature of the information being disclosed and identifies the standards and the source of the standards being applied (if it is not otherwise readily apparent);

C. that the information disclosed may differ from the corresponding information prepared in accordance with NI 51-101 standards; and

D. that reiterates or incorporates by reference the disclosure referred to in paragraph 1(e)(i)(C); and

2. the Filer is exempt from the Independent Evaluator Requirement for so long as:

(a) **Internal Procedures** – the Filer maintains internal procedures that will permit preparation of the modified report of qualified reserves evaluator, and preparation of the modified report of management and directors on reserves data and other information;

(b) **Explanatory and Cautionary Disclosure** – the Filer discloses:

(i) at least annually, the Filer's reasons for considering the reliability of internally-generated reserves data to be not materially less than would be afforded by strict adherence to the requirements of NI 51-101, including a discussion of:

A. factors supporting the involvement of independent qualified evaluators or auditors and why such factors are not considered compelling in the case of the Filer; and

B. the manner in which the Filer's internally-generated reserves data are determined, reviewed and approved, its relevant disclosure control procedures and the related role, responsibilities and composition of responsible management, the board of directors of the Filer and (if applicable) the reserves committee of the board of directors of the Filer; and

(ii) in each document that discloses any information derived from internally-generated reserves data and reasonably proximate to that disclosure, the fact that the reserves data was internally generated; and

(c) **Disclosure of Conflicting Independent Reports** – the Filer discloses and updates its public disclosure if, despite this decision, it obtains a final report on reserves data from an independent qualified reserves evaluator or auditor that contains information that is materially different from the Filer's public disclosure record in respect of such reserves data.

This decision:

(a) will come into effect on December 28, 2008 and will supercede and replace the Original Decision in its entirety, effective that date; and

(b) will terminate one year after the effective date of any change to the Specified Canadian Disclosure Requirements, the US Disclosure Requirements or the Independent Evaluator Requirement unless:

(i) the principal regulator otherwise agrees in writing; or

(ii) the change is a clerical or other minor amendment.

"William S. Rice, QC"
Alberta Securities Commission

"Glenda A. Campbell, QC"
Alberta Securities Commission

2.1.10 H&R Real Estate Investment Trust and H&R Finance Trust - MRRS Decision

Headnote

Mutual Reliance Review System for Exemptive Relief Applications – Variance of a previously issued order dated August 8, 2008, which related to a reorganization of a reporting issuer trust and the establishment of a new finance trust whereby units of both trust and new finance trust will be "stapled units" trading together on the TSX – New finance trust previously granted relief from the continuous disclosure requirements, audit committee requirements, dealer registration and prospectus requirements and basic qualification criteria in the Legislation – Variation made to grant reporting issuer status in Quebec and to modify a condition relating to the dealer registration and prospectus relief which was not previously included as a result of inadvertence.

Applicable Ontario Statutory Provisions

Securities Act, R.S.O. 1990, c. S.5, as am., ss. 1(11)(b), 74(1), 144.

Applicable Legislative Provisions

National Instrument 51-102 Continuous Disclosure Obligations, s. 13.1.
National Instrument 52-110 Audit Committees, s. 8.1.
National Instrument 44-101 Short Form Prospectus Distributions, s. 8.1.

September 12, 2008

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

AND

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

AND

IN THE MATTER OF
H&R REAL ESTATE INVESTMENT TRUST
on its own behalf and on behalf of
H&R FINANCE TRUST

MRRS DECISION DOCUMENT

Background

The local securities regulatory authority or regulator (the "**Decision Maker**" and, collectively, the "**Decision Makers**") in each of the Jurisdictions has received an application (the "**Application**") from H&R Real Estate Investment Trust (the "**Trust**") and H&R Finance Trust ("**H&R Finance**") (the Trust and H&R Finance each a "**Filer**" and, collectively, the "**Filers**"), the new trust that will result from the reorganization of the Trust (the "**Reorganization**") by way of a plan of arrangement under the *Business Corporations Act* (Alberta), for a decision by each Decision Maker under the securities legislation of the Jurisdictions (the "**Legislation**") varying the MRRS Decision Document dated August 8, 2008 *In the Matter of H&R Real Estate Investment Trust* on its own behalf and on behalf of H&R Finance Trust (the "**Original Decision Document**") as follows (the "**Requested Relief**"):

a) by removing the word "Quebec," from the first bullet on the first page of the Original Decision Document;

b) by deleting paragraph 1(e) in the Original Decision Document and substituting it with the following:

> "The decision of the Decision Makers other than the Decision Makers in the Northwest Territories and Nunavut, under the Legislation is that H&R Finance is designated as a Reporting Issuer in each of the Jurisdictions effective immediately upon the formation of H&R Finance pursuant to the plan of arrangement";

c) by deleting paragraph 1(f) in the Original Decision Document and substituting it with the following:

> "The further decision of the Decision Makers under the Legislation is that the Dealer Registration and Prospectus Requirements in respect of (i) trades of units of H&R Finance to Trust Employees and (ii) except in Quebec, trades of units of H&R Finance to unitholders of H&R Finance in connection with the exercise of rights pursuant to the Unitholder Rights Plan of the Trust shall not apply to trades of securities of H&R Finance provided that the first trade of any security acquired as a result of this exemption shall be deemed to be a distribution under the Legislation of the Jurisdiction where the trade takes place unless the conditions in section 2.6(3) of National Instrument 45-102 *Resale of Securities* as they would apply to the Trust are satisfied"; and

d) by deleting paragraph 1(g) in the Original Decision Document and substituting it with the following:

> "The Dealer Registration and Prospectus Requirements relief terminates immediately if previously issued Stapled Units cease to be stapled or if H&R Finance issues units of H&R Finance that will not be stapled to units of the Trust (except for distributions of units of H&R

Finance which are immediately followed by a consolidation of outstanding units of H&R Finance such that an equal number of units of H&R Finance and units of the Trust are outstanding immediately following such consolidation)".

Under the Mutual Reliance Review System for Exemptive Relief Applications:

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

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

Interpretation

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

Representations

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

1. All of the representations provided by the Filers in the Original Decision Document remain true and accurate and are incorporated by reference into this decision document as representations of the Filers.

Decision

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.

DATED: September 12, 2008.

"Paulette L. Kennedy"
Commissioner
Ontario Securities Commission

"Wendell S. Wigle"
Commissioner
Ontario Securities Commission

2.1.11 Oriel Resources Plc - 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).

September 25, 2008

McMillan LLP
Brookfield Place
181 Bay Street
Toronto, Ontario
M5J 2T3

Attention: Mr. Michael Burns

Dear Sirs/Mesdames:

Re: Oriel Resources Plc (the Applicant) – Application for an order under clause 1(10)(b) of the *Securities Act* (Ontario) (the Act) that the Applicant is not a reporting issuer

The Applicant has applied to the Ontario Securities Commission for an order under clause 1(10)(b) of the Act that the Applicant is not a reporting issuer.

As the Applicant has represented to the Commission that:

- the outstanding securities of the Applicant, including debt securities are beneficially owned, directly or indirectly, by less than 15 security holders in Ontario and less than 51 security holders in Canada;
- no securities of the Applicant are traded on a marketplace as defined in National Instrument 21-101 Marketplace Operation;
- the Applicant is not in default of any of its obligations under the Act as a reporting issuer; and
- the Applicant will not be a reporting issuer or the equivalent in any jurisdiction in Canada immediately following the Director granting the relief requested.

The Director is satisfied that it would not be prejudicial to the public interest to grant the requested relief and orders that the Applicant is not a reporting issuer.

"Lisa Enright"
Manager, Corporate Finance
Ontario Securities Commission

2.1.12 EnCana Corporation

Headnote

National Policy 11-203 Process For Exemptive Relief Applications in Multiple Jurisdictions -Issuer exempt from certain disclosure requirements of NI 51-101 subject to conditions including the condition to provide a modified statement of reserves data and other oil and gas information containing the information contemplated by, and consistent with, U.S. Disclosure Requirements - Issuer has already obtained the relief in a prior order and would be unduly disadvantaged in competing for investment capital if not exempted from certain disclosure requirements of NI 51-101 - Modified annual oil and gas forms and reliance on U.S. Disclosure Requirements - National Instrument 51-101 Standards of Disclosure for Oil and Gas Activities.

Applicable National Instrument

National Instrument 51-101 Standards of Disclosure for Oil and Gas Activities.

Citation: EnCana Corporation, 2008 ABASC 552

September 29, 2008

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

AND

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

AND

IN THE MATTER OF
ENCANA CORPORATION
(the Filer)

DECISION

Background

The securities regulatory authority or regulator in each of the Jurisdictions (**Decision Maker**) has received an application from the Filer for a decision under the securities legislation of the Jurisdictions (the **Legislation**) that the Filer be exempted from the requirements contained in the Legislation

(a) to disclose information concerning oil and gas activities in accordance with the following sections of National Instrument 51-101 *Standards of Disclosure for Oil and Gas Activities* (**NI 51-101**):

(i) section 2.1;

(ii) A. sections 5.2(a)(iii) and (iv),

B. sections 5.2(b) and (c), and

C. section 5.3,

but only in respect of reserves as disclosed in accordance with US Disclosure Requirements defined below; and

(iii) sections 5.8, 5.15(a), 5.15(b)(i) and 5.15(b)(iv);

including as those requirements pertain to prospectuses, annual information forms and other disclosure documents (collectively, the **Specified Canadian Disclosure Requirements**); and

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

(a) the Alberta 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 each of the provinces and territories of Canada other than Ontario; 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

Unless otherwise defined, the terms herein have the meaning set out in National Instrument 14-101 *Definitions*, MI 11-102 and CSA Staff Notice 51-324 *Glossary to NI 51-101 Standards of Disclosure for Oil and Gas Activities*.

Representations

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

1. The Filer is exempted from certain requirements of NI 51-101 pursuant to a decision document dated December 16, 2003 issued under the Mutual Reliance Review System for Exemptive Relief Applications (the **Original Decision**).

2. As a result of the amendments that were made to NI 51-101 on December 28, 2007, the Original Decision will terminate on December 28, 2008. The Filer acknowledges that this decision will supercede and replace the Original Decision in its entirety as of the effective date of this decision.

3. The basic circumstances upon which the decision to grant the relief contained in the Original Decision was based continue to apply to the Filer and the relief requested by the Filer represents a grandfathering of the relief in the Original Decision, modified as required.

4. The head office of the Filer is located in Calgary, Alberta.

5. The Filer is a reporting issuer or equivalent in each of the provinces and territories of Canada and is not in default of securities legislation in any of the provinces or territories of Canada.

6. The Filer currently has registered securities under the 1934 Act.

7. The Filer is active in capital markets outside Canada where it competes for capital with foreign issuers, and has offered and intends to continue to offer securities in the US;

8. A significant portion of the Filer's securities are held, or its security holders are located, outside of Canada.

9. The disclosure requirements relating to reserves and oil and gas activities under US securities legislation (including disclosure requirements or guidelines issued or referenced by the SEC), as interpreted and applied by the SEC (**US Disclosure Requirements**) are different from the oil and gas disclosure requirements prescribed by the Legislation.

10. For purposes of making an investment decision or providing investment analysis or advice, a significant portion of the Filer's investors, lenders and investment analysts in both Canada and the US routinely compare the Filer to US and international oil and gas issuers and, accordingly, comparability of its disclosure to their disclosure is of primary relevance to market participants.

11. Compliance with the Specified Canadian Disclosure Requirements would disadvantage the Filer in competing for investment capital.

Decision

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 decision of the Decision Makers under the Legislation is that:

1. the Filer is exempt from the Specified Canadian Disclosure Requirements for so long as:

   (a) **Annual Filings** – the Filer files with the securities regulatory authorities the following not later than the date on which it is required by the Legislation to file audited financial statements for its most recent financial year:

(i) a modified statement of reserves data and other oil and gas information relating to its oil and gas activities containing the information contemplated by, and consistent with, US Disclosure Requirements;

(ii) a modified report of qualified reserves evaluators in a form acceptable to the principal regulator; and

(iii) a modified report of management and directors on reserves data and other information in a form acceptable to the principal regulator;

(b) **Use of COGE Handbook** – the Filer's estimates of reserves and related future net revenue (or, where applicable, related standardized measure of discounted future net cash flows (the standardized measure)) are prepared or audited in accordance with the standards of the COGE Handbook modified to the extent necessary to reflect the terminology and standards of the US Disclosure Requirements;

(c) **Consistent Disclosure** – subject to changes in the US Disclosure Requirements and NI 51-101 and related policies, the Filer is consistent in its application of standards relating to oil and gas information and its disclosure of such information, within and between reporting periods, and without limiting the generality of the foregoing, in any disclosure made to the public, the Filer's estimates of reserves and related future net revenue (or, where applicable, related standardized measure) must be consistent with the reserves and related future net revenue (or, where applicable, related standardized measure) reported in its most recent filing with the Decision Maker;

(d) **Disclosure of Reserves** – if the Filer discloses probable reserves (which must be categorized in accordance with the COGE Handbook) separately from US proved reserves and a portion of the probable reserves includes US proved reserves, the Filer discloses that portion and explains the reason for the overlapping volume (which arises from the application of two different categorization systems);

(e) **Disclosure of this Decision and Effect** – the Filer

(i) at least annually, files on SEDAR (either as a separate document or in its annual information form) a statement:

A. of the Filer's reliance on this decision;

B. that explains generally the nature of the information that the Filer has disclosed or intends to disclose in the year in reliance on this decision and that identifies the standards and the source of the standards being applied (if not otherwise readily apparent); and

C. to the effect that the information that the Filer has disclosed or intends to disclose in the year in reliance on this decision may differ from the corresponding information prepared in accordance with NI 51-101 standards (if that is the case), and briefly describes the principal differences between the standards applied and the requirements of NI 51-101; and

(ii) includes, reasonably proximate to all other written disclosure that the Filer makes in reliance on this decision, a statement:

A. of the Filer's reliance on this decision;

B. that explains generally the nature of the information being disclosed and identifies the standards and the source of the standards being applied (if it is not otherwise readily apparent);

C. that the information disclosed may differ from the corresponding information prepared in accordance with NI 51-101 standards; and

D. that reiterates or incorporates by reference the disclosure referred to in paragraph 1(e)(i)(C).

This decision:

(a) will come into effect on the date hereof and will supercede and replace the Original Decision in its entirety, effective that date; and

(b) will terminate one year after the effective date of any change to the Specified Canadian Disclosure Requirements or the US Disclosure Requirements, unless:

(i) the principal regulator otherwise agrees in writing; or

(ii) the change is a clerical or other minor amendment.

“William S. Rice, QC”
Alberta Securities Commission

”Glenda A. Campbell, QC”
Alberta Securities Commission

2.1.13 Husky Energy Inc.

Headnote

Multilateral Instrument 11-102 Passport Systemand National Policy 11-203 Process For Exemptive Relief Applications in Multiple Jurisdictions - Issuer exempt from certain disclosure requirements of NI 51-101 subject to conditions including the condition to provide a modified statement of reserves data and other oil and gas information containing the information contemplated by, and consistent with, U.S. Disclosure Requirements - Issuer has already obtained the relief in a prior order and would be unduly disadvantaged in competing for investment capital if not exempted from certain disclosure requirements of NI 51-101 - Modified annual oil and gas forms and reliance on U.S. Disclosure Requirements - National Instrument 51-101 Standards of Disclosure for Oil and Gas Activities.

Applicable National Instrument

National Instrument 51-101 Standards of Disclosure for Oil and Gas Activities.

September 29, 2008

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

AND

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

AND

IN THE MATTER OF
HUSKY ENERGY INC.
(the Filer)

DECISION

Background

The securities regulatory authority or regulator in each of the Jurisdictions (**Decision Maker**) has received an application from the Filer for a decision under the securities legislation of the Jurisdictions (the **Legislation**) that the Filer be exempted from the requirements contained in the Legislation:

(a) to disclose information concerning oil and gas activities in accordance with the following sections of National Instrument 51-101 *Standards of Disclosure for Oil and Gas Activities* (**NI 51-101**):

(i) section 2.1;

(ii) A. sections 5.2(a)(iii) and (iv),

B. sections 5.2(b) and (c), and

C. section 5.3,

but only in respect of reserves as disclosed in accordance with US Disclosure Requirements defined below; and

(iii) sections 5.8, 5.15(a), 5.15(b)(i) and 5.15(b)(iv);

including as those requirements pertain to prospectuses, annual information forms and other disclosure documents (collectively, the **Specified Canadian Disclosure Requirements**); and

(b) that the qualified reserves evaluator appointed under section 3.2 of NI 51-101 be independent of the Filer (the **Independent Evaluator Requirement**).

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

(a) the Alberta 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 each of the provinces of Canada other than Ontario; 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

Unless otherwise defined, the terms herein have the meaning set out in National Instrument 14-101 *Definitions*, MI 11-102 and CSA Staff Notice 51-324 *Glossary to NI 51-101 Standards of Disclosure for Oil and Gas Activities*.

Representations

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

1. The Filer is exempted from certain requirements of NI 51-101 pursuant to a decision document dated January 15, 2004 issued under the Mutual Reliance Review System for Exemptive Relief Applications (the **Original Decision**).

2. As a result of the amendments that were made to NI 51-101 on December 28, 2007, the Original Decision will terminate on December 28, 2008 as it relates to the Canadian Disclosure Requirements as defined in the Original Decision. The Filer acknowledges that this decision will supercede and replace the Original Decision in its entirety as of the effective date of this decision.

3. The basic circumstances upon which the decision to grant the relief contained in the Original Decision was based continue to apply to the Filer and the relief requested by the Filer represents a grandfathering of the relief in the Original Decision, modified as required.

4. The head office of the Filer is located in the Province of Alberta.

5. The Filer is an oil and gas issuer that produced an average of more than 100,000 BOEs of oil and gas (converted in the ratio 6 Mcf of gas to 1 bbl of oil) per day in its most recent financial year.

6. The Filer is a reporting issuer or equivalent in each of the provinces of Canada and is not in default of securities legislation in any of the provinces of Canada.

7. The Filer currently has registered securities under the 1934 Act.

8. The Filer is active in capital markets outside Canada where it competes for capital with foreign issuers and has offered and intends to continue to offer securities in the US.

9. A significant portion of the Filer's securities are held, or its security holders are located, outside of Canada.

10. The disclosure requirements relating to reserves and oil and gas activities under US securities legislation (including disclosure requirements or guidelines issued or referenced by the SEC), as interpreted and applied by the SEC (**US Disclosure Requirements**) are different from the oil and gas disclosure requirements prescribed by the Legislation.

11. For purposes of making an investment decision or providing investment analysis or advice, a significant portion of the Filer's investors, lenders and investment analysts in both Canada and the US routinely compare the Filer to US and international oil and gas issuers and, accordingly, comparability of its disclosure to their disclosure is of primary relevance to market participants.

12. Compliance with the Specified Canadian Disclosure Requirements would disadvantage the Filer in competing for investment capital.

13. The Filer's internally-generated reserves data are as reliable as independently-generated reserves data for the following reasons:

    (a) the Filer has qualified reserves evaluators within the meaning of NI 51-101; and

(b) the Filer has a well-established reserves evaluation process that is at least as rigorous as would be the case were it to rely upon independent reserves evaluators or auditors.

14. The Filer has adopted written evaluation practices and procedures using the COGE Handbook modified to the extent necessary to reflect the definitions and standards under US Disclosure Requirements.

Decision

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 decision of the Decision Makers under the Legislation is that:

1. the Filer is exempt from the Specified Canadian Disclosure Requirements for so long as:

(a) **Annual Filings** – the Filer files with the securities regulatory authorities the following not later than the date on which it is required by the Legislation to file audited financial statements for its most recent financial year:

(i) a modified statement of reserves data and other oil and gas information relating to its oil and gas activities containing the information contemplated by, and consistent with, US Disclosure Requirements;

(ii) a modified report of qualified reserves evaluators in a form acceptable to the principal regulator; and

(iii) a modified report of management and directors on reserves data and other information in a form acceptable to the principal regulator;

(b) **Use of COGE Handbook** – the Filer's estimates of reserves and related future net revenue (or, where applicable, related standardized measure of discounted future net cash flows (the standardized measure)) are prepared or audited in accordance with the standards of the COGE Handbook modified to the extent necessary to reflect the terminology and standards of the US Disclosure Requirements;

(c) **Consistent Disclosure** – subject to changes in the US Disclosure Requirements and NI 51-101 and related policies, the Filer is consistent in its application of standards relating to oil and gas information and its disclosure of such information, within and between reporting periods, and without limiting the generality of the foregoing, in any disclosure made to the public, the Filer's estimates of reserves and related future net revenue (or, where applicable, related standardized measure) must be consistent with the reserves and related future net revenue (or, where applicable, related standardized measure) reported in its most recent filing with the Decision Maker;

(d) **Disclosure of Reserves** – if the Filer discloses probable reserves (which must be categorized in accordance with the COGE Handbook) separately from US proved reserves and a portion of the probable reserves includes US proved reserves, the Filer discloses that portion and explains the reason for the overlapping volume (which arises from the application of two different categorization systems);

(e) **Disclosure of this Decision and Effect** – the Filer

(i) at least annually, files on SEDAR (either as a separate document or in its annual information form) a statement:

A. of the Filer's reliance on this decision;

B. that explains generally the nature of the information that the Filer has disclosed or intends to disclose in the year in reliance on this decision and that identifies the standards and the source of the standards being applied (if not otherwise readily apparent); and

C. to the effect that the information that the Filer has disclosed or intends to disclose in the year in reliance on this decision may differ from the corresponding information prepared in accordance with NI 51-101 standards (if that is the case), and briefly describes the principal differences between the standards applied and the requirements of NI 51-101; and

(ii) includes, reasonably proximate to all other written disclosure that the Filer makes in reliance on this decision, a statement:

A. of the Filer's reliance on this decision;

B. that explains generally the nature of the information being disclosed and identifies the standards and the source of the standards being applied (if it is not otherwise readily apparent);

C. that the information disclosed may differ from the corresponding information prepared in accordance with NI 51-101 standards; and

D. that reiterates or incorporates by reference the disclosure referred to in paragraph 1(e)(i)(C); and

2. the Filer is exempt from the Independent Evaluator Requirement for so long as:

(a) **Internal Procedures** – the Filer maintains internal procedures that will permit preparation of the modified report of qualified reserves evaluator, and preparation of the modified report of management and directors on reserves data and other information;

(b) **Explanatory and Cautionary Disclosure** – the Filer discloses:

(i) at least annually, the Filer's reasons for considering the reliability of internally-generated reserves data to be not materially less than would be afforded by strict adherence to the requirements of NI 51-101, including a discussion of:

A. factors supporting the involvement of independent qualified evaluators or auditors and why such factors are not considered compelling in the case of the Filer; and

B. the manner in which the Filer's internally-generated reserves data are determined, reviewed and approved, its relevant disclosure control procedures and the related role, responsibilities and composition of responsible management, the board of directors of the Filer and (if applicable) the reserves committee of the board of directors of the Filer; and

(ii) in each document that discloses any information derived from internally-generated reserves data and reasonably proximate to that disclosure, the fact that the reserves data was internally generated; and

(c) **Disclosure of Conflicting Independent Reports** – the Filer discloses and updates its public disclosure if, despite this decision, it obtains a final report on reserves data from an independent qualified reserves evaluator or auditor that contains information that is materially different from the Filer's public disclosure record in respect of such reserves data.

This decision:

(a) will come into effect on the date hereof and will supercede and replace the Original Decision in its entirety, effective that date; and

(b) will terminate one year after the effective date of any change to the Specified Canadian Disclosure Requirements, the US Disclosure Requirements or the Independent Evaluator Requirement unless:

(i) the principal regulator otherwise agrees in writing; or

(ii) the change is a clerical or other minor amendment.

"William S.Rice"
Alberta Securities Commission

"Glenda A. Campbell"
Alberta Securities Commission

2.1.14 Windsor Auto Trust - 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).

September 30, 2008

Windsor Auto Trust
c/o 27777 Franklin Road
CIMS 465-25-25
Southfield, Michigan
48034

Attention: Assistant Secretary

Dear Sirs/Mesdames:

Re: Windsor Auto Trust (the Applicant) - application for a decision under the securities legislation of Ontario, Alberta, Saskatchewan, Manitoba, Québec, New Brunswick, Nova Scotia, Prince Edward Island and Newfoundland and Labrador (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

2.1.15 Mackenzie Financial Corporation and Symmetry Managed Return Class

Headnote

National Policy 11-203 Process For Exemptive Relief Applications in Multiple Jurisdictions - Top funds proposing to make investments in securities of underlying fund under common management - Investments not complying with requirements of paragraph 2.5(2)(b) of NI 81-102 - Top funds unable to rely on statutory exemption in subsection 2.5(7) of NI 81-102 providing relief from mutual fund conflict of interest investment restrictions, mutual fund conflict of interest reporting requirements and self-dealing prohibition under the Securities Act - Top funds may, either alone or together with other related mutual funds, become substantial security holders of underlying fund - "Responsible person" of the portfolio manager of the top fuinds would also be officers and directors of the underlying fund - Top funds exempted from mutual fund conflict of interest investment restrictions and manager/portfolio manager of top funds exempted from mutual fund conflict of interest reporting requirements and self-dealing prohibition, subject to compliance with certain conditions - Securities Act (Ontario).

Applicable Legislative Provisions

Securities Act, R.S.O. 1990, c. S.5, as am., ss. 111(2)(b), 111(3), 113, 117(1)(a), 117(1)(d), 117(2), 118(2)(a), 121(2)(a)(ii).

Rules Cited

National Instrument 81-102 Mutual Funds, ss. 2.5(2)(b), 2.5(7).

September 24, 2008

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

AND

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

AND

IN THE MATTER OF
MACKENZIE FINANCIAL CORPORATION
(the "Filer" or "Mackenzie")

AND

IN THE MATTER OF
SYMMETRY MANAGED RETURN CLASS

DECISION

Background

The securities regulatory authority or regulator in Ontario (the "**Passport Review Decision Maker**") and in each of Ontario and Newfoundland and Labrador (together, the "**Coordinated Review Decision Makers**") has received an application from the Filer for a decision under the securities legislation of the Jurisdictions (the "**Legislation**") exempting:

1. the Symmetry Managed Return Class and other Symmetry mutual fund share classes of Mackenzie Financial Capital Corporation to be established by the Filer (together with the Symmetry Managed Return Class, the "**Symmetry Top Funds**") from the investment restrictions in the Legislation which prohibit a mutual fund from knowingly making and holding an investment in any person or company in which the mutual fund, alone or together with one or more related mutual funds, is a substantial security holder (referred to in this decision as the "**Mutual Fund Conflict of Interest Investment Restrictions**"),

2. the Filer from the management company reporting requirements in the Legislation which require that a management company file a report of every transaction of purchase or sale of securities between a mutual fund it manages and any related person or company, and any transaction in which, by arrangement other than an arrangement relating to insider trading in portfolio securities, the mutual fund is a joint participant with one or more of its related persons or companies (referred to in this decision as the "**Mutual Fund Conflict of Interest Reporting Requirements**"), and

3. the Filer, when acting as portfolio manager, from the prohibition in the Legislation against the portfolio manager knowingly causing any investment portfolio managed by it to invest in any issuer in which a responsible person or an associate of a responsible person is an officer or director unless the specific fact is disclosed to the client and the written consent of the client to the investment is obtained before the purchase (referred to in this decision as the "**Self-Dealing Prohibition**" and, together with the Mutual Fund Conflict of Interest Reporting Requirements and Mutual Fund Conflict of Interest Investment Restrictions, the "**Statutory Requirements**"),

in connection with investments by the Symmetry Top Funds in securities of the Symmetry Managed Return Pool (the "**Exemption Sought**").

Under the Process for Exemptive Relief Applications in Multiple Jurisdictions:

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

(b) the Filer has provided notice that subsection 4.7(1) of Multilateral Instrument 11-102 *Passport System* ("**MI 11-102**") is intended to be relied upon in British Columbia, Alberta, Saskatchewan, Quebec, New Brunswick and Nova Scotia,

(c) the decision is the decision of the principal regulator, and

(d) the decision evidences the decision of each of the Coordinated Review Decision Makers.

Interpretation

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

Representations

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

1. Mackenzie is a corporation incorporated under the laws of Ontario. Its head office is in Toronto. Mackenzie is or will be the manager and portfolio manager of the Symmetry Top Funds and Symmetry Managed Return Pool.

2. Each Symmetry Top Fund is, or will be, a class of shares of Mackenzie Financial Capital Corporation. Symmetry Managed Return Pool will be a class of shares of Multi-Class Investment Corp.

3. Each Symmetry Top Fund will be a fund-of-funds that gains exposure to equity and fixed income investments by investing in underlying Symmetry mutual funds that are classes of shares of Multi-Class Investment Corp. To gain fixed income exposure, each Symmetry Top Fund will invest a prescribed percentage of its assets in Symmetry Managed Return Pool.

4. Symmetry Managed Return Pool is a Mackenzie managed mutual fund that seeks to achieve its investment objective by investing primarily in Canadian equity securities and by entering into forward contracts in order to provide the fund with a return determined with reference to the performance of a Canadian fixed income fund managed by Mackenzie, Symmetry Registered Fixed Income Pool. It is anticipated that the performance of Symmetry Managed Return Pool and Symmetry Registered Fixed Income Pool will differ only by the costs associated with the forward contracts.

5. Symmetry Managed Return Class and Symmetry Registered Fixed Income Pool are currently qualified for distribution in all provinces and territories of Canada pursuant to a simplified prospectus dated December 7, 2007. A meeting of investors of Symmetry Managed Return Class has been called for September 19, 2008 to approve a change of investment objective to permit it to invest solely in Symmetry Managed Return Pool.

6. Each Symmetry Top Fund and Symmetry Managed Return Pool is, or will be, an open-end mutual fund established under the laws of Ontario and is, or will be, a reporting issuer under the securities laws of each of the provinces and territories of Canada. Symmetry Managed Return Class is not in default of any requirements under applicable securities legislation.

7. The Symmetry Top Funds have been granted relief by a decision of the Director dated August 15, 2008 (the "**NI 81-102 Relief"**) from the requirements of paragraph 2.5(2)(b) of National Instrument 81-102 *Mutual Funds* ("**NI 81-102**") to permit the Symmetry Top Funds to invest in Symmetry Managed Return Pool despite Symmetry Managed Return Pool investing more than 10% of its net assets, indirectly, in another mutual fund.

8. As a result of the NI 81-102 Relief, the Filer and each Symmetry Top Fund will not be entitled to rely on the statutory exemption from the Statutory Requirements in subsection 2.5(7) of NI 81-102 because reliance on that exemption is contingent on satisfaction of each of the conditions of section 2.5 of NI 81-102. Investments in Symmetry Managed Return Pool made by the Symmetry Top Funds in reliance on the NI 81-102 Relief will not satisfy each of the conditions of section 2.5 of NI 81-102.

9. In the absence of the Exemption Sought from the Mutual Fund Conflict of Interest Investment Restrictions, each Symmetry Top Fund would be prohibited from knowingly making or holding an investment in Symmetry Managed Return Pool if the Symmetry Top Fund, alone or together with one or more related mutual funds, would be a substantial security holder of Symmetry Managed Return Pool.

10. In the absence of the Exemption Sought from the Mutual Fund Conflict of Interest Reporting Requirements, the Filer would be required to file a report of every transaction by a Symmetry Top Fund involving securities of Symmetry Managed Return Pool, as well as a report of every transaction in which, by arrangement, a Symmetry Top Fund and Symmetry Managed Return Pool would be acting as joint participants.

11. As Mackenzie acts or will act as portfolio manager of the Symmetry Top Funds, Mackenzie and each of its directors and officers who participates in the formulation of, or who has access prior to implementation to, investment decisions made on

behalf of those funds would be a "responsible person" under the Legislation.

12. Certain officers and directors of Mackenzie who are "responsible persons" under the Legislation are also officers and directors of Multi-Class Investment Corp., of which Symmetry Managed Return Pool is a class of shares.

13. In the absence of the Exemption Sought from the Self-Dealing Prohibition, the Filer would be prohibited from causing a Symmetry Top Fund from investing in securities of Symmetry Managed Return Pool unless this fact was disclosed to investors in the Symmetry Top Fund and the written consent of those investors to the investment was obtained before the purchase.

14. The Symmetry Top Funds' investments in securities of Symmetry Managed Return Pool will continue to be made in accordance with the requirements of section 2.5 of NI 81-102, except to the extent that the Symmetry Top Funds are permitted to deviate therefrom by the NI 81-102 Relief. Compliance with these requirements mitigate the conflicts of interest inherent in the Symmetry Top Funds' investments by ensuring that:

    (a) no management fees or incentive fees are payable by a Symmetry Top Fund that, to a reasonable person, would duplicate a fee payable by the Symmetry Managed Return Pool for the same service;

    (b) no sales fees or redemption fees are payable by a Symmetry Top Fund in relation to its purchases or redemptions of the securities of the Symmetry Managed Return Pool; and

    (c) a Symmetry Top Fund does not vote the securities it holds of Symmetry Managed Return Pool, but may instead, if the Filer so chooses, arrange for all of the securities it holds of Symmetry Managed Return Pool to be voted by the beneficial holders of the Symmetry Top Funds.

15. The investments by the Symmetry Top Funds in securities of Symmetry Managed Return Pool represent the business judgment of responsible persons uninfluenced by considerations other than the best interests of the Symmetry Top Funds.

Decision

Each of the Passport Review Decision Maker and the Coordinated Review Decision Makers is satisfied that the decision meets the test set out in the Legislation for the relevant regulator or securities regulatory authority to make the decision.

The decision of the Passport Review Decision Maker and the Coordinated Review Decision Makers under the Legislation is that the Exemption Sought from the Statutory Requirements is granted to permit the Symmetry Top Funds to make and hold investments in securities of Symmetry Managed Return Pool provided that such investments are made in compliance with the requirements of section 2.5 of NI 81-102, except to the extent that the Symmetry Top Funds are permitted to deviate therefrom by the NI 81-102 Relief.

"Paul K. Bates"
Commissioner
Ontario Securities Commission

"Paulette Kennedy"
Commissioner
Ontario Securities Commission

2.1.16 Imperial Oil Limited

Headnote

National Policy 11-203 Process For Exemptive Relief Applications in Multiple Jurisdictions - Issuer exempt from certain disclosure requirements of NI 51-101 subject to conditions including the condition to provide a modified statement of reserves data and other oil and gas information containing the information contemplated by, and consistent with, U.S. Disclosure Requirements - Issuer has already obtained the relief in a prior order and would be unduly disadvantaged in competing for investment capital if not exempted from certain disclosure requirements of NI 51-101 - Modified annual oil and gas forms and reliance on U.S. Disclosure Requirements - National Instrument 51-101 Standards of Disclosure for Oil and Gas Activities.

Applicable National Instrument

National Instrument 51-101 Standards of Disclosure for Oil and Gas Activities.

September 30, 2008

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

AND

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

AND

IN THE MATTER OF
IMPERIAL OIL LIMITED
(the Filer)

DECISION

Background

The securities regulatory authority or regulator in each of the Jurisdictions (**Decision Maker**) has received an application from the Filer for a decision under the securities legislation of the Jurisdictions (the **Legislation**) that the Filer be exempted from the requirements contained in the Legislation:

(a) to disclose information concerning oil and gas activities in accordance with the following sections of National Instrument 51-101 *Standards of Disclosure for Oil and Gas Activities* (**NI 51-101**):

(i) section 2.1;

(ii) A. sections 5.2(a)(iii) and (iv),

B. sections 5.2(b) and (c), and

C. section 5.3,

but only in respect of reserves as disclosed in accordance with US Disclosure Requirements defined below; and

(iii) sections 5.8, 5.15(a), 5.15(b)(i) and 5.15(b)(iv);

including as those requirements pertain to prospectuses, annual information forms and other disclosure documents (collectively, the **Specified Canadian Disclosure Requirements**); and

(b) that the qualified reserves evaluator appointed under section 3.2 of NI 51-101 be independent of the Filer (the **Independent Evaluator Requirement**).

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

(a) the Alberta 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 each of the provinces and territories of Canada other than Ontario; 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

Unless otherwise defined, the terms herein have the meaning set out in National Instrument 14-101 *Definitions,* MI 11-102 and CSA Staff Notice 51-324 *Glossary to NI 51-101 Standards of Disclosure for Oil and Gas Activities*.

