The Ontario Securities Commission

OSC Bulletin

November 7, 2008

Volume 31, Issue 45

(2008), 31 OSCB

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

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

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

Published under the authority of the Commission by:
Carswell, a Thomson Reuters business
One Corporate Plaza
2075 Kennedy Road
Toronto, Ontario
M1T 3V4

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

Contact Centre - Inquiries, Complaints:	Fax: 416-593-8122
Market Regulation Branch:	Fax: 416-595-8940
Compliance and Registrant Regulation Branch	
- Compliance:	Fax: 416-593-8240
- Registrant Regulation:	Fax: 416-593-8283
Corporate Finance Branch	
- Team 1:	Fax: 416-593-8244
- Team 2:	Fax: 416-593-3683
- Team 3:	Fax: 416-593-8252
- Insider Reporting:	Fax: 416-593-3666
- Mergers and Acquisitions:	Fax: 416-593-8177
Enforcement Branch:	Fax: 416-593-8321
Executive Offices:	Fax: 416-593-8241
General Counsel's Office:	Fax: 416-593-3681
Office of the Secretary:	Fax: 416-593-2318

The OSC Bulletin is published weekly by Carswell, a Thomson Reuters business, under the authority of the Ontario Securities Commission.

Subscriptions are available from Carswell at the price of $649 per year.

Subscription prices include first class postage to Canadian addresses. Outside Canada, these airmail postage charges apply on a current subscription:

U.S.	$175
Outside North America	$400

Single issues of the printed Bulletin are available at $20 per copy as long as supplies are available.

Carswell also offers every issue of the Bulletin, from 1994 onwards, fully searchable on *SecuritiesSource*™, Canada's pre-eminent web-based securities resource. *SecuritiesSource*™ also features comprehensive securities legislation, expert analysis, precedents and a weekly Newsletter. For more information on *SecuritiesSource*™, as well as ordering information, please go to:

http://www.westlawecarswell.com/SecuritiesSource/News/default.htm

or call Carswell Customer Relations at 1-800-387-5164 (416-609-3800 Toronto & Outside of Canada).

Claims from *bona fide* subscribers for missing issues will be honoured by Carswell up to one month from publication date.

Space is available in the Ontario Securities Commission Bulletin for advertisements. The publisher will accept advertising aimed at the securities industry or financial community in Canada. Advertisements are limited to tombstone announcements and professional business card announcements by members of, and suppliers to, the financial services industry.

All rights reserved. No part of this publication may be reproduced, stored in a retrieval system, or transmitted in any form or by any means, electronic, mechanical, photocopying, recording, or otherwise without the prior written permission of the publisher.

The publisher is not engaged in rendering legal, accounting or other professional advice. If legal advice or other expert assistance is required, the services of a competent professional should be sought.

© Copyright 2008 Ontario Securities Commission
ISSN 0226-9325
Except Chapter 7 ©CDS INC.

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

Customer Relations
Toronto 1-416-609-3800
Elsewhere in Canada/U.S. 1-800-387-5164
World wide Web: http://www.carswell.com
Email: carswell.orders@thomsonreuters.com

Table of Contents

Chapter 1 Notices / News Releases 10803
1.1 Notices 10803
1.1.1 Current Proceedings Before The Ontario Securities Commission 10803
1.1.2 Notice of Correction – FAP USA, L.P. – s. 6.1(1) of NI 31-102 National Registration Database and s. 6.1 of OSC Rule 13-502 Fees 10808
1.1.3 Notice of Publication of IIROC Proposed Amendments and Concept Proposal 10808
1.1.4 Notice of Commission Approval – Material Amendments to CDS Rules - Dormant Participants.. 10809
1.2 Notices of Hearing..................................... 10809
1.2.1 Abel da Silva 10809
1.2.2 Brilliante Basilcan Resources Corp. et al. – ss. 127(7), 127(8) 10813
1.3 News Releases 10814
1.3.1 OSC Seeking Order to Appoint Receiver over Affairs of ASL Direct Inc. 10814
1.4 Notices from the Office of the Secretary 10815
1.4.1 Abel Da Silva 10815
1.4.2 Goldbridge Financial Inc. et al. 10815
1.4.3 Brilliante Basilcan Resources Corp. et al. 10816
1.4.4 Brilliante Brasilcan Resources Corp. et al. ... 10816
1.4.5 First Global Ventures, S.A. et al. 10817