Representations

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

1. The Filer is exempted from certain requirements of NI 51-101 pursuant to a decision document dated February 4, 2004 issued under the Mutual Reliance Review System for Exemptive Relief Applications (the **Original Decision**).

2. As a result of the amendments that were made to NI 51-101 on December 28, 2007, the Original Decision will terminate on December 28, 2008 as it relates to the Canadian Disclosure Requirements as defined in the Original Decision. The Filer acknowledges that this decision will supercede and replace the Original Decision in its entirety as of the effective date of this decision.

3. The basic circumstances upon which the decision to grant the relief contained in the Original Decision was based continue to apply to the Filer and the relief requested by the Filer represents a grandfathering of the relief in the Original Decision, modified as required.

4. The head office of the Filer is located in Calgary, Alberta.

5. The Filer is an oil and gas issuer that produced an average of more than 100,000 BOEs of oil and gas (converted in the ratio 6 Mcf of gas to 1 bbl of oil) per day in its most recent financial year.

6. The Filer is a reporting issuer or equivalent in each of the provinces and territories of Canada and is not in default of securities legislation in any of the provinces or territories of Canada.

7. The Filer currently has registered securities under the 1934 Act.

8. The Filer is active in capital markets in Canada and the US.

9. A significant portion of the Filer's securities are held, or its security holders are located, outside of Canada.

10. The disclosure requirements relating to reserves and oil and gas activities under US securities legislation (including disclosure requirements or guidelines issued or referenced by the SEC), as interpreted and applied by the SEC (**US Disclosure Requirements**) are different from the oil and gas disclosure requirements prescribed by the Legislation.

11. For purposes of making an investment decision or providing investment analysis or advice, a significant portion of the Filer's investors, lenders and investment analysts in both Canada and the US routinely compare the Filer to US and international oil and gas issuers and, accordingly, comparability of its disclosure to their disclosure is of primary relevance to market participants.

12. Compliance with the Specified Canadian Disclosure Requirements would disadvantage the Filer in competing for investment capital.

13. The Filer's internally-generated reserves data are as reliable as independently-generated reserves data for the following reasons:

    (a) the Filer has qualified reserves evaluators within the meaning of NI 51-101; and

(b) the Filer has a well-established reserves evaluation process that is at least as rigorous as would be the case were it to rely upon independent reserves evaluators or auditors.

14. The Filer has adopted written evaluation practices and procedures using the COGE Handbook modified to the extent necessary to reflect the definitions and standards under US Disclosure Requirements.

Decision

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 decision of the Decision Makers under the Legislation is that:

1. the Filer is exempt from the Specified Canadian Disclosure Requirements for so long as:

(a) **Annual Filings** – the Filer files with the securities regulatory authorities the following not later than the date on which it is required by the Legislation to file audited financial statements for its most recent financial year:

(i) a modified statement of reserves data and other oil and gas information relating to its oil and gas activities containing the information contemplated by, and consistent with, US Disclosure Requirements;

(ii) a modified report of qualified reserves evaluators in a form acceptable to the principal regulator; and

(iii) a modified report of management and directors on reserves data and other information in a form acceptable to the principal regulator;

(b) **Use of COGE Handbook** – the Filer's estimates of reserves and related future net revenue (or, where applicable, related standardized measure of discounted future net cash flows (the standardized measure)) are prepared or audited in accordance with the standards of the COGE Handbook modified to the extent necessary to reflect the terminology and standards of the US Disclosure Requirements;

(c) **Consistent Disclosure** – subject to changes in the US Disclosure Requirements and NI 51-101 and related policies, the Filer is consistent in its application of standards relating to oil and gas information and its disclosure of such information, within and between reporting periods, and without limiting the generality of the foregoing, in any disclosure made to the public, the Filer's estimates of reserves and related future net revenue (or, where applicable, related standardized measure) must be consistent with the reserves and related future net revenue (or, where applicable, related standardized measure) reported in its most recent filing with the Decision Maker;

(d) **Disclosure of Reserves** – if the Filer discloses probable reserves (which must be categorized in accordance with the COGE Handbook) separately from US proved reserves and a portion of the probable reserves includes US proved reserves, the Filer discloses that portion and explains the reason for the overlapping volume (which arises from the application of two different categorization systems);

(e) **Disclosure of this Decision and Effect** – the Filer

(i) at least annually, files on SEDAR (either as a separate document or in its annual information form) a statement:

A. of the Filer’s reliance on this decision;

B. that explains generally the nature of the information that the Filer has disclosed or intends to disclose in the year in reliance on this decision and that identifies the standards and the source of the standards being applied (if not otherwise readily apparent); and

C. to the effect that the information that the Filer has disclosed or intends to disclose in the year in reliance on this decision may differ from the corresponding information prepared in accordance with NI 51-101 standards (if that is the case), and briefly describes the principal differences between the standards applied and the requirements of NI 51-101; and

(ii) includes, reasonably proximate to all other written disclosure that the Filer makes in reliance on this decision, a statement:

A. of the Filer's reliance on this decision;

B. that explains generally the nature of the information being disclosed and identifies the standards and the source of the standards being applied (if it is not otherwise readily apparent);

C. that the information disclosed may differ from the corresponding information prepared in accordance with NI 51-101 standards; and

D. that reiterates or incorporates by reference the disclosure referred to in paragraph 1(e)(i)(C); and

2. the Filer is exempt from the Independent Evaluator Requirement for so long as:

(a) **Internal Procedures** – the Filer maintains internal procedures that will permit preparation of the modified report of qualified reserves evaluator, and preparation of the modified report of management and directors on reserves data and other information;

(b) **Explanatory and Cautionary Disclosure** – the Filer discloses:

(i) at least annually, the Filer's reasons for considering the reliability of internally-generated reserves data to be not materially less than would be afforded by strict adherence to the requirements of NI 51-101, including a discussion of:

A. factors supporting the involvement of independent qualified evaluators or auditors and why such factors are not considered compelling in the case of the Filer; and

B. the manner in which the Filer's internally-generated reserves data are determined, reviewed and approved, its relevant disclosure control procedures and the related role, responsibilities and composition of responsible management, the board of directors of the Filer and (if applicable) the reserves committee of the board of directors of the Filer; and

(ii) in each document that discloses any information derived from internally-generated reserves data and reasonably proximate to that disclosure, the fact that the reserves data was internally generated; and

(c) **Disclosure of Conflicting Independent Reports** – the Filer discloses and updates its public disclosure if, despite this decision, it obtains a final report on reserves data from an independent qualified reserves evaluator or auditor that contains information that is materially different from the Filer's public disclosure record in respect of such reserves data.

This decision:

(a) will come into effect on the date hereof and will supercede and replace the Original Decision in its entirety, effective that date; and

(b) will terminate one year after the effective date of any change to the Specified Canadian Disclosure Requirements, the US Disclosure Requirements or the Independent Evaluator Requirement unless:

(i) the principal regulator otherwise agrees in writing; or

(ii) the change is a clerical or other minor amendment.

"William S. Rice, QC"
Alberta Securities Commission

"Glenda A. Campbell, QC"
Alberta Securities Commission

2.1.17 Aegon Dealer Services Canada Inc. and Investia Financial Services Inc.

Process for Exemptive Relief Applications in Multiple Jurisdictions – National Instrument 33-109 – Registration Information (NI 33-109) – relief from certain filing requirements of NI 33-109 in connection with a bulk transfer of business locations and registered and non-registered individuals under an amalgamation.

Applicable Ontario Statutory Provisions

National Instrument 33-109 Registration Information.

September 29, 2008

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

AND

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

AND

IN THE MATTER OF
AEGON DEALER SERVICES CANADA INC.
("ADSCI")

AND

IN THE MATTER OF
INVESTIA FINANCIAL SERVICES INC.
("INVESTIA")

DECISION

Background

The securities regulatory authority or regulator in each of the Jurisdictions ("**Decision Maker**") has received an application dated June 20, 2008 from Investia ("**Filer**") for a decision under the securities legislation of the Jurisdictions (the "**Legislation**") for relief from the requirements of Sections 2.2, 3.2, 3.3, 4.3 and 5.2 of National Instrument 33-109 – *Registration Information* ("**NI 33-109**") in order to take advantage of the bulk transfer exemption provisions of Policy Statement/Companion Policy 33-109 CP to NI-33-109 ("**33-109 CP**").

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

(a) the Autorité des marchés financiers of Québec (the "**Autorité**") is the principal regulator for this application;

(b) the Filer has provided notice that subsection 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, New Brunswick, Nova Scotia, Prince-Edward-Island, Newfoundland and Labrador, the Northwest Territories, Yukon and Nunavut (the "**Other Jurisdictions**"); 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

Terms defined in National Instrument 14-101 *Definitions*, MI 11-102, National Instrument 31-102 *National Registration Database* ("**NI 31-102**") and NI 33-109 have the same meaning if used in this decision, unless otherwise defined.

Representations

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

Facts

1. Investia is a corporation continued under the *Canada Business Corporations Act* ("**CBCA**") on June 27, 2008. It is a wholly-owned subsidiary of Industrial Alliance Insurance and Financial Services Inc. ("**IA**"). The address of the registered office of Investia is 1080, Grande Allée West, Québec, Québec, G1K 7M3.

2. Investia is registered as a group savings plan brokerage firm in Québec, as a mutual fund dealer in all other provinces and territories of Canada and as a limited market dealer in Ontario and Newfoundland and Labrador. Investia is also a Level 4 member of the Mutual Fund Dealers Association of Canada ("**MFDA**").

3. AEGON Dealer Services Canada Inc. is a corporation continued under the CBCA ("**ADSCI**"). It is registered as a group savings plan brokerage firm in Québec, as a mutual fund dealer in all of the other provinces of Canada and as a limited market dealer in Ontario and Newfoundland and Labrador. ADSCI is also a Level 4 member of the MFDA. The registered office of ADSCI, formerly located at 5000 Yonge Street, Toronto, Ontario M2N 7J8, was changed as of September 2, 2008, to 522 University Avenue, Toronto, Ontario M5G 1Y7.

4. National Financial Corporation is a corporation continued under the CBCA ("**NFC**"). It is a holding company and holds the shares of its subsidiaries, including ADSCI. It is wholly owned by Investia. Its registered office is at the same location as ADSCI's.

5. Investia has acquired NFC and its subsidiaries, including ADSCI, on July 1, 2008 and intends to integrate the mutual fund dealer operations of Investia and ADSCI by way of an amalgamation.

6. Investia, NFC and ADSCI would amalgamate as soon after July 1, 2008 as all requisite approvals from the regulatory authorities and the MFDA shall have been obtained. The amalgamated corporation would be named Investia Financial Services Inc. ("**Amalgamated Investia**").

7. Subject to obtaining all such requisite approvals, Investia, ADSCI and NFC will amalgamate by means of a vertical short-form amalgamation under the provisions of Subsection 184(1) of the CBCA with Investia acting as the "holding corporation" and both NFC and ADSCI acting as "subsidiary corporations". Prior to the amalgamation:

   (a) Investia was continued as of June 27, 2008, under the CBCA pursuant to a special act of the National Assembly of Québec, designated Bill 219 "*An Act respecting Investia Services Financiers Inc.*", and which was adopted by the National Assembly on June 18, 2008; and

   (b) ADSCI and NFC were continued as of June 27, 2008, under the CBCA pursuant to the continuance provisions of Section 177 of the *Ontario Business Corporations Act* ("**OBCA**") and of Section 187 of the CBCA;

   Immediately after the amalgamation, in accordance with applicable securities laws, the registrations of the representatives and authorized persons of ADSCI will be transferred in bulk under the NRD number (as defined in NI 31-102) of Investia which Amalgamated Investia will retain after amalgamation.

8. On the date of the application, ADSCI had approximately 344 registered representatives and 13 permitted individuals registered under ADSCI's NRD number.

   Representatives being transferred to Investia from ADSCI carry on their activities in various jurisdictions, as follows as of the date of the application:

Jurisdiction	Number of registered representatives in jurisdiction
British Columbia	122
Alberta	101
Saskatchewan	--
Manitoba	25
Ontario	153
Québec	23
New Brunswick	17
Nova Scotia	25
Newfoundland and Labrador	19
Prince Edward Island	2
Northwest Territories	--
Yukon	--
Nunavut	--

9. As of the date of the application, all the officers and employees of ADSCI, as well as certain of its registered individuals, were located in the premises of ADSCI in Toronto, as mentioned in paragraph 3 above, except for one compliance employee located in Vancouver, British Columbia. This personnel vacated these premises and moved to the premises of IA in Toronto on September 2, 2008. The other registered individuals which will be part of the bulk transfer have their working offices in various other locations and are not expected to move in the foreseeable future.

10. Investia has acquired, together with ADSCI's registered representatives, all of the client files managed by ADSCI's representatives and all of ADSCI's rights and obligations relating to its business.

11. Following the bulk transfer, this personnel and supporting equipment will remain on the premises where they have relocated on September 2, 2008, on a temporary basis, with an appropriate change in signage.

12. ADSCI is arranging for the transfer to Amalgamated Investia of its registered business together with the registered individuals, permitted individuals, other employees and supporting equipment dedicated to such activities.

13. The Filer is not in default of securities legislation in any Jurisdiction.

Exemption sought - Submissions

14. The Filer is seeking a decision under the Legislation for relief from the following requirements of the Legislation (the "**Exemption Sought**") in respect of a proposed bulk transfer to Amalgamated Investia of all of the registered individuals and permitted individuals associated with ADSCI on NRD as contemplated in Section 3.1 of 33-109CP:

    (a) the submission of individual Forms 33-109F2, being individual applications for registration under Investia pursuant to NI 31-102;

    (b) he submission of Form 33-109F3, relating to each business location, that is being transferred from ADSCI to the Filer;

    (c) the submission of individual Forms 33-109F4, being individual applications for approval of permitted individuals under Investia pursuant to NI 31-102;

    (d) the submission by ADSCI of individual Forms 33-109F1 for the notification of termination of employment of registered individuals pursuant to NI 31-102;

    (e) the submission by ADSCI of individual Forms 33-109F1 for the notification of termination of employment of permitted individuals pursuant to NI 31-102.

15. Amalgamated Investia will hold, in all of the Jurisdictions where ADSCI is currently registered, at least the same registrations as ADSCI;

16. The amalgamation is an internal restructuring transaction between Investia and two of its subsidiaries, ADSCI and NFC, and does not involve any third parties.

17. The Filer and ADSCI have informed their representatives that, following the amalgamation, these representatives will be employed in the same capacity by Amalgamated Investia;

18. The amalgamation will not be contrary to the public interest and will not restrict Amalgamated Investia in complying with all applicable regulatory requirements in meeting its obligations towards its clients; and

19. It would be difficult, costly and time consuming to effect the transfer as a separate and distinct transfer for each registered or permitted individual while ensuring that all such transfers occur at the same time in order to preclude any disruption of individual registrations or of Amalgamated Investia's business activities.

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 provided that the Filer is not in default of securities legislation in any Jurisdiction.

"Mario Albert"
Superintendent Distribution

2.2 Orders

2.2.1 EdgePoint Investment Management Inc.

Headnote

Exemption granted from s. 118(2)(a) of the Act - Exemption required to facilitate closed-end fund investing in securities of its manager that is not a public company - exemption granted subject to several conditions including prospectus disclosure, independent review committee approval, investment limited to de minimus amount, and investment priced at same price as other investors.

Applicable Legislative Provisions

Securities Act (Ontario), ss. 118(2)(a), 121(2)(a)(ii).

September 19, 2008

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

AND

IN THE MATTER OF
EDGEPOINT INVESTMENT MANAGEMENT INC.

ORDER

Background

The Ontario Securities Commission (the **Commission**) has received an application (the **Application**) under clause 121(2)(a)(ii) from EdgePoint Investment Management Inc. (the **Investment Advisor**) for an order exempting it from the prohibition contained in clause 118(2)(a) of the Act to permit it to make an investment in the securities of EdgePoint Wealth Management Inc. (**Wealth Management Company**) on behalf of Cymbria Corporation (the **Fund**) for which the Investment Advisor will act as portfolio manager (the **Exemption Sought**).

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 order is based on the following facts represented by the Investment Advisor:

1. The Investment Advisor is incorporated under the laws of Ontario and has been in existence since January 21, 2008.

2. The Investment Advisor is a wholly-owned subsidiary of EdgePoint Investment Group Inc. (the **Manager**) and an adviser registered with the OSC in the capacities of investment counsel and portfolio manager as well as a limited market dealer.

3. The head office of the Manager is located at located at 1000 Yonge St., Suite 200, Toronto, Ontario, M4W 2K2.

4. The Fund is intended to provide investors with exposure to a portfolio of global securities, but also with an opportunity to invest in Wealth Management Company, a subsidiary of Manager.

5. The Investment Advisor will provide portfolio advisory services to the Fund.

Corporate Structure

The Fund

6. The Fund will be structured as a corporation with three classes of shares: (i) common shares which will be owned by the Manager; (ii) Class A shares which will be offered to the public pursuant to a prospectus; and (iii) Class J shares which are being offered on a private placement basis and which will be convertible into Class A shares.

Wealth Management Company

7. It is proposed that Wealth Management Company will issue common shares to the Manager and the Fund. Wealth Management Company will also reserve 10% of its equity for issuance to employees.

8. The amount of the equity to be held by the Fund will be based on a formula determined by the amount of the proceeds raised in the sale of Class A and Class J shares (the Offering). If these aggregate proceeds reach $100 million, the Fund will be issued 10% of the equity of Wealth Management Company. For each $10 million raised between $100 million and $250 million, the Fund will be issued an additional 1% of the equity of Wealth Management Company. For each $10 million raised between $250 million to a maximum of $750 million, the Fund's ownership level in Wealth Management Company will increase by 0.30% to a maximum of 40%.

9. The consideration that the Fund will pay for its equity interest in Wealth Management Company will be its pro rata share of the working capital required to fund operations of the Wealth Management Company, to a maximum of $5 million (which will be not more than 5% of the minimum proceeds of the Offering). The remaining working capital will be funded by Manager who will receive its equity interest in Wealth Management Company at the same price as the Fund.

10. The Fund's investment in Wealth Management Company will be consistent with the Fund's investment objectives and will be a passive investment. Wealth Management Company will be controlled by Manager who will initially own at least 60% of Wealth Management Company.

11. The Fund's preliminary and final prospectus (the **Prospectus**) will fully disclose the details of the Fund's investment in Wealth Management Company.

Corporate Governance

12. The Fund will have an independent review committee (**IRC**) as required under National Instrument 81-107 – Independent Review Committee for Investment Funds (NI 81-107). The Fund's investment in Wealth Management Company will be approved by the Fund's IRC. The IRC will approve the Fund's investment in the Wealth Management Company only after making the determination under sub-section 5.2(2) of NI 81-107.

13. In addition, the IRC will be required to review the continued holding of equity of Wealth Management Company and any actions outside of the ordinary course of business by Wealth Management Company which could affect the Fund's holdings. These requirements will be included in the IRC's policies and procedures.

14. In addition, it is anticipated that Wealth Management Company will be governed by a unanimous shareholders' agreement (**USA**) among the Fund, the Manager and any key employees holding equity in the Wealth Management Company. Pursuant to the USA, any material transaction involving Wealth Management Company will require prior approval of the Board of Directors of the Fund (a majority of whom will be independent of the Manager), if Wealth Management Company:

    (a) purchases or acquires an asset from a related party;

    (b) sells, transfers or disposes of an asset to a related party;

    (c) leases a property to or from a related party;

    (d) acquires a related party through an amalgamation, arrangement or otherwise;

    (e) issues a security to a related party, except in respect of share issuances to employees described in paragraph 7 above;

    (f) subscribes for a security of a related party;

    (g) assumes or otherwise becomes subject to a liability of a related party;

    (h) borrows from, or lends to, a related party;

    (i) releases, cancels or forgives a debt owed by a related party;

    (j) materially amends the outstanding debt owed by or to a related party; or

    (k) provides a guarantee on behalf of a related party.

    For the purposes hereof, "related party" shall have the meaning ascribed thereto under applicable securities laws.

    In addition the USA will provide the Fund with certain "piggy-back" rights to the Fund in the event that the Manager receives directly or indirectly (through an offer to purchase all of the shares of the Manager) a bona fide third party offer to purchase the Manager's interest in Wealth Management Company.

15. These corporate governance procedures will be disclosed in the Prospectus.

16. It is likely that directors and/or officers of the Investment Advisor will also be directors and/or officers of Wealth Management Company.

17. The vast majority of the proceeds raised by the Fund will be invested in a portfolio of global equity securities and the investment in Wealth Management Company will represent a nominal use of proceeds. The Manager will also waive its management fee for the first three years of the Fund.

Order

The Commission is satisfied that in the circumstances there is adequate justification for so doing;

The Commission orders that the Exemption Sought is granted so long as:

1. the Prospectus fully discloses the details of Fund's investment in Wealth Management Company including the consideration and the corporate governance procedures;

2. the Fund's investment in Wealth Management Company is consistent with its investment objectives;

3. the Fund invests no more than $5 million of the proceeds raised under the Offering in Wealth Management Company; and

4. the Fund's IRC approves the Fund's investment in Wealth Management Company and the IRC will be required to review the continued holding of equity of Wealth Management Company and any actions outside of the ordinary course of business by the Wealth Management Company which could affect the Fund's holdings.

"Paul K. Bates"

"Paulette L. Kennedy"

2.2.2 Hollinger Inc. et al.

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

AND

IN THE MATTER OF
HOLLINGER INC., CONRAD M. BLACK,
F. DAVID RADLER, JOHN A. BOULTBEE,
AND PETER Y. ATKINSON

ORDER

WHEREAS on March 18, 2005 the Ontario Securities Commission (the "Commission") issued a Notice of Hearing pursuant to sections 127 and 127.1 of the Securities Act, R.S.O. 1990, c. S.5, as amended (the "Act") accompanied by a Statement of Allegations issued by Staff of the Commission ("Staff") with respect to Hollinger Inc. ("Hollinger"), Conrad M. Black ("Black"), F. David Radler ("Radler"), John A. Boultbee ("Boultbee") and Peter Y. Atkinson ("Atkinson") (collectively, the "Respondents");

AND WHEREAS the matter was set down for a hearing to commence on Wednesday, May 18, 2005;

AND WHEREAS the Commission granted a request for adjournment of this proceeding on consent of Staff and the Respondents from Wednesday, May 18, 2005 to Monday, June 27, 2005 in its Order dated May 10, 2005;

AND WHEREAS on June 27, 2005, the Commission granted a further request for adjournment of this proceeding on consent of Staff and the Respondents from Monday, June 27, 2005 to Tuesday, October 11, 2005 in its Order dated June 27, 2005;

AND WHEREAS the Commission held a contested hearing on October 11 and November 16, 2005, to determine the appropriate date for a hearing on the merits of the above matter;

AND WHEREAS on January 24, 2006, the Commission issued its Reasons and Order setting down the matter for a hearing on the merits commencing June 2007, subject to each of the individual respondents agreeing to execute an Undertaking to the Commission to abide by interim terms of a protective nature within 30 days of that Decision;

AND WHEREAS following the Reasons and Order dated January 24, 2006, all the individual respondents provided Undertakings in a form satisfactory to the Commission;

AND WHEREAS on March 30, 2006, the Commission issued an order with attached Undertakings provided by the individual Respondents in a form satisfactory to the Commission, and ordered, among other things, that the hearing on the merits commence on Friday, June 1, 2007 at 9:30 a.m., or as soon thereafter as may be

fixed by the Secretary to the Commission and agreed to by the parties;

AND WHEREAS the individual Respondents further provided to the Commission Amended Undertakings stating that each of the respondents agree to abide by interim terms of a protective nature, as set out more fully in the Amended Undertakings, pending the Commission's final decision of liability and sanctions in the proceeding commenced by the Notice of Hearing;

AND WHEREAS on April 4, 2007, the Commission issued an order with attached Amended Undertakings provided by the individual Respondents in a form satisfactory to the Commission, and ordered that the hearing on the merits be scheduled to take place November 12 to December 14, 2007, and January 7 to February 15, 2008;

AND WHEREAS Black and Boultbee brought motions on the basis of certain grounds enumerated in Notices of Motion dated September 5, 2007 and September 6, 2007, respectively, requesting the following relief;

(i) an order adjourning the hearing of this matter, currently scheduled to take place on November 12 to December 14, 2007 and January 7, to February 15, 2008; and

(ii) an order to attend before the Commission on a date convenient in mid-December 2007, following the scheduled sentencing of the respondents Black and Boultbee in the criminal proceedings brought against them in the United States, for the purpose of obtaining further directions regarding the conduct of these proceedings;

AND WHEREAS on September 11, 2007, the Commission granted a request for adjournment of this proceeding on consent of Staff and the Respondents, and issued an order scheduling a hearing for December 11, 2007 for the purpose of addressing the scheduling of this proceeding;

AND WHEREAS Boultbee requested an adjournment of the hearing on December 11, 2007 to a date in January, 2008, by letter addressed to the Secretary to the Commission dated November 29, 2007, for the purpose of addressing the scheduling of this proceeding;

AND WHEREAS on December 10, 2007, the Commission granted a request for adjournment of this proceeding on consent of Staff and the Respondents, and issued an order scheduling a hearing for January 8, 2008 for the purpose of addressing the scheduling of this proceeding;

AND WHEREAS Black requested an adjournment of the hearing on January 8, 2008 to a date in late March 2008, by letter addressed to the Secretary to the Commission dated December 19, 2007, for the purpose of addressing the scheduling of this proceeding;

AND WHEREAS on January 7, 2008, the Commission granted a request for adjournment of this proceeding on consent of Staff and the Respondents, and issued an order scheduling a hearing for March 28, 2008 for the purpose of addressing the scheduling of this proceeding;

AND WHEREAS Black and Boultbee brought motions requesting an order adjourning the hearing of this matter to a convenient date in late September 2008, on the basis of certain grounds enumerated in Notices of Motion dated March 24 and March 25, 2008 respectively, including grounds related to the pending appeals of Black and Boultbee in the criminal proceedings brought against them in the United States;

AND WHEREAS on March 27, 2008 the Commission granted the requested adjournment and scheduled the hearing for September 26, 2008;

AND WHEREAS Boultbee has brought a motion requesting an order adjourning the hearing of this matter to a convenient date in February 2009, on the basis of certain grounds enumerated in Boultbee's Notice of Motion dated September 22, 2008, including grounds related to an intended application for a Writ of Certiorari from the Supreme Court of the United States in respect of the criminal proceedings brought against him in the United States;

AND WHEREAS the Respondents and Staff of the Commission consent to the requested order;

IT IS ORDERED THAT:

(i) The hearing of this matter, currently scheduled for September 26, 2008, is adjourned; and

(ii) The hearing is scheduled for February16, 2009 at 9:30 a.m., or such other date as may be agreed to by the parties and fixed by the Secretary to the Commission, for the purpose of addressing the scheduling of this proceeding.

DATED at Toronto this 25th day of September, 2008

"L. E. Ritchie"

"Margot C. Howard"

2.2.3 David Berry

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

AND

IN THE MATTER OF
A REQUEST FOR A HEARING AND REVIEW
OF A DECISION OF A HEARING PANEL OF
MARKET REGULATION SERVICES INC.

AND

IN THE MATTER OF
A REQUEST BY TSX INC. TO INTERVENE
IN THE HEARING AND REVIEW

AND

IN THE MATTER OF
DAVID BERRY

ORDER

WHEREAS on February 20, 2007, RS issued a Notice of Hearing and Statement of Allegations with respect to Berry, and an amended Notice of Hearing was issued by RS on June 12, 2007 (the "RS Proceeding");

AND WHEREAS on December 10, 2007, in the context of the RS Proceeding, Berry moved before the RS Panel to permanently stay the RS Proceeding on the basis that, *inter alia*, the Universal Market Integrity Rules ("UMIR") are invalid ("Berry's Motion");

AND WHEREAS on February 29, 2008, the RS Panel released its decision dismissing Berry's Motion (the "RS Decision");

AND WHEREAS on March 7, 2008, Berry filed its Notice for Request for Hearing and Review with the Commission pursuant to section 21.7 of the *Securities Act*, R.S.O. 1990, c. S.5;

AND WHEREAS the Hearing and Review in this matter was scheduled for October 29, 2008 at 10:00 a.m.;

AND WHEREAS on August 8, 2008, the TSX Inc. (the "TSX") filed its Notice of Motion for standing to intervene in the Hearing and Review (the "TSX's Motion");

AND WHEREAS on September 29, 2008, a hearing was held before the Ontario Securities Commission (the "Commission") to address the TSX's Motion;

AND WHEREAS the Commission considered the submissions of the TSX, Staff of the Commission, RS and Berry;

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

AND FOR THE REASONS provided orally, and to be released in written form in due course;

IT IS HEREBY ORDERED that the TSX be given limited intervenor status to participate at the Hearing and Review on October 29, 2008 on the following terms:

a. the TSX shall deliver its factum to the parties by the end of day, Friday, October 3. 2008;

b. the TSX factum shall be limited to 15 pages and be confined to the matters at issue in this proceeding that directly affect or concern the TSX and shall not duplicate materials and/or submissions of RS;

c. the TSX shall otherwise abide by the timetable agreed to by the existing parties to this proceeding; and

d. the extent of oral submissions of the TSX, if any, will be as agreed upon by the parties or as directed by the hearing Panel.

Dated at Toronto on this 30th day of September, 2008.

"Lawrence E. Ritchie"

"Patrick J. LeSage"

2.2.4 Matthew Scott Sinclair

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

AND

IN THE MATTER OF
MATTHEW SCOTT SINCLAIR

ORDER

WHEREAS on June 16, 2008, the Ontario Securities Commission (the "Commission") issued a Notice of Hearing and Staff of the Commission ("Staff") filed a Statement of Allegations in respect of Matthew Scott Sinclair (the "Respondent");

AND WHEREAS pursuant to an order made by the Commission on July 8, 2008, Staff and counsel for the Respondent attended a pre-hearing conference before the Commission on September 29, 2008;

AND UPON hearing the submissions from Staff and counsel for the Respondent;

AND WHEREAS the Commission is of the opinion that it is in the public interest to make this Order;

IT IS HEREBY ORDERED that:

1. the hearing of this matter shall be scheduled to proceed for five days commencing on Monday, April 13, 2009, at 10:00 a.m. or on such other date as is agreed by the parties and determined by the Office of the Secretary, at the offices of the Commission on the 17th floor of 20 Queen Street West in Toronto; and

2. a second pre-hearing conference shall be scheduled to proceed on January 20, 2009 commencing at 2:30 p.m. or on such other date as is agreed by the parties and determined by the Office of the Secretary, at the offices of the Commission on the 17th floor of 20 Queen Street West in Toronto.

DATED at Toronto this 30th day of September, 2008.

"Paul K. Bates"

2.2.5 Canadian Investor Protection Fund - s. 144 of the Act and s. 78 of the CFA

Headnote

Application under section 144 of the Act and section 78 of the CFA to amend and restate an order approving the Canadian Investor Protection Fund as a compensation fund pursuant to section 110 of the regulation to the Act and to section 23 of the regulation to the CFA.

Statutes Cited

Securities Act, R.S.O. 1990, c. S.5, as am.
Commodity Futures Act, R.S.O. 1990, c. C.20, as am.

Regulations Cited

Securities Act - R.R.O. 1990, Reg. 1015, as am.
Commodity Futures Act - R.R.O. 1990, Reg. 90, as am.

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

AND

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

AND

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

AND

IN THE MATTER OF
REGULATION 90 MADE UNDER THE CFA, R.R.O. 1990,
AS AMENDED (the CFA Regulation)

AND

IN THE MATTER OF
THE CANADIAN INVESTOR PROTECTION FUND

AMENDMENT AND RESTATEMENT OF APPROVAL ORDER
(Section 144 of the Act and Section 78 of the CFA)

WHEREAS the Commission issued an order on October 17, 2002, approving the Canadian Investor Protection Fund (CIPF) pursuant to section 110(1) of the Regulation and to section 23 of the CFA Regulation (Previous Order);

AND WHEREAS the Commission and the CIPF wish to amend the terms and conditions of the Previous Order to reflect changes to the CIPF's roles and responsibilities;

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 reflect changes to the CIPF's roles and responsibilities;

IT IS HEREBY ORDERED, pursuant to section 144 of the Act and section 78 of the CFA, that the Previous Order be amended and restated as follows:

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

AND

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

AND

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

AND

IN THE MATTER OF
REGULATION 90 MADE UNDER THE CFA, R.R.O. 1990,
AS AMENDED (the CFA Regulation)

AND

IN THE MATTER OF
THE CANADIAN INVESTOR PROTECTION FUND

APPROVAL ORDER
(Section 110 of the Regulation and Section 23 of the CFA Regulation)

Pursuant to Section 110(1) of the Regulation, every dealer, other than a security issuer, shall participate in a compensation fund or contingency trust fund approved by the Commission and established by an organization referred to in Section 21 of the Act or a trust corporation registered under the Loan and Trust Corporations Act;

Pursuant to Section 23 of the CFA Regulation, every registered futures commission merchant (FCM) shall participate in either a compensation fund that a self-regulatory organization under Section 16 of the CFA or a commodity futures exchange registered under Section 15 of the CFA participates in or established, or a contingency trust fund established by a trust corporation registered under the Loan and Trust Corporations Act;

The Canadian Investor Protection Fund (CIPF) is approved as a compensation fund under Section 110 of the Regulation and under Section 23 of the CFA Regulation and has applied for amendments to such approvals;

The CIPF was established by its sponsoring self-regulatory organizations (SROs); currently, the Investment Industry Regulatory Organization of Canada (IIROC) (formerly the Investment Dealers Association of Canada (IDA)) is the only sponsoring SRO that carries on member regulation activities in respect of dealers and FCMs that participate in the CIPF;

The Commission has recognized IIROC as an SRO under Section 21.1 of the Act and under Section 15 of the CFA;

The CIPF, the IDA, The Toronto Stock Exchange Inc., TSX Venture Exchange Inc. and Bourse de Montréal Inc. entered into an agreement dated December 14, 2001 (Original Industry Agreement), pursuant to which the CIPF, among other things, provides certain financial compliance oversight of these SROs and financial examination of members of these SROs;

IIROC became a party to the Original Industry Agreement as of June 1, 2008;

The parties to the Original Industry Agreement wish to terminate and replace the agreement with an agreement between the CIPF and IIROC as the sole SRO (Industry Agreement) that will reflect the realignment of their respective regulatory roles and responsibilities, including the elimination of the CIPF's SRO oversight role and member examination functions;

The Industry Agreement will contemplate that other SROs may become parties to the Industry Agreement (together with IIROC, Participating SROs);

Pursuant to the Industry Agreement, the Participating SROs must levy assessments on their members (Member Firms) and the Participating SROs must pay to the CIPF the amount of these assessments;

The CIPF entered into a Memorandum of Understanding (MOU) with twelve of the members of the Canadian Securities Administrators (CSA). The CIPF also entered into a MOU with the Commission des valeurs mobilières du Québec (now, the Autorité des marchés financiers (Autorité)). The CIPF and the twelve members of the CSA have amended and restated the MOU to reflect the proposed realignment of regulatory roles and responsibilities as between the CIPF and its Participating SROs. The Autorité will rescind its MOU with the CIPF and become a party to the amended and restated MOU between the CSA and the CIPF;

The CIPF provides protection on a discretionary basis to prescribed limits to eligible customers (Customers) of Participating SRO Member Firms suffering losses if Customer property comprising securities, cash and other property held by such Member Firms is unavailable as a result of the insolvency of the Member Firm and, in connection with such coverage, will engage in risk management activities to minimize the likelihood of such losses (CIPF Mandate);

Based on the application of the CIPF and the representations and undertakings the CIPF has made to the Commission, the Commission is satisfied that the continued approval of the CIPF would not be prejudicial to the public interest;

The Commission grants and continues the approval of the CIPF as a compensation fund pursuant to Section 110 of the Regulation and Section 23 of the CFA Regulation (Approval Order), subject to the terms and conditions set out in Schedule A:

Dated October 17, 2002, as amended on September 26, 2008, to be effective on September 30, 2008.

“James E.A. Turner”

“Mary G. Condon”

Schedule A – Terms and Conditions

1. – Authority and Purpose

The CIPF has, and must continue to have, the appropriate authority and capacity to carry out the CIPF Mandate.

2. – Corporate Governance

(a) The board of directors for the CIPF (Board of Directors) must be selected in a fair and reasonable manner and must fairly represent the interests of all Member Firms and their Customers and properly balance the interests of Member Firms and their Customers.

(b) The Board of Directors must be composed of an equal number of Industry Directors and Public Directors, as defined in the CIPF's By-law Number 1, together with the Chair and the President and Chief Executive Officer of the CIPF.

(c) The CIPF's governance structure must provide for:

(i) fair and meaningful representation on the Board of Directors and any committees of the Board of Directors, having regard to the differing interests between Member Firms and their Customers;

(ii) appropriate representation of persons independent of the Participating SROs or any of their Member Firms or of any affiliated or associated company of such Member Firm on the CIPF committees and on any executive committee or similar body;

(iii) appropriate qualification, remuneration, conflict of interest provisions and limitation of liability and indemnification protections for directors and officers and employees of the CIPF generally; and

(iv) an audit committee, the majority of which must be made of Public Directors.

(d) The CIPF must file any changes to the CIPF's By-law Number 1 with the Commission for prior approval, according to the provisions of the MOU between the CSA and the CIPF.

3. – Funding and Maintenance of the CIPF

(a) The CIPF must institute a fair, transparent, and reasonable method of establishing assessments for each Member Firm's contribution. The assessments must:

(i) be allocated on an equitable basis among Member Firms and may be based on the amount of risk a Member Firm exposes the CIPF fund (Fund) to; and

(ii) balance the need for the CIPF to have sufficient revenues to satisfy claims in the event of an insolvency of a Member Firm and to have sufficient financial resources to satisfy its operations costs against the goal that there be no unreasonable financial barriers to becoming a member of an SRO.

(b) The CIPF must make all necessary arrangements for the notification to Member Firms of the CIPF assessments and the collection of such assessments, either directly or indirectly through a Participating SRO.

(c) The Board of Directors of the CIPF must determine the appropriate level of assets for the CIPF. The Board of Directors will conduct an annual review of the adequacy of the level of assets, assessment amounts, and assessment methodology and will ensure that the level of assets of the CIPF remains, in its opinion, adequate to cover potential claims.

(d) Moneys in the Fund must be invested in accordance with policies, guidelines or other instruments approved by the Board of Directors, who will be responsible for regular monitoring of the investments. All moneys and securities must be held by a qualified custodian, which are those entities considered suitable to hold securities on behalf of a Member Firm, for both inventory and client positions, without capital penalty, pursuant to the bylaws, rules or regulations of the Participating SROs.

(e) The CIPF must implement an appropriate accounting system, including a system of internal controls for maintaining CIPF assets.

4. – Customer Protection

(a) The CIPF must establish and maintain coverage policies (Coverage Policies) to provide for fair and adequate coverage, on a discretionary basis, for all Customers of Member Firms, who are not ineligible claimants as determined pursuant to the Coverage Policies, for losses of property comprising securities, cash, and other property held by Member Firms resulting from the insolvency of a Member Firm.

(b) The Coverage Policies must include fair and reasonable policies for assessing claims made to the CIPF. The CIPF will respond as quickly as practicable in assessing and paying claims made pursuant to those policies.

(c) The CIPF must establish within its Coverage Policies a fair and reasonable internal claim review process whereby claims that are not accepted for payment by the CIPF staff or by an appointed committee will be reconsidered by the Board of Directors or a review panel of one or more Directors, if requested by a Customer of a Member Firm or by the CIPF staff. The Coverage Policies must include criteria established by the Board of Directors for the selection of the review panel members, including criteria that no Director involved in the initial decision will be involved in reconsidering that decision.

(d) The CIPF must adequately inform Customers of Member Firms, either directly or indirectly through a Participating SRO, of the principles and policies on which coverage will be available, including, but not limited to, the process for making a claim and the maximum coverage available per Customer account.

5. – Financial and Operational Viability

The CIPF must maintain adequate financial and operational resources, including adequate staff resources or external professional advisers, to permit the CIPF to exercise its rights and perform its duties under the MOU between the CSA and the CIPF and this Approval Order and to conduct Member Firm reviews as required pursuant to Article 4 of the MOU.

6. – Risk Management

The CIPF must ensure that it has policies and procedures, including a process to identify and request all necessary information from a Participating SRO, in order for the CIPF to:

(a) fulfill its mandate and manage risks to the public and to CIPF assets;

(b) assess whether the prudential standards and operations of the CIPF are appropriate for the coverage provided and the risk incurred by the CIPF; and

(c) identify and deal with Member Firms that may be in financial difficulty.

7. – Agreement between the CIPF and IIROC

The CIPF must enter into and comply with the Industry Agreement signed with IIROC and any Participating SRO.

8. – Assistance to Participating SRO

The CIPF must assist a Participating SRO when a Member Firm is in or is approaching financial difficulty. Such assistance will be provided in any way the CIPF determines to be appropriate.

9. – Collection of Information

The CIPF must, subject to applicable legislation, collect, use and disclose personal information only to the extent reasonably necessary to carry out the CIPF Mandate.

10. – Memorandum of Understanding

The CIPF must comply with the MOU between the CSA and the CIPF that takes effect on September 30, 2008.

2.2.6 In the Matter of The Applicants – s. 147 of the Act and s. 9 of the SPPA

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

AND

IN THE MATTER OF THE STATUTORY POWERS PROCEDURES ACT, R.S.O. 1990,
CHAPTER S.22, AS AMENDED (the "SPPA")

AND

IN THE MATTER OF
THE APPLICANTS

Order
(Section 147 of the Act and Section 9 of the SPPA)

WHEREAS on September 19, 2008, the Ontario Securities Commission (the "Commission") issued a temporary order pursuant to subsections 127(1), (2) and (5) of the Act (the "Original OSC Order") with respect to the financial sector issuers listed in Schedule A to such order (the "Financial Sector Issuers"), in support of an order made by the United States Securities and Exchange Commission ("SEC") on September 18, 2008 (the "SEC Order");

AND WHEREAS on September 22, 2008, the SEC having issued an amendment to the SEC Order (the "SEC Amending Order") and the Executive Director having applied to the Commission to vary and restate the Original OSC Order to support the changes made by the SEC Amending Order and address certain other technical and operational concerns, the Commission issued an order varying and restating the Original OSC Order (as so amended and restated, the "Temporary OSC Order");

AND WHEREAS certain parties (the "Applicants") have filed an application (the "Application") requesting that the Commission make an order (the "Order"):

(a) pursuant to section 147 of the Act exempting the Applicants from the Temporary OSC Order in order to engage in short sales of shares of certain of the Financial Sector Issuers in connection with the Proposed Transaction (defined below); and

(b) for a decision pursuant to section 9 of the SPPA that the Application and the materials in support thereof be sealed and not publicly disclosed;

AND WHEREAS the Applicants have made certain representations respecting a proposed transaction ("Proposed Transaction") and the Applicants' request for relief;

AND WHEREAS by conducting the Proposed Transaction, one counterparty will be stepping into the position previously held by another counterparty, in respect of a transaction established prior to the date of the Original OSC Order, and as such there will be no change to the economic net short position in the issued share capital of the Financial Sector Issuers;

AND WHEREAS the Commission has considered the Application and the recommendation of the staff of the Commission;

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

AND WHEREAS the Commission is of the view that by disclosing the Application and the materials in support thereof, intimate financial information may be disclosed and that the desirability of avoiding disclosure thereof in the interests of any person affected or in the public interest outweighs the desirability of adhering to the principle that applications be available to the public;

IT IS ORDERED, pursuant to section 147 of the Act, that short sales by the Applicants made in connection with the Proposed Transaction are exempt from the Temporary OSC Order; and

IT IS ALSO ORDERED, pursuant to section 9 of the SPPA, that the Application and the materials in support thereof be sealed and not publicly disclosed.

DATED at Toronto, this 29th day of September, 2008.

“Lawrence E. Ritchie”

“Patrick J. Lesage”

2.2.7 Al-Tar Energy Corp. et al. - ss. 127(1), 127(8)

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

AND

IN THE MATTER OF
AL-TAR ENERGY CORP.,
ALBERTA ENERGY CORP.,
DRAGO GOLD CORP.,
DAVID C. CAMPBELL, ABEL DA SILVA,
ERIC F. O'BRIEN, JULIAN SYLVESTER

ORDER
(Sections 127(1) & 127(8))

WHEREAS on July 3, 2007, the Ontario Securities Commission (the "Commission") issued a Temporary Order pursuant to subsection 127(5) of the *Securities Act*, R.S.O. 1990, c. S.5, as amended (the "Act") that: (i) all trading by Al-Tar Energy Corp. ("Al-Tar"), Alberta Energy Corp. ("Alberta Energy") and their officers, directors, employees and/or agents, in securities of Al-Tar and Alberta Energy shall cease; and, (ii) Al-Tar, Alberta Energy, Eric O'Brien ("O'Brien"), Julian Sylvester ("Sylvester"), Bill Daniels, Bill Jakes, John Andrews, Michael N. Whale, James S. Lushington, Ian W. Small, Tim Burton and Jim Hennesy cease trading in all securities (the "First Temporary Order");

AND WHEREAS on July 6, 2007, the Commission issued a Notice of Hearing to consider, among other things, the extension of the First Temporary Order, to be held on July 17, 2007 at 10 a.m;

AND WHEREAS on July 17, 2007, the Commission held a hearing, none of the Respondents named in the First Temporary Order attended and the Commission ordered that the First Temporary Order be extended until September 11, 2007;

AND WHEREAS on September 11, 2007, the Commission held a hearing, none of the Respondents named in the First Temporary Order attended and the Commission ordered that the First Temporary Order be extended until December 18, 2007;

AND WHEREAS on December 18, 2007, the Commission held a hearing, none of the Respondents named in the First Temporary Order attended and the Commission ordered that the First Temporary Order be extended until the end of the hearing on the merits;

AND WHEREAS on February 14, 2008, Staff of the Commission issued a Statement of Allegations with respect to Al-Tar, Alberta Energy, O'Brien, Sylvester, Drago Gold Corp. ("Drago Gold"), David C. Campbell ("Campbell") and Abel Da Silva ("Da Silva");

AND WHEREAS on February 14, 2008, the Commission issued a Notice of Hearing, to be held on March 19, 2008, to consider, *inter alia*, whether it is in the public interest to order that: (a) Drago Gold, Campbell and Da Silva and their employees, agents and/or salespersons shall cease trading in the securities of Al-Tar, Alberta Energy and Drago Gold; and (b) Drago Gold, Campbell and Da Silva cease trading in any securities;

AND WHEREAS on March 19, 2008, the Commission held a hearing, counsel for Da Silva attended and advised the Commission that Da Silva was not opposed to the issuance of a temporary cease trade order, and Drago Gold and Campbell did not appear at the hearing;

AND WHEREAS on March 19, 2008, the Commission issued an order that: (a) Drago Gold, Campbell and Da Silva and their employees, agents and/or salespersons shall cease trading in the securities of Al-Tar, Alberta Energy and Drago Gold; and (b) Drago Gold, Campbell and Da Silva cease trading in any securities and ordered that it continue until September 30, 2008 (the "Second Temporary Order");

AND WHEREAS on March 19, 2008, the Commission also ordered that Al-Tar, Alberta Energy, Drago Gold, Campbell, Da Silva, O'Brien and Sylvester complete a pre-hearing conference before June 30, 2008;

AND WHEREAS on June 24, 2008, a pre-hearing conference was held with Staff and O'Brien personally and on behalf of Al-Tar attending, and none of the other Respondents attended;

AND WHEREAS on June 24, 2008, the Commission ordered that the hearing of this matter on the merits shall be held on April 20, 2009 through to April 27, 2009 at the offices of the Commission on the 17th floor, 20 Queen Street West, Toronto;

AND WHEREAS on September 30, 2008, the Commission held a hearing to consider whether to extend the Second Temporary Order, with Staff attending but Da Silva, Campbell, and Drago Gold did not attend;

AND WHEREAS the Commission has considered the submissions before it;

AND WHEREAS, pursuant to subsection 127(8) of the Act, satisfactory information has not been provided to the Commission by any of the Respondents;

AND WHEREAS the Commission is of the opinion that the time required to conclude a hearing could be prejudicial to the public interest as set out in subsection 127(5) of the Act;

AND WHEREAS the Commission is of the opinion that it is in the public interest to make this Order;

IT IS HEREBY ORDERED, pursuant to subsection 127(8) of the Act, that the Second Temporary Order is extended until the end of the hearing on the merits.

DATED at Toronto this 30th of September, 2008.

“David L. Knight”

“Suresh Thakrar”

Chapter 3

Reasons: Decisions, Orders and Rulings

3.1 OSC Decisions, Orders and Rulings

3.1.1 Daniel Duic - ss. 127, 127.1

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

AND

IN THE MATTER OF
DANIEL DUIC

REASONS FOR DECISION ON SANCTIONS AND COSTS
(Sections 127 and 127.1 of the Securities Act)

Hearing:	August 19, 2008		
Decision:	September 29, 2008		
Panel:	James E. A. Turner	-	Vice-Chair and Chair of the Panel
	Suresh Thakrar	-	Commissioner
Counsel:	Matthew Boswell	-	for Staff of the Ontario Securities Commission
	Steven Sofer James Camp	-	for Daniel Duic

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REASONS AND DECISION ON SANCTIONS AND COSTS

A. OVERVIEW

[1] This was a hearing before the Ontario Securities Commission (the "Commission") pursuant to sections 127 and 127.1 of the *Securities Act*, R.S.O. 1990, c. S.5, as amended (the "Act") to consider whether it is in the public interest to make an order imposing certain regulatory sanctions on the respondent Daniel Duic ("Duic").

[2] This matter arose out of a Notice of Hearing issued by the Commission on August 14, 2008, in relation to a Statement of Allegations issued by Staff of the Commission ("Staff") on that date. Staff alleged that Duic breached the terms of a cease trade order made under a settlement agreement dated March 3, 2004 (the "2004 Settlement Agreement"), which was approved by a Commission order on March 3, 2004 (the "2004 Order").

[3] Staff and Duic jointly submitted an Agreed Statement of Facts (the "Agreed Statement of Facts") that states that Duic breached the terms of the 2004 Order. Staff and counsel for Duic also agreed in their respective written submissions that certain sanctions should be ordered; however the parties were not in agreement on what all of the sanctions should be.

[4] Written submissions were received from both Staff and counsel for Duic. A hearing to consider the appropriate sanctions was held on August 19, 2008. We rendered our decision orally at the conclusion of the hearing. On September 3, 2008, an order was issued by the Commission sanctioning Duic for his breach of the 2004 Order. These are our reasons for issuing that order.

B. THE SETTLEMENT AGREEMENT

[5] Pursuant to the 2004 Settlement Agreement, Duic admitted to having engaged in illegal insider trading in breach of subsection 76(1) of the Act in respect to his trading in securities of Canadian Pacific Limited and Moffatt Communications Limited in 2000 and 2001.

[6] In approving the 2004 Settlement Agreement, the Commission made an order substantially to the following effect:

(a) Duic was required to make a settlement payment of $1,900,000 to the Commission for allocation to or for the benefit of such third parties as approved by the Minister under section 3.4(2) of the Act;

(b) Duic was required to pay $25,000 for costs pursuant to section 127.1 of the Act;

(c) trading in any securities by Duic was to cease permanently, with the exception that (i) Duic was permitted to trade mutual funds through a registered dealer for the account of his registered retirement savings plan (as defined in the *Income Tax Act* (Canada)) and (ii) Duic was entitled to divest himself of securities held as of the date of the order within 30 days from the date of the order;

(d) exemptions contained in Ontario securities law were not to apply to Duic permanently;

(e) Duic was reprimanded;

(f) Duic was required to resign from all positions that he held as a director or officer of a reporting issuer; and

(g) Duic was permanently prohibited from becoming or acting as a director or officer of a reporting issuer.

(*Re Duic* (2004), 27 O.S.C.B. 2721)

[7] Andrew Rankin ("Rankin") was charged with providing Duic with undisclosed material information while in a special relationship with certain issuers, as a result of which Duic illegally made substantial profits trading in the securities of the issuers.

[8] One of the terms of the 2004 Settlement Agreement was that Duic testify as a witness for Staff at any proceedings which were commenced by Staff before the Commission or in the courts with respect to the relevant trading.

[9] We understand that Duic has complied with his obligations under the 2004 Settlement Agreement, except for the conduct that is the subject of this proceeding.

C. THE ALLEGATION

[10] In the Statement of Allegations, Staff allege that Duic breached the 2004 Order when he purchased and sold certain equity securities through his U.S. dollar margin account and RRSP account at TD Waterhouse Canada (the "Toronto Accounts")

during the period from March 16, 2007 to December 11, 2007. All of those trades were effected through the New York Stock Exchange and/or NASDAQ, exchanges located outside Canada.

D. AGREED FACTS

[11] The parties submitted an Agreed Statement of Facts to us, the relevant provisions of which are referred to below.

[12] The Agreed Statement of Facts states that Duic was advised by his legal counsel that the 2004 Order did not prevent Duic from trading securities listed on a U.S. exchange. Because Duic's counsel anticipated that Duic would be residing in California permanently, there was no discussion as to whether or not Duic was permitted to trade securities listed on a U.S. exchange from a brokerage account in Ontario. At the hearing, Duic's counsel submitted that Duic erroneously believed that he was permitted to trade on U.S. exchanges regardless of the location of the brokerage account through which the trades were made, largely because of the legal advice provided to him by his counsel. Staff agreed that if Duic had traded securities listed on a U.S. stock exchange through a brokerage account in California while Duic was residing there, that trading would not have breached the 2004 Order. However, because Duic traded through two brokerage accounts located in Toronto, Duic did breach the 2004 Order.

1. Trading in the Toronto Accounts

[13] Duic engaged in the following trading of shares through the Toronto Accounts. All of the securities traded were listed on the New York Stock Exchange and/or the NASDAQ and the trades were effected on those exchanges:

i. On March 16, 2007, Duic purchased 500 shares of The Boeing Company at an aggregate cost of $45,344 (U.S.). These shares were purchased in Duic's RRSP account.

ii. On June 26, 2007, Duic purchased 7,500 shares of Cerner Corporation at an aggregate cost of $421,570.35 (U.S.). These shares were purchased in Duic's U.S. dollar margin account.

iii. On August 8, 2007, Duic sold 7,500 shares of Cerner Corporation at an aggregate price of $462,419.11 (U.S.) and realized a profit of $40,848.76 (U.S.).

iv. On October 10, 2008 and November 27, 2007, Duic purchased 1,800 shares of Cerner Corporation at an aggregate cost of $111,498.64 (U.S.). These shares were purchased in Duic's U.S. dollar margin account. Duic continues to hold these shares.

v. On December 3, 2007, Duic purchased 1,500 shares of RCM Technologies Inc. at an aggregate cost of $8,865 (U.S.). These shares were purchased in Duic's RRSP account and he continues to hold these shares.

vi. On December 7, 2007, Duic purchased 1,000 shares of The Boeing Company at an aggregate cost of $93,029.69 (U.S.). These shares were purchased in Duic's U.S. dollar margin account. Duic continues to hold 110 of these shares.

vii. On December 11, 2007, Duic purchased 5,000 shares of RCM Technologies Inc. at an aggregate cost of $30,009.99 (U.S.). Duic continues to hold these shares.

[14] Duic conducted these transactions from the Toronto Accounts because he thought he was permitted to do so and it was more convenient than using the U.S. account in terms of transferring the necessary funds. Duic did not seek additional legal advice prior to using the Toronto Accounts for these transactions.

[15] On December 12, 2007, TD Waterhouse Canada, acting on its own initiative without any involvement of Staff, froze Duic's Toronto Accounts and advised him that it wanted to consider the trading activity in the Toronto Accounts in light of the 2004 Order.

[16] On March 27, 2008, TD Waterhouse Canada sold 890 shares of The Boeing Company held in the Toronto Accounts, without consulting Staff or Duic. This sale was effected by TD Waterhouse Canada in order to cover a margin call in respect of the Toronto Accounts. That sale resulted in a loss to Duic of $22,734.40 (U.S.).

[17] Staff and Duic's counsel submit that if the remaining shares held in the Toronto Accounts had been liquidated on August 1, 2008 (based on the closing share prices on July 31, 2008), the sale of those securities would have resulted in a loss of $74,739.

[18] Consequently, if Duic's holdings in the Toronto Accounts were liquidated as of August 1, 2008, Duic would have suffered an aggregate loss of over $55,000 from all of his trades over the relevant period.

2. Duic's Cooperation with Staff

[19] The Agreed Statement of Facts states that Duic cooperated fully with Staff in its investigation of this matter. Duic contacted Staff immediately after the Toronto Accounts were frozen and made no attempt to hide his transactions in the Toronto Accounts. Duic also waived solicitor-client privilege in order to allow Staff to question his legal counsel with respect to the nature of the legal advice he received regarding the scope of the 2004 Order. On December 14, 2007 and January 25, 2008, Duic voluntarily attended the offices of the Commission in order to provide statements to Staff.

E. SUBMISSIONS

1. Agreed Sanctions

[20] While the parties agree that Duic breached the 2004 Order, they are not in agreement on all of the appropriate sanctions. However, the parties do agree that the imposition of the following sanctions would be in the public interest:

a. pursuant to clause 6 of subsection 127(1), Duic shall be reprimanded;

b. pursuant to clause 8.1 of subsection 127(1), Duic shall resign any positions that he holds as a director or officer of a registrant;

c. pursuant to clause 8.2 of subsection 127(1), Duic shall be prohibited permanently from becoming or acting as a director or officer of a registrant;

d. pursuant to clause 8.3 of subsection 127(1), Duic shall resign any positions that he holds as a director or officer of an investment fund manager;

e. pursuant to clause 8.4 of subsection 127(1), Duic shall be prohibited permanently from becoming or acting as a director or officer of an investment fund manager;

f. pursuant to clause 8.5 of subsection 127(1), Duic shall be prohibited permanently from becoming or acting as a registrant, as an investment fund manager, or as a promoter; and

g. Duic shall close the Toronto Accounts after divesting all shares held in the Toronto Accounts. To the extent that Duic makes any profit as a result of the divestiture of all of the shares in the Toronto Accounts, he will account for and disgorge to the Commission any profit realized.

2. Staff's Submissions

[21] In addition to the agreed sanctions, Staff submits that the Commission should order the following sanctions against Duic:

(1) pursuant to clause 2 of subsection 127(1), trading in any securities by Duic shall cease permanently, except that Duic shall divest himself of all securities held in the Toronto Accounts within twenty-one days from the date of the order and shall close the Toronto Accounts immediately thereafter;

(2) pursuant to clause 2.1 of subsection 127(1), the acquisition of any securities by Duic shall be prohibited permanently;

(3) pursuant to clause 9 of subsection 127(1), Duic shall pay an administrative penalty of $84,000; and

(4) pursuant to clause 10 of subsection 127(1), Duic shall disgorge to the Commission $42,000, being the amount obtained by him as a result of non-compliance with securities law.

[22] Staff submits that all of these sanctions are proportionately appropriate and will serve as specific and general deterrence, sending a clear message that the Commission expects strict compliance with the terms of its cease trade orders.

[23] Staff notes that good faith commitment and mutual reliance form the cornerstone of settlement agreements, and the undertakings and Commission orders made under such agreements. Staff asserts that if a respondent wishes to trade securities while bound by the terms of a cease trade order, the onus is on the respondent to ensure that such trading falls within any exceptions provided for in the order (*Re Rash* (2006), 29 O.S.C.B. 7403 at paras. 29-30).

[24] Staff also submits that breaches of Commission orders show disregard for the rule of law as well as the Commission, and consequently undermine public confidence in the capital markets (*Re Prydz* (2000), 23 O.S.C.B. 3399 at paras. 14-18).

Hence, a breach of a Commission order should be taken very seriously and should be considered an aggravating factor in determining the appropriate sanctions for such breach (see also: *Re National Gaming Corp.* (2000), LNABASC 583 at pp. 7-8; *Re Koonar* (2002), 25 O.S.C.B. 2691 at para. 25; and *Re Prydz*, at para. 18).

[25] Staff argues that Duic's past conduct is indicative of what might be expected of him in the future, and that the 2004 Order has clearly not been effective. Consequently, a stronger order is needed. Staff notes that the breach of the 2004 Order occurred less than four years after it was made.

[26] Staff further submits that as a consequence of his past illegal insider trading, and the proceedings against him and against Rankin, Duic is very familiar with the securities laws of Ontario. Staff asserts that Duic's breach of the 2004 Order should be viewed with this in mind.

[27] As a matter of both specific and general deterrence, Staff submits that the elimination of the RRSP carve-out from the 2004 Order with respect to trading in mutual fund securities, along with the financial sanctions proposed, would send a message to Duic and like-minded individuals that a return to the status quo after a breach of a settlement order is not sufficient and that the Commission considers settlement obligations made to it seriously and it will not tolerate breaches of its orders. Staff also submits that the sanctions proposed by it are proportionate to Duic's conduct in this matter, reflect the circumstances of the case, and uphold the principles and purposes of the Act.

[28] Staff acknowledges Duic's cooperation after the Toronto Accounts were frozen, but notes that his cooperation was not necessary for Staff to advance its case against him.

[29] Staff also notes that it chose not to seek the consent of the Commission to initiate a prosecution under section 122 of the Act for breach of the 2004 Order, for which Duic could have faced the possibility of incarceration, if convicted.

[30] Staff submits that it incurred investigation and hearing costs of $33,245 in this matter and that Duic should be ordered to pay $24,000 to indemnify the Commission for a portion of its costs. According to Staff, the costs claimed in this case are reasonable and conservative. They are claimed only for the two litigation counsel and the lead investigator, and not for the Assistant Manager in the Enforcement Branch of the Commission or other Staff members who worked on the case. Further, only a portion of the full amount incurred by litigation counsel and the lead investigator is being claimed. To support their claim for costs, Staff provided information setting forth the number of hours spent by Staff on this matter.

3. Duic's Submissions

[31] Duic submits that the increased sanctions sought by Staff are not appropriate in all of the circumstances, and they are not necessary for deterrence. Duic submits that his breach of the 2004 Order was inadvertent. Further, through his counsel, Duic states that he is remorseful, accepts full responsibility for his actions and that he has cooperated fully with Staff. Instead of the additional sanctions sought by Staff, Duic proposes that the RRSP mutual fund carve-out provided for in the 2004 Order be maintained, that no administrative penalty be ordered, and that he pay the Commission's investigation costs in the amount of $5,000.

[32] Duic draws an analogy between sanctions for a breach of a Commission order and sanctions for breach of a court order. In particular, Duic refers us to a document produced by the Canadian Judicial Council (CJC) entitled "*Some Guidelines on the Use of Contempt Powers*" (the "Guidelines") published by the CJC in May 2001. With respect to sanctions for contempt the Guidelines state that:

> In Canada punishment for contempt has been quite moderate, reflecting the courts' usual view that a conviction for contempt and a modest fine is usually sufficient to assert the courts' authority, to protect their dignity or to ensure compliance. Often these sentences are imposed after the contemnor has apologized and purged his or her contempt which substantially mitigates any punishment that might otherwise be imposed (at p. 40).

For cases involving failure to obey an injunction the guidelines note:

> It is the defiance of the court order, and not the illegality of any actions which led to the granting of the court order in the first place, which must be the focus of the contempt penalty (at p. 41).

[33] Duic relies on the same case law on sanctions arising from breaches of Commission orders as Staff, but comes to a different conclusion on the manner in which we should apply them. In *Re Rash* the respondent was subject to a cease trade order and was found to have violated the terms of that order. In considering sanctions, the Commission placed importance on the fact that Rash did not attempt to conceal his conduct during the investigation nor act in a manner that was unreasonable at the hearing (*Re Rash*, at para. 44-45). Duic's counsel notes that Duic went further than Rash, in that he cooperated fully with

Staff, drew Staff's attention to his trading activity in the Toronto Accounts after they were frozen by TD Waterhouse Canada, and helped simplify and shorten the hearing by submitting the Agreed Statement of Facts and by agreeing to some of the sanctions.

[34] Duic also refers us to *Re Hinke* ((2007), 30 O.S.C.B. 6269). In *Re Hinke* the Commission found that the respondent had intentionally breached a cease trade order, breached a settlement undertaking and had made a misleading or untrue statement to Staff and the Commission. The fact that the respondent had a history of misconduct before the Commission was an important factor in considering sanctions. In addition Hinke's attempt to conceal his actions was considered an aggravating factor (*Re Hinke*, at para. 118). In contrast to the actions of Hinke, Duic's counsel argues that Duic did not breach the 2004 Order intentionally nor make any attempt to conceal his actions.

[35] Duic notes that in the cases of *Re Prydz* (at para. 18) and *Re National Gaming Corp.* (at pp. 7-8) the Commission (in the case of *Re National Gaming Corp.*, the Alberta Securities Commission) emphasized that the breaches of commission orders were "intentional" and "repeated".

[36] Duic submits that his breach of the 2004 Order was inadvertent, that he made no attempt to conceal the breach, and he cooperated fully with Staff, in contrast to the actions of the respondents in *Re Rash* and *Re Hinke*. Further, Duic agrees that where a respondent breaches securities laws and the conduct is also a breach of a prior Commission order or undertaking, then that fact is an aggravating factor. Duic submits that in his case his conduct was a breach of securities law only because it contravened the 2004 Order, not because it otherwise constituted an offence under the Act. Thus, Duic's breach should not be considered an aggravating factor.

[37] Duic submits that he did not, as a result of his violation of the 2004 Order, obtain a benefit. Both Duic and Staff agree that liquidating the Toronto Accounts as of August 1, 2008, would have resulted in an aggregate loss of over $55,000. For this reason, Duic submits that neither disgorgement nor an administrative penalty would be appropriate.

[38] Duic also submits that specific deterrence should not be a consideration in determining the sanctions in this case. Duic notes that his breach of the 2004 Order was inadvertent and that there is no evidence that he does not have due regard for the authority of the Commission. Duic submits that he believed in good faith that he was acting in accordance with the 2004 Order, based on prior legal advice. Accordingly, Duic submits that the Commission need not be concerned about deterring him from committing a future breach of the 2004 Order.

[39] Given the circumstances of this case, Duic also submits that general deterrence is sufficiently served by a reprimand.

[40] With respect to costs, Duic submits that the Commission should not award costs on a "substantial indemnity" basis, given the factors discussed above, including Duic's cooperation.

F. ANALYSIS

1. Factors in Determining Sanctions

[41] In considering appropriate sanctions for breaches of securities laws or an order of the Commission, the Commission is guided by the underlying purposes of the Act. Those purposes are set out in section 1.1 of the Act and are:

a. to provide protection to investors from unfair, improper or fraudulent practices; and

b. to foster fair and efficient capital markets and confidence in capital markets.

[42] In making an order under section 127 of the Act, the Commission is to exercise its public interest jurisdiction in a protective and preventative manner. As stated in *Re Mithras Management Ltd.*:

> …, the role of this Commission is to protect the public interest by removing from the capital markets – wholly or partially, permanently or temporarily, as the circumstances may warrant – those whose conduct in the past leads us to conclude that their conduct in the future may well be detrimental to the integrity of those capital markets. We are not here to punish past conduct; that is the role of the courts, particularly under section 118 [now 122] of the Act. We are here to restrain, as best we can, future conduct that is likely to be prejudicial to the public interest in having capital markets that are both fair and efficient. In doing so we must, of necessity, look to past conduct as a guide to what we believe a person's future conduct might reasonably be expected to be; we are not prescient, after all (*Re Mithras Management Ltd.* (1990), 13 O.S.C.B. 1600 at 1610-1611).

[43] The Supreme Court of Canada has confirmed that the Commission may also impose sanctions which function as a general deterrent, stating that "… it is reasonable to view general deterrence as an appropriate, and perhaps necessary,

consideration in making orders that are both protective and preventative" (*Re Cartaway Resources Corp.,* [2004] 1 S.C.R. 672 at para. 60, Le Bel J.).

[44] In determining the appropriate sanctions in this matter, we must consider the specific circumstances to ensure that the sanctions are proportionate to the conduct involved (*Re M.C.J.C. Holdings Inc. and Michael Cowpland*, (2002), 25 O.S.C.B. 1133 ("*Re M.C.J.C. Holdings*") at para. 26).

[45] *Belteco Holdings Inc.* provides examples of the types of factors that the Commission should consider when imposing sanctions:

(a) the seriousness of the allegations;

(b) the respondent's experience in the marketplace;

(c) the level of a respondent's activity in the marketplace;

(d) whether or not there has been recognition of the seriousness of the improprieties;

(e) whether or not the sanctions imposed may serve to deter not only those involved in the case being considered but any like-minded people from engaging in similar abuses of the capital markets; and

(f) any mitigating factors.

(*Belteco Holdings Inc. (*1998), 21 O.S.C.B. 7743, at paras. 25-26)

[46] Additional examples of factors to consider were set out in *Re M.C.J.C. Holdings*. They include:

(a) the remorse of the respondent;

(b) the size of any profit (or loss avoided) from the illegal conduct;

(c) the size of any financial sanction;

(d) the effect any sanction might have on the livelihood of the respondent;

(e) the restraint any sanction may have on the ability of the respondent to participate without check in the capital markets;

(f) the respondent's experience in the marketplace;

(g) the reputation and prestige of the respondent; and

(h) the shame, or financial pain, that any sanction would reasonably cause to the respondent.

(*Re M.C.J.C. Holdings*, at para. 41)

[47] The Commission has observed that these are only some of the factors to consider. Depending on the particular circumstances, not all of the factors will be relevant and there may be others that are relevant (*Re M.C.J.C. Holdings*, at para. 41).

[48] We have considered all of these various factors in making our order in this matter. We have, however, been most influenced by considering the nature of the breach of the 2004 Order, the deterrent effect of our order on others, the restrictions on Duic's future ability to participate in our capital markets and his remorse. We discuss below the mitigating circumstances that we have considered.

2. The Appropriate Sanctions in this Case

[49] As noted above, Staff and Duic agree that Duic breached the terms of the 2004 Order by trading through his Toronto Accounts. We accept their joint submissions on the agreed facts.

(i) Overview

[50] In our view, the breach of any Commission order is a matter of the utmost seriousness. The Commission's orders must be adhered to by the persons to whom they apply. Public confidence in the fair functioning of the capital markets is related directly to the public's perception of the effectiveness of the Commission's enforcement efforts. Accordingly, we agree with Staff that significant consequences must follow any breach of the Commission's orders.

[51] We also agree with Staff that it was Duic's responsibility to comply with the 2004 Order and to determine whether any trading he proposed to do was permitted. Duic knew that the 2004 Order restricted his trading in Ontario. It was up to him to determine whether any trading he proposed to do was permitted and to ensure that any such trading fell within the terms of the 2004 Order. He failed to do so.

[52] The sanctions imposed in this matter must be adequate to deter not only Duic, but others from breaching any similar Commission order.

[53] At the same time, we recognize that there may be circumstances involving a mere technical breach of a Commission order where the Commission may be satisfied that no sanction is necessary (*Re Mithras Management Ltd.* (1990), 13 O.S.C.B. 1600 at 1610). That is not the case here.

[54] We note that the only matter before us is a breach of a Commission cease trade order. While past conduct of a respondent may be a consideration in imposing sanctions, we do not agree that the sanctions imposed here should be more severe simply because the 2004 Order was issued in connection with serious illegal insider trading. We have to decide this matter based on the circumstances before us and without reference to the facts surrounding the 2004 Settlement Agreement.

(ii) Mitigating Factors

[55] As noted above, regardless of their knowledge or experience of securities laws, individuals who are bound by orders of the Commission have the responsibility of ensuring that they comply with those orders. We acknowledge that Duic had previously sought legal advice about the application of the 2004 Order. The fact that Duic thought he was relying on legal advice and believed in good faith that his trading was in compliance with the terms of the 2004 Order is a mitigating factor.

[56] Based on the Agreed Statement of Facts, it is clear that Duic did not intentionally or knowingly breach the 2004 Order. Aside from the evidence that Duic thought he was relying on previous legal advice, we note that Staff has acknowledged that if Duic had traded the securities in question through a brokerage account in California, he would not have been in violation of the 2004 Order. Duic's trading in connection with this matter constitutes trading in Ontario and a breach of the 2004 Order because acts in furtherance of those trades occurred in Ontario; but the actual trades were all effected on stock exchanges located outside Canada. Trading in securities that occurs wholly outside Ontario (and that involves no act in furtherance of such trading in Ontario) is not prohibited by the 2004 Order.