Chapter 2 Decisions, Orders and Rulings 10819
2.1 Decisions 10819
2.1.1 7027940 Canada Limited 10819
2.1.2 Capstone Mining Corp. 10821
2.1.3 National Bank Securities Inc. et al. 10823
2.1.4 Cadence Energy Inc. and Barrick Gold Corporation 10827
2.1.5 AIC Limited et al. 10831
2.1.6 Goodman & Company, Investment Counsel Ltd. 10836
2.1.7 Goodman & Company, Investment Counsel Ltd. 10839
2.1.8 Tiomin China Limited.................................... 10841
2.1.9 Barclays Global Investors Canada Limited et al. 10843
2.2 Orders... 10847
2.2.1 American Natural Energy Corporation – s. 144... 10847
2.2.2 Goldbridge Financial Inc. et al. – ss. 127(1), 127(2) 10849
2.2.3 Canaccord Capital Corporation – s. 74(1) 10850
2.2.4 Toronto-Dominion Bank and TD Capital Trust II 10852
2.2.5 Vicis Capital LLC – s. 80 of the CFA 10855
2.2.6 MacGregor Global Investments LLC – s. 218 of the Regulation........................... 10859
2.2.7 SINOPIA Asset Management S.A. – s. 80 of the CFA 10861
2.2.8 Brilliante Brasilcan Resources Corp. et al. –ss. 127(1), 127(8) 10864
2.3 Rulings...(nil)

Chapter 3 Reasons: Decisions, Orders and Rulings 10865
3.1 OSC Decisions, Orders and Rulings........ 10865
3.1.1 Donald James Fitzgerald – s. 26(3).. 10865
3.1.2 First Global Ventures, S.A. et al. – ss. 127, 127.1 10869
3.2 Court Decisions, Order and Rulings ....(nil)

Chapter 4 Cease Trading Orders 10879
4.1.1 Temporary, Permanent & Rescinding Issuer Cease Trading Orders....................... 10879
4.2.1 Temporary, Permanent & Rescinding Management Cease Trading Orders 10879
4.2.2 Outstanding Management & Insider Cease Trading Orders 10879

Chapter 5 Rules and Policies ....(nil)

Chapter 6 Request for Comments ....(nil)

Chapter 7 Insider Reporting 10881

Chapter 8 Notice of Exempt Financings............ 10957
Reports of Trades Submitted on Forms 45-106F1 and 45-501F1............ 10957

Chapter 9 Legislation..(nil)

Chapter 11 IPOs, New Issues and Secondary Financings.. 10961

Chapter 12 Registrations...................................... 10969
12.1.1 Registrants.. 10969

Chapter 13 SRO Notices and Disciplinary Proceedings 10971
13.1.1 MFDA Issues Notice of Hearing Regarding Michele and Jeffrey Longchamps 10971
13.1.2 MFDA Reschedules Hearing on Merits Regarding Farm Mutual Financial Services Inc. 10972
13.1.3 MFDA Adjourns Hearing on Merits in the Matter of Brian Edward Mark Nerdahl.......... 10973
13.1.4 Technical Amendments to CDS Procedures – Dormant Participants – Notice of Effective Date 10974
13.1.5 Technical Amendments to CDS Rules – Ongoing Documentation Requirements for Dormant Participants – Notice of Effective Date 10976

13.1.6 Technical Amendments to CDS Procedures – Enhanced Selection Criteria and Inclusion of Withholding Tax on the Settled Transactions Report (000038B) – Notice of Effective Date 10977