[57] But for the fact that Duic was in breach of the 2004 Order, there is no suggestion that Duic's trading resulted in any harm to investors or was improper in any other way.

[58] Upon discovering that he had breached the 2004 Order, Duic expressed remorse and accepted full responsibility for his actions. Duic cooperated with Staff during its investigation and substantially shortened the time and expense of this hearing by agreeing to the Agreed Statement of Facts and some of the sanctions.

[59] Absent these mitigating factors, the sanctions we would have imposed for Duic's breach of the 2004 Order would have been much more severe.

(iii) Disputed Sanctions

[60] As requested by Duic, we have in our order retained the mutual fund carve-out for his registered retirement savings plan, that was contained in the 2004 Order. In our view, such a carve-out, restricted to mutual funds only, does not significantly increase the risk to the capital markets of future inappropriate market conduct by Duic. Trading mutual funds for his RRSP was permitted under the 2004 Order in circumstances where the relevant conduct giving rise to the 2004 Order was very serious insider trading. Removing the carve-out now is not, in our view, justified given its very restricted scope. In our view, if the RRSP carve-out was appropriate in the 2004 Order, it continues to be appropriate in these circumstances.

[61] Because the securities in the Toronto Accounts were acquired in breach of the 2004 Order we agree with Staff that Duic should divest himself of all securities held in the Toronto Accounts within 21 days from the date of our order, and that Duic should close the Toronto Accounts immediately thereafter.

[62] Staff requested disgorgement of $42,000, taking into account the profit from the sale of the shares of Cerner Corporation. We agree that a person who breaches a Commission order should not be permitted to profit from doing so. Our order in this matter reflects that principle. We consider it fair and appropriate, however, to determine Duic's profits on an aggregate basis, based on the disposition of all of the securities that were acquired in breach of the 2004 Order. If Duic realizes any profit as a result of his divestment of all securities in the Toronto Accounts, he shall pay this realized profit to the Commission forthwith, to be allocated by the Commission to or for the benefit of third parties under section 3.4(2)(b) of the Act.

[63] In order to emphasize the seriousness with which we view Duic's breach of the 2004 Order, we imposed an administrative penalty of $25,000. This sanction recognizes the need to strongly deter others from breaching Commission orders. It also recognizes the mitigating factors discussed above.

3. Costs

[64] Duic cooperated with Staff during its investigation, he agreed to a waiver of his solicitor-client privilege, and he substantially shortened the time and expense of this hearing by entering into the Agreed Statement of Facts and by agreeing with Staff on some of the sanctions that should be imposed. The fact that Staff could have relatively easily investigated this matter without Duic's cooperation should not be treated as undermining the value of his cooperation. We also recognize that the costs claimed by Staff are not excessive and do not include the full costs of Staff's investigation and response to these circumstances.

[65] It was Duic's trading in breach of the 2004 Order that gave rise to this matter and required Staff to investigate and respond to the circumstances. Accordingly, we believe that Duic should be required to pay a substantial portion of the costs incurred by the Commission. We have concluded that it is appropriate that Duic pay costs of the investigation and hearing in the amount of $15,000, rather than the $24,000 requested by Staff.

G. CONCLUSION

[66] For the reasons discussed above, we believe that the sanctions imposed by our order are proportionately appropriate to the circumstances before us, including the mitigating circumstances discussed above. Accordingly, we considered it to be in the public interest to issue our order dated September 3, 2008 that was substantially to the effect that:

(a) pursuant to clause 2 of subsection 127(1) of the Act, trading in any securities by Duic shall cease permanently, with the following two exceptions:

i. Duic is permitted to buy and sell securities in mutual funds, including index funds and exchange traded funds, through a registered dealer for the account of his registered retirement savings plan (as defined in the *Income Tax Act* (Canada)); and

ii. Duic shall sell all securities held in his Toronto Accounts within twenty-one days and shall close the Toronto Accounts immediately thereafter. If Duic realizes a profit as a result of his divestiture of all securities in the Toronto Accounts (determined after taking into account: (a) the profit of $40,848.76 (U.S.) Duic realized on or about August 8, 2007 through the sale of 7,500 shares of Cerner Corporation; and (b) the loss Duic sustained of $22,734.40 (U.S.) on March 27, 2008, as a result of the sale of 890 shares of Boeing), he shall pay this realized profit to the Commission forthwith, to be allocated by the Commission to or for the benefit of third parties under section 3.4(2)(b) of the Act;

(b) pursuant to clause 2.1 of subsection 127(1) of the Act, acquisition of any securities by Duic shall be prohibited permanently, with the exception that Duic is permitted to buy and sell securities in mutual funds, including index funds and exchange traded funds, through a registered dealer for the account of his registered retirement savings plan (as defined in the *Income Tax Act* (Canada));

(c) pursuant to clause 6 of subsection 127(1) of the Act, Duic is hereby reprimanded;

(d) pursuant to clause 8.1 of subsection 127(1) of the Act, Duic shall resign any positions that he holds as a director or officer of a registrant;

(e) pursuant to clause 8.2 of subsection 127(1) of the Act, Duic shall be prohibited permanently from becoming or acting as a director or officer of a registrant;

(f) pursuant to clause 8.3 of subsection 127(1) of the Act, Duic shall resign any positions that he holds as a director or officer of an investment fund manager;

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

(h) pursuant to clause 8.5 of subsection 127(1) of the Act, Duic shall be prohibited permanently 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) of the Act, Duic shall immediately pay an administrative penalty in the amount of $25,000, to be allocated by the Commission to or for the benefit of third parties under section 3.4(2)(b) of the Act;

(j) pursuant to section 127.1 of the Act, Duic shall immediately pay costs in the amount of $15,000; and

(k) except as modified by the foregoing orders, Duic continues to be subject to the terms of the 2004 Order made by the Commission against him.

DATED at Toronto this 29th day of September, 2008.

“James Turner”

“Suresh Thakrar”

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
Canmine Resources Corporation	30 Sept 08	10 Oct 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	29 Aug 08		

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Chapter 5

Rules and Policies

5.1.1 OSC Policy 51-604 Defence for Misrepresentations in Forward-Looking Information

NOTICE OF POLICY ADOPTED UNDER SECURITIES ACT

OSC POLICY 51-604 DEFENCE FOR MISREPRESENTATIONS IN FORWARD-LOOKING INFORMATION

I. Notice of Policy

The Commission has adopted OSC Policy 51-604 – *Defence for Misrepresentations in Forward-Looking Information* (the "Policy").

The Policy relates to the defence available under the *Securities Act* in an action for damages for misrepresentation in forward-looking information contained in an issuer's disclosure. It has been adopted to address recurring questions we have received from issuers and counsel who have expressed uncertainty with respect to the requirements of the defence.

The purpose of the Policy is to outline the Commission's views on some of the policy considerations underlying the defence for misrepresentations in forward-looking information. The Policy also explains how the Commission approaches the interpretation of certain aspects of the defence, including: (i) the "proximate" requirement; (ii) the required content of applicable risk factor and assumption disclosure; (iii) the "reasonable basis" requirement; and (iv) the operation of the defence with respect to oral statements containing forward-looking information.

II. Summary of comments received on the Policy and the Commission's response

The Commission first published the Policy for comment on June 2, 2006.[1] During the comment period, which expired on August 2, 2006, the Commission received four submissions. Appendix A to this Notice contains a list of people and organizations who commented on the Policy. Copies of the comment letters may be viewed at www.osc.gov.on.ca under "Policy & Regulation\ Proposed Rules, Policies & Concept Papers".

The Commission has considered all submissions received and thanks the commenters for their contributions. Appendix B to this Notice summarizes the comments and our responses. No substantive changes have been made to the Policy as published on June 2, 2006 although the Commission has made some minor drafting changes.

Commenters were generally supportive and appreciative of the policy. Commenters did request, however, further guidance from the Commission on several issues, including most notably:

- Commission guidance as to whether or when it is permissible to incorporate by reference into a document a more lengthy discussion of material risk factors and material assumptions underlying the forward-looking information.
- A statement from the Commission that issuers may usefully look to practice in the U.S., which has had a civil liability regime in connection with secondary market disclosure for some years, for guidance in complying with the defence.
- A definition of the appropriate materiality standard that issuers should adhere to in drafting their cautionary statements.

The Commission does not believe that it is in a position to provide more specific guidance in an interpretive policy as it relates to these issues. The Commission hopes, however, that our responses to the comments will address some of the commenters' questions.

[1] (2006) 29 OSCB 4571.

III. Developments since the Policy was issued for comment

Two related developments have occurred since the Policy was issued for comment in 2006. The first was the release of the decision of the Supreme Court of Canada in *Danier Leather*[2] and the second was the rescission of National Policy 48 *Future Oriented Financial Information* and the adoption of amendments to National Instrument 51-102 *Continuous Disclosure Obligations* that deal with the disclosure of forward-looking information.

The Supreme Court of Canada in *Danier Leather* found among other things that a forecast included in the issuer's initial public offering prospectus contained, as a matter of fact, an implied representation of objective reasonableness. This finding provides the basis for determining that a forecast can constitute a misrepresentation, since a misrepresentation is defined to include "an untrue statement of a material fact".

The amendments to National Instrument 51-102 *Continuous Disclosure Obligations*, which came into effect on December 31, 2007, impose certain disclosure obligations on reporting issuers disclosing forward-looking information. These disclosure obligations, to some extent, overlap with the requirements that must be met to establish a defence under the Securities Act in an action for damages for a misrepresentation in forward-looking information. The amendments also provide that "[a] reporting issuer must not disclose forward-looking information unless the issuer has a reasonable basis for the forward-looking information."

Neither of these developments, in the Commission's view, warrants any change to the Policy.

IV. Text of Policy

The text of the Policy follows.

October 3, 2008

[2] *Kerr v. Danier Leather Inc.*, 2007 SCC 44.

OSC POLICY 51-604 –DEFENCE FOR MISREPRESENTATIONS IN FORWARD-LOOKING INFORMATION

Part I – Introduction

1.1 Background – (1) Ontario securities law provides public issuers, directors, officers and other parties with a defence from statutory civil liability for misrepresentations in forward-looking information. The defence for misrepresentations in forward-looking information was first introduced into Ontario securities law in December 2002 and came into force on December 31, 2005 as part of the introduction of a statutory civil liability regime in favour of secondary market investors.[3] A similar defence exists in those parts of the *Securities Act* that provide a statutory right of action for damages for misrepresentations in primary market offering documents.[4] The defence contained in the *Securities Act* is based on draft legislation that the Commission, together with certain members of the Canadian Securities Administrators, proposed for public comment.

(2) Ontario securities law defines forward-looking information as disclosure about possible events, conditions or results of operations that is based on assumptions about future economic conditions and courses of action.[5] Forward-looking information includes, but is not limited to, future-oriented financial information with respect to prospective results of operations, financial position and/or cash flows that is presented as either a forecast or a projection. Earnings guidance is an example of forward-looking information. MD&A may also contain forward-looking information.

(3) Forward-looking information is, by its very nature, information that carries with it a level of uncertainty. There is a concern that attaching statutory civil liability to information that contains inherent uncertainties will discourage issuers from disclosing or providing forward-looking information. Such a "disclosure chill" would not be desirable. Understanding management's assessment of the future prospects and potential of a company is valuable to shareholders and prospective investors. Indeed, some forward-looking information, for example in the form of MD&A, is required. The policy objective behind the defence applicable to forwarding-looking information is to facilitate responsible and balanced disclosure about an issuer's anticipated future prospects.

(4) This policy statement expresses the Commission's views on some of the policy considerations underlying the defence for misrepresentations in forward-looking information and explains how the Commission approaches the interpretation of certain aspects of the defence. It is being issued under subsection 143.8(1)(b) of the *Securities Act*.

This policy statement represents the views of the Commission which do not have the force of law. These views are also not legal advice and should not be relied on as such.

We expect that disclosure practices in this area will vary among issuers and will evolve over time.

Part II – Defence for Misrepresentations in Forward-Looking Information

2.1 Legislative scheme – Written and oral forward-looking information is protected from statutory civil liability if:

(a) the document or public oral statement contains:

  (i) reasonable cautionary language identifying the forward-looking information as such (the "identifier");

  (ii) reasonable cautionary language identifying material factors that could cause actual results to differ materially from a conclusion, forecast or projection in the forward-looking information ("risk factors"); and

  (iii) a statement of the material factors or assumptions that were applied in drawing a conclusion or in making a forecast or projection set out in the forward-looking information ("assumptions");

(b) the identifier and disclosure of risk factors and assumptions appear proximate to the forward-looking information; and

(c) the person or company had a reasonable basis for drawing the conclusions or making the forecast or projection.[6]

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3 See paragraphs (9), (9.1), (9.2) and (10) of section 138.4 of the *Securities Act*.
4 See section 132.1 of the *Securities Act*.
5 See subsection 1(1) of the *Securities Act*.
6 See subsection 138.4(9) of the *Securities Act*.

2.2 Animating Principles – The principles animating the defence for forward-looking information include:

(a) an investor who reads a disclosure document or listens to an oral statement containing forward-looking information should be able to readily:

(i) understand that forward-looking information is being provided in the document or statement;

(ii) identify the forward-looking information; and

(iii) inform himself or herself of the material assumptions underlying the forward-looking information and the material risk factors associated with a particular conclusion, forecast or projection; and

(b) effective disclosure is based on clarity of presentation and simplicity of language and style.

2.3 The "proximate" requirement – (1) Concerns have been expressed that the word "proximate" may be interpreted so as to require immediate juxtaposition of information in every instance. If this were the case, each statement of forward-looking information would need to be individually identified as such and all of the material risk factors and assumptions applicable to the statement immediately included, irrespective of the fact that these risk factors and assumptions may apply to various statements of forward-looking information in the same disclosure. The Commission does not interpret the "proximate" requirement to require immediate juxtaposition.

(2) MD&A, for example, frequently has threads of forward-looking information throughout. These threads of forward-looking information may be subject to common assumptions and risk factors. Breaking the flow of the discussion to indicate each time that a particular statement is forward-looking and to identify in a meaningful way the factors that could affect its outcome introduces complexity in presentation that could frustrate an investor's ability to readily follow the MD&A discussion and appreciate the nature of the forward-looking information. A reader may be better served by a single broader reference prefacing or following, as appropriate, the MD&A identifying and setting out the applicable assumptions and risk factors. The Commission believes that such placement should generally satisfy the "proximate" requirement of the defence.

(3) There may be situations where particular assumptions and risk factors apply equally to multiple instances of forward-looking information in a single document. In the Commission's view, the use of cross-referencing in a manner that supports user friendliness and the principles animating the defence is consistent with the "proximate" requirement of the defence. We recognise that practices with respect to the use and extent of cross-referencing will vary among issuers depending on the circumstances and the nature of the particular disclosure.

(4) In the Commission's view, the animating principles underlying the defence suggest that, as a general principle, the more closely-tied a particular risk factor or assumption is to a particular conclusion, forecast or projection, the more "proximate" it should be to the forward-looking information. For example, where the disclosure of risk factors and assumptions is particularly tied to a forward-looking statement but does not immediately precede or follow the forward-looking statement, it may be necessary to provide a cross-reference or footnote that ties the risk factor or assumption to the specific conclusion, forecast or projection.

2.4 Risk factor disclosure – (1) The defence for misrepresentations in forward-looking information requires the material factors that could cause actual results to differ materially from a conclusion, forecast or projection in the forward-looking information to be identified ("risk factors"). The risk factors identified in the cautionary language should be relevant to the conclusion, forecast or projection and should not be boilerplate in nature.

(2) The use of the word "material" underscores, in the Commission's view, that the cautionary statements should identify significant and reasonably foreseeable factors that could reasonably cause results to differ materially from those projected in the forward-looking statement. We do not believe that the defence should be interpreted as requiring an issuer to anticipate and discuss everything that could conceivably cause results to differ. It follows that failure to include the particular factor that ultimately causes the forward-looking statement not to materialize as predicted should not necessarily mean that the defence is not available. The defence does not, in the Commission's view, require companies to warn of every risk factor that, with the benefit of hindsight, ultimately could or might cause the forward-looking information not to come true. Similarly, the failure to include disclosure of the particular assumption that ultimately causes the forward-looking statement not to materialize as predicted should not necessarily mean that the defence is not available.

2.5 Assumption disclosure – The defence for misrepresentations in forward-looking information requires a statement to be included of the material factors or assumptions that were applied in drawing a conclusion or making a forecast or projection set out in the forward-looking information. The requirement for a statement of the material factors or assumptions that were applied requires, in the Commission's view, the factors or assumptions to be relevant to the conclusion, forecast or projection. The use of the word "material" underscores, in the Commission's view, that the defence does not require an exhaustive statement of every factor or assumption applied – a materiality standard applies.

2.6 Reasonable Basis – In order to benefit from the defence, a company must have a reasonable basis for drawing the conclusion or making the forecast or projection set out in the forward-looking information. When interpreting "reasonable basis", we believe that relevant factors would generally include the reasonableness of the assumptions applied in drawing the conclusion or making the forecast or projection; and the inquiries made and the process followed in preparing and reviewing the forward-looking information.

Part III – Defence for Misrepresentations in Oral Statements Containing Forward-Looking Information

3.1 Legislative Scheme - The *Securities Act* provides that in the case of a public oral statement containing forward-looking information, a person or company is deemed to have satisfied the requirements of the defence in paragraph 1 of subsection 138.4(9) (which are discussed in Part II of this Policy) if the person making the public oral statement states that:

a) the oral statement contains forward-looking information;

b) actual results could differ materially from a conclusion, forecast or projection in the oral forward-looking information;

c) certain material factors or assumptions were applied in drawing the conclusions or making the forecasts or projections included in the oral forward-looking information; and

d) additional information about the applicable risk factors and assumptions are contained in a "readily available" document and identifies that document.[7]

For purposes of the defence, a document filed with the Commission or otherwise generally disclosed is deemed to be "readily available".[8]

3.2 A more flexible approach – (1) The *Securities Act* recognizes that it may be unwieldy to make oral disclosures containing forward-looking information that satisfy all of the requirements of the defence contained in subsection 138.4(9). Instead, the Securities Act provides for a more flexible approach for oral statements containing forward-looking information that facilitates these types of oral communications by an issuer while still providing the information that would have been received if the forward-looking information had been contained in a written disclosure document.

(2) The deeming provision in subsection 138.4 (9.1) specifically refers to the requirements of the defence being satisfied in the case of public oral statements when the person making the public oral statement makes the required cautionary statements. In the Commission's view, subsection 138.4 (9.1) should not be interpreted as exhaustive; the requirements of the defence may be satisfied in appropriate circumstances by one person making the required cautionary statements on behalf of another person who is making the forward-looking statement. The animating principles underlying the defence support a pragmatic interpretation.

Part IV – Duty to Update

4.1 We do not interpret the defence for misrepresentations in forward-looking information as imposing upon any person or company a duty to update forward-looking information beyond any duty imposed under Ontario securities law or otherwise.

[7] See subsection 138.4(9.1) of the *Securities Act*.
[8] See subsection 138.4(9.2) of the *Securities Act*.

APPENDIX A

List of Commenters

Osler, Hoskin & Harcourt LLP on behalf of Alcan Inc., BCE Inc., The Canadian Bankers' Association, EnCana Corporation, Manulife Financial, Power Corporation of Canada, Royal Bank of Canada and TransCanada Corporation (collectively the "Osler submission").

Talisman Energy Inc. ("Talisman")

Canadian Investor Relations Institute ("CIRI")

Kenmar

APPENDIX B

OSC Policy 51-604 – Summary of Comment Letters and OSC Responses

Issue and Commenter	Public Comment	OSC Response
General Comment Kenmar	The effect of the Policy will be to water down corporate and executive accountability for defective, misleading or untimely disclosure and to undermine the intent of Bill 198.	The Policy provides guidance on the Commission's interpretation of certain aspects of the statutory defence for misrepresentations in forward-looking information (FLI). The Commission believes this guidance supports the purpose of the statutory civil liability regime for secondary market disclosure. The Policy, itself, does not legally create or modify the requirements of the defence, nor does it otherwise impact the level of accountability that issuers and management face under the statutory regime.
Kenmar	The Policy should be focused on the preventative actions that issuers should take to protect against liability for defective disclosure and not on the requirements of the defence.	It is the Commission's view that the Policy will encourage issuers to approach disclosure decisions relating to FLI cautiously and thoughtfully, ultimately resulting in better quality disclosure to investors.
Kenmar	The Commission should delay articulating any guidance on a defence for misrepresentations in FLI until a judgment has been rendered by the Supreme Court of Canada in *Kerr v Danier Leather.*	The judgment of the Supreme Court of Canada in *Kerr v Danier Leather* has been rendered. After considering that judgement the Commission has concluded that no changes are necessary to the proposed policy.
Harmonization of U.S. and Ontario standards Osler submission	Harmonization between the approaches adopted in Ontario and the U.S. is of particular importance to interlisted issuers who will seek to avail themselves of the protection of the safe harbour in their corporate disclosure on both sides of the border. The Policy should include a statement to the effect that the defence for misrepresentations in forward-looking information in Ontario is intended to be consistent with the "safe harbour" available in the U.S. and that issuers may look to practice in the U.S. for guidance in complying with the defence.	The Commission acknowledges the concerns of issuers that are interlisted in the U.S. However, the the *Securities Act* creates a separate and independent defence under the civil liability for secondary market disclosure regime. The purpose of the Policy is to provide an explanation of how the Commission views certain aspects of the defence available for misrepresentations in FLI under Ontario's regime. The Policy cannot change the requirements of the *Securities Act*, nor otherwise provide that such requirements are intended to be consistent with the requirements of the safe harbour available in the U.S. While the requirements of the defence under the *Securities Act* and the U.S. "safe harbour" may be consistent in many ways and experience in the U.S. may be helpful in analyzing elements of the defence, it is incumbent upon interlisted issuers to assess the appropriateness of their disclosure practices against the requirements of both regimes and to establish and follow disclosure practices which meet the requirements of the two regimes.
Harmonization of the Policy with NP 51-201 Osler submission	The Commission should clarify the manner in which the express provisions of the *Securities Act*, together with the Policy, are intended to fit with the provisions of NP 51-201, which also deals with disclosure related to FLI. In particular, the commenter submitted that the Commission should expressly indicate that the provisions of the *Securities Act*, together with the Policy, are	CSA members have each made amendments to NP 51-201 that, among other things, expressly repeal section 5.5 (and 5.6) of NP 51-201.

Issue and Commenter	Public Comment	OSC Response
	intended to govern the defence and that NP 51-201 has now been superceded in relation to the principles applicable to the disclosure of FLI that are necessary in order to satisfy the defence. The commenter's concern focused on section 5.5 of NP 51-201 and the reference to the fact that disclosure might include a sensitivity analysis (section 5.5(3) of NP 51-201).	
Standard of Materiality applicable to the Policy Talisman	The Policy should provide a specific definition of "materiality" or clarify the applicable standard of materiality in the context of the defence for misrepresentations in FLI. In particular, the definitions of "material change" and "material fact" encompass what is commonly referred to as the "market impact" standard of materiality, whereas other pieces of securities legislation (notably Form 51-102F2 and NI 51-101 Standards of Disclosure for Oil and Gas Activities) use the "reasonable investor" standard of materiality.	The defence for misrepresentations in FLI requires issuers to disclose "material factors" and "material assumptions" in relation to their forecasts, projections and conclusions. However, unlike the terms of "material change" and "material fact", the *Securities Act* does not prescribe definitions for these concepts. While we recognize that materiality judgments can be difficult, the Commission cannot, in a policy, provide definitions of a "material factor" or "material assumption" or otherwise establish or determine the applicable standard of materiality. This request raises issues that fall outside the scope of the Policy.
Section 2.3 the "Proximate" Requirement' Osler submission	The Policy should include guidance as to whether or when it is permissible to incorporate by reference into a document a more lengthy discussion of material risk factors and assumptions. In the context of oral statements, section 138.4(9.1) of the *Securities Act* expressly permits making reference to another document containing a full discussion of risk factors and underlying factors and assumptions. The provisions relating to written disclosure are silent with respect to the ability for issuers to adopt a similar practice in the context of shorter documents such as press releases, slide presentations and interim MD&A, which, like oral statements, may not lend themselves to a full discussion of the risk factors and underlying factors and assumptions. This silence could be interpreted by the courts as deliberate. This would be contrary to current practice in Canada and the U.S. The Commission should clarify that incorporation by reference is generally an acceptable approach in shorter disclosure documents in the interests of preserving clarity and readability in corporate disclosure.	The Commission does not believe it is in a position to provide more specific guidance in the Policy on the statutory interpretation as it relates to this issue. The Commission believes, however, that as a policy matter in appropriate circumstances where material risk factors and assumptions have been identified in a document, an issuer ought to be able to incorporate by reference into a document a more lengthy discussion of material risk factors and assumptions. We also note from the memorandum of law provided by the commenter that in the U.S., the safe harbour provided under the *Private Securities Legislation Reform Act of 1995* is also silent regarding whether cautionary language may be incorporated by reference when the forward-looking statement is written rather than oral. In some cases, the U.S. courts have found that incorporation by reference in the context of written disclosure materials may be permissible, provided that the reference is clear and explicit.
Section 2.5 Assumption Disclosure CIRI	The requirement to disclose material factors or assumptions is not present in the U.S. safe harbour provisions and issuers will therefore not be able to draw upon U.S. practice for guidance. The Policy should clarify the difference between the concept	Section 2.5 of the Policy provides some explanation as to how the Commission would approach the disclosure of material factors or assumptions required under section 139.4(9)(1)(ii) of the *Securities Act*.

Issue and Commenter	Public Comment	OSC Response
Osler submission Talisman	of a "material factor" and a "material assumption" and provide guidance on the requirement to disclose "material factors or assumptions" underlying the forecast, projection or conclusion.	The Commission believes that issuers should make reasonable judgements with respect to these matters in the context of the particular circumstances.
CIRI	The Commission should clarify whether cautionary language in news releases and MD&A should be expanded in all instances to include material factors and assumptions and a reference that the issuer believes the assumptions to be reasonable. For the safe harbour defence in the U.S., risks but not material factors or assumptions, related to FLI are required in the cautionary language. Different safe harbour defence requirements in Canada would appear to require expanded cautionary language.	The provisions of the *Securities Act* specifically provide that this defence for a misrepresentation in FLI in written materials is only available if, among other things, the document contains "a statement of material factors or assumptions that were applied in drawing a conclusion or making a forecast or projection set out in the forward-looking information". We do not believe it is necessary to clarify that in order to meet the requirements of the defence under the Securities Act, additional disclosure may, in some instances, be required in Ontario compared to the U.S. There is no requirement that cautionary language include a statement that the issuer believes the assumptions are reasonable. Section 138.4(9)(2) of the *Securities Act* simply requires the issuer to have a reasonable basis for drawing the conclusions or making the forecasts and projections set out in the FLI. In the absences of such a requirement, the Commission does not believe issuers must make such a statement.
CIRI	The Commission should clarify that the statements "We do not believe that the defence should be interpreted as requiring an issuer to anticipate and discuss everything that could conceivably cause results to differ. It follows that failure to include the particular factor that ultimately causes the forward looking statement not to materialize as predicted should not necessarily mean that the disclosure is not protected by the defence" pertain to assumptions as well as to risk factors.	Subsection 2.5 of the Policy provides that "the use of the word 'material' underscores, in the Commission's view, that the defence does not require an exhaustive statement of every factor or assumption applied – a materiality standard applies." We believe that this statement, with its emphasis on materiality, makes it clear that the Commission is of the view that a failure to include every assumption or factor applied in drawing a conclusion or making a forecast or projection will not necessarily mean that the defence is not available. To address the commenter's comment, however, we have clarified the Policy.
CIRI	The Policy should provide that the factors or assumptions required to be disclosed should not only be relevant and material to the conclusion, forecast or projection, but should also be qualified as "reasonably foreseeable and probable".	Section 138.4(9)(1)(ii) of the *Securities Act* requires disclosure of "material factors or assumptions that were *applied* in drawing a conclusion or making a forecast or projection set out in the forward-looking information". The Commission is of the view that a qualification that factors and assumptions be "reasonably foreseeable and probable" is too narrow. Rather, an issuer must disclose the assumptions or factors it *applies* which are, *relevant* and *material* to the conclusion, forecast or projection. If the assumptions or factors were not reasonable, an issuer would arguably fail to establish "a reasonable basis for drawing the conclusions or making the forecasts and projections set out in the forward-looking information."

Issue and Commenter	Public Comment	OSC Response
Talisman	The Policy should provide more specific guidance on disclosure of material assumptions and, in particular: • Whether material assumptions should be qualitative or quantitative in nature (or both); • What level of detail is expected in the material assumptions; and • For quantitative assumptions, how should an issuer balance disclosure requirements with the need to protect competitive information.	The Commission does not believe it is in a position to provide more specific guidance. Determining what assumptions to apply in forming a conclusion, forecast or projection is a matter of judgment and a fact-specific exercise. In some circumstances greater detail about a material assumption will be required than in others. The Commission is of the view that "material assumptions" may be qualitative or quantitative in nature and that clarification in the Policy is not necessary.
Section 2.6 Reasonable Basis CIRI	Issuers must follow appropriate processes and procedures in preparing and reviewing FLI. Issuers should be able to rely on implementation of their disclosure controls and procedures as a defence to misrepresentations in FLI.	As described in section 2.6 of the Policy, the Commission believes that the process followed by an issuer in preparing and reviewing forward-looking information, including the implementation of disclosure controls and procedures, may be relevant to establishing a "reasonable basis" for forward-looking information. However, process alone may not be sufficient to establish a "reasonable basis" for forward-looking information. Other considerations, such as inquiries made and assumptions applied, may be relevant.
Section 3.2 A More Flexible Approach CIRI	In the context of oral statements, the Policy should clarify the type of occasions, if any, when an FLI spokesperson would need to reiterate any cautionary statements.	In the case of public oral statements, subsection 138.4(9.1) of the *Securities Act* provides that the requirements of the defence for misrepresentations in forward-looking information will be deemed to be satisfied when the person making the public oral statement makes the required cautionary statements. In Section 3.2(2) of the Policy, the Commission expresses the view that the requirements of the defence may be satisfied *in appropriate circumstances* by one person making the required cautionary statements on behalf of another person who is making the forward-looking information. Issuers must exercise their own judgment in determining when a spokesperson may need to reiterate the required cautionary statements. The Commission does not believe it is in a position to provide more specific guidance.

Chapter 6

Request for Comments

6.1.1 Proposed Revocation and Replacement of OSC Rule 13-502 Fees and Companion Policy 13-502CP Fees

REQUEST FOR COMMENTS

PROPOSED REVOCATION AND REPLACEMENT OF OSC RULE 13-502 FEES AND COMPANION POLICY 13-502CP FEES

Request for comments

The Commission is publishing for a 90-day comment period OSC Rule 13-502 *Fees* and Companion Policy 13-502CP *Fees*. The proposed Rule and Policy (collectively, the Proposed Materials) are intended to replace the rule and policy currently in force under the same number.

In addition to being published in this bulletin, the Proposed Materials are available on the Commission's website (www.osc.gov.on.ca).

We request comments on the Proposed Materials by January 3, 2009.

Substance and purpose of the Proposed Materials

The Proposed Materials are consistent with the current rule and policy. That is, the proposed Rule would require market participants to pay fees reflecting the Commission's costs of regulating Ontario capital markets. The proposed Policy sets out the Commission's interpretation of key elements of the proposed Rule and sets out relevant additional background.

As with the current rule, fees under the proposed Rule fall within two categories: participation fees and activity fees. Participation fees for reporting issuers are referred to as corporate finance participation fees and those for registrants and unregistered investment fund managers are referred to as capital markets participation fees.

Participation fees are designed to cover the Commission's costs not easily attributable to specific regulatory activities. The participation fee required of a market participant is a measure of the market participant's size, which is used as proxy for its proportionate participation in the Ontario capital markets.

Activity fees are generally charged where a document of a designated class is filed. Estimates of the direct cost of Commission resources expended in undertaking the activities listed in Appendix C of the proposed Rule are considered in determining these fees (e.g., reviewing prospectuses, registration applications and applications for discretionary relief). Generally, the activity fee charged for filing a document of a particular class is based on the average cost to the Commission of reviewing documents of the class.

The Proposed Materials do not include proposed fee changes published for comment on February 29, 2008 that are consequential to the reform of registration requirements reflected in proposed National Instrument 31-103 *Registration Requirements*. If the reform of the registration requirements is implemented in Ontario, further fee changes will need to be made.

While the basic framework of the current rule and policy remain, the Proposed Materials include a number of proposed changes. The proposed changes:

- rely on historical data, as opposed to forecasted data, in determining the size of market participants for the purpose of calculating participation fees to better predict OSC revenues that are generated from these fees. This change will reduce the risk that the revenues from these fees will produce significant surpluses or deficits for the Commission,
- eliminate special participation fees for those becoming or ceasing to be reporting issuers,
- make changes governing the calculation of late fees,

- change and clarify timing references, in large part consequential to the use of pre-2008 information in determining participation fees,
- expand the exemption from participation fees for reporting issuers that are subsidiaries,
- eliminate an unnecessary rule allowing certain reporting issuers to pay provisional participation fees,
- clarify the calculation of a market participant's Ontario percentage, which is relevant in determining the market participant's size for the purposes of the capital markets participation fee,
- make adjustments to participation fees, and
- make adjustments to late fees associated with the late filing of documents and to activity fees.

The most significant changes to the current rule are described in greater detail below.

1. Use of pre-2008 information in determining market participant size

Under the current rule, a participation fee for a reporting issuer is determined with reference to its capitalization for its last completed fiscal year. Under the proposed Rule, a participation fee for a reporting issuer is determined with reference to its capitalization for its "reference fiscal year".

Under the current rule, a participation fee for a registrant firm or unregistered investment fund manager is determined with reference to its specified Ontario revenues for its last completed fiscal year. Under the proposed Rule, a participation fee for a registrant firm or unregistered investment fund manager is determined with reference to its specified Ontario revenues for its "reference fiscal year".

Under section 1.1 of the proposed Rule, a market participant's "reference fiscal year" is its last fiscal year ending before January 1, 2008, assuming it was a reporting issuer, registrant firm or unregistered investment fund manager throughout that pre-2008 fiscal year. Where the market participant did not have the required status throughout that pre-2008 fiscal year, its "reference fiscal year" is its last completed fiscal year (or, in the case of a registrant firm required to pay a participation fee on December 31 of a calendar year, its last completed fiscal year in that calendar year).

The main objective of these measures of the proposed Rule is to enable the better matching of the Commission's revenues and expenditures. The proposed changes eliminate the need to forecast market conditions in determining the fees for each participation fee tier since, with the use of the reference fiscal year, participation fees will generally be known and will remain fixed over the life of the proposed rule, providing more stability.

2. Elimination of participation fees on changes of status

Under section 2.6 of the current rule, a special participation fee is determined for new reporting issuers. Under section 2.8 of the current rule, a special participation fee is charged in certain cases where a reporting issuer ceases to qualify as such. For simplicity and in view of the modest amount of revenues involved in the current rule, the proposed Rule does not contain these measures. The relief from regular participation fees provided under section 2.7 of the current rule to new reporting issuers is provided under subsection 2.2(4) of the proposed Rule.

3. Late fees

Sections 2.5 and 3.6 of the current rule charge late fees on unpaid participation fees. The charge is equal to 1% of the participation fee per "late" business day, up to a cap equal to 25% of the participation fee.

The proposed Rule clarifies that the daily charge is calculated with reference to the *unpaid portion* of the participation fee while *any portion* of the participation fee remains unpaid. The daily charge is reduced under the proposed Rule from 1% of the unpaid portion of the participation fee per business day to 0.1%.

The proposed Rule does not contain the 25% cap, given that the substantial reduction in the daily charge eliminates much of the rationale for the cap.

The proposed Rule also provides that a late fee on an unpaid participation fee is deemed to be nil until such time as the late fee otherwise determined is at least $10.