Chapter 25 Other Information .... (nil)

Index 10979

Chapter 1

Notices / News Releases

1.1 Notices

1.1.1 Current Proceedings Before The Ontario Securities Commission

NOVEMBER 7, 2008

CURRENT PROCEEDINGS

BEFORE

ONTARIO SECURITIES COMMISSION

\- -

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

The Harry S. Bray Hearing Room
Ontario Securities Commission
Cadillac Fairview Tower
Suite 1700, Box 55
20 Queen Street West
Toronto, Ontario
M5H 3S8

Telephone: 416-597-0681 Telecopier: 416-593-8348

CDS **TDX 76**

Late Mail depository on the 19th Floor until 6:00 p.m.

\- -

THE COMMISSIONERS

W. David Wilson, Chair	—	WDW
James E. A. Turner, Vice Chair	—	JEAT
Lawrence E. Ritchie, Vice Chair	—	LER
Paul K. Bates	—	PKB
Mary G. Condon	—	MGC
Margot C. Howard	—	MCH
Kevin J. Kelly	—	KJK
Paulette L. Kennedy	—	PLK
David L. Knight, FCA	—	DLK
Patrick J. LeSage	—	PJL
Carol S. Perry	—	CSP
Suresh Thakrar, FIBC	—	ST
Wendell S. Wigle, Q.C.	—	WSW

SCHEDULED OSC HEARINGS

November 10-18, 2008 9:30 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: WSW/DLK/MCH
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: TBA
November 14, 2008 10:00 a.m.	**Brilliante Brasilcan Resources Corp., York Rio Resources Inc., Brian W. Aidelman, Jason Georgiadis, Richard Taylor and Victor York** s. 127 S. Horgan in attendance for Staff Panel: JEAT/PLK
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 24, 2008 10:00 a.m.	**Irwin Boock, Stanton De Freitas, Jason Wong, Saudia Allie, Alena Dubinsky, Alex Khodjiants, Select American Transfer Co., Leasesmart, Inc., Advanced Growing Systems, Inc., International Energy Ltd., Nutrione Corporation, Pocketop Corporation, Asia Telecom Ltd., Pharm Control Ltd., Cambridge Resources Corporation, 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: ST/DLK
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/PLK
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: JEAT/MCH/PLK
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: JEAT
December 1, 2008 10:00 a.m.	**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: JEAT
December 1, 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: ST/MCH
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: JEAT/PLK
December 4, 2008 11:00 a.m.	**Shane Suman and Monie Rahman** s. 127 & 127(1) C. Price in attendance for Staff Panel: JEAT/MCH
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: WSW/DLK/CSP

December 9, 2008 2:30 p.m.	**Gold-Quest International, Health and Harmoney, Iain Buchanan and Lisa Buchanan** s.127 H. Craig in attendance for Staff Panel: ST/MCH
January 5, 2009 TBA	**FactorCorp Inc., FactorCorp Financial Inc. and Mark Twerdun** s. 127 M. Mackewn in attendance for Staff Panel: TBA
January 5, 2009 10:00 a.m.	**Xi Biofuels Inc., Biomaxx Systems Inc., Ronald David Crowe and Vernon P. Smith** and **Xiiva Holdings Inc. carrying on Business as Xiiva Holdings Inc., Xi Energy Company, Xi Energy and Xi Biofuels** s. 127 M. Vaillancourt in attendance for Staff Panel: 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: PJL/KJK
January 19, 2009 10:00 a.m.	**Goldbridge Financial Inc., Wesley Wayne Weber and Shawn C. Lesperance** s. 127 J. Feasby in attendance for Staff Panel: JEAT/PLK
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: JEAT/DLK/PLK
February 9, 2009 10:00 a.m.	**MRS Sciences Inc. (formerly Morningside Capital Corp.), Americo DeRosa, Ronald Sherman, Edward Emmons and Ivan Cavric** s. 127 & 127(1) D. Ferris in attendance for Staff Panel: TBA
February 16, 2009 9:30 a.m.	**Hollinger Inc., Conrad M. Black, F. David Radler, John A. Boultbee and Peter Y. Atkinson** s.127 J. Superina in attendance for Staff Panel: LER/MCH
February 19, 2009 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 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 13, 2009 10:00 a.m.	**Matthew Scott Sinclair** 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
June 1, 2009 10:00 a.m.	**Robert Kasner** s. 127 H. Craig 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
November 16, 2009 10:00 a.m.	**Sulja Bros. Building Supplies, Ltd. (Nevada), Sulja Bros. Building Supplies Ltd., Kore International Management Inc., Petar Vucicevich and Andrew DeVries** s. 127 & 127.1 M. Britton in attendance for Staff Panel: 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	**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	**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	**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