Section 4.3 of the current rule, in conjunction with Appendix D of the current rule, provides late fees with regard to the late filing of specified documents. Section 4.3 of the proposed Rule provides that the late fee does not apply with regard to the late filing of

Form 13-502F4 by an unregistered investment fund manager. For an unregistered investment fund manager, this form is filed with the payment of a participation fee. The late fee for the participation fee payable by an unregistered investment fund manager is sufficient to encourage this form to be filed on a timely basis.

4. Exemption for subsidiary entities

The current rule provides two exemptions from corporate finance participation fees for a subsidiary of a parent company. Under the proposed Rule, the times at which qualifying conditions are satisfied for each exemption are made explicit in light of the general use of pre-2008 information.

The proposed Rule also now allows a "variable interest entity" that is consolidated with its parent company for accounting purposes to qualify for this participation fee exemption, in the same manner as the parent company's subsidiary.

Subsection 2.9(4) of the current rule provides that one of two exemptions ceases to apply where any of the qualifying conditions are no longer met. There is no measure in the proposed Rule corresponding to this subsection.

5. Provisional participation fees for Class 2 reporting issuers

Section 2.10 of the current rule allows a Class 2 reporting issuer to pay a provisional participation fee, in contemplation that it will not be able to calculate its participation fee accurately on a timely basis. Under the section, the difference between the issuer's true and provisional participation fees is ultimately paid or refunded, as the case may be. Class 2 reporting issuers are generally Canadian reporting issuers that do not have securities listed or quoted on a marketplace in Canada or the United States.

The reason that the current rule applies only to Class 2 reporting issuers is the manner in which the capitalization of these issuers is calculated. The "capitalization" of a Class 2 reporting issuer is based on specified accounting entries on its balance sheet, given that there is no marketplace through which its capitalization can be calculated.

There is no measure in the proposed rule corresponding to this section, given the general use of pre-2008 information and the fact that this section has not been used in practice by Class 2 reporting issuers.

6. Ontario percentage

Under both the current rule and the proposed Rule, the capital markets participation fee of a market participant is determined with reference to its "Ontario percentage", as defined in section 1.1 of the current rule and the proposed Rule. The revised definition of that expression in the proposed Rule clarifies that, in the case of a market participant with permanent establishments in Ontario and elsewhere, its Ontario percentage is equal to the allocation factor that applies for Canadian income tax purposes in allocating the taxable income of Canadian corporations to Ontario.

It should be noted that a market participant's Ontario percentage will continue to be 100% where the market participant's permanent establishments are situated only in Ontario.

7. Corporate finance participation fees

There are no changes applicable to the tiers of capitalization used in determining corporate finance participation fees. When OSC Rule 13-502 was last revised, effective April 1, 2006, the Companion Policy to it listed participation fees for each tier based on the amounts required to recover the Commission's costs, and then noted that the Commission had accumulated surplus available, which was to be used to reduce these fees. The corporate finance participation fees will now be those that would have been listed in the current rule had those fees not been reduced due to the application of surplus.

8. Capital markets participation fees

There are no changes applicable to the tiers of specified Ontario revenues used in determining capital markets participation fees. When OSC Rule 13-502 was last revised, effective April 1, 2006, the Companion Policy to it listed participation fees for each tier based on the amounts required to recover the Commission's costs, and then noted that the Commission had accumulated surplus available, which was to be used to reduce these fees. The capital markets participation fees will now be those that would have been listed in the current rule had those fees not been reduced due to the application of surplus.

9. Activity fees

Where no change in an activity fee is proposed, higher costs for resources have been offset by savings from process improvements and improved quality of material submitted for review.

Prospectuses

Under item A of Appendix C of the proposed Rule, the proposed increase in fees for certain prospectus reviews from $3,000 to $3,250 reflects the higher costs of resources involved in their review and the increased complexity of issues arising in these reviews. The same fee is also proposed under new item A.5 of Appendix C of the proposed Rule with regard to the review of linked note supplements.

Applications

Under item E of Appendix C of the proposed Rule, the proposed increase in fees for various application reviews from $3,000 to $3,250 primarily reflects the higher costs of resources involved in their review and the increased complexity of issues arising in these reviews.

Item E.1 of Appendix C of the proposed Rule is changed so that no adjustment to the calculation of fees for an application under provisions specified needs to be made in the event that the application is also made under the *Commodity Futures Act*. Instead, relieving changes have been made to the corresponding measure governing the calculation of fees under the *Commodity Futures Act*.

Take-over bids and issuer bids

Under item G of Appendix C of the proposed Rule, the proposed increase in fees for filing of a take-over bid or issuer bid circular from $3,000 to $4,000, primarily reflects the higher costs of resources involved in their review and the increased complexity of issues arising in these reviews.

Activity fees related to registration

We are proposing the following changes to item H of Appendix C of the proposed Rule governing the calculation of these fees:

- under item H.1 only one fee is charged for the registration of a new firm regardless of how many categories of registration are being applied for,
- under item H.3 (ii) only one fee is charged for an individual registering as both a dealer and an adviser, and
- the text in item H.5 now makes it clear that a reference to an amalgamation refers to the amalgamation of one or more registrant firms.

Use of two-year fee cycle

The Commission has historically reviewed its fees every three years. Issues with the current system arise from the need to forecast financial markets, their impact on issuers' capital and registrants' revenues (the bases of their participation fees) and, in turn, on our fees. This approach has contributed to the surpluses generated by the Commission to date under the current model.

The Commission looked at various alternatives, including approaches used by other regulators and found that our methodologies were similar in several important ways: operating on a cost-recovery basis; recovering costs by client or industry sectors, as we do with issuers and registrants; and the use of a combination of activity fees and some form of levy akin to our participation fees. The main differences are that the other regulators set their participation-type fees each year and use historic information from the organizations they regulate. This eliminates the need to forecast inherent in our model.

Although it is not feasible for the Commission to set fees annually, in order to better align the Commission's costs and revenue, the Commission proposes to use a two-year fee cycle beginning on April 1, 2009. The proposed use of the two-year fee cycle is reflected in some of the commentary in the proposed Policy.

Authority for the proposed Rule

Paragraph 43 of subsection 143(1) of the *Securities Act* authorizes the Commission to make rules "Prescribing the fees payable to the Commission, including those for filing, for applications for registration or exemptions, for trades in securities, in respect of audits made by the Commission, and in connection with the administration of Ontario securities law."

Status of proposed consequential amendments to OSC Rule 13-502 published in February 2008

Proposed changes to OSC Rule 13-502 and its Companion Policy were in material published for comment in February 2008. The proposed changes were largely consequential to the proposal on registration reform reflected in proposed National Instrument 31-103 *Registration Requirements*. Except as noted below, if this proposed National Instrument is implemented in

Ontario, the proposed February 2008 changes will be reflected either in a subsequent version of the Proposed Materials submitted for approval or in future changes to OSC Rule 13-502.

One of the proposed changes in the February 2008 material was to eliminate the fee of $3,000 for filing a notice referred to in Appendix C "I" of Rule 13-502. (A fee is also charged under Appendix D for the late filing of this notice.) This proposed change was made in error and the text of the proposed Rule correctly reflects the intent of the Commission to continue charging this $3,000 fee. The proposed Rule also reflects the elimination of the corresponding late fee. Similar changes are intended to be made to the February 2008 material.

The February 2008 material also did not contain fee rule changes reflecting the proposed registration of investment fund managers. A change to the fees rules is necessary in this context because, on registration, participation fees are payable by an investment fund manager on December 31 of each calendar year rather than after their fiscal years.

Consequently, the proposed Rule includes changes to section 3.l so that unregistered investment fund managers who become registrant firms are not subject to excessive charges with regard to their participation fee because of the differences in the calculation of those fees for registrant firms and for unregistered investment fund managers. While these proposed changes will only generally be relevant in the event that the registration reform proposals proceed, they would also apply in the unusual event that the business of an unregistered investment fund manager changes such that it obtains registration status as a dealer or adviser. Changes similar to those reflected in section 3.1 of the proposed Rule are intended to be made to the February 2008 material.

Other changes to the February 2008 material are also being considered for greater consistency with the registration fees proposed to be charged by the other Canadian Securities Administrators. In this regard, it is proposed that individuals seeking to be registered as chief compliance officers and ultimate designated persons who are not already registered under another category be subject to a $200 fee for registration if proposed National Instrument 31-103 *Registration Requirements* is implemented in Ontario.

Alternatives considered

In the process of developing the proposed Rule, the Commission did not consider any other alternatives.

Unpublished materials

In proposing the rule and policy, the Commission has not relied on any significant unpublished study, report, decision or other written materials.

Anticipated costs and benefits

As noted above, when OSC Rule 13-502 was last revised, effective April 1, 2006, the Companion Policy to it listed participation fees for each tier based on the amounts required to recover the Commission's costs, and then noted that the Commission had accumulated surplus available, which was to be used to reduce these fees in order to return this surplus to market participants. The participation fees will now be those that would have been listed in the current rule had those fees not been reduced due to the application of surplus.

As those reductions due to surplus will no longer apply, the participation fees paid will increase. However, despite increases in the Commission's costs, both corporate finance and capital markets participation fees will stay flat with the base fees set three years ago.

The Commission currently anticipates having a surplus of approximately $49 million at March 31, 2009. The surplus will be allocated between reporting issuers and registrants based on the OSC's analysis of the costs incurred related to each group and the revenues generated from each. It is expected to be used in three ways. Approximately $4 million would be used so that participation fees do not rise beyond the base fees set three years ago. Secondly, approximately $23 million would be used to offset the transitional reduction of Commission revenues resulting from a change in the timing of payment of participation fees by registrants from December to May, which is expected in the event that National Instrument 31-103 *Registration Requirements* is implemented in Ontario. The remainder is expected to be refunded directly to participants by way of a rebate of fees paid. This refund is planned to occur after the Commission's financial results for the year ending March 31, 2009 and the amount of surplus at that time are known. This surplus will depend upon the performance of the financial markets up to that time, which affects both the activity and participation fees generated by the Commission. Based on current forecasts, it is anticipated that this refund will be approximately $22 million. It is intended that the full amount of the surplus at March 31, 2009 will be returned to participants in these ways. The expected use of the surplus, including the allocation between reporting issuers and registrants is as follows:

	Registrants	Reporting Issuers
To address the revenue shortfall arising from Registration Reform	$23 million	
To keep fees at 2006 rates before the allocation of the 2006 surplus		$4 million
Proposed refund	$6 million	$16 million
	$29 million	$20 million

As noted, by moving to basing participation fees on historic information, the Commission will be better able to match its costs and revenues, reducing the likelihood of significant surpluses or deficits in the future. The Commission sets fees to recover its costs, so these surpluses are essentially overpayments by participants. Therefore, reducing the potential for surpluses will help to reduce the fee burden on participants. The use of historic information will also benefit many registrants who currently pay fees based on estimated revenues, as their audited financial statements are not available at December 1, and then have to file updated information and pay a revised fee once their audited statements are complete. The use of historic information will substantially reduce the need for dual filing.

In addition, fixing the fees for a two-year period will provide better stability to participants, who will be able to determine their fees in advance.

How to provide your comments

You must provide your comments in writing by January 3, 2009. If you are not sending your comments by email, you should also send an electronic file containing the submissions (in Windows format, Microsoft Word).

Please send your comments to the following address:

c/o John Stevenson, Secretary
Ontario Securities Commission
20 Queen Street West
Suite 800, Box 55
Toronto, Ontario
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The Commission will publish written comments received unless the Commission approves a commenter's request for confidentiality or the commenter withdraws its comment before the comment's publication.

Questions

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Text of the Proposed Materials

The text of the Proposed Materials follows.

October 3, 2008

ONTARIO SECURITIES COMMISSION
RULE 13-502 FEES

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ONTARIO SECURITIES COMMISSION
RULE 13-502 FEES

PART 1 — INTERPRETATION

1.1 Definitions — In this Rule

"capitalization" means the amount determined in accordance with section 2.7, 2.8, 2.9 or 2.10;

"capital markets activities" means

(a) activities for which registration under the Act or an exemption from registration is required,

(b) acting as an investment fund manager, or

(c) activities for which registration under the *Commodity Futures Act*, or an exemption from registration under the *Commodity Futures Act*, is required;

"Class 1 reporting issuer" means a reporting issuer that is incorporated or organized under the laws of Canada or a jurisdiction in Canada and that, at the end of its previous fiscal year, has securities listed or quoted on a marketplace in Canada or the United States of America;

"Class 2 reporting issuer" means a reporting issuer that is incorporated or organized under the laws of Canada or a jurisdiction in Canada other than a Class 1 reporting issuer;

"Class 3A reporting issuer" means

(a) a reporting issuer that is not incorporated or organized under the laws of Canada or a jurisdiction in Canada and that, at the end of its previous fiscal year, has no securities listed or quoted on a marketplace located anywhere in the world, or

(b) a reporting issuer that is not incorporated or organized under the laws of Canada or a jurisdiction in Canada and that, at the end of its previous fiscal year,

(i) has securities listed or quoted on a marketplace anywhere in the world,

(ii) has securities registered in the names of persons or companies resident in Ontario representing less than 1% of the market value of all outstanding securities of the reporting issuer for which the reporting issuer or its transfer agent or registrar maintains a list of registered owners,

(iii) reasonably believes that persons or companies who are resident in Ontario beneficially own less than 1% of the market value of all its outstanding securities,

(iv) reasonably believes that none of its securities traded on a marketplace in Canada during its previous fiscal year, and

(v) has not issued any of its securities in Ontario in the last 5 years, other than

(A) to its employees or to employees of one or more of its subsidiary entities, or

(B) pursuant to the exercise of a right previously granted by it or its affiliate to convert or exchange its previously issued securities without payment of any additional consideration;

"Class 3B reporting issuer" means a reporting issuer

(a) that is not incorporated or organized under the laws of Canada or a jurisdiction in Canada,

(b) that is not a Class 3A reporting issuer, and

(c) whose trading volume in its previous fiscal year of securities listed or quoted on marketplaces in Canada was less than the trading volume in its previous fiscal year of its securities listed or quoted on marketplaces outside Canada;

"Class 3C reporting issuer" means a reporting issuer

(a) that is not incorporated or organized under the laws of Canada or a jurisdiction in Canada, and

(b) whose trading volume in its previous fiscal year of securities listed or quoted on marketplaces in Canada was greater than the trading volume in its previous fiscal year of its securities listed or quoted on marketplaces outside Canada;

"IIROC" means the Investment Industry Regulatory Organization of Canada and, where context requires, includes the Investment Dealers Association of Canada;

"marketplace" has the meaning ascribed to that term in National Instrument 21-101 *Marketplace Operation*;

"MFDA" means the Mutual Fund Dealers Association of Canada;

"Ontario allocation factor" has the meaning that would be assigned by the first definition of that expression in subsection 1(1) of the *Taxation Act, 2007* if that definition were read without reference to the words "ending after December 31, 2008";

"Ontario percentage" means, for a fiscal year of a participant

(a) if the participant is a company that has a permanent establishment in Ontario in the fiscal year, the participant's Ontario allocation factor for the fiscal year expressed as a percentage and determined on the assumption that the participant had a taxation year that coincided with the fiscal year and is resident in Canada for the purposes of the ITA,

(b) if paragraph (a) does not apply and the participant would have a permanent establishment in Ontario in the fiscal year if the participant were a company, the participant's Ontario allocation factor for the fiscal year expressed as a percentage and determined on the assumption that the participant is a company, had a taxation year that coincided with the fiscal year and is resident in Canada for the purposes of the ITA, and

(c) in any other case, the percentage of the participant's total revenues for the fiscal year attributable to capital markets activities in Ontario;

"parent" means a person or company of which another person or company is a subsidiary entity;

"participant" means a person or company;

"permanent establishment" has the meaning provided in Part IV of the regulations under the ITA;

"previous fiscal year" of a participant in respect of a participation fee means,

(a) where the participation fee is payable by a reporting issuer under section 2.2 and the required date of payment is determined with reference to the required date or actual date of filing of financial statements for a fiscal year under Ontario securities law, that fiscal year,

(b) where the participation fee becomes payable by a firm under subsection 3.1(1) on December 31 of a calendar year, the last fiscal year of the participant ending in the calendar year, and

(c) where the participation fee is payable by an unregistered investment fund manager under subsection 3.1(2) no more than 90 days after the end of a fiscal year, that fiscal year;

"reference fiscal year" of a participant in respect of a participation fee means,

(a) the participant's last fiscal year ending before January 1, 2008, if the participant was a reporting issuer, registrant firm or unregistered investment fund manager throughout that fiscal year, and

(b) in any other case, the previous fiscal year in respect of the participation fee;

"registrant firm" means a person or company registered as a dealer or an adviser under the Act;

"specified Ontario revenues" means, for a registrant firm or an unregistered investment fund manager, the revenues determined under section 3.3, 3.4 or 3.5;

"subsidiary entity" has the meaning ascribed to "subsidiary" or "variable interest entity" under the accounting standards pursuant to which the entity's financial statements are prepared under Ontario securities law; and

"unregistered investment fund manager" means an investment fund manager that is not registered under the Act.

1.2 Interpretation of "listed or quoted" — In this Rule, a reporting issuer is deemed not to have securities listed or quoted on a marketplace that lists or quotes the reporting issuer's securities unless the reporting issuer or an affiliate of the reporting issuer applied for, or consented to, the listing or quotation.

PART 2 — CORPORATE FINANCE PARTICIPATION FEES

Division 1: General

2.1 Application — This Part does not apply to an investment fund if the investment fund has an investment fund manager.

2.2 Participation Fee

(1) A reporting issuer must pay the participation fee shown in Appendix A opposite the capitalization of the reporting issuer for its reference fiscal year, as its capitalization is determined under section 2.7 , 2.8 or 2.10.

(2) Despite subsection (1), a Class 3A reporting issuer must pay a participation fee of $930.

(3) Despite subsection (1), a Class 3B reporting issuer must pay a participation fee equal to the greater of

(a) $930, and

(b) 1/3 of the participation fee shown in Appendix A opposite the capitalization of the reporting issuer for its reference fiscal year, as its capitalization is determined under section 2.9.

(4) Despite subsections (1) to (3), a participation fee is not payable by a participant under this section if the participant became a reporting issuer in period that begins immediately after the time that would otherwise be the end of the previous fiscal year in respect of the participation fee and ends at the time the participation fee would otherwise required to be paid under section 2.3.

2.3 Time of Payment — A reporting issuer must pay the participation fee required under section 2.2 by the earlier of

(a) the date on which its annual financial statements are required to be filed under Ontario securities law, and

(b) the date on which its annual financial statements are filed.

2.4 Disclosure of Fee Calculation — At the time that it pays the participation fee required by this Part,

(a) a Class 1 reporting issuer must file a completed Form 13-502F1,

(b) a Class 2 reporting issuer must file a completed Form 13-502F2,

(c) a Class 3A reporting issuer must file a completed Form 13-502F3A,

(d) a Class 3B reporting issuer must file a completed Form 13-502F3B, and

(e) a Class 3C reporting issuer must file a completed Form 13-502F3C.

2.5 Late Fee

(1) A reporting issuer that is late in paying a participation fee under this Part must pay an additional fee of one-tenth of one percent of the unpaid portion of the participation fee for each business day on which any portion of the participation fee remains due and unpaid.

(2) The amount determined under subsection (1) in respect of the late payment of a participation fee by a reporting issuer is deemed to be nil if the amount otherwise determined under subsection (1) in respect of the late payment of participation fee is less than $10.

2.6 Participation Fee Exemption for Subsidiary Entities

(1) Section 2.2 does not apply to a reporting issuer that is a subsidiary entity in respect of a participation fee determined with reference to the subsidiary entity's capitalization for the subsidiary entity's reference fiscal year if

(a) at the end of that reference fiscal year, a parent of the subsidiary entity was a reporting issuer,

(b) the accounting standards pursuant to which the parent's financial statements are prepared under Ontario securities law require the consolidation of the parent and the subsidiary entity,

(c) the parent has paid a participation fee applicable to the parent under section 2.2 determined with reference to the parent's capitalization for the parent's reference fiscal year,

(d) the capitalization of the subsidiary entity for its reference fiscal year was included in the capitalization of the parent for the parent's reference fiscal year, and

(e) the net assets and gross revenues of the subsidiary entity for its reference fiscal year represented more than 90 percent of the consolidated net assets and gross revenues of the parent for the parent's reference fiscal year.

(2) Section 2.2 does not apply to a reporting issuer that is a subsidiary entity in respect of a participation fee determined with reference to the subsidiary entity's capitalization for the subsidiary entity's reference fiscal year if

(a) at the end of that reference fiscal year, a parent of the subsidiary entity was a reporting issuer,

(b) the accounting standards pursuant to which the parent's financial statements are prepared under Ontario securities law require the consolidation of the parent and the subsidiary entity,

(c) the parent has paid a participation fee applicable to the parent under section 2.2 determined with reference to the parent's capitalization for the parent's reference fiscal year,

(d) the capitalization of the subsidiary entity for its reference fiscal year was included in the capitalization of the parent for the parent's reference fiscal year, and

(e) throughout the previous fiscal year of the subsidiary entity, the subsidiary entity was entitled to rely on an exemption, waiver or approval from the requirements in subsections 4.1(1), 4.3(1) and 5.1(1) and sections 5.2 and 6.1 of National Instrument 51-102 *Continuous Disclosure Obligations*.

(3) If, under subsection (1) or (2), a reporting issuer has not paid a participation fee, the reporting issuer must file a completed Form 13-502F6 at the time it is otherwise required to pay the participation fee under section 2.3.

Division 2: Calculating Capitalization

2.7 Class 1 reporting issuers — The capitalization of a Class 1 reporting issuer for its reference fiscal year is the total of

(a) the average market value over the reference fiscal year of each class or series of the reporting issuer's securities listed or quoted on a marketplace, calculated by multiplying

(i) the total number of securities of the class or series outstanding at the end of the reference fiscal year, by

(ii) the simple average of the closing prices of the class or series on the last trading day of each month of the reference fiscal year in which the class or series were listed or quoted on the marketplace

(A) on which the highest volume in Canada of the class or series was traded in the reference fiscal year, or

(B) if the class or series was not traded in the reference fiscal year on a marketplace in Canada, on which the highest volume in the United States of America of the class or series was traded in the reference fiscal year, and

(b) the market value at the end of the reference fiscal year, as determined by the reporting issuer in good faith, of each class or series of securities of the reporting issuer not valued under paragraph (a), if any securities of the class or series

(i) were initially issued to a person or company resident in Canada, and

(ii) trade over the counter or, after their initial issuance, are otherwise generally available for purchase or sale by way of transactions carried out through, or with, dealers.

2.8 Class 2 reporting issuers

(1) The capitalization of a Class 2 reporting issuer for its reference fiscal year is the total of all of the following items, as shown in its audited balance sheet as at the end of the reference fiscal year:

(a) retained earnings or deficit;

(b) contributed surplus;

(c) share capital or owners' equity, options, warrants and preferred shares;

(d) long term debt, including the current portion;

(e) capital leases, including the current portion;

(f) minority or non-controlling interest;

(g) items classified on the balance sheet between current liabilities and shareholders' equity, and not otherwise referred to in this subsection;

(h) any other item forming part of shareholders' equity not otherwise referred to in this subsection.

(2) Despite subsection (1), a reporting issuer may calculate its capitalization using unaudited annual financial statements if it is not required to prepare, and does not ordinarily prepare, audited annual financial statements.

(3) Despite subsection (1), a reporting issuer that is a trust that issues only asset-backed securities through pass-through certificates may calculate its capitalization using the monthly filed distribution report for the last month of its reference fiscal year, if the reporting issuer is not required to prepare, and does not ordinarily prepare, audited annual financial statements.

2.9 Class 3B reporting issuers — The capitalization of a Class 3B reporting issuer for its reference fiscal year is the total of each value of each class or series of securities of the reporting issuer listed or quoted on a marketplace, calculated by multiplying

(a) the number of securities of the class or series outstanding at the end of the reference fiscal year, by

(b) the simple average of the closing prices of the class or series on the last trading day of each month of the reference fiscal year in which the class or series were quoted on the marketplace on which the highest volume of the class or series was traded in the reference fiscal year.

2.10 Class 3C reporting issuers — The capitalization of a Class 3C reporting issuer is determined under section 2.7, as if it were a Class 1 reporting issuer.

2.11 Reliance on Published Information

(1) Subject to subsection (2), in determining its capitalization for purposes of this Part, a reporting issuer may rely on information made available by a marketplace on which securities of the reporting issuer trade.

(2) If a reporting issuer reasonably believes that the information made available by a marketplace is incorrect, subsection (1) does not apply and the issuer must make a good faith estimate of the information required.

PART 3 — CAPITAL MARKETS PARTICIPATION FEES

3.1 Participation Fee

(1) On December 31, a registrant firm must pay the participation fee shown in Appendix B opposite the registrant firm's specified Ontario revenues for its reference fiscal year, as that revenue is calculated under section 3.3, 3.4 or 3.5.

(2) Not later than 90 days after the end of its fiscal year, if at any time in the fiscal year a person or company was an unregistered investment fund manager, the fund manager must pay the participation fee shown in Appendix B opposite the fund manager's specified Ontario revenues for its reference fiscal year, as those revenues are calculated under section 3.4.

(3) Subsection (2) does not apply to require the payment of a participation fee by a person or company 90 days after the end of its fiscal year if the person or company

(a) ceased at any time in the fiscal year to be an unregistered investment fund manager, and

(b) the person or company did not become a registrant firm at that time.

(4) Despite subsection (2), where a person or company ceases at any time in a calendar year to be an unregistered investment fund manager and at that time becomes a registrant firm, the participation fee payable under subsection (2) not later than 90 days after the end of its last fiscal year ending in the calendar year is deemed to be the amount determined by the formula

$$A \times B/365$$

in which,

"A" is equal to the amount, if any, that would be the participation fee payable under subsection (2) not later than 90 days after the end of that fiscal year if this section were read without reference to this subsection, and

"B" is equal to the number of days in that calendar year ending after the end of that fiscal year.

3.2 Disclosure of Fee Calculation

(1) By December 1, a registrant firm must file a completed Form 13-502F4 showing the information required to determine the participation fee due on December 31.

(2) At the time that it pays the participation fee required under subsection 3.1(2), an unregistered investment fund manager must file a completed Form 13-502F4 showing the information required to determine the participation fee.

3.3 Specified Ontario Revenues for IIROC and MFDA Members

(1) The specified Ontario revenues for its reference fiscal year of a registrant firm that was an IIROC or MFDA member at the end of the reference fiscal year is calculated by multiplying

(a) the registrant firm's total revenue for its reference fiscal year, less the portion of that total revenue not attributable to capital markets activities, by

(b) the registrant firm's Ontario percentage for its reference fiscal year.

(2) For the purpose of paragraph (1)(a), "total revenue" for a reference fiscal year means,

(a) for a registrant firm that was an IIROC member at the end of the reference fiscal year, the amount shown as total revenue for the reference fiscal year on Statement E of the Joint Regulatory Financial Questionnaire and Report filed with IIROC by the registrant firm, and

(b) for a registrant firm that was an MFDA member at the end of the reference fiscal year, the amount shown as total revenue for the reference fiscal year on Statement D of the MFDA Financial Questionnaire and Report filed with the MFDA by the registrant firm.

3.4 Specified Ontario Revenues for Others

(1) The specified Ontario revenues of a registrant firm for its reference fiscal year that was not a member of IIROC or the MFDA at the end of the reference fiscal year is calculated by multiplying

(a) the registrant firm's gross revenues, as shown in the audited financial statements prepared for the reference fiscal year, less deductions permitted under subsection (3), by

(b) the registrant firm's Ontario percentage for the reference fiscal year.

(2) The specified Ontario revenues of an unregistered investment fund manager for its reference fiscal year is calculated by multiplying

(a) the fund manager's gross revenues, as shown in the audited financial statements for the reference fiscal year, less deductions permitted under subsection (3), by

(b) the fund manager's Ontario percentage for the reference fiscal year.

(3) For the purpose of paragraphs (1)(a) and (2)(a), a person or company may deduct the following items otherwise included in gross revenues for the reference fiscal year:

(a) revenue not attributable to capital markets activities;

(b) redemption fees earned on the redemption of investment fund securities sold on a deferred sales charge basis;

(c) administration fees earned relating to the recovery of costs from investment funds managed by the person or company for operating expenses paid on behalf of the investment fund by the person or company;

(d) advisory or sub-advisory fees paid during the reference fiscal year by the person or company to a registrant firm, as "registrant firm" is defined in this Rule or in Rule 13-503 *(Commodity Futures Act) Fees*;

(e) trailing commissions paid during the reference fiscal year by the person or company to a registrant firm described in paragraph (d).

(4) Despite subsection (1), a registrant firm that is registered only as one or more of a limited market dealer, an international dealer or an international adviser may calculate its gross revenues using unaudited financial statements if it is not required to prepare, and does not ordinarily prepare, audited financial statements.

(5) Despite subsection (2), an unregistered investment fund manager may calculate its gross revenues using unaudited financial statements if it is not required to prepare, and does not ordinarily prepare, audited financial statements.

3.5 Estimating Specified Ontario Revenues for Late Fiscal Year End

(1) If the reference fiscal year of a registrant firm in respect of a participation fee under subsection 3.1(1) coincides with the previous fiscal year in respect of the participation fee and the annual financial statements of the registrant firm for the previous fiscal year have not been completed by December 1 in the calendar year in which the previous fiscal year ends, the registrant firm must,

(a) on December 1 in that calendar year, file a completed Form 13-502F4 showing a good faith estimate of the information required to calculate its specified Ontario revenues as at the end of the fiscal year, and

(b) on December 31 in that calendar year, pay the participation fee shown in Appendix B opposite the specified Ontario revenues estimated under paragraph (a).

(2) A registrant firm that estimated its specified Ontario revenues under subsection (1) must, when its annual financial statements for the previous fiscal year have been completed,

(a) calculate its specified Ontario revenues under section 3.3 or 3.4, as applicable,

(b) determine the participation fee shown in Appendix B opposite the specified Ontario revenues calculated under paragraph (a),

(c) complete a Form 13-502F4 reflecting the annual financial statements, and

(d) if the participation fee determined under paragraph (b) differs from the corresponding participation fee paid under subsection (1), the registrant firm must, not later than 90 days after the end of the previous fiscal year,

(i) pay the amount, if any, by which

(A) the participation fee determined without reference to this section,

exceeds

(B) the corresponding participation fee paid under subsection (1),

(ii) file the Form 13-502F4 completed under paragraph (c), and

(iii) file a completed Form 13-502F5.

(3) If a registrant firm paid an amount paid under subsection (1) that exceeds the corresponding participation fee determined without reference to this section, the registrant firm is entitled to a refund from the Commission of the excess.

3.6 Late Fee

(1) A participant that is late in paying a participation fee under this Part must pay an additional fee of one-tenth of one percent of the unpaid portion of the participation fee for each business day on which any portion of the participation fee remains due and unpaid.

(2) The amount determined under subsection (1) in respect of the late payment of a participation fee by a participant is deemed to be nil if

(a) the participant pays an estimate of the participation fee in accordance with subsection 3.5(1), or

(b) the amount otherwise determined under subsection (1) in respect of the late payment of participation fee is less than $10.

PART 4 — ACTIVITY FEES

4.1 Activity Fees — A person or company that files a document or takes an action listed in Appendix C must, concurrently with filing the document or taking the action, pay the activity fee shown in Appendix C opposite the description of the document or action.

4.2 Investment Fund Families — Despite section 4.1, only one activity fee must be paid for an application made by or on behalf of two or more investment funds that have

(a) the same investment fund manager, or

(b) investment fund managers that are affiliates of each other.

4.3 Late Fee

(1) A person or company that files a document listed in item A of Appendix D after the document was required to be filed must, concurrently with filing the document, pay the late fee shown in Appendix D opposite the description of the document.

(2) Subsection (1) does not apply to the late filing of Form 13-502F4 by an unregistered investment fund manager.

(3) A person or company that files a Form 55-102F2 *Insider Report* after it was required to be filed must pay the late fee shown in item B of Appendix D upon receiving an invoice from the Commission.

PART 5 — CURRENCY CONVERSION

5.1 Canadian Dollars — If a calculation under this Rule requires the price of a security, or any other amount, as it was on a particular date and that price or amount is not in Canadian dollars, it must be converted into Canadian dollars using the daily noon exchange rate for that date as posted on the Bank of Canada website.

PART 6 — EXEMPTION

6.1 Exemption — The Director may grant an exemption from the provisions of this Rule, in whole or in part, subject to such conditions or restrictions as may be imposed in the exemption.

PART 7 — REVOCATION AND EFFECTIVE DATE

7.1 Revocation — Rule 13-502 Fees, which came into force on April 1, 2006, is revoked.

7.2 Effective Date — This Rule comes into force on April 1, 2009.

APPENDIX A — CORPORATE FINANCE PARTICIPATION FEES

Capitalization for the Reference fiscal year	Participation Fee
under $25 million	$930
$25 million to under $50 million	$2,200
$50 million to under $100 million	$5,300
$100 million to under $250 million	$10,700
$250 million to under $500 million	$23,200
$500 million to under $1 billion	$32,300
$1 billion to under $5 billion	$46,600
$5 billion to under $10 billion	$60,100
$10 billion to under $25 billion	$70,000
$25 billion and over	$79,000

APPENDIX B — CAPITAL MARKETS PARTICIPATION FEES

Specified Ontario revenues for the Reference fiscal year	Participation Fee
under $500,000	$1,000
$500,000 to under $1 million	$3,500
$1 million to under $3 million	$7,500
$3 million to under $5 million	$14,100
$5 million to under $10 million	$29,000
$10 million to under $25 million	$59,000
$25 million to under $50 million	$88,300
$50 million to under $100 million	$177,000
$100 million to under $200 million	$295,000
$200 million to under $500 million	$595,000
$500 million to under $1 billion	$770,000
$1 billion to under $2 billion	$970,000
$2 billion and over	$1,600,000

APPENDIX C - ACTIVITY FEES

Document or Activity	Fee
A. Prospectus Filing	
1. Preliminary or Pro Forma Prospectus in Form 41-101F1 (including if PREP procedures are used) *Notes:* *(i) This applies to most issuers.* *(ii) Each named issuer should pay its proportionate share of the fee in the case of a prospectus for multiple issuers (other than in the case of investment funds).*	$3,250
2. Additional fee for Preliminary or Pro Forma Prospectus in Form 41-101F1 of a resource issuer that is accompanied by engineering reports	$2,000
3. Preliminary Short Form Prospectus in Form 44-101F1 (including if shelf or PREP procedures are used) or a Registration Statement on Form F-9 or F-10 filed by an issuer that is incorporated or that is organized under the laws of Canada or a jurisdiction in Canada in connection with a distribution solely in the United States under MJDS as described in the companion policy to NI 71-101 *The Multijurisdictional Disclosure System*.	$3,250
4. Prospectus Filing by or on behalf of certain investment funds	
(a) Preliminary or Pro Forma Simplified Prospectus and Annual Information Form in Form 81-101F1 and Form 81-101F2 *Note: Where a single prospectus document is filed on behalf of more than one investment fund, the applicable fee is payable for each investment fund.*	$400
(b) Preliminary or Pro Forma Prospectus in Form 41-101F2 *Note: Where a single prospectus document is filed on behalf of more than one investment fund and the investment funds do not have similar investment objectives and strategies, $3,250 is payable for each investment fund.*	The greater of (i) $3,250 per prospectus, and (ii) $650 per investment fund in a prospectus.
5. Review of prospectus supplement in relation to a specified derivative (as defined in NI 44-102 *Shelf Distributions*) for which the amount payable is determined with reference to the price, value or level of an underlying interest that is unrelated to the operations or securities of the issuer.	$3,250

Document or Activity			Fee
B.	**Fees relating to exempt distributions under OSC Rule 45-501 *Ontario Prospectus and Registration Exemptions* and NI 45-106 *Prospectus and Registration Exemptions***		
	1.	Application for recognition, or renewal of recognition, as an accredited investor	$500
	2.	Forms 45-501F1 and 45-106F1	$500
	(a)	Filing of a Form 45-501F1 or Form 45-106F1 for a distribution of securities of an issuer that is not an investment fund and is not subject to a participation fee.	
	(b)	Filing of a Form 45-501F1 or Form 45-106F1 for a distribution of securities of an issuer that is an investment fund, unless the investment fund has an investment fund manager that is subject to a participation fee.	
	3.	Filing of a rights offering circular in Form 45-101F	$2,000 (plus $2,000 if neither the applicant nor an issuer of which the applicant is a wholly owned subsidiary is subject to, or is reasonably expected to become subject to, a participation fee under this Rule)
C.	**Provision of Notice under paragraph 2.42(2)(a) of NI 45-106 *Prospectus and Registration Exemptions***		$2,000
D.	**Filing of Prospecting Syndicate Agreement**		$500
E.	**Applications for Relief, Approval or Recognition**		
	1.	Any application for relief, approval or recognition under an eligible securities section, being for the purpose of this item any provision of the Act or any Regulation or OSC Rule made under the Act not listed in item E(2), E(3) or E(4) below. *Note: The following are included in the applications that are subject to a fee under this item:* *(i) recognition of an exchange under section 21 of the Act, a self-regulatory organization under section 21.1 of the Act, a clearing agency under section 21.2 of the Act or a quotation and trade reporting system under section 21.2.1 of the Act;* *(ii) approval of a compensation fund or contingency trust fund under section 110 of Ont. Reg. 1015 made under the Act;* *(iii) approval of the establishment of a council, committee or ancillary body under section 21.3 of the Act;* *(iv) deeming an issuer to be a reporting issuer under subsection 1(11) of the Act;* *(v) except as listed in item E.4(b), applications by a person or company under subsection 144(1) of the Act; and* *(vi) exemption applications under section 147 of the Act.*	$3,250 for an application made under one eligible securities section and $5,000 for an application made under two or more eligible securities sections (plus $2,000 if none of the following is subject to, or is reasonably expected to become subject to, a participation fee under this Rule or OSC Rule 13-503 (*Commodity Futures Act*) *Fees*: (i) the applicant; (ii) an issuer of which the applicant is a wholly owned subsidiary; (iii) the investment fund manager of the applicant).