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

1.1.2 Notice of Correction – FAP USA, L.P. – s. 6.1(1) of NI 31-102 National Registration Database and s. 6.1 of OSC Rule 13-502 Fees

The date was inadvertently omitted from this decision, which was published (2008), 31 OSCB 10352 (October 24, 2008).

The decision was dated October 8, 2008.

1.1.3 Notice of Publication of IIROC Proposed Amendments and Concept Proposal

NOTICE OF PUBLICATION OF IIROC PROPOSED AMENDMENTS AND CONCEPT PROPOSAL

On October 27, 2008, the Investment Industry Regulatory Organization of Canada (IIROC) requested comments with respect to proposed amendments (Proposed Amendments) to the Universal Market Integrity Rules and a concept proposal (Concept Proposal) that would be consequential to the implementation by the Canadian Securities Administrators (CSA) of proposed changes to National Instrument 23-101 – *Trading Rules* regarding trade-through protection (IIROC Notice 08-0163). The Proposed Amendments and Concept Proposal have not been filed with the CSA for formal review. It is anticipated that the Proposed Amendments will be formally filed with the CSA and published for comment in accordance with the Joint Rule Review Protocol once the Proposed Amendments have been ratified by the IIROC Board. Comments on the Proposed Amendments and Concept Proposal should be delivered to IIROC by January 9, 2009. Please visit www.iiroc.ca under the heading "Policy" for further information and the full text of the Proposed Amendments and Concept Proposal.

1.1.4 Notice of Commission Approval – Material Amendments to CDS Rules - Dormant Participants

CDS CLEARING AND DEPOSITORY SERVICES INC.

MATERIAL AMENDMENTS TO CDS RULES

DORMANT PARTICIPANTS RULE AMENDMENTS

NOTICE OF COMMISSION APPROVAL

In accordance with the Rule Protocol between the Ontario Securities Commission (Commission) and CDS Clearing and Depository Services Inc. (CDS), the Commission approved on October 28, 2008, amendments filed by CDS to its rules governing dormant participants to clarify how participants become dormant, the dormancy fees payable, and the fees to be paid upon reactivation. A copy and description of these amendments were published for comment on June 27, 2008 at (2008) 31 OSCB 6698. No comments were received.

1.2 Notices of Hearing

1.2.1 Abel da Silva

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

AND

IN THE MATTER OF
ABEL DA SILVA

NOTICE OF HEARING

TAKE NOTICE THAT the Ontario Securities Commission (the "Commission") will hold a hearing pursuant to sections 127 and 127.1 of the *Securities Act*, R.S.O. 1990, c. S.5, as amended (the "Act") at the offices of the Commission, 20 Queen Street West, 17th Floor, Large Hearing Room, commencing on November 27, 2008 at 3 p.m., or as soon thereafter as the hearing can be held:

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

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

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

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

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

(e) pursuant to clause 8 of subsection 127(1), the Respondent be prohibited from becoming or acting as a director or officer of any issuer, permanently or for such other period as specified by the Commission;

(f) pursuant to clause 8.2 of subsection 127(1), the Respondent is prohibited from becoming or acting as a director or officer of a registrant, permanently or for such other period as specified by the Commission;

(g) pursuant to clause 8.4 of subsection 127(1), the Respondent is prohibited from becoming or acting as a director or officer of an investment fund manager, permanently or for such other period as specified by the Commission;

(h) pursuant to clause 8.5 of subsection 127(1), the Respondent is prohibited from becoming or acting as a registrant, as an investment fund manager or as a promoter, permanently or for such other period as specified by the Commission;

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

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

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

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

BY REASON OF the allegations set out in the Statement of Allegations of Staff dated October 20, 2008, and such additional allegations as counsel may advise and the Commission may permit;

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

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

DATED at Toronto this 21st day of October, 2008

"John Stevenson"

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

AND

IN THE MATTER OF
ABEL DA SILVA

STATEMENT OF ALLEGATIONS
OF STAFF OF THE
ONTARIO SECURITIES COMMISSION

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

I. THE RESPONDENT

1. Abel Da Silva ("Da Silva") is an individual who resides in the City of Toronto.

II. BACKGROUND TO ALLEGATIONS

- **2004 Allegations and 2006 Sanctions Against Da Silva**

2. Da Silva was a Respondent, along with three other individuals, before the Ontario Securities Commission (the "Commission") as a result of a statement of allegations filed by Staff on November 4, 2004 (the "2004 Allegations"). In the 2004 Allegations, Staff alleged that Da Silva and the other Respondents violated Ontario securities law and acted contrary to the public interest.

3. On January 13, 2005, a pre-hearing conference was held with respect to the 2004 Allegations (the "Conference"). Counsel for Da Silva attended the Conference. As a result of the Conference, the Commission ordered that the hearing on the merits would be held May 24, 2005 through to May 27, 2005 (the "Merits Hearing").

4. The Merits Hearing was heard by the Commission on May 24, 25, 26, and 27, 2005. Da Silva failed to appear at the hearing on the merits and was not represented by counsel.

5. On October 12, 2005, the Commission released its Decision and Reasons with respect to the Merits Hearing (the "Merits Decision").

6. In the Merits Decision, the Commission concluded that Da Silva had been served with the notice of the Merits Hearing and the 2004 Allegations and had chosen not to appear.

7. In the Merits Decision, the Commission also found that Da Silva had violated sections 25(1) and 53 of the Act and had engaged in conduct contrary to the public interest. As a result of the Merits Decision, the Commission ordered a hearing relevant to the matter of sanctions.

8. On January 9, 2006, Da Silva attended before the Commission on the hearing with respect to the question of sanctions as a result of the Merits Decision (the "Sanctions Hearing"). Da Silva was not represented by counsel at the Sanctions Hearing.

9. During the Sanctions Hearing on January 9, 2006, Da Silva made the following misleading statements to the Commission:

a. That he had not worked for a year-and-a-half;

b. That he had been very ill and that he may never be able to work again;

c. That he can't do anything;

d. That he couldn't write a cheque for $7,500.00 (for costs);

e. That he couldn't "even find a job now" and he couldn't "even find a labour job now."; and,

f. That if the Commission ordered him to pay costs in the amount of $7,500.00 he would have to go on welfare.

10. The Commission released its Decision on Sanctions and Reasons with respect to Da Silva and the other respondents in the matter on May 10, 2006 (the "Sanctions Decision") and the Commission made an Order against Da Silva and the other Respondents on May 10, 2006 (the "2006 Order").

11. In the Sanctions Decision, the Commission took into account the submissions made by Da Silva during the Sanctions Hearing and, at paragraph 46 of the Sanctions Decision, the Commission referred to Da Silva's submissions when they stated,

> "Da Silva submitted that he is in poor health and has no future intention of working in the securities industry. He also submitted that he is impecunious and would be unable to afford the $7,500 costs."