Document or Activity		Fee
2.	An application for relief from any of the following:	$1,500
(a)	this Rule*;*	
(b)	OSC Rule 31-506 *SRO Membership – Mutual Fund Dealers*;	
(c)	OSC Rule 31-507 *SRO Membership – Securities Dealers and Brokers*;	
(d)	NI 31-102 *National Registration Database*;	
(e)	NI 33-109 *Registration Information*;	
(f)	Part 3 of OSC Rule 31-502 *Proficiency*.	
3.	An application for relief from Part 1 or Part 2 of OSC Rule 31-502 *Proficiency*.	$800
4.	Application	Nil
(a)	under clause 1(10)(b), section 27 or subsection 38(3) of the Act or subsection 1(6) of the *Business Corporations Act*;	
(b)	under section 144 of the Act for an order to partially revoke a cease-trade order to permit trades solely for the purpose of establishing a tax loss, as contemplated under section 3.2 of National Policy 12-202 *Revocation of a Compliance-related Cease Trade Order*; and	
(c)	other than a pre-filing, where the discretionary relief or regulatory approval is evidenced by the issuance of a receipt for the applicants' final prospectus (such as certain applications under NI 41-101 or NI 81-101).	
5.	Application for approval under subsection 213(3) of the *Loan and Trust Corporations Act.*	$1,500
6.		$400
(a)	Application made under subsection 46(4) of the *Business Corporations Act* for relief from the requirements under Part V of that Act.	
(b)	Application for consent to continue in another jurisdiction under paragraph 4(b) of Ont. Reg. 289/00 made under the *Business Corporations Act*.	
Note:	*These fees are in addition to the fee payable to the Minister of Finance as set out in the Schedule attached to the Minister's Fee Orders relating to applications for exemption orders made under the Business Corporations Act to the Commission*.	
F.	**Pre-Filings**	$3,000
Note:	*The fee for a pre-filing will be credited against the applicable fee payable if and when the formal filing (e.g., an application or a preliminary prospectus) is actually proceeded with; otherwise, the fee is non-refundable.*	

Document or Activity			Fee
G.	**Take-Over Bid and Issuer Bid Documents**		
	1.	Filing of a take-over bid or issuer bid circular under subsection 94.2(2),(3) or (4) of the Act.	$4,000 (plus $2,000 if neither the offeror nor an issuer of which the offeror is a wholly-owned subsidiary is subject to, or reasonably expected to become subject to, a participation fee under this Rule)
	2.	Filing of a notice of change or variation under section 94.5 of the Act.	Nil
H.	**Registration-Related Activity**		
	1.	New registration of a firm in one or more categories of registration	$600
	2.	Change in registration category *Note: This includes a dealer becoming an adviser or vice versa, or changing a category of registration within the general categories of dealer or adviser. A dealer adding a category of registration, such as a dealer becoming both a dealer and an adviser, is covered in the preceding item.*	$600
	3.	Registration of a new director, officer or partner (trading or advising), salesperson or representative *Notes:* *(i) Registration of a new non-trading or non-advising director, officer or partner does not trigger an activity fee.* *(ii) If an individual is registering as both a dealer and an adviser, the individual is required to pay only one activity fee.* *(iii) A registration fee will not be charged if an individual makes an application to register with a new registrant firm within three months of terminating employment with his or her previous registrant firm if the individual's category of registration remains unchanged.*	$200 per individual
	4.	Change in status from a non-trading or non-advising capacity to a trading or advising capacity	$200 per individual
	5.	Registration of a new registrant firm, or the continuation of registration of an existing registrant firm, resulting from or following an amalgamation of one or more registrant firms	$2,000
	6.	Application for amending terms and conditions of registration	$500
I.	**Notice to Director under section 104 of Ont. Reg. 1015 made under the Act.**		$3,000

Document or Activity	Fee
J. Request for certified statement from the Commission or the Director under section 139 of the Act	$100
K. Requests to the Commission	
1. Request for a photocopy of Commission records	$0.50 per page
2. Request for a search of Commission records	$150
3. Request for one's own Form 4	$30

APPENDIX D – ADDITIONAL FEES FOR LATE DOCUMENT FILINGS

Document	Late Fee
A. Fee for late filing of any of the following documents: (a) Annual financial statements and interim financial statements; (b) Annual information form filed under NI 51-102 *Continuous Disclosure Obligations* or NI 81-106 *Investment Fund Continuous Disclosure*; (c) Form 45-501F1 or Form 45-106F1 filed by a reporting issuer; (d) Report under section 141 or 142 of Ont. Reg. 1015 made under the Act; (e) Filings for the purpose of amending Form 3, Form 4 or Form 33-109F4 under NI 33-109 *Registration Information*; (f) Any document required to be filed by a registrant firm or individual in connection with the registration of the registrant firm or individual under the Act with respect to (i) terms and conditions imposed on a registrant firm or individual, or (ii) an order of the Commission; (g) Form 13-502F4; (h) Form 13-502F5; (i) Form 13-502F6.	$100 per business day (subject to a maximum aggregate fee of $5,000 (i) per fiscal year, for a reporting issuer, for all documents required to be filed within a fiscal year of the issuer, and (ii) for a registrant firm and an unregistered investment fund manager for all documents required to be filed within a calendar year) *Note: Subsection 4.3(2) of this Rule exempts unregistered investment fund managers from the late filing fee for Form 13-502F4.*
B. Fee for late filing of Form 55-102F2 – *Insider Report*	$50 per calendar day per insider per issuer (subject to a maximum of $1,000 per issuer within any one year beginning on April 1st and ending on March 31st.) The late fee does not apply to an insider if (a) the head office of the issuer is located outside Ontario, and (b) the insider is required to pay a late fee for the filing in a jurisdiction in Canada other than Ontario.

FORM 13-502F1
CLASS 1 REPORTING ISSUERS – PARTICIPATION FEE

Reporting Issuer Name: _____

End date of last completed fiscal year: _____

End date of reference fiscal year: _____

(A reporting issuer's reference fiscal year is the reporting issuer's last fiscal year ending before January 1, 2008, provided that it was a reporting issuer throughout that fiscal year. In any other case, it is the reporting issuer's last completed fiscal year.)

Market value of listed or quoted securities:

Total number of securities of a class or series outstanding as at the end of the issuer's reference fiscal year _____ (i)

Simple average of the closing price of that class or series as of the last trading day of each month in the reference fiscal year (See clauses 2.7(a)(ii)(A) and (B) of the Rule) _____ (ii)

Market value of class or series (i) X (ii) = _____ (A)

(Repeat the above calculation for each other class or series of securities of the reporting issuer that was listed or quoted on a marketplace in Canada or the United States of America at the end of the reference fiscal year) _____ (B)

Market value of other securities at end of the reference fiscal year:
(See paragraph 2.7(b) of the Rule)
(Provide details of how value was determined) _____ (C)

(Repeat for each other class or series of securities to which paragraph 2.7(b) of the Rule applies) _____ (D)

Capitalization for the reference fiscal year
(Add market value of all classes and series of securities) (A) + (B) + (C) + (D) = _____

Participation Fee
(From Appendix A of the Rule, select the participation fee beside the capitalization calculated above) _____

Late Fee, if applicable
(As determined under section 2.5 of the Rule) _____

FORM 13-502F2
CLASS 2 REPORTING ISSUERS – PARTICIPATION FEE

Reporting Issuer Name: _____

End date of last completed fiscal year: _____

End date of reference fiscal year: _____
(A reporting issuer's reference fiscal year is the reporting issuer's last fiscal year ending before January 1, 2008, provided that it was a reporting issuer throughout that fiscal year. In any other case, it is the reporting issuer's last completed fiscal year.)

Financial Statement Values:
(Use stated values from the audited financial statements of the reporting issuer as of the end of its reference fiscal year)

Retained earnings or deficit	_____ (A)
Contributed surplus	_____ (B)
Share capital or owners' equity, options, warrants and preferred shares (whether such shares are classified as debt or equity for financial reporting purposes)	_____ (C)
Long term debt (including the current portion)	_____ (D)
Capital leases (including the current portion)	_____ (E)
Minority or non-controlling interest	_____ (F)
Items classified on the balance sheet between current liabilities and shareholders' equity (and not otherwise listed above)	_____ (G)
Any other item forming part of shareholders' equity and not set out specifically above	_____ (H)
Capitalization for the reference fiscal year (Add items (A) through (H))	_____
Participation Fee (From Appendix A of the Rule, select the participation fee beside the capitalization calculated above)	_____
Late Fee, if applicable (As determined under section 2.5 of the Rule)	_____

FORM 13-502F3A
CLASS 3A REPORTING ISSUERS – PARTICIPATION FEE

Reporting Issuer Name: _____
(Class 3A reporting issuer cannot be incorporated or organized under the laws of Canada or a province or territory of Canada)

Fiscal year end date: _____

Indicate, by checking the appropriate box, which of the following criteria the issuer meets:

(a) At the fiscal year end date, the issuer has no securities listed or quoted on a marketplace located anywhere in the world; or **[ ]**

(b) at the fiscal year end date, the issuer **[ ]**

(i) has securities listed or quoted on a marketplace anywhere in the world ,

(ii) has securities registered in the names of persons or companies resident in Ontario representing less than 1% of the market value of all outstanding securities of the issuer for which the issuer or its transfer agent or registrar maintains a list of registered owners,

(iii) reasonably believes that persons or companies who are resident in Ontario beneficially own less than 1% of the market value of all its outstanding securities,

(iv) reasonably believes that none of its securities traded on a marketplace in Canada during its previous fiscal year, and

(v) has not issued any of its securities in Ontario in the last 5 years, other than

(A) to its employees or to employees of its subsidiary entities, or

(B) pursuant to the exercise of a right previously granted by it or its affiliate to convert or exchange its previously issued securities without payment of any additional consideration.

Participation Fee $930
(From subsection 2.2(2) of the Rule)

Late Fee, if applicable
(As determined under section 2.5 of the Rule) ____

FORM 13-502F3B
CLASS 3B REPORTING ISSUERS – PARTICIPATION FEE

Reporting Issuer Name: _____

End date of last completed fiscal year: _____

End date of reference fiscal year: _____
(A reporting issuer's reference fiscal year is the reporting issuer's last fiscal year ending before January 1, 2008, provided that it was a reporting issuer throughout that fiscal year. In any other case, it is the reporting issuer's last completed fiscal year.)

Market value of securities:

Total number of securities of a class or series outstanding as at the end of the issuer's reference fiscal year	_____ (i)	
Simple average of the closing price of that class or series as of the last trading day of each month of the reference fiscal year (See section 2.9(b) of the Rule)	_____ (ii)	
Market value of class or series	(i) X (ii) =	_____ (A)
(Repeat the above calculation for each other listed or quoted class or series of securities of the reporting issuer)		_____ (B)
Capitalization for the reference fiscal year (Add market value of all classes and series of securities)	(A) + (B) =	_____
Participation Fee Otherwise Determined (From Appendix A of the Rule, select the participation fee beside the capitalization calculated above)		_____ (C)
Participation Fee Payable 1/3 of (C) or $930, whichever is greater (See subsection 2.2(3) of the Rule)		_____
Late Fee, if applicable (As determined under section 2.5 of the Rule)		_____

FORM 13-502F3C
CLASS 3C REPORTING ISSUERS – PARTICIPATION FEE

Reporting Issuer Name: _____

End date of last completed fiscal year: _____

End date of reference fiscal year: _____
(A reporting issuer's reference fiscal year is the reporting issuer's last fiscal year ending before January 1, 2008, provided that it was a reporting issuer throughout that fiscal year. In any other case, it is the reporting issuer's last completed fiscal year.)

Section 2.10 of the Rule requires Class 3C reporting issuers to calculate their market capitalization in accordance with section 2.7 of the Rule.

Market value of listed or quoted securities:

Total number of securities of a class or series outstanding as at the end of the issuer's reference fiscal year _____ (i)

Simple average of the closing price of that class or series as of the last trading day of each month of the reference fiscal year (See clauses 2.7(a)(ii)(A) and (B) of the Rule) _____ (ii)

Market value of the class or series (i) X (ii) = _____ (A)

(Repeat the above calculation for each other class or series of securities of the reporting issuer that was listed or quoted on a marketplace in Canada or the United States of America at the end of the reference fiscal year) _____ (B)

Market value of other securities:
(See paragraph 2.7(b) of the Rule)
(Provide details of how value was determined) _____ (C)

(Repeat for each other class or series of securities to which paragraph 2.7(b) of the Rule applies) _____ (D)

Capitalization for the reference fiscal year
(Add market value of all classes and series of securities) (A) + (B) + (C) + (D) = _____

Participation Fee _____
(From Appendix A of the Rule, select the participation fee beside the capitalization calculated above)

Late Fee, if applicable
(As determined under section 2.5 of the Rule) _____

FORM 13-502F4
CAPITAL MARKETS PARTICIPATION FEE CALCULATION

General Instructions

1. IIROC members must complete Part I of this Form and MFDA members must complete Part II. Unregistered investment fund managers and registrant firms that are not IIROC or MFDA members must complete Part III.

2. The components of revenue reported in each Part should be based on accounting standards pursuant to which an entity's financial statements are prepared under Ontario securities law ("Accepted Accounting Standards"), except that revenues should be reported on an unconsolidated basis.

3. IIROC Members may refer to Statement E of the Joint Regulatory Financial Questionnaire and Report for guidance.

4. MFDA members may refer to Statement D of the MFDA Financial Questionnaire and Report for guidance.

5. Participation fee revenue will be based on the portion of total revenue that can be attributed to Ontario for the firm's reference fiscal year. A firm's reference fiscal year is generally its last fiscal year ending before January 1, 2008. For further detail, see the definition of "reference fiscal year" in section 1.1 of the Rule.

6. If a firm's permanent establishments are situated only in Ontario, all of the firm's total revenue for a fiscal year is attributed to Ontario. If permanent establishments are situated in Ontario and elsewhere, the percentage attributed to Ontario for a fiscal year will ordinarily be the percentage of the firm's taxable income that is allocated to Ontario for Canadian income tax purposes for the same fiscal year. For firms that do not have a permanent establishment in Ontario, the percentage attributable to Ontario will be based on the proportion of total revenues generated from capital markets activities in Ontario.

7. All figures must be expressed in Canadian dollars and rounded to the nearest thousand.

8. Information reported on this questionnaire must be certified by two members of senior management in Part IV to attest to its completeness and accuracy.

Notes for Part III

1. Gross revenue is defined as the sum of all revenues reported on a gross basis as per the audited financial statements, except where unaudited financial statements are permitted in accordance with subsection 3.4(4) or (5) of the Rule. Audited financial statements should be prepared in accordance with Accepted Accounting Standards, except that revenues should be reported on an unconsolidated basis. Items reported on a net basis must be adjusted for purposes of the fee calculation.

2. Redemption fees earned upon the redemption of investment fund units sold on a deferred sales charge basis are permitted as a deduction from total revenue on this line.

3. Administration fees permitted as a deduction are limited solely to those that are otherwise included in gross revenue and represent the reasonable recovery of costs from the investment funds for operating expenses paid on their behalf by the registrant firm or unregistered investment fund manager.

4. Where the advisory services of another registrant firm, within the meaning of this Rule or OSC Rule 13-503 (*Commodity Futures Act*) *Fees*, are used by the person or company to advise on a portion of its assets under management, such sub-advisory costs are permitted as a deduction on this line to the extent that they are otherwise included in gross revenues.

5. Trailer fees paid to other registrant firms described in note 4 are permitted as a deduction on this line to the extent they are otherwise included in gross revenues.

Participation Fee Calculation

Firm Name: _____

End date of last completed fiscal year: _____

End date of reference fiscal year: _____

	Reference Fiscal Year $
Part I — IIROC Members	
1. Total revenue for reference fiscal year from Statement E of the Joint Regulatory Financial Questionnaire and Report	
2. Less revenue not attributable to capital markets activities	
3. Revenue subject to participation fee (line 1 less line 2)	
4. Ontario percentage for reference fiscal year (See definition in the Rule)	%
5. Specified Ontario revenues (line 3 multiplied by line 4)	
6. Participation fee (From Appendix B of the Rule, select the participation fee opposite the specified Ontario revenues calculated above)	
Part II — MFDA Members	
1. Total revenue for reference fiscal year from Statement D of the MFDA Financial Questionnaire and Report	
2. Less revenue not attributable to capital markets activities	
3. Revenue subject to participation fee (line 1 less line 2)	
4. Ontario percentage for reference fiscal year (See definition in the Rule)	%
5. Specified Ontario revenues (line 3 multiplied by line 4)	
6. Participation fee (From Appendix B of the Rule, select the participation fee opposite the specified Ontario revenues calculated above)	

Part III — Other registrant firms and unregistered investment fund managers

1. Gross revenue for reference fiscal year (note 1)	
Less the following items:	
2. Revenue not attributable to capital markets activities	
3. Redemption fee revenue (note 2)	
4. Administration fee revenue (note 3)	
5. Advisory or sub-advisory fees paid to registrant firms (note 4)	
6. Trailer fees paid to other registrant firms (note 5)	
7. Total deductions (sum of lines 2 to 6)	
8. Revenue subject to participation fee (line 1 less line 7)	
9. Ontario percentage for reference fiscal year (See definition in the Rule)	%
10. Specified Ontario revenues (line 8 multiplied by line 9)	
11. Participation fee (From Appendix B of the Rule, select the participation fee beside the specified Ontario revenues calculated above)	

Part IV - Management Certification

We have examined the attached statements and certify that, to the best of our knowledge, they present fairly the revenues of the firm for the period ended _____ and are prepared in agreement with the books of the firm.

We certify that the reported revenues of the firm are complete and accurate and in accordance with generally accepted accounting principles.

	Name and Title	Signature	Date
1.	_____	_____	_____
2.	_____	_____	_____

FORM 13-502F5
ADJUSTMENT OF FEE FOR REGISTRANT FIRMS

Registrant firm name: _____

End date of last completed fiscal year: _____

End date of reference fiscal year: _____

(A firm's "reference fiscal year" is generally the firm's last fiscal year ending before January 1, 2008. For further detail, see the definition of "reference fiscal period" in section 1.1 of the Rule.)

Note: Subsection 3.5(2) of the Rule requires that this Form must be filed concurrent with a completed Form 13-502F4 that shows the firm's actual participation fee calculation.

1. Estimated participation fee paid under subsection 3.5(1) of the Rule: _____

2. Actual participation fee calculated under paragraph 3.5(2)(b) of the Rule: _____

3. Refund due (Balance owing): _____
(Indicate the difference between lines 1 and 2)

FORM 13-502F6
SUBSIDIARY ENTITY EXEMPTION NOTICE

Name of Subsidiary Entity: _____

Name of Parent: _____

End Date of Subsidiary Entity's Most Recently Completed Fiscal Year: _____

End Date of Subsidiary Entity's Reference fiscal year: _____
(A subsidiary entity's reference fiscal year is its last fiscal year ending before January 1, 2008, provided that it was a reporting issuer throughout that fiscal year. In any other case, it is the subsidiary entity's last completed fiscal year.)

Indicate below which exemption the subsidiary entity intends to rely on by checking the appropriate box:

1. Subsection 2.6(1) [ ]

The reporting issuer (subsidiary entity) meets the following criteria set out under subsection 2.6(1) of the Rule:

a) at the end of the subsidiary entity's reference fiscal year, the parent of the subsidiary entity was a reporting issuer;

b) the accounting standards pursuant to which the parent's financial statements are prepared under Ontario securities law require the consolidation of the parent and the subsidiary entity;

c) the parent has paid a participation fee required with reference to the parent's market capitalization for the parent's reference fiscal year;

d) the market capitalization of the subsidiary entity for the reference fiscal year was included in the market capitalization of the parent for the reference fiscal year; and

e) the net assets and gross revenues of the subsidiary entity for its reference fiscal year represented more than 90 percent of the consolidated net assets and gross revenues of the parent for the parent's reference fiscal year.

	Net Assets for reference fiscal year	**Gross Revenues for reference fiscal year**	
Reporting Issuer (Subsidiary Entity)	_____	_____	(A)
Reporting Issuer (Parent)	_____	_____	(B)
Percentage (A/B)	_____%	_____%	

2. Subsection 2.6(2) [ ]

The reporting issuer (subsidiary entity) meets the following criteria set out under subsection 2.6(2) of the Rule:

a) at the end of the subsidiary entity's reference fiscal year, the parent of the subsidiary entity was a reporting issuer;

b) the accounting standards pursuant to which the parent's financial statements are prepared under Ontario securities law require the consolidation of the parent and the subsidiary entity;

c) the parent has paid a participation fee required with reference to the parent's market capitalization for the parent's reference fiscal year;

d) the market capitalization of the subsidiary entity for the reference fiscal year was included in the market capitalization of the parent for the reference fiscal year; and

e) throughout the previous fiscal year of the subsidiary entity, the subsidiary entity was entitled to rely on an exemption, waiver or approval from the requirements in subsections 4.1(1), 4.3(1) and 5.1(1) and sections 5.2 and 6.1 of NI 51-102 *Continuous Disclosure Obligations*.

ONTARIO SECURITIES COMMISSION
COMPANION POLICY 13-502CP FEES

TABLE OF CONTENTS

ONTARIO SECURITIES COMMISSION
COMPANION POLICY 13-502CP FEES

PART 1 — PURPOSE OF COMPANION POLICY

1.1 Purpose of Companion Policy — The purpose of this Companion Policy is to state the views of the Commission on various matters relating to OSC Rule 13-502 *Fees* (the "Rule"), including an explanation of the overall approach of the Rule and a discussion of various parts of the Rule.

PART 2 — PURPOSE AND GENERAL APPROACH OF THE RULE

2.1 Purpose and General Approach of the Rule

(1) The purpose of the Rule is to establish a fee regime that creates a clear and streamlined fee structure and to adopt fees that reflect the Commission's costs of regulating Ontario capital markets.

(2) The fee regime of the Rule is based on the concepts of "participation fees" and "activity fees".

2.2 Participation Fees

(1) Reporting issuers, registrant firms and unregistered investment fund managers are required to pay participation fees annually. Participation fees are designed to cover the Commission's costs not easily attributable to specific regulatory activities. The participation fee required of a market participant is based on a measure of the market participant's size, which is used as a proxy for its proportionate participation in the Ontario capital markets.

(2) Participation fees are determined with reference to capitalization or gross revenue from a market participant's "reference fiscal year". As defined in section 1.1 of the Rule, a market participant's reference fiscal year is the market participant's last fiscal year ending before January 1, 2008, except where the market participant was not a reporting issuer, registrant firm or unregistered investment fund manager throughout that pre-2008 fiscal year. In these exceptional cases, the market participant's reference fiscal year is its last completed fiscal year before the participation fee is required to be paid (which is defined in section 1.1 of the Rule as the market participant's "previous fiscal year").

(3) It is contemplated that a market participant's "reference fiscal year" will be refreshed every two years. This reflects a decision of the Commission to have a two-year cycle for fees rather than a three year cycle. This would imply that the Rule will need to be changed for participation fees that become payable after March 31, 2011, in order to allow for the use of 2009 data (rather than 2007 data).

2.3 Application of Participation Fees — Although participation fees are determined by using information from a fiscal year of the payor ending before the time of their payment, both corporate finance and capital markets participation fees are applied to the costs of the Commission of regulating the ongoing participation in Ontario's capital markets of the payor and other market participants.

2.4 Registered Individuals — The participation fee is paid at the firm level under the Rule. That is, a "registrant firm" is required to pay a participation fee, not an individual who is registered as a salesperson, representative, partner, or officer of the firm.

2.5 Activity Fees — Activity fees are generally charged where a document of a designated class is filed. Estimates of the direct cost of Commission resources expended in undertaking the activities listed in Appendix C of the Rule are considered in determining these fees (e.g., reviewing prospectuses, registration applications, and applications for discretionary relief). Generally, the activity fee charged for filing a document of a particular class is based on the average cost to the Commission of reviewing documents of the class.

2.6 Registrants under the *Securities Act* and the *Commodity Futures Act*

(1) The Rule imposes an obligation to pay a participation fee on registrant firms, defined in the Rule as a person or company registered as a dealer or adviser under the Act. An entity so registered may also be registered as a dealer or adviser under the *Commodity Futures Act*. Given the definition of "capital markets activities" under the Rule, the revenue of such an entity from its *Commodity Futures Act* activities must be included in its calculation of revenues when determining its fee under the Rule. Section 2.8 of OSC Rule 13-503 *(Commodity Futures Act) Fees* exempts such an entity from paying a participation fee under that rule if it has paid its participation fees under the *Securities Act* Rule.

(2) Note that dealers and advisers registered under the *Commodity Futures Act* are subject to activity fees under OSC Rule 13-503 *(Commodity Futures Act) Fees* even if they are not required to pay participation fees under that rule.

2.7 No Refunds

(1) Generally, a person or company that pays a fee under the Rule is not entitled to a refund of that fee. For example, there is no refund available for an activity fee paid in connection with an action that is subsequently abandoned by the payor of the fee. Also, there is no refund available for a participation fee paid by a reporting issuer, registrant firm or unregistered investment fund manager that loses that status later in the fiscal year for which the fee was paid.

(2) An exception to this principle is provided in subsection 3.5(3) of the Rule. This subsection allows for a refund where a registrant firm overpaid an estimated participation fee.

(3) The Commission will also consider requests for adjustments to fees paid in the case of incorrect calculations made by fee payors.

2.8 Indirect Avoidance of Rule — The Commission may examine arrangements or structures implemented by market participants and their affiliates that raise the suspicion of being structured for the purpose of reducing the fees payable under the Rule. For example, the Commission will be interested in circumstances in which revenues from registrable activities carried on by a corporate group are not treated as revenues of a registrant firm, thereby possibly artificially reducing the firm's specified Ontario revenues and, consequently, its participation fee.

PART 3 — CORPORATE FINANCE PARTICIPATION FEES

3.1 Application to Investment Funds — Part 2 of the Rule does not apply to an investment fund if the investment fund has an investment fund manager. The reason for this is that under Part 3 of the Rule an investment fund's manager must pay a capital markets participation fee in respect of revenues generated from managing the investment fund.

3.2 Late Fees — Section 2.5 of the Rule requires a reporting issuer to pay an additional fee when it is late in paying its participation fee. Reporting issuers should be aware that the late payment of participation fees may lead to the reporting issuer being noted in default and included on the list of defaulting reporting issuers available on the Commission's website.

3.3 Exemption for Subsidiary Entities — Under section 2.6 of the Rule, an exemption from participation fees is available to a reporting issuer that is a subsidiary entity if, among other requirements, the parent of the subsidiary entity has paid a participation fee applicable to the parent under section 2.2 of the Rule determined with reference to the parent's capitalization for the parent's fiscal year. For greater certainty, this condition to the exemption is not satisfied in circumstances where the parent of a subsidiary entity has paid a fixed participation fee in reliance on subsection 2.2(2) or (3) of the Rule in lieu of a participation fee determined with reference to the parent's capitalization for its fiscal year.

3.4 Determination of Market Value

(1) Section 2.7 of the Rule requires the calculation of the capitalization of a Class 1 reporting issuer to include the total market value of classes of securities that may not be listed or quoted on a marketplace, but trade over the counter or, after their initial issuance, are otherwise generally available for sale. Note that the requirement that securities be valued in accordance with market value excludes from the calculation securities that are not normally traded after their initial issuance.

(2) When determining the value of securities that are not listed or quoted, a reporting issuer should use the best available source for pricing the securities. That source may be one or more of the following:

(a) pricing services,

(b) quotations from one or more dealers, or

(c) prices on recent transactions.

(3) Note that market value calculation of a class of securities included in a calculation under section 2.7 includes all of the securities of the class, even if some of those securities are still subject to a hold period or are otherwise not freely tradable.

(4) If the closing price of a security on a particular date is not ascertainable because there is no trade on that date or the marketplace does not generally provide closing prices, a reasonable alternative, such as the most recent closing price before that date, the average of the high and low trading prices for that date, or the average of the bid and ask prices on that date is acceptable.

3.5 Owners' Equity — A Class 2 reporting issuer calculates its capitalization on the basis of certain items reflected in its audited balance sheet. One such item is "share capital or owners' equity". The Commission notes that "owners' equity" is designed to describe the equivalent of share capital for non-corporate issuers, such as partnerships or trusts.

PART 4 — CAPITAL MARKETS PARTICIPATION FEES

4.1 Filing Forms under Section 3.5 — If the estimated participation fee paid under subsection 3.5(1) by a registrant firm does not differ from its true participation fee determined under paragraph 3.5(2)(b), the registrant firm is not required to file either a Form 13-502F4 or a Form 13-502F5 under paragraph 3.5(2)(d).

4.2 Late Fees — Section 3.6 of the Rule prescribes an additional fee if a participation fee is paid late. The Commission and the Director will, in appropriate circumstances, consider tardiness in the payment of fees as a matter going to the fitness for registration of a registrant firm. The Commission may also consider measures in the case of late payment of fees by an unregistered investment fund manager, such as prohibiting the manager from continuing to manage any investment fund or cease trading the investment funds managed by the manager.

4.3 Form of Payment of Fees — Unregistered investment fund managers make filings and pay fees under Part 3 of the Rule by paper copy. The filings and payment should be sent to the Ontario Securities Commission, Investment Funds. Registrant firms pay through the National Registration Database.

4.4 "Capital markets activities"

(1) A person or company must consider its capital markets activities when calculating its participation fee. The term "capital markets activities" is defined in the Rule to include "activities for which registration under the Act or an exemption from registration is required". The Commission is of the view that these activities include, without limitation, trading in securities, providing securities-related advice and portfolio management services. The Commission notes that corporate advisory services may not require registration or an exemption from registration and would therefore, in those contexts, not be capital markets activities.

(2) The definition of "capital markets activities" also includes activities for which registration or an exemption from registration under the *Commodity Futures Act* is required. The Commission is of the view that these activities include, without limitation, trading in commodity futures contracts, providing commodity futures contracts-related advice and portfolio management services involving commodity futures contracts.

4.5 Permitted Deductions — Subsection 3.4(3) permits certain deductions to be made for the purpose of calculating specified Ontario revenues for unregistered investment fund managers and certain registrant firms. The purpose of these deductions is to prevent the "double counting" of revenues that would otherwise occur.

4.6 Application to Non-resident Unregistered Investment Fund Managers — For greater certainty, the Commission is of the view that Part 3 of the Rule applies to non-resident unregistered investment fund managers managing investment funds distributed in Ontario on a prospectus exempt basis.

4.7 Change of Status of Unregistered Investment Fund Managers — Subsection 3.1(4) of the Rule reduces the participation fee otherwise payable after the end of a fiscal year under subsection 3.1(2) of the Rule by an unregistered investment fund manager that becomes a registrant firm. The reduction takes into account the imposition of a participation fee payable by registrant firms under subsection 3.1(1) of the Rule on December 31 of a calendar year and generally prevents the imposition of total participation fees in excess of total participation fees that would have been charged had there been no change of registration status.

6.2.1 Proposed Revocation and Replacement of OSC Rule 13-503 (Commodity Futures Act) Fees and Companion Policy 13-503CP (Commodity Futures Act) Fees

REQUEST FOR COMMENTS

PROPOSED REVOCATION AND REPLACEMENT OF OSC RULE 13-503 (COMMODITY FUTURES ACT) FEES AND COMPANION POLICY 13-503CP (COMMODITY FUTURES ACT) FEES

Request for comments

The Commission is publishing for a 90-day comment period OSC Rule 13-503 *(Commodity Futures Act) Fees* and Companion Policy 13-503CP *(Commodity Futures Act) Fees*. The proposed Rule and Policy (collectively, the Proposed Materials) both relate to the *Commodity Futures Act* (the CFA). The Proposed Materials are intended to replace the rule and policy currently in force under the same number.

In addition to being published in this bulletin, the Proposed Materials are available on the Commission's website (www.osc.gov.on.ca).

We request comments on the Proposed Materials by January 3, 2009.

Substance and purpose of the Proposed Materials

The Proposed Materials are consistent with the current rule and policy. That is, the proposed Rule would require registrant firms to pay fees reflecting the Commission's costs of regulating activities governed by the CFA. The proposed Policy sets out the Commission's interpretation of key elements of the proposed Rule and sets out relevant additional background.

As with the current rule, fees under the proposed Rule fall within two categories: participation fees and activity fees.

Participation fees are designed to cover the Commission's costs not easily attributable to specific regulatory activities. The participation fee required of a CFA registrant is a measure of the CFA registrant's size, which is used as proxy for its proportionate participation in the Ontario capital markets. However, a CFA registrant is not required to pay a participation fee under the current rule or proposed Rule if it is subject to a capital markets participation fee under OSC Rule 13-502 *Fees*.

Activity fees are generally charged where a document of a designated class is filed. Estimates of the direct cost of Commission resources expended in undertaking the activities listed in Appendix B of the proposed Rule are considered in determining these fees (e.g., reviewing registration applications and applications for discretionary relief). Generally, the activity fee charged for filing a document of a particular class is based on the average cost to the Commission of reviewing documents of the class.

While the basic framework of the current rule and policy remain, the Proposed Materials include a number of proposed changes. The proposed changes:

- rely on historical data, as opposed to forecasted data in determining the size of market participants for the purpose of calculating participation fees to better predict OSC revenues that are generated from these fees. This change will reduce the risk that the revenues from these fees will produce significant surpluses or deficits for the Commission,
- make changes governing the calculation of late fees,
- clarify the calculation of a CFA registrant's Ontario percentage, which is relevant in determining the registrant's size for the purposes of the participation fee,
- change and clarify timing references, in large part consequential to the use of pre-2008 information in determining participation fees,
- make adjustments to the participation fees, and
- make adjustments to activity fees.

The most significant changes to the current rule are described in greater detail below.

1. Use of pre-2008 information in determining market participant size

Under the current rule, a participation fee for a CFA registrant is determined with reference to its specified Ontario revenues for its last completed fiscal year. Under the proposed Rule, a participation fee for a CFA registrant is determined with reference to its specified Ontario revenues for its "reference fiscal year".

Under section 1.1 of the proposed Rule, a CFA registrant's "reference fiscal year" is its last fiscal year ending before January 1, 2008, assuming it was a registrant firm throughout that pre-2008 fiscal year. Where the CFA registrant did not have the required status throughout that pre-2008 fiscal year, its "reference fiscal year" is its last completed fiscal year in the calendar year at the end of which its participation fee becomes payable.