12. In the 2006 Order, the Commission ordered the following sanctions against Da Silva:

(a) that pursuant to s. 127(1), clause 2 of the Act, trading, directly or indirectly, in any securities by Da Silva, for his own account or for the account of others, cease for a period of seven years, with the exception that Da Silva be permitted to trade in securities for his own account or for the account of a registered retirement savings plan (as defined in the *Income Tax Act* (Canada)) in which he has sole legal and beneficial ownership and interest, provided that:

(i) the securities are listed and posted for trading on the Toronto Stock Exchange or the New York Stock Exchange (or their successor exchanges) or are issued by a mutual fund which is a reporting issuer;

(ii) Da Silva does not own legally or beneficially more than one per cent of the outstanding securities of the class or series of the class in question; and

(iii) Da Silva must carry out permitted trading through a registered dealer and through accounts opened in his name only and must close any accounts in which he has any legal or beneficial ownership or interest that were not opened in his name only;

(b) that pursuant to s. 127(1), clause 3 of the Act, any exemptions contained in Ontario securities law do not apply to Da Silva for a period of seven years, except for those exemptions necessary to enable Da Silva to trade in securities as permitted by paragraph 59a of this Order; and

(c) that pursuant to s. 127.1(1) of the Act, Da Silva pay the costs of the Commission investigation in the amount of $7,500.

11. Paragraph (a), above, sets out the terms and conditions of cease trade order made by the Commission against Da Silva (the "2006 Cease Trade Order").

- **2007 Examination In The Matter of Limelight Entertainment Inc.**

12. On September 14, 2007, Da Silva was examined, under oath, by Staff of the Commission in connection with Staff's investigation into the activities of Limelight Entertainment Inc., Carlos Da Silva, David C. Campbell, Jacob Moore and Joseph Daniels (the "September 2007 Examination"). During the September 2007 Examination, Da Silva advised Staff of the following:

a) That he worked for Limelight Entertainment between December, 2005 and May, 2006;

b) That he was paid commission by Limelight;

c) That he was not selling securities in the course of his employment by Limelight;

d) That he spent a lot of time on the phone and going to meetings while employed by Limelight;

e) That the payments from Limelight went to the bank account of his company, Premium Resource Marketing Inc. (“Premium”);

f) That he earned at least $17,756.00 over a period of four or five months leading up to April of 2006;

13. These statements by Da Silva reveal the misleading nature of Da Silva’s statements made to the Commission during the Sanctions Hearing.

- **The Al-tar Investigation**

14. Also in 2007, Staff began an investigation into the activities of Al-tar Energy Corp. (“Al-tar”), Alberta Energy Corp. (“Alberta EC”) and the persons and corporations connected with Al-tar and Alberta EC (the “Al-tar Investigation”).

15. During the course of the Al-tar investigation, Staff obtained the banking records of Premium and Da Silva’s personal accounts at TD Canada Trust (“TD”) and CIBC.

16. Premium was incorporated on November 22, 2005 by Da Silva. The registered address of Premium was care of Abel DaSilva, 51 Eastpark Boulevard, Scarborough, Ontario, M1H 1C6. Da Silva was listed as the sole director of Premium. There are no other employees of Premium.

17. The TD banking records indicate that account number 5212041 is an account in the name of Premium (the “Premium TD Account”) and the sole signatory is Da Silva.

18. The banking records for the Premium TD Account show that on January 9, 2006, the day that Da Silva made submissions to the Commission during the Sanctions Hearing, the balance in the Premium TD Account was $16,793.48.

19. The Premium TD Account had a balance of $30,608.04 on May 10, 2006, the day that the Commission released its Sanctions Decision and the 2006 Order.

20. On December 18, 2007, Da Silva swore an affidavit in connection with the Al-tar investigation. In that affidavit, Da Silva confirms that between July, 2006 and December, 2006, he was paid $207,000 in consulting fees by Al-tar.

- **The Colby Cooper Inc. Investigation**

21. Between April 23, 2007 and August 21, 2007, Da Silva traded the securities of a company called Colby Cooper Inc. to twenty-seven investors and received over $45,000 in compensation for those sales.