The main objective of this measure of the proposed Rule is to enable the better matching of the Commission's revenues and expenditures. The proposed changes eliminate the need to forecast market conditions in determining the fees for each participation fee tier since, with the use of the reference fiscal year, participation fees will be known and will remain fixed over the life of the proposed rule, providing more stability.

2. Late fees on unpaid participation fees

Section 2.7 of the current rule charges a late fee on an unpaid participation fee. The charge is equal to 1% of the participation fee per "late" business day, up to a cap equal to 25% of the participation fee.

The proposed Rule clarifies that the daily charge is calculated with reference to the *unpaid portion* of the participation fee while *any portion* of the participation fee remains unpaid. The daily charge is reduced under the proposed Rule from 1% of the unpaid portion of the participation fee per business day to 0.1%.

The proposed Rule does not contain the 25% cap, given that the substantial reduction in the daily charge eliminates much of the rationale for the cap.

The proposed Rule also provides that a late fee on an unpaid participation fee is deemed to be nil until such time as the late fee otherwise determined is at least $10.

3. Ontario percentage

Under the current rule and the proposed Rule, the participation fee of a CFA registrant is determined with reference to its "Ontario percentage", as defined in section 1.1 of the current rule and the proposed Rule. The revised definition of that expression clarifies that, in the case of a registrant with permanent establishments in Ontario and elsewhere, its Ontario percentage is equal to the allocation factor that applies for Canadian income tax purposes in allocating the taxable income of Canadian corporations to Ontario.

It should be noted that a registrant's Ontario percentage will continue to be 100% where the registrant's permanent establishments are situated only in Ontario.

4. Participation fees

There is no change in the tiers of specified Ontario revenues used to determine participation fees. When OSC Rule 13-503 was last revised, effective April 1, 2006, the Companion Policy to it listed participation fees for each tier based on the amounts required to recover the Commission's costs, and then noted that the Commission had accumulated surplus available, which was to be used to reduce these fees. The participation fees will now be those that would have been listed in the current rule had those fees not been reduced due to the application of surplus.

5 . Activity fees

Under item A of Appendix B of the proposed Rule, the proposed increase in fees for various application reviews from $3,000 to $3,250 primarily reflects the higher costs of resources involved in their review and the increased complexity of issues arising in these reviews.

Changes to item A.1 of Appendix B of the proposed Rule make the activity fee charged under this item consistent with the activity fee charged under item E.1 of Appendix C of proposed OSC Rule 13-502.

In addition, changes to item A.1 of Appendix B of the proposed Rule have the effect (in conjunction with item E.1 of Appendix C of proposed OSC Rule 13-502) of capping the overall fee for an application under those items to $5,000 (or $7,000 in specified cases). This cap is implemented by reducing, as necessary, the CFA activity fee.

By adding paragraph (d) to item A.3 of Appendix B of the proposed Rule, the activity fee for an application filed under 37(7) of the Regulation to the CFA is $1,500, rather than $3,250, because it would no longer be covered by item A.1 of Appendix B of the proposed Rule. The average time required to review this type of application has decreased reflecting the improvement in quality of the applications received.

Relieving changes to items B.1 and B.3 of the proposed Rule parallel the proposed changes to items H.1 and H.3 of Appendix C of proposed OSC Rule 13-502.

Use of two-year fee cycle

The Commission has historically reviewed its fees every three years. Issues with the current system arise from the need to forecast financial markets, their impact on registrants' revenues (the bases of their participation fees), and, in turn on our fees. This approach has contributed to the surpluses generated by the Commission to date under the current model.

The Commission looked at various alternatives, including approaches used by other regulators and found that our methodologies were similar in several important ways: operating on a cost-recovery basis; recovering costs by client or industry sectors, as we do with issuers and registrants; and the use of a combination of activity fees and some form of levy akin to our participation fees. The main differences are that the other regulators set their participation-type fees each year and use historic information from the organizations they regulate. This eliminates the need to forecast inherent in our model.

Although it is not feasible for the Commission to set fees annually, in order to better align the Commission's costs and revenue, the Commission proposes to use a two-year fee cycle beginning on April 1, 2009. The proposed use of the two-year fee cycle is reflected in some of the commentary in the proposed Policy.

Authority for the proposed Rule

Paragraph 25 of subsection 65(1) of the *Commodity Futures Act* authorizes the Commission to make rules "Prescribing the fees payable to the Commission, including those for filing, for applications for registration or exemptions, for trades in contracts, in respect of audits made by the Commission and in connection with the administration of Ontario commodity futures law."

Alternatives considered

In the process of developing the proposed Rule, the Commission did not consider any other alternatives.

Unpublished materials

In proposing the rule and policy, the Commission has not relied on any significant unpublished study, report, decision or other written materials.

Anticipated costs and benefits

As noted above, when OSC Rule 13-503 was last revised, effective April 1, 2006, the Companion Policy to it listed participation fees for each tier based on the amounts required to recover the Commission's costs, and then noted that the Commission had accumulated surplus available, which was to be used to reduce these fees in order to return this surplus to market participants. The participation fees will now be those that would have been listed in the current rule had those fees not been reduced due to the application of surplus.

As those reductions due to surplus will no longer apply, the participation fees paid will increase. However, despite increases in the Commission's costs, participation fees will stay flat with the base fees set three years ago.

The Commission currently anticipates having a surplus at March 31, 2009 of approximately $49 million. This is expected to be used in three ways. Approximately $4 million would be used so that participation fees do not rise beyond the base fees set three years ago. Secondly, approximately $23 million would be used to offset the transitional reduction of Commission revenues resulting from a change in the timing of payment of participation fees by registrants from December to May, which is expected in the event that proposed National Instrument 31-103 *Registration Requirements* is implemented in Ontario. The remainder is expected to be refunded directly to participants by way of a rebate of fees paid. This refund is planned to occur after the Commission's financial results for the year ending March 31, 2009 and the amount of surplus at that time are known. This surplus will depend upon the performance of the financial markets up to that time, which affects both the activity and participation fees generated by the Commission. Based on current forecasts, it is anticipated that this refund will be approximately $22 million. It is intended that the full amount of the surplus at March 31, 2009 will be returned to participants in these ways. The expected use of the surplus may be summarized as follows:

To address the revenue shortfall arising from Registration Reform	$23 million
To keep fees at 2006 rates before the allocation of the 2006 surplus	$4 million
Proposed refund	$22 million
	$49 million

As noted, by moving to basing participation fees on historic information, the Commission will be better able to match its costs and revenues, reducing the likelihood of significant surpluses or deficits in the future. The Commission sets fees to recover its costs, so these surpluses are essentially overpayments by participants. Therefore, reducing the potential for surpluses will help to reduce the fee burden on participants. The use of historic information will also benefit many registrants who currently pay fees based on estimated revenues, as their audited financial statements are not available at December 1, and then have to file updated information and pay a revised fee once their audited statements are complete. The use of historic information will substantially reduce the need for dual filing.

In addition, fixing the fees for a two-year period will provide better stability to participants, who will be able to determine their fees in advance.

How to provide your comments

You must provide your comments in writing by January 3, 2009. If you are not sending your comments by email, you should also send an electronic file containing the submissions (in Windows format, Microsoft Word).

Please send your comments to the following address:

c/o John Stevenson, Secretary
Ontario Securities Commission
20 Queen Street West
Suite 800, Box 55
Toronto, Ontario
M5H 3S8
jstevenson@osc.gov.on.ca

The Commission will publish written comments received unless the Commission approves a commenter's request for confidentiality or the commenter withdraws its comment before the comment's publication.

Questions

Please refer your questions to:

Noulla Antoniou
Senior Accountant, Compliance
(416) 595-8920
nantoniou@osc.gov.on.ca

Gina Sugden
Project Manager, Registrant Regulation
(416) 593-8162
gsugden@osc.gov.on.ca

Felicia Tedesco
Assistant Manager, Compliance
(416) 593-8273
ftedesco@osc.gov.on.ca

Text of the Proposed Materials

The text of the Proposed Materials follows.

October 3, 2008

ONTARIO SECURITIES COMMISSION
RULE 13-503 (COMMODITY FUTURES ACT) FEES

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ONTARIO SECURITIES COMMISSION
RULE 13-503 (COMMODITY FUTURES ACT) FEES

PART 1 — DEFINITIONS

1.1 Definitions — In this Rule

"CFA" means the *Commodity Futures Act*;

"CFA activities" means activities for which registration under the CFA or an exemption from registration is required;

"IIROC" means the Investment Industry Regulatory Organization of Canada and, where context requires, includes the Investment Dealers Association of Canada;

"Ontario allocation factor" has the meaning that would be assigned by the first definition of that expression in subsection 1(1) of the *Taxation Act, 2007* if that definition were read without reference to the words "ending after December 31, 2008";

"Ontario percentage" means, for a fiscal year of a registrant firm

(a) if the registrant firm is a company that has a permanent establishment in Ontario in the fiscal year, the registrant firm's Ontario allocation factor for the fiscal year expressed as a percentage and determined on the assumption that the registrant firm had a taxation year that coincided with the fiscal year and is resident in Canada for the purposes of the ITA,

(b) if paragraph (a) does not apply and the registrant firm would have a permanent establishment in Ontario in the fiscal year if the registrant firm were a company, the registrant firm's Ontario allocation factor for the fiscal year expressed as a percentage and determined on the assumption that the registrant firm is a company, had a taxation year that coincided with the fiscal year and is resident in Canada for the purposes of the ITA, and

(c) in any other case, the percentage of the registrant firm's total revenues for the fiscal year attributable to CFA activities in Ontario;

"permanent establishment" has the meaning provided in Part IV of the regulations under the ITA;

"previous fiscal year" of a registrant firm in respect of a participation fee that becomes payable under section 2.2 on December 31 of a calendar year, the last fiscal year of the registrant firm ending in the calendar year;

"reference fiscal year" of a registrant firm in respect of a participation fee means,

(a) the registrant firm's last fiscal year ending before January 1, 2008, if it was a registrant firm throughout that fiscal year, and

(b) in any other case, the previous fiscal year in respect of the participation fee;

"registrant firm" means a person or company registered as a dealer or an adviser under the CFA; and

"specified Ontario revenues" means the revenues determined in accordance with section 2.4, 2.5 or 2.6.

PART 2 — PARTICIPATION FEES

2.1 Application — This Part does not apply to a registrant firm that is registered under the *Securities Act* and that has paid its participation fee under Rule 13-502 *Fees* under the *Securities Act*.

2.2 Participation Fee — On December 31, a registrant firm must pay the participation fee shown in Appendix A opposite the registrant firm's specified Ontario revenues for its reference fiscal year, as that revenue is calculated under section 2.4 or 2.5.

2.3 Disclosure of Fee Calculation — By December 1, a registrant firm must file a completed Form 13-503F1 showing the information required to determine the participation fee due on December 31.

2.4 Specified Ontario Revenues for IIROC Members

(1) The specified Ontario revenues for its reference fiscal year of a registrant firm that was an IIROC member at the end of the reference fiscal year is calculated by multiplying

(a) the registrant firm's total revenue for its reference fiscal year, less the portion of that total revenue not attributable to CFA activities, by

(b) the registrant firm's Ontario percentage for its reference year.

(2) For the purpose of paragraph (1)(a), "total revenue" for a reference fiscal year means the amount shown as total revenue for the reference fiscal year on Statement E of the Joint Regulatory Financial Questionnaire and Report filed with IIROC by the registrant firm.

2.5 Specified Ontario Revenues for Others

(1) The specified Ontario revenues of a registrant firm that was not an IIROC member at the end of its reference fiscal year is calculated by multiplying

(a) the registrant firm's gross revenues, as shown in the audited financial statements prepared for the reference fiscal year, less deductions permitted under subsection (2), by

(b) the registrant firm's Ontario percentage for the reference fiscal year.

(2) For the purpose of paragraph (1)(a), a registrant firm may deduct the following items otherwise included in gross revenues:

(a) revenue not attributable to CFA activities,

(b) advisory or sub-advisory fees paid during the reference fiscal year by the registrant firm to a person or company registered as a dealer or an adviser under the CFA or under the *Securities Act*.

2.6 Estimating Specified Ontario Revenues for Late Fiscal Year End

(1) If the reference fiscal year of a registrant firm in respect of a participation fee under section 2.2 coincides with the previous fiscal year in respect of the participation fee and the annual financial statements of the registrant firm for the previous fiscal year have not been completed by December 1 in the calendar year in which the previous fiscal year ends, the registrant firm must,

(a) on December 1 in that calendar year, file a completed Form 13-503F1 showing a good faith estimate of the information required to calculate its specified Ontario revenues as at the end of the fiscal year, and

(b) on December 31 in that calendar year, pay the participation fee shown in Appendix A opposite the specified Ontario revenues estimated under paragraph (a).

(2) A registrant firm that estimated its specified Ontario revenues under subsection (1) must, when its annual financial statements for the previous fiscal year have been completed,

(a) calculate its specified Ontario revenues under section 2.4 or 2.5, as applicable,

(b) determine the participation fee shown in Appendix A opposite the specified Ontario revenues calculated under paragraph (a),

(c) complete a Form 13-503F1 reflecting the annual financial statements, and

(d) if the participation fee determined under paragraph (b) differs from the participation fee paid under subsection (1), the registrant firm must, not later than 90 days after the end of the previous fiscal year,

(i) pay the amount, if any, by which

(A) the participation fee determined without reference to this section,

exceeds

(B) the corresponding participation fee paid under subsection (1),

(ii) file the Form 13-503F1 completed under paragraph (c), and

(iii) file a completed Form 13-503F2.

(3) If a registrant firm paid an amount paid under subsection (1) that exceeds the corresponding participation fee determined without reference to this section, the registrant firm is entitled to a refund from the Commission of the excess.

2.7 Late Fee

(1) A registrant firm that is late in paying a participation fee under this Part must pay an additional fee of one-tenth of one percent of the unpaid portion of the participation fee for each business day on which any portion of the participation fee remains due and unpaid.

(2) The amount determined under subsection (1) in respect of the late payment of a participation fee by a registrant firm is deemed to be nil if

(a) the registrant firm pays an estimate of the participation fee in accordance with subsection 2.6(1), or

(b) the amount otherwise determined under subsection (1) in respect of the late payment of participation fee is less than $10.

PART 3 — ACTIVITY FEES

3.1 Activity Fees — A person or company that files a document or takes an action listed in Appendix B must, concurrently with filing the document or taking the action, pay the activity fee shown in Appendix B opposite the description of the document or action.

3.2 Late Fee — A person or company that files a document listed in Appendix C after the document was required to be filed must, concurrently with filing the document, pay the late fee shown in Appendix C opposite the description of the document.

PART 4 — CURRENCY CONVERSION

4.1 Canadian Dollars — If a calculation under this Rule requires the price of a security, or any other amount, as it was on a particular date and that price or amount is not in Canadian dollars, it must be converted into Canadian dollars using the daily noon exchange rate for that date as posted on the Bank of Canada website.

PART 5 — EXEMPTION

5.1 Exemption — The Director may grant an exemption from the provisions of this Rule, in whole or in part, subject to such conditions or restrictions as may be imposed in the exemption.

PART 6 — REVOCATION AND EFFECTIVE DATE

6.1 Revocation — Rule 13-503 *(Commodity Futures Act) Fees*, which came into force on April 1, 2006, is revoked.

6.2 Effective Date — This Rule comes into force on April 1, 2009.

APPENDIX A — PARTICIPATION FEES

Specified Ontario Revenues for the Reference Fiscal Year	Participation Fee
under $500,000	$1,000
$500,000 to under $1 million	$3,500
$1 million to under $3 million	$7,500
$3 million to under $5 million	$14,100
$5 million to under $10 million	$29,000
$10 million to under $25 million	$59,000
$25 million to under $50 million	$88,300
$50 million to under $100 million	$177,000
$100 million to under $200 million	$295,000
$200 million to under $500 million	$595,000
$500 million to under $1 billion	$770,000
$1 billion to under $2 billion	$970,000
$2 billion and over	$1,600,000

APPENDIX B - ACTIVITY FEES

Document or Activity	Fee
A. Applications for relief, approval and recognition	
1. Any application for relief, regulatory approval or recognition under an eligible CFA section, being for the purpose of this item any provision of the CFA or any Regulation or OSC Rule made under the CFA not listed in item A.2 or A.3. *Note: The following are included in the applications that are subject to a fee under this item:* *(i) recognition of an exchange under section 34 of the CFA, a self-regulatory organization under section 16 of the CFA or a clearing house under section 17 of the CFA;* *(ii) registration of an exchange under section 15 of the CFA;* *(iii) approval of the establishment of a council, committee or ancillary body under section 18 of the CFA;* *(iv) applications by a person or company under subsection 78(1) of the CFA; and* *(v) exemption applications under section 80 of the CFA.*	$3,250 for an application made under one eligible CFA section and $5,000 for an application made under two or more eligible CFA sections (plus $2,000 if none of the following is not subject to, or is not reasonably expected to become subject to, a participation fee under this Rule or OSC Rule 13-502 under the *Securities Act*: (i) the applicant; (ii) an issuer of which the applicant is a wholly owned subsidiary; (iii) the investment fund manager of the applicant). Despite the above, if an application is made under at least one eligible securities section described in Appendix C(E) 1 of OSC Rule 13-502 and at least one eligible CFA section, the fee in respect of the application is equal to the amount, if any, by which (a) the fee that would have been charged under Appendix C(E) 1 of OSC Rule 13-502 in respect of the application if each eligible CFA section were an eligible securities section exceeds (b) the fee charged under Appendix C(E) 1 of OSC Rule 13-502 in respect of the application.
2. Application under (a) Section 24 or 40 or subsection 36(1) or 46(6) of the CFA, and (b) Subsection 27(1) of the Regulation to the CFA.	Nil
3. An application for relief from any of the following (a) this Rule; (b) OSC Rule 31-509 *(Commodity Futures Act) National Registration Database*; (c) OSC Rule 33-505 *(Commodity Futures Act) Registration Information*; (d) Subsection 37(7) of the Regulation to the CFA.	$1,500

Document or Activity	Fee
B. Registration-Related Activity	
1. New registration of a firm in one or more categories of registration	$600
2. Change in registration category *Note: This includes a dealer becoming an adviser or vice versa, or changing a category of registration within the general category of adviser. A dealer adding a category of registration, such as a dealer becoming both a dealer and an adviser, is covered in the preceding section.*	$600
3. Registration of a new director, officer or partner (trading or advising), salesperson, floor trader or representative *Notes:* *(i) Registration of a new non-trading or non-advising director, officer or partner does not trigger an activity fee.* *(ii) If an individual is registering as both a dealer and an adviser, the individual is required to pay only one activity fee.* *(iii) A registration fee will not be charged if an individual makes application to register with a new registrant firm within three months of terminating employment with his or her previous registrant firm if the individual's category of registration remains unchanged.*	$200 per individual
4. Change in status from a non-trading or non-advising capacity to a trading or advising capacity	$200 per individual
5. Registration of a new registrant firm, or the continuation of registration of an existing registrant firm, resulting from or following an amalgamation of one or more registrant firms	$2,000
6. Application for amending terms and conditions of registration	$500
C. Application for Approval of the Director under Section 9 of the Regulation	$1,500
D. Request for Certified Statement from the Commission or the Director under Section 62 of the CFA	$100

Document or Activity	Fee
E. Requests of the Commission	
1. Request for a photocopy of Commission records	$0.50 per page
2. Request for a search of Commission records	$150
3. Request for one's own Form 7	$30

APPENDIX C – ADDITIONAL FEES FOR LATE DOCUMENT FILINGS

Document	Late Fee
Fee for late filing of any of the following documents: (a) Annual financial statements and interim financial statements; (b) Report under section 15 of Regulation to the CFA; (c) Report under section 17 of Regulation to the CFA; (d) Filings for the purpose of amending Form 5 and Form 7 or Form 33-506F4 under OSC Rule 33-506; (e) Any document required to be filed by a registrant firm or individual in connection with the registration of the registrant firm or individual under the CFA with respect to (i) terms and conditions imposed on a registrant firm or individual, or (ii) an order of the Commission; (f) Form 13-503F1; (g) Form 13-503F2.	$100 per business day (subject to a maximum of $5,000 for a registrant firm for all documents required to be filed within a calendar year)

FORM 13-503F1
(COMMODITY FUTURES ACT)

PARTICIPATION FEE CALCULATION

General Instructions

1. IIROC members must complete Part I of this Form. All other registrant firms must complete Part II. Everyone completes Part III.

2. The components of revenue reported in this Form should be based on accounting standards pursuant to which an entity's financial statements are prepared under Ontario securities law ("Accepted Accounting Standards"), except that revenues should be reported on an unconsolidated basis.

3. IIROC Members may refer to Statement E of the Joint Regulatory Financial Questionnaire and Report for guidance.

4. Participation fee revenue will be based on the portion of total revenue that can be attributed to Ontario for the firm's reference fiscal year. A firm's reference fiscal year is generally its last fiscal year ending before January 1, 2008. For further detail, see the definition of "reference fiscal year" in section 1.1 of the Rule.

5. If a firm's permanent establishments are situated only in Ontario, all of the firm's total revenue for a fiscal year is attributed to Ontario. If permanent establishments are situated in Ontario and elsewhere, the percentage attributed to Ontario for a fiscal year will ordinarily be the percentage of the firm's taxable income that is allocated to Ontario for Canadian income tax purposes for the same fiscal year. For firms that do not have a permanent establishment in Ontario, the percentage attributable to Ontario will be based on the proportion of total revenues generated from CFA activities in Ontario.

6. All figures must be expressed in Canadian dollars and rounded to the nearest thousand.

7. Information reported on this questionnaire must be certified by two members of senior management in Part IV to attest to its completeness and accuracy.

Notes for Part II

1. Gross Revenue is defined as the sum of all revenues reported on a gross basis as per the audited financial statements prepared in accordance with Accepted Accounting Standards, except that revenues should be reported on an unconsolidated basis. Items reported on a net basis must be adjusted for purposes of the fee calculation. Gross revenues are reduced by amounts not attributable to CFA activities.

2. Where the advisory or sub-advisory services of another registrant firm are used by the registrant firm to advise on a portion of its assets under management, such advisory or sub-advisory costs are permitted as a deduction on this line to the extent that they are otherwise included in gross revenues.

Participation Fee Calculation

Firm Name: _____

End date of last completed fiscal year: _____

End date of reference fiscal year: _____

	Reference Fiscal Year $
Part I --- IIROC Members	
1. Total revenue for reference fiscal year from Statement E of the Joint Regulatory Financial Questionnaire and Report	
2. Less revenue not attributable to CFA activities	
3. Revenue subject to participation fee (line 1 less line 2)	
Part II - Other Registrants	
1. Gross revenue for reference fiscal year as per the audited financial statements (note 1)	
Less the following items:	
2. Amounts not attributable to CFA activities	
3. Advisory or sub-advisory fees paid to other registrant firms (note 2)	
4. Revenue subject to participation fee (line 1 less lines 2 and 3)	

Part III – Calculating Specified Ontario Revenues

1. Gross revenue for reference fiscal year subject to participation fee (line 3 from Part I or line 4 from Part II)	
2. Ontario percentage for reference fiscal year (See definition in the Rule)	_____ %
3. Specified Ontario revenues (line 1 multiplied by line 2)	
4. Participation fee (From Appendix A of the Rule, select the participation fee opposite the specified Ontario revenues calculated above)	

Part IV - Management Certification

We have examined the attached statements and certify that, to the best of our knowledge, they present fairly the revenues of the firm for the period ended _____ and are prepared in agreement with the books of the firm.

We certify that the reported revenues of the firm are complete and accurate and in accordance with generally accepted accounting principles.

	Name and Title	Signature	Date
1.	_____	_____	_____
2.	_____	_____	_____

FORM 13-503F2
(COMMODITY FUTURES ACT)

ADJUSTMENT OF FEE PAYMENT

Firm Name: _____

Fiscal Year End: _____

Note: Subsection 2.6(2) of the Rule requires that this Form must be filed concurrent with a completed Form 13-503F1 that shows the firm's actual participation fee calculation.

1. Estimated participation fee paid under subsection 2.6(1) of the Rule: _____

2. Actual participation fee calculated under paragraph 2.6(2)(b) of the Rule: _____

3. Refund due (Balance owing): _____
(Indicate the difference between lines 1 and 2)

ONTARIO SECURITIES COMMISSION
COMPANION POLICY 13-503CP
(COMMODITY FUTURES ACT) FEES

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ONTARIO SECURITIES COMMISSION
COMPANION POLICY 13-503CP
(COMMODITY FUTURES ACT) FEES

PART 1 — PURPOSE OF COMPANION POLICY

1.1 Purpose of Companion Policy — The purpose of this Companion Policy is to state the views of the Commission on various matters relating to OSC Rule 13-503 *(Commodity Futures Act) Fees* (the "Rule"), including an explanation of the overall approach of the Rule and a discussion of various parts of the Rule.

PART 2 — PURPOSE AND GENERAL APPROACH OF THE RULE

2.1 Purpose and General Approach of the Rule

(1) The general approach of the Rule is to establish a fee regime that is consistent with the approach of OSC Rule 13-502 (the "OSA Fees Rule"), which governs fees paid under the *Securities Act*. Both rules are designed to create a clear and streamlined fee structure and to adopt fees that reflect the Commission's costs of regulating Ontario capital markets.

(2) The fee regime of the Rule is based on the concepts of "participation fees" and "activity fees".

2.2 Participation Fees

(1) Registrant firms are required to pay participation fees annually. Participation fees are designed to cover the Commission's costs not easily attributable to specific regulatory activities . The participation fee required of each market participant is based on a measure of the market participant's size, which is used as a proxy for its proportionate participation in the Ontario capital markets.

(2) Participation fees are determined with reference to gross revenue from a firm's "reference fiscal year". As defined in section 1.1 of the Rule, a firm's reference fiscal year is the firm's last fiscal year ending before January 1, 2008, except where the market participant was not a registrant firm throughout that pre-2008 fiscal year. In these exceptional cases, the firm's reference fiscal year is its last completed fiscal year before the participation fee is required to be paid (which is defined in section 1.1 of the Rule as the firm's "previous fiscal year").

(3) It is contemplated that a registrant's "reference fiscal year" will be refreshed every two years. This reflects a decision of the Commission to have a two-year cycle for fees rather than a three year cycle. This would imply that the Rule will need to be changed for participation fees that become payable after March 31, 2011, in order to allow for the use of 2009 data (rather than 2007 data).

2.3 Application of Participation Fees — Although participation fees are determined by using information from a fiscal year of a registrant firm ending before the time of the payment, participation fees are applied to the costs of the Commission of regulating the ongoing participation in Ontario's capital markets of the firm and other firms.

2.4 Registered Individuals — The participation fee is paid at the firm level under the Rule. That is, a "registrant firm" is required to pay a participation fee, not an individual who is registered as a salesperson, representative, partner, or officer of the firm.

2.5 Activity Fees — Activity fees are generally charged where a document of a designated class is filed. Estimates of the direct cost of Commission resources expended in undertaking the activities listed in Appendix B of the Rule are considered in determining these fees (e.g., reviewing registration applications and applications for discretionary relief). Generally, the activity fee charged for filing a document of a particular class is based on the average cost to the Commission of reviewing documents of the class.

2.6 Registrants under the CFA and the *Securities Act*

(1) A registrant firm that is registered both under the CFA and the *Securities Act* is exempted by section 2.1 of the Rule from the requirement to pay a participation fee under the Rule if it is current in paying its participation fees under the OSA Fees Rule. The registrant firm will include revenues derived from CFA activities as part of its revenues for purposes of determining its participation fee under the OSA Fees Rule.

(2) A registrant firm that is registered both under the CFA and the *Securities Act* must pay activity fees under the CFA Rule even though it pays a participation fee under the OSA Fees Rule.

2.7 No Refunds

(1) Generally, a person or company that pays a fee under the Rule is not entitled to a refund of that fee. For example, there is no refund available for an activity fee paid in connection with an action that is subsequently abandoned by the payor of the fee. Also, there is no refund available for a participation fee paid by a registrant firm whose registration is terminated later in the year for which the fee was paid.

(2) An exception to this principle is provided in subsection 2.6(3) of the Rule. This provision allows for a refund where a registrant firm overpaid an estimated participation fee.

(3) The Commission will also consider requests for adjustments to fees paid in the case of incorrect calculations made by fee payors.

2.8 Indirect Avoidance of Rule — The Commission may examine arrangements or structures implemented by registrant firms and their affiliates that raise the suspicion of being structured for the purpose of reducing the fees payable under the Rule. For example, the Commission will be interested in circumstances in which revenues from registrable activities carried on by a corporate group are not treated as revenues of a registrant firm, thereby possibly artificially reducing the firm's specified Ontario revenues and, consequently, its participation fee.

PART 3 — PARTICIPATION FEES

3.1 Filing Forms under Section 2.6 — If the estimated participation fee paid under subsection 2.6(1) by a registrant firm does not differ from its true participation fee determined under subsection 2.6(2), the registrant firm is not required to file either a Form 13-503F1 or a Form 13-503F2 under subsection 2.6(3).

3.2 Late Fees — Section 2.7 of the Rule prescribes an additional fee if a participation fee is paid late. The Commission and the Director will, in appropriate circumstances, consider tardiness in the payment of fees as a matter going to the fitness for registration of a registrant firm.

3.3 "CFA Activities" — Calculation of the participation fee involves consideration of the CFA activities undertaken by a person or company. The term "CFA activities" is defined in section 1.1 of the Rule to include "activities for which registration under the CFA or an exemption from registration is required". The Commission is of the view that these activities include, without limitation, trading in commodity futures contracts, providing commodity futures contracts-related advice and portfolio management services involving commodity futures contracts.

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
05/08/2008 to 09/15/2008	24	2Catalyze, Inc. - Common Shares	5,495,750.00	9,971,134.00
08/28/2008	1	473 Albert Street Office Limited Partnership - Limited Partnership Units	2,000.00	2,000.00
09/15/2008	62	Acero-Martin Exploration Inc. - Units	1,596,767.00	27,312,080.00
07/31/2008	9	ACM Commercial Mortgage Fund - Units	251,613.39	2,505.42
09/15/2008	33	Amazon Potash Corp. - Common Shares	4,600,000.00	4,600,000.00
09/17/2008	2	Amseco Exploration Ltd. - Common Shares	NA	450,000.00
09/12/2008	1	Amseco Exploration Ltd. - Units	200,000.00	100.00
09/18/2008	9	Arianne Resources Inc. - Units	1,013,999.91	14,485,713.00
09/04/2008	16	Atlas Mining Inc. - Units	730,000.00	730,000.00
08/26/2008	1	Auger Resources Ltd. - Units	500,000.00	1,000,000.00
09/16/2008	2	Auger Resources Ltd. - Units	1,005,000.00	2,010,000.00
09/11/2008	4	Bayfield Ventures Corp. - Common Shares	34,300.00	70,000.00
08/15/2008	39	Bell Gold Resources Inc. - Common Shares	434,612.75	3,488,789.00
09/17/2008	6	Black Pearl Minerals Consolidated Inc. - Common Shares	2,205,000.00	6,250,000.00
09/15/2008	14	BSAR (Beverley) LP - Limited Partnership Units	1,625,000.00	325.00
08/20/2008	19	CAI Capital Partners and Company IV, L.P. - Limited Partnership Interest	114,228,000.00	NA
09/18/2008	8	Caldera Geothermal Inc. - Units	53,500.00	535,000.00
09/11/2008	1	Canadian Arrow Mines Limited - Units	70,000.00	500,000.00
09/15/2008	1	Canadian Auto Receivables Enterprise Network Trust II - Notes	791,934,709.75	791,934,709.75
09/11/2008	20	CareVest Blended Mortgage Investment Corporation - Preferred Shares	1,311,700.00	1,311,700.00
09/11/2008 to 09/17/2008	33	CareVest First Mortgage Investment Corporation - Preferred Shares	11,103,039.00	7,818,173.00
09/09/2008	13	Chai Cha Na Mining Inc. - Common Shares	145,832.40	6,944,400.00
09/15/2008	7	CLERA INC. - Units	325,000.00	325,000.00

Transaction Date	No of Purchasers	Issuer/Security	Total Purchase Price ($)	No of Securities Distributed
09/08/2008 to 09/16/2008	5	CMC Markets UK plc - Contracts for Differences	16,900.00	5.00
09/18/2008 to 09/26/2008	10	CMC Markets UK plc - Contracts for Differences	130,500.00	10.00
03/13/2008 to 03/27/2008	1	Consumer Discretionary Select Sector SPDR Fund - Units	634,376.00	19,600.00
12/31/2006	11	Digital Payment Technologies Corp. - Preferred Shares	2,795,964.39	9,173,672.00
04/30/2008	51	Discovery Ridge Capital Corp. - Common Shares	157,000.00	1,570,000.00
09/12/2008	3	dna 13 Inc. - Preferred Shares	2,800,000.00	10,629,640.00
08/15/2008	69	Eagleridge Minerals Ltd. - Common Shares	158,147.05	1,214,933.00
09/02/2008 to 09/23/2008	26	Edgeworth Mortgage Investment Corporation - Preferred Shares	1,051,700.00	105,170.00
03/28/2008 to 03/31/2008	2	Energy select Sector SPDR Fund - Units	14,965,500.00	200,000.00
09/16/2008	3	Equimor Mortgage Investment Corporation - Special Shares	164,762.00	164,762.00
04/04/2008 to 04/23/2008	11	Financial Select Sector SPDR Fund - Units	34,978,030.55	1,302,575.00
03/10/2008 to 04/03/2008	10	Financial Select Sector SPDR Fund - Units	32,880,783.94	1,325,333.00
09/08/2008 to 09/10/2008	3	First Leaside Elite Limited Partnership - Limited Partnership Interest	210,250.07	196,070.00
09/10/2008	1	First Leaside Expansion Limited Partnership - Limited Partnership Interest	25,000.00	25,000.00
09/11/2008	1	First Leaside Fund - Trust Units	54,531.00	54,531.00
09/10/2008 to 09/12/2008	2	First Leaside Fund - Trust Units	201,660.00	201,660.00
09/09/2008	1	First Leaside Investors Limited Partnership - Limited Partnership Interest	125,000.00	125,000.00
01/21/2008 to 01/30/2008	79	Fisgard Capital Corporation - Common Shares	1,601,388.47	1,601,380.00
09/15/2008 to 09/19/2008	20	General Motors Acceptance Corporation of Canada, Limited - Notes	7,282,582.72	7,282,582.72
09/12/2008	6	Georgian Partners Growth Fund (Founders International) I, LP - Limited Partnership Interest	1,056,742.00	1,056,742.00
09/12/2008	9	Georgian Partners Growth Fund (Founders) I, LP - Limited Partnership Interest	3,893,258.00	3,893,258.00
09/05/2008	1	Global Leasing Group Inc. - Common Shares	4,000,010.71	1,071.00
04/11/2008 to	2	Hang Seng Investment Index Funds Series	1,344,443.06	10,253.00

Transaction Date	No of Purchasers	Issuer/Security	Total Purchase Price ($)	No of Securities Distributed
04/28/2008		- H-Share Index ETF - Units		
03/14/2008 to 03/24/2008	1	Health Care Select Sector SPDR Fund - Units	2,942,599.00	90,400.00
09/12/2008	4	Hecla Mining Company - Common Shares	1,881,500.00	31,000,000.00
09/12/2008	30	Honda Canada Finance Inc. - Debentures	650,000,000.00	650,000.00
09/16/2008	3	Intertainment Media Inc. - Units	286,000.00	2,860,000.00
03/01/2008 to 05/01/2008	1	Investcorp Interlachen Multi-Strategy Fund Limited - Common Shares	3,943,367.30	3,997.00
04/23/2008 to 05/05/2008	2	iShares Cdn S&P/TSX 60 Index Fund - Units	1,265,249.75	14,925.00
04/21/2008 to 04/24/2008	2	iShares CDN S&P/TSX Capped Financials Index Fund - Units	1,072,200.50	21,950.00
03/27/2008	1	iShares Dow Jones US Technology Sector Index Fund - Units	2,503,738.50	46,050.00
03/12/2008	1	iShares Lehman 20+ Year Treasury Bond Fund - Units	1,864,864.00	20,200.00
04/09/2008 to 05/02/2008	5	iShares MSCI EAFE Index Fund - Units	19,319,680.00	258,050.00
04/04/2008 to 05/02/2008	6	iShares MSCI Emerging Markets Index Fund - Units	71,901,779.30	506,899.00
04/21/2008 to 05/01/2008	2	iShares MSCI EMU Index Fund - Units	589,813.40	5,880.00
04/11/2008 to 04/14/2008	5	iShares MSCI Japan Index Fund - Units	10,141,874.17	784,277.00
03/06/2008 to 03/26/2008	2	iShares Russell 1000 Index Fund - Units	67,208,332.80	938,292.00
03/05/2008 to 04/26/2008	5	iShares Russell 2000 Index Fund - Units	38,182,611.00	568,300.00
03/11/2008 to 03/26/2008	4	iShares Silver Trust - Units	7,617,244.19	42,733.00
09/05/2008	21	KBP Capital Corp. - Common Shares	955.80	9,558.00
09/05/2008	21	Keystone Business Park Inc. - Bonds	955,800.00	9,558.00
08/29/2008	2	Kodiak Exploration Limited - Common Shares	40,000.00	21,278.00
03/07/2008 to 03/24/2008	6	Materials Select Sector SPDR Fund - Units	14,101,174.00	339,800.00
09/18/2008	1	MBAC Opportunities and Financing Inc. - Receipts	10,000,000.00	2,000,000.00
07/17/2008 to 07/25/2008	12	Menova Energy Inc. - Common Shares	296,250.00	282,144.00
10/03/2007	14	Menova Energy Inc. - Common Shares	534,750.00	117,500.00

Transaction Date	No of Purchasers	Issuer/Security	Total Purchase Price ($)	No of Securities Distributed
11/08/2007	4	Menova Energy Inc. - Common Shares	129,385.00	67,600.00
09/24/2008	2	Mill City Gold Corp. - Common Shares	120,000.00	750,000.00
09/10/2008	12	Mines Abcourt Inc./Abcourt Mines Inc. - Common Shares	158,750.00	635,000.00
09/22/2008	1	Moss Lake Gold Mines Ltd. - Common Shares	307,035.25	1,228,141.00
09/17/2008	4	Mountain Boy Minerals Ltd. - Units	476,794.80	3,178,632.00
09/11/2008	1	New Solutions Financial (II) Corporation - Debenture	100,000.00	1.00
09/12/2008 to 09/16/2008	3	Newport Yield Fund - Units	18,597.75	158,861.00
07/01/2008	43	Northern Resources Inc. - Common Shares	141,000.00	1,410,000.00
09/10/2008	2	Onex Partners III LP - Limited Partnership Interest	21,476,000.00	20,000,000.00
09/19/2008	49	Playfair Mining Ltd. - Common Shares	1,105,670.00	10,051,546.00
03/25/2008	1	PowerShares DB US Dollar Index Bullish Fund - Units	442,935.00	19,300.00
03/10/2008 to 03/28/2008	7	Powershares QQQ - Units	5,763,771.00	135,560.00
09/18/2008	1	Premier Gold Mines Limited - Common Shares	224,000.00	100,000.00
09/04/2008	1	Protecode Incorporated - Preferred Shares	750,000.00	2,054,503.00
08/21/2008	1	Radiant Energy Corporation - Common Shares	803,842.00	4,140,278.00
09/18/2008 to 09/24/2008	68	Rochester Resources Ltd. - Units	1,000,350.00	2,223,000.00
07/15/2008	31	Ruskin Capital Partners Corp. - Common Shares	93,000.00	930,000.00
09/12/2008	1	Signature Bank - Common Shares	307,700.00	4,700,000.00
04/04/2008 to 05/05/2008	13	SPDR Trust Series 1 - Units	202,616,494.60	1,458,783.00
09/25/2008	5	Starfire Minerals Inc. - Flow-Through Units	810,000.00	8,100,000.00
09/17/2008	60	Stetson Oil & Gas Ltd. - Units	12,000,000.00	60,000.00
09/17/2008 to 09/19/2008	5	StrataGold Corporation - Common Shares	700,000.00	10,000,000.00
09/15/2008	38	Sunrise Estates (Phase 1 Redwater) Limited Partnership - Limited Partnership Units	1,874,000.00	66.00
04/04/2008	2	Technology Select Sector SPDR Fund - Units	3,116,239.75	132,325.00

Transaction Date	No of Purchasers	Issuer/Security	Total Purchase Price ($)	No of Securities Distributed
09/16/2008	7	The Sound of Music (Canada) Inc. - Common Shares	3,523,387.50	3,523,387.50
08/18/2008	2	Trez Capital Corporation - Mortgage	500,000.00	500,000.00
09/11/2008	3	Trillium Therapeutics Inc. - Debentures	5,000,000.00	5,000,000.00
09/09/2008	1	TrueContext Corporation - Preferred Shares	533,950.00	500,000.00
09/15/2008	1	TTH LP - Limited Partnership Units	1,200,000.00	240.00
09/16/2008	3	UB Technologies Inc. - Units	450,000.00	3,000,000.00
03/24/2008	1	Ultra Financials ProShares - Units	2,688,460.00	81,600.00
03/17/2008 to 03/19/2008	1	Ultra S&P500 ProShares - Units	2,063,714.00	31,700.00
03/12/2008	1	Ultrashort Industrials Proshares - Units	131,540.00	2,000.00
08/08/2008	1	Unison Capital Partners III (A) L.P. - Limited Partnership Interest	96,980,000.00	10,000,000,000.00
12/24/2007	4	Voice Enabling Systems Technology Inc. - Units	174,999.48	213,414.00
09/15/2008	2	Wabamun Lakeview Estates Limited Partnership - Limited Partnership Unit	39,000.00	1.00
09/16/2008	2	Walkers Line Industrial Limited Partnership - Limited Partnership Interest	14,200,000.00	1.00
09/10/2008	4	Walton AZ Picacho View 3 Investment Corporation - Common Shares	38,830.00	3,883.00
09/11/2008	11	Walton AZ Picacho View Limited Partnership 2 - Units	597,539.55	56,107.00
09/12/2008	31	Walton AZ Sawtooth Investment Corporation - Common Shares	755,190.00	75,519.00
09/18/2008	31	Walton AZ Sawtooth Investment Corporation - Common Shares	825,180.00	82,518.00
09/18/2008	3	Walton AZ Sawtooth Limited Partnership - Limited Partnership Units	983,486.01	92,035.00
09/12/2008	27	Walton TX South Grayson Investment Corporation - Common Shares	794,200.00	79,420.00

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Chapter 11

IPOs, New Issues and Secondary Financings

Issuer Name:
BMO Nesbitt Burns All Equity Portfolio Fund
BMO Nesbitt Burns Balanced Fund
BMO Nesbitt Burns Balanced Portfolio Fund
BMO Nesbitt Burns Bond Fund
BMO Nesbitt Burns Canadian Stock Selection Fund
BMO Nesbitt Burns Growth Portfolio Fund
BMO Nesbitt Burns International Equity Fund
BMO Nesbitt Burns U.S. Stock Selection Fund
Principal Regulator - Ontario
Type and Date:
Preliminary Simplified Prospectuses dated September 30, 2008
NP 11-202 Receipt dated September 30, 2008
Offering Price and Description:
Class A, F and I Units
Underwriter(s) or Distributor(s):
BMO Nesbitt Burns Inc.
BMO Nesbitt Burns Inc.
Promoter(s):
BMO Nesbitt Burns Inc.
Project #1327386

Issuer Name:
CanAsia Financial Inc.
Principal Regulator – Alberta
Type and Date:
Preliminary CPC Prospectus dated September 29, 2008
NP 11-202 Receipt dated September 30, 2008
Offering Price and Description:
$300,000.00 - 3,000,000 Class "A" Common Shares
Price: $0.10 per Class "A" Common Share
Underwriter(s) or Distributor(s):
Leede Financial Markets Inc.
Promoter(s):
Jay Leung
Project #1326878

Issuer Name:
CFI Trust
Principal Regulator - Ontario
Type and Date:
Amended and Restated Preliminary Short Form Base Shelf Prospectus dated September 25, 2008
NP 11-202 Receipt dated September 26, 2008
Offering Price and Description:
Up to $500,000,000.00 of Receivables -Backed Notes
Underwriter(s) or Distributor(s):
-
Promoter(s):
Corpfinance International Limited
Project #1310217

Issuer Name:
EnerVest Diversified Income Trust
Principal Regulator - Alberta
Type and Date:
Preliminary Short Form Prospectus dated September 26, 2008
NP 11-202 Receipt dated September 26, 2008
Offering Price and Description:
Exchange offer for up to * Units ($500,000,000.00) and Warrant Offering to Existing Unit holders to acquire up to * Units
Underwriter(s) or Distributor(s):
CIBC World Markets Inc.
Promoter(s):
-
Project #1325632

Issuer Name:
Fidelity Balanced Income Pool
Fidelity Balanced Pool
Fidelity Canadian Equity Investment Trust
Fidelity Canadian Equity Pool
Fidelity Concentrated Canadian Equity Investment Trust
Fidelity Concentrated Canadian Equity Pool
Fidelity Fixed Income Pool
Fidelity Global Equity Investment Trust
Fidelity Global Equity Pool
Fidelity International Equity Investment Trust
Fidelity International Equity Pool
Fidelity Money Market Pool
Fidelity U.S. Equity Investment Trust
Fidelity U.S. Equity Pool
Principal Regulator - Ontario
Type and Date:
Preliminary Simplified Prospectuses dated September 24, 2008
NP 11-202 Receipt dated September 24, 2008
Offering Price and Description:
Series B, D, O, S5, S8, I, I5, I8 Securities
Underwriter(s) or Distributor(s):
Fidelity Investments Canada ULC
Fidelity Investments Canada ULC
Promoter(s):
Fidelity Investments Canada ULC
Project #1324009

Issuer Name:
Global Iman Fund
Principal Regulator - Ontario
Type and Date:
Preliminary Simplified Prospectus dated September 22, 2008
NP 11-202 Receipt dated September 25, 2008
Offering Price and Description:
A, F and I Units
Underwriter(s) or Distributor(s):
Global Prosperata Funds Inc.
Promoter(s):
Global Prosperata Funds Inc.
Project #1320633

Issuer Name:
LifePoints All Equity Class Portfolio
LifePoints Balanced Class Portfolio
LifePoints Balanced Growth Class Portfolio
LifePoints Long-Term Growth Class Portfolio
Russell Canadian Equity Class
Russell Diversified Monthly Income Class Portfolio
Russell Emerging Markets Equity Class
Russell Global Equity Class
Russell Managed Yield Class
Russell Money Market Class
Russell Overseas Equity Class
Russell Retirement Essentials Class Portfolio
Russell US Equity Class
Principal Regulator - Ontario
Type and Date:
Preliminary Simplified Prospectuses dated September 25, 2008
NP 11-202 Receipt dated September 25, 2008
Offering Price and Description:
Series B, F, F-5, F-6, F-7, I-5, I-6 and I-7 Shares
Underwriter(s) or Distributor(s):
Russell Investments Canada Limited
Russell Investments Canada Limited
Promoter(s):
Russell Investments Canada Limited
Project #1324752

Issuer Name:
Minati Capital Corp.
Principal Regulator - British Columbia
Type and Date:
Amended and Restated Preliminary CPC Prospectus dated September 25, 2008
NP 11-202 Receipt dated September 26, 2008
Offering Price and Description:
$200,000.00
2,00,000 Common Shares
Price - $0.10 per Common Share
Underwriter(s) or Distributor(s):
Northern Securities Inc.
Promoter(s):
Geoff Balderson
Project #1245508

Issuer Name:
RBC Private U.S. Diversified Equity Pool
Principal Regulator - Ontario
Type and Date:
Preliminary Simplified Prospectus dated September 24, 2008
NP 11-202 Receipt dated September 25, 2008
Offering Price and Description:
Series O and F Units
Underwriter(s) or Distributor(s):
RBC Asset Management Inc.
RBC Asset Management Inc.
Promoter(s):
RBC Asset Management Inc.
Project #1324530

Issuer Name:
Sunstone Opportunity Fund (2008) Limited Partnership
Principal Regulator - British Columbia
Type and Date:
Preliminary Long Form Prospectus dated September 25, 2008
NP 11-202 Receipt dated
Offering Price and Description:
Minimum - $5,000,000.00 (4,000 Units)
Maximum - $40,000,000 (32,000 Units)
Price: per $1,250 per Unit
Underwriter(s) or Distributor(s):
Dundee Securities Corporation
Raymond James Ltd.
Canaccord Capital Corporation
Sora Group Wealth Advisors Inc.
Blackmont Capital Inc.
HSBC Securities (Canada) Inc.
MGI Securities Inc.
Promoter(s):
Sunstone Realty Advisors Inc.
Project #1325136

Issuer Name:
Sunstone Opportunity (2008) Mortgage Fund
Principal Regulator - British Columbia
Type and Date:
Preliminary Long Form Prospectus dated September 25, 2008
NP 11-202 Receipt dated
Offering Price and Description:
Minimum - $5,000,000.00 (4,000 Units)
Maximum - $40,000,000 (32,000 Units)
Price: per $1,250 per Unit
Underwriter(s) or Distributor(s):
Dundee Securities Corporation
Raymond James Ltd.
Canaccord Capital Corporation
Sora Group Wealth Advisors Inc.
Blackmont Capital Inc.
HSBC Securities (Canada) Inc.
MGI Securities Inc.
Promoter(s):
Sunstone Realty Advisors Inc.
Project #1325141

Issuer Name:
Sunstone Opportunity (2008) Realty Trust
Principal Regulator - British Columbia
Type and Date:
Preliminary Long Form Prospectus dated September 25, 2008
NP 11-202 Receipt dated September 25, 2008
Offering Price and Description:
Minimum - $5,000,000.00 (4,000 Units)
Maximum - $40,000,000 (32,000 Units)
Price: per $1,250 per Unit
Underwriter(s) or Distributor(s):
Dundee Securities Corporation
Raymond James Ltd.
Canaccord Capital Corporation
Sora Group Wealth Advisors Inc.
Blackmont Capital Inc.
HSBC Securities (Canada) Inc.
MGI Securities Inc.
Promoter(s):
Sunstone Realty Advisors Inc.
Project #1325142

Issuer Name:
Thunderhill Exploration Ltd.
Principal Regulator - British Columbia
Type and Date:
Preliminary Long Form Prospectus dated September 24, 2008
NP 11-202 Receipt dated September 25, 2008
Offering Price and Description:
$1,265,000.00 - 25,300,000 Shares Price - $0.05 per Share
Underwriter(s) or Distributor(s):
Canaccord Capital Corporation
Promoter(s):
Edward Farrauto
Project #1324959

Issuer Name:
WARNIC 1 ENTERPRISES LTD.
Principal Regulator - British Columbia
Type and Date:
Amended and Restated Preliminary CPC Prospectus dated September 25, 2008
NP 11-202 Receipt dated September 25, 2008
Offering Price and Description:
Maximum of 12,333,333 Common Shares ($1,850,000.00)
Minimum of 6,666,666 Common Shares ($1,000,000.00)
Price: $0.15 per Common Share
Underwriter(s) or Distributor(s):
Wolverton Securities Ltd.
Promoter(s):
John F. Dunlop
Project #1293466

Issuer Name:
71 Capital Corp.
Principal Regulator - Ontario
Type and Date:
Final Prospectus dated September 26, 2008
NP 11-202 Receipt dated September 29, 2008
Offering Price and Description:
Minimum Offering: $250,000.00 or 2,500,000 Common Shares;
Maximum Offering: $750,000.00 or 7,500,000 Common Shares
Price: $0.10 per Common Share
Underwriter(s) or Distributor(s):
Standard Securities Capital Corporation
Promoter(s):
-
Project #1302000

Issuer Name:
Allman Technologies Inc.
Principal Regulator - Ontario
Type and Date:
Final Prospectus dated September 29, 2008
NP 11-202 Receipt dated September 30, 2008
Offering Price and Description:
$250,000.00
1,250,000 Common Shares
PRICE: $0.20 per Common Share
Underwriter(s) or Distributor(s):
Blackmont Capital Inc.
Promoter(s):
Christopher Irwin
Eric Lowy
Project #1299585

Issuer Name:
Breaking Point Developments Inc.
Principal Regulator - Alberta
Type and Date:
Final Prospectus dated September 24, 2008
NP 11-202 Receipt dated September 26, 2008
Offering Price and Description:
MINIMUM OFFERING: $800,000.10 or 5,333,334 Class "A" Common Shares;
MAXIMUM OFFERING: $1,825,000.05 or 12,166,667 Class "A" Common Shares
Price: $0.15 per Class "A" Common Share
Underwriter(s) or Distributor(s):
PI Financial Corp.
Promoter(s):
Michael Windle
Project #1254493

Issuer Name:
Creststreet Alternative Energy Class
Creststreet Managed Equity Index Class
Creststreet Resource Class
Principal Regulator - Ontario
Type and Date:
Final Simplified Prospectuses dated September 25, 2008
NP 11-202 Receipt dated September 26, 2008
Offering Price and Description:
Mutual fund shares at net asset value
Underwriter(s) or Distributor(s):
Creststreet Asset Management Limited
Promoter(s):
-
Project #1313607

Issuer Name:
Hartford International Equity Fund
Principal Regulator - Ontario
Type and Date:
Final Simplified Prospectus dated September 25, 2008
NP 11-202 Receipt dated September 25, 2008
Offering Price and Description:
Class A Units, Class B Units, Class F Units, Class I Units, Class T(A) Units and Class T(b) Units @ Net Asset Value
Underwriter(s) or Distributor(s):
-
Promoter(s):
Hartford Investments Canada Corp.
Project #1315909

Issuer Name:
Mackenzie Focus America Class
Mackenzie Universal U .S. Growth Leaders Class
Mackenzie Universal U .S. Blue Chip Class
Mackenzie Focus International Class
Mackenzie Sentinel Canadian Managed Yield Class
Mackenzie Sentinel Money Market Fund
Mackenzie Sentinel U.S. Managed Yield Class
Mackenzie Maxxum Canadian Balanced Fund
Principal Regulator - Ontario
Type and Date:
Amendment #6 dated September 23, 2008 to the Simplified Prospectuses and Annual Information Forms (NI 81-101) dated November 14, 2007
NP 11-202 Receipt dated September 26, 2008
Offering Price and Description:
-
Underwriter(s) or Distributor(s):
Quadrus Investment Services Ltd.
Promoter(s):
Mackenzie Financial Corporation
Project #1166245

Issuer Name:
Mavrix Explore 2008 - II FT Limited Partnership
Principal Regulator - Ontario
Type and Date:
Long Form Prospectus dated September 30, 2008
NP 11-202 Receipt dated September 30, 2008
Offering Price and Description:
Maximum Offering: $50,000,000.00 (5,000,000 Units)
Minimum Offering: $5,000,000.00 (500,000 Units)
Price per Unit: $10
Minimum Subscription: 500 Units
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:
Minati Capital Corp.
Principal Regulator - British Columbia
Type and Date:
Final Prospectus dated September 29, 2008
NP 11-202 Receipt dated September 29, 2008
Offering Price and Description:
$200,000.00 - 2,000,000 Common Shares
Price: $0.10 per Common Share
Underwriter(s) or Distributor(s):
Northern Securities Inc.
Promoter(s):
Geoff Balderson
Project #1245508

Issuer Name:
ScotiaMcLeod Canadian Core Portfolio
Principal Regulator - Ontario
Type and Date:
Simplified Prospectus dated September 26, 2008
NP 11-202 Receipt dated September 29, 2008
Offering Price and Description:
Mutual fund trust units at net asset value
Underwriter(s) or Distributor(s):
First Defined Portfolio Management Co.
Promoter(s):
-
Project #1313307

Issuer Name:
The Toronto-Dominion Bank
Principal Regulator - Ontario
Type and Date:
Short Form Base Shelf Prospectus dated September 29, 2008
NP 11-202 Receipt dated September 29, 2008
Offering Price and Description:
$10,000,000,000.00
Debt Securities (subordinated indebtedness)
Common Shares
Class A First Preferred Shares
Warrants to Purchase Preferred Shares
Underwriter(s) or Distributor(s):
-
Promoter(s):
-
Project #1323690

Issuer Name:
USC Family Group Education Savings Plan
USC Family Single Student Education Savings Plan
USC Family Multiple Student Education Savings Plan
Principal Regulator - Ontario
Type and Date:
Long Form Prospectus dated September 25, 2008
NP 11-202 Receipt dated September 30, 2008
Offering Price and Description:
Units @ Net Asset Value
Underwriter(s) or Distributor(s):
-
Promoter(s):
-
Project #1283895, 1283902 & 1283906

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Chapter 12

Registrations

12.1.1 Registrants

Type	Company	Category of Registration	Effective Date
Name Change	From: RSM Equico Canada Inc. To: McGladrey Capital Markets Canada Inc.	Limited Market Dealer	September 19, 2008
Voluntary Surrender of Registration	Foresters Securities (Canada) Inc.	Mutual Fund Dealer	September 19, 2008
New Registration	WaterStreet Family Capital Counsel Inc.	Limited Market Dealer & Investment Counsel & Portfolio Manager	September 24, 2008
Name Change	From: Aviva Capital Management, Inc. To: Aviva Investors North America, Inc.	International Adviser (Investment Counsel & Portfolio Manager)	September 29, 2008
Consent to Suspension	Phillips, Hager & North Investment Management Limited Partnership	Investment Counsel and Portfolio Manager	September 29, 2008
Name Change	From: Drake Goodwin & Co. Canada Limited To: DGM Holdings (Canada) Inc.	Limited Market Dealer	September 29, 2008

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Chapter 13

SRO Notices and Disciplinary Proceedings

13.1.1 MFDA Atlantic Regional Hearing Council Hearing Panel Concludes Leo O'Brien and David Snow Hearing

NEWS RELEASE
For immediate release

MFDA ATLANTIC REGIONAL HEARING COUNCIL
HEARING PANEL CONCLUDES
LEO O'BRIEN AND DAVID SNOW HEARING

September 25, 2008 (St. John's Newfoundland) – A disciplinary hearing in the Matter of Leo O'Brien and David Snow was held yesterday before a Hearing Panel of the Atlantic Regional Council of the Mutual Fund Dealers Association of Canada ("MFDA") in St. John's, Newfoundland.

At the conclusion of the hearing, the Hearing Panel deferred their decision in this matter. They advised that written reasons will be provided at a later date.

A copy of the Notice of Hearing is available on the MFDA web site 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 157 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 MFDA Adjourns Kevin Desbois First Appearance

NEWS RELEASE
For immediate release

MFDA ADJOURNS KEVIN DESBOIS
FIRST APPEARANCE

September 25, 2008 (Toronto, Ontario) – The Mutual Fund Dealers Association of Canada ("MFDA") commenced a disciplinary proceeding in respect of Kevin Desbois by Notice of Hearing dated June 27, 2008.

As specified in the Notice of Hearing, the first appearance in this proceeding commenced today at 10:00 a.m. (Eastern) before a three-member Hearing Panel of the MFDA Central Regional Council. Following consideration of submissions from the parties, the Hearing Panel adjourned the hearing on consent of the parties to a date to be determined. Notice will be given when the hearing has been rescheduled.

A copy of the Notice of Hearing 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 157 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

13.1.3 MFDA Sets Date for Keybase Financial Group Inc. and Dax Sukhraj Hearing in Toronto, Ontario

NEWS RELEASE
For immediate release

MFDA SETS DATE FOR
KEYBASE FINANCIAL GROUP INC. AND
DAX SUKHRAJ HEARING IN TORONTO, ONTARIO

September 29, 2008 (Toronto, Ontario) – The Mutual Fund Dealers Association of Canada ("MFDA") commenced a disciplinary proceeding in respect of Keybase Financial Group Inc. and Dax Sukhraj by Notice of Hearing dated July 24, 2008.

The first appearance in this proceeding took place today at 10:00 a.m. (Ontario) before a three-member Hearing Panel of the MFDA Central Regional Council.

The hearing of this matter on the merits has been scheduled to take place before a Hearing Panel of the Central Regional Council for seven days commencing on Monday, April 20, 2009 through to Friday, April 24, 2009 and Monday, April 27, 2009 and Tuesday, April 28, 2009 at 10:00 a.m. (Ontario) in the Hearing Room located at the offices of the MFDA at 121 King Street West, Suite 1000, Toronto, Ontario, or as soon thereafter as the hearing can be held.

The hearing will be open to the public, except as may be required for the protection of confidential matters.

A copy of the Notice of Hearing is available on the MFDA web site 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 157 members and their approximately 75,000 Approved Persons with a mandate to protect investors and the public interest.

For further information, please contact:
Yvette MacDougall
Hearings Coordinator
(416) 943-4606 or ymacdougall@mfda.ca

13.1.4 Proposed Amendments to MFDA Rule 2.6 Borrowing for Securities Purchases

MUTUAL FUND DEALERS ASSOCIATION OF CANADA

PROPOSED AMENDMENTS TO MFDA RULE 2.6

(BORROWING FOR SECURITIES PURCHASES)

I. OVERVIEW

A. Current Rule

Rule 2.6 currently requires Members to provide each client with a risk disclosure document containing information prescribed by the MFDA upon: (i) the opening of a new account; and (ii) when an Approved Person makes a recommendation for purchasing securities by borrowing or otherwise becomes aware of a client borrowing money for the purpose of investment. The Member need not provide the risk disclosure document required in (ii) if it has already been provided to the client within the six-month period prior to the Approved Person making such a recommendation or becoming aware that the client is going to invest with borrowed funds.

Member Regulation Notice MR-0006 *Borrowing Money to Buy Securities (Leveraging)* ("MR-0006") currently sets out the information that must be included in the risk disclosure document prescribed by Rule 2.6.

B. The Issues

Rule 2.6 is intended to ensure that clients receive balanced and timely disclosure in respect of the risks associated with leveraging. The MFDA has received comments from Members requesting that Rule 2.6 be amended to require leverage risk disclosure only when an Approved Person makes a recommendation to invest using borrowed funds or becomes aware of a client borrowing for investment. Members indicated that the requirement to provide such disclosure on account opening, irrespective of whether leverage is recommended or adopted as a strategy by a client on his/her own initiative, is unnecessary and confusing to clients.

Members have also requested an amendment to exempt Registered Retirement Savings Plan ("RRSP") loans from the disclosure requirements of Rule 2.6. It has been suggested that where clients borrow to invest in an RRSP, the risks are significantly lower and mitigated by the presence of contribution limits for such investments and the availability of a tax refund.

During the course of its regulatory activities, the MFDA has observed that clients fail to fully understand the risks of leveraging and other key considerations as a result of not having been provided with a balanced presentation of such information prior to borrowing to invest. In conjunction with the proposed amendments to MFDA Rule 2.6, MFDA staff will be revising the prescribed risk disclosure language in MR-0006 to address this situation by providing a brief explanation of key risks and relevant considerations in plain language.

C. Objectives

The objectives of the proposed amendments are to ensure that clients receive useful and timely disclosure of the risks of leveraging by requiring such disclosure when necessary and exempting RRSPs, where the risks associated with borrowing to invest are low or mitigated.

D. Effect of Proposed Amendments

The proposed amendments will ensure that clients receive disclosure of the key risks associated with leveraging when it is most meaningful by limiting delivery of the risk disclosure document to instances where leverage is being recommended to the client and when the Approved Person becomes aware of a client borrowing money to invest. The proposed amendments will reduce potential client confusion associated with receiving a document that may not be relevant to client circumstances on account opening.

II. DETAILED ANALYSIS

A. Proposed Amendments

The proposed amendments will eliminate the requirement for a risk disclosure document to be provided on the opening of a new account and continue to require that such disclosure be provided when an Approved Person makes a recommendation to invest using borrowed funds or otherwise becomes aware of a client borrowing monies to invest. A new subsection has been added to Rule 2.6, which provides that a Member need not provide a client with a risk disclosure document where an Approved Person

makes a recommendation to borrow or otherwise becomes aware of a client borrowing money to invest in an RRSP.

B. Issues and Alternatives Considered

No other issues or alternatives were considered.

C. Comparison with Similar Provisions

IIROC Rule 29.26(1)(a)(i) requires that a risk disclosure statement be provided on the opening of a new account. As noted above, the MFDA supports the proposed amendments which move away from this requirement as it is of the view that risk disclosure should only be required when an Approved Person recommends leveraging to a client or becomes aware that a client is considering investing with borrowed funds. Requiring leverage disclosure at account opening, irrespective of whether it has been recommended or is being independently considered by the client, creates unnecessary disclosures that can confuse clients.

The proposed amendments are consistent with section 5.8(1) of proposed National Instrument 31-103 *Registration Requirements* ("NI 31-103"), which does not require that a risk disclosure document be provided on account opening. Section 5.8(1) requires a registrant recommending the use of borrowed money to finance a purchase to provide a risk disclosure statement before the purchase.

IIROC Rule 29.26 and section 5.8 of proposed NI 31-103 do not provide an exception for RRSPs. The MFDA has not identified suitability concerns with respect to borrowing to invest in RRSPs and the risks associated with leveraging in these circumstances are mitigated by the presence of contribution limits for such investments and the availability of a tax refund that can be applied to loan repayments.

D. Systems Impact of Amendments

It is not anticipated that there will be a significant systems impact on Members as a result of the proposed amendments.

E. Best Interests of the Capital Markets

The Board has determined that the proposed amendments are in the best interests of the capital markets.

F. Public Interest Objective

The proposed amendments are in the public interest and will improve the Rule by limiting required delivery of the leverage risk disclosure document to instances where it is most relevant and meaningful to the client, thereby reducing potential client confusion.

III. COMMENTARY

A. Filing in Other Jurisdictions

The proposed amendments will be filed for approval with the Alberta, British Columbia, Manitoba, New Brunswick, Nova Scotia and Ontario Securities Commissions and the Saskatchewan Financial Services Commission.

B. Effectiveness

The proposed amendments are simple and effective.

C. Process

The proposed amendments have been prepared in consultation with relevant departments within the MFDA. The MFDA Board of Directors approved the proposed amendments on September 24, 2008.

D. Effective Date

The proposed amendments will be effective on a date to be subsequently determined by the MFDA.

IV. SOURCES

MFDA Rule 2.6
MFDA Member Regulation Notice MR-0006

V. REQUIREMENT TO PUBLISH FOR COMMENT

The MFDA is required to publish for comment the proposed amendments so that the issues referred to above may be considered by the Recognizing Regulators.

The MFDA has determined that the entry into force of the proposed amendments would be in the public interest and is not detrimental to the capital markets. Comments are sought on the proposed amendments. Comments should be made in writing. One copy of each comment letter should be delivered within 30 days of the publication of this notice, addressed to the attention of the Corporate Secretary, Mutual Fund Dealers Association of Canada, 121 King St. West, Suite 1000, Toronto, Ontario, M5H 3T9 and one copy addressed to the attention of Sarah Corrigall-Brown, Senior Legal Counsel, British Columbia Securities Commission, 701 West Georgia Street, P.O. Box 10142, Pacific Centre, Vancouver, British Columbia, V7Y 1L2.

Those submitting comment letters should be aware that a copy of their comment letter will be made publicly available on the MFDA website at: www.mfda.ca.

Questions may be referred to:

Paige Ward
Director of Policy and Regulatory Affairs
Mutual Fund Dealers Association of Canada
(416) 943-5838

THE MUTUAL FUND DEALERS ASSOCIATION OF CANADA

BORROWING FOR SECURITIES PURCHASES (Rule 2.6)

On September 24, 2008, the Board of Directors of Mutual Fund Dealers Association of Canada made the following amendments to MFDA Rule 2.6:

2.6 BORROWING FOR SECURITIES PURCHASES

(a) Each Member shall provide to each client ~~a~~ risk disclosure ~~document containing the information~~ prescribed by the Corporation ~~when~~ when an Approved Person makes a recommendation for purchasing securities by borrowing, or otherwise becomes aware of a client borrowing monies to invest.

~~(a) a new account is opened for the client; and~~

~~(b) when an Approved Person makes a recommendation for purchasing securities by borrowing, or otherwise becomes aware of a client borrowing monies for the purpose of investment,~~

(b) ~~provided that a~~ A Member is not required to comply with paragraph (~~b~~a) if such a risk disclosure document has been provided to the client by the Member within the six month period prior to such recommendation or becoming so aware.

(c) A Member is not required to comply with paragraph (a) where an Approved Person makes a recommendation to borrow or otherwise becomes aware of the client borrowing monies to invest in a registered retirement savings plan.

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Chapter 25

Other Information

25.1 Approvals

25.1.1 Barclays Global Investors Canada Limited - s. 213(3)(b) of the LTCA

Headnote

Clause 213(3)(b) of the Loan and Trust Corporations Act – application by manager, with a prior track record acting as trustee, for approval to act as trustee of pooled funds to be established and managed by the applicant and offered pursuant to a prospectus exemption.

Statutes Cited:

Loan and Trust Corporations Act, R.S.O. 1990, c. L.25, as am., s. 213(3)(b).

September 16, 2008

Osler, Hoskin & Harcourt LLP
1 First Canadian Place
Toronto, ON M5X 1B8

Attention: Linda Currie

Dear Sirs/Medames:

Re: Barclays Global Investors Canada Limited (the "Applicant")
Application pursuant to clause 213(3)(b) of the Loan and Trust Corporations Act (Ontario) for approval to act as trustee
Application No. 2008/0538

Further to your application dated August 8, 2008 (the "Application") filed on behalf of the Applicant, and based on the facts set out in the Application and in the e-mails dated September 2 and September 12, 2008 and the representation by the Applicant that the assets of the Existing Funds, as defined and listed in Schedule A, and the Future Funds will be held in the custody of a trust company incorporated and licensed or registered under the laws of Canada or a jurisdiction, or a bank listed in Schedule I, II or III of the Bank Act (Canada), or an affiliate of such bank or trust company, the Ontario Securities Commission (the "Commission") makes the following order.

Pursuant to the authority conferred on the Commission in clause 213(3)(b) of the *Loan and Trust Corporations Act* (Ontario), the Commission approves the proposal that the Applicant act as trustee of the Existing Funds and the Future Funds, the securities of which will be offered pursuant to a prospectus exemption.

Yours truly,

"David L. Knight"

"Carol S. Perry"

SCHEDULE A

BGICL Active Canadian Equity Fund
BGICL Active Canadian Equity Ex-Income Trusts
BGICL Daily Active Canadian Equity
BGICL Small Cap Active Canadian Equity Fund
BGICL Large Cap Active Canadian Equity Fund
BGICL CoreActive Universe Bond Fund
BGICL CorePlus Universe Bond Fund
BGICL CorePlus Long Bond Fund
BGICL Long Bond Index Fund
BGICL Universe Bond Index Fund
BGICL Real Return Bond Fund
BGICL EX BBB Universe Bond Index Fund
BGICL S&P/TSX Composite Index Fund
BGICL S&P/TSX Equity Index Fund
BGICL Short Term Investment Fund
BGICL Daily Aggressive Balanced Index Fund
BGICL Daily Conservative Balanced Index Fund
BGICL Daily Moderate Balanced Index Fund
BGICL MSCI EAFE Equity Index Fund
BGICL Daily EAFE Equity Index Fund
BGICL Hedged Pension U.S. Equity Index Fund
BGICL Hedged MSCI EAFE Equity Index Fund
BGICL NonPension U.S. Equity Index Fund
BGICL Pension US Equity Index Fund
BGICL Pension US Alpha Tilts Fund
BGICL Hedged Pension U.S. Alpha Tilts Fund
BGICL Balanced Fund
BGICL EAFE Currency Overlay Fund
BGICL Canada Market Neutral Fund
BGICL Equitized Canada Market Neutral Fund
BGICL Global Market Selection Fund
BGICL LifePath Index 2045 Fund
BGICL LifePath Index 2040 Fund
BGICL LifePath Index 2035 Fund
BGICL LifePath Index 2030 Fund
BGICL LifePath Index 2025 Fund
BGICL LifePath Index 2020 Fund
BGICL LifePath Index 2015 Fund
BGICL LifePath Index 2010 Fund
BGICL LifePath Index Retirement Fund I
BGICL MSCI ACWI Ex Canada Index Fund
BGICL Liability Duration 2009 - 2013 Fund
BGICL Liability Duration 2014 - 2018 Fund
BGICL Liability Duration 2019 - 2023 Fund
BGICL Liability Duration 2024 - 2028 Fund
BGICL Liability Duration 2029 - 2033 Fund
BGICL Liability Duration 2034 - 2038 Fund
BGICL LDI Money Market Fund

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