22. Da Silva has still not paid the Commission’s costs order as set out in the Sanctions Decision and the 2006 Order.

III. STAFF’S ALLEGATIONS

23. The specific allegations advanced by Staff are:

a. On January 9, 2006, Da Silva made statements to the Commission with respect to his employment history and his financial situation, that, in a material respect and at the time and in light of the circumstances under which they were made, were misleading or untrue or did not state a fact that was required to be stated or that was necessary to make the statements not misleading, contrary to section 122(1)(a) of the Act and contrary to the public interest; and,

b. Between and including April 23, 2007 and August 21, 2007, Da Silva breached the Sanctions Decision and the 2006 Cease Trade Order of the Commission by trading securities of Colby Cooper Inc., contrary to section 122(1)(c) of the Act and contrary to the public interest.

Staff reserve the right to make such other allegations as Staff may advise and the Commission may permit.

DATED the 20th day of October, 2008

1.2.2 Brilliante Basilcan Resources Corp. et al. – ss. 127(7), 127(8)

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

AND

IN THE MATTER OF
BRILLIANTE BRASILCAN RESOURCES CORP.,
YORK RIO RESOURCES INC., BRIAN W. AIDELMAN,
JASON GEORGIADIS, RICHARD TAYLOR AND
VICTOR YORK.

NOTICE OF HEARING
Sections 127(7) and 127(8)

WHEREAS on October 21, 2008, the Ontario Securities Commission (the "Commission") issued a temporary cease trade order pursuant to sections 127(1) and 127(5) of the *Securities Act*, R.S.O. 1990, c. S.5, as amended (the "Act") that: all trading in the securities of Brilliante Basilcan Resources Corp. ("Brilliante") shall cease; that Brilliante, York Rio Resources Corp. ("York Rio") and their representatives, including Brian W. Aidelman, Jason Georgiadis, Richard Taylor, and Victor York cease trading in all securities (the "Temporary Order"); and that the Temporary Order expires on the fifteenth day after its making unless extended by order of the Commission.

TAKE NOTICE THAT the Commission will hold a hearing pursuant to subsections 127(7) and (8) of the Act at the offices of the Commission, 20 Queen Street West, 22nd Floor, Toronto, commencing on November 4, 2008 at 10:00 a.m., or as soon thereafter as the hearing can be held;

TO CONSIDER whether it is in the public interest for the Commission:

1) to extend the Temporary Order pursuant to subsections 127(7) and (8) of the Act until the conclusion of the hearing, or until such further time as considered necessary by the Commission;

2) to make such further orders as the Commission considers appropriate;

BY REASON OF the facts recited in the Temporary Order and of such allegations and evidence as counsel may advise and the Commission may permit;

AND TAKE FURTHER NOTICE that any party to the proceedings may be represented by counsel at the hearing;

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

DATED at Toronto this 23rd day of October, 2008

"John Stevenson"
Secretary to the Commission

1.3 News Releases

1.3.1 OSC Seeking Order to Appoint Receiver over Affairs of ASL Direct Inc.

FOR IMMEDIATE RELEASE
October 31, 2008

OSC SEEKING ORDER TO APPOINT RECEIVER OVER AFFAIRS OF ASL DIRECT INC.

TORONTO – On October 17, 2008, the Ontario Securities Commission (OSC) filed an application with the Superior Court of Justice seeking an order appointing a receiver and manager of all the property and assets of ASL Direct Inc. (ASL). ASL is registered with the Commission as a Mutual Fund Dealer and a Limited Market Dealer, and is a member of the Mutual Fund Dealers Association of Canada (MFDA).

This matter will be heard before the Superior Court of Justice, 330 University Avenue, Toronto, on Tuesday, November 4, 2008 at 10:00 a.m. Under section 129 of the *Securities Act*, the Commission may apply to the Court for an order appointing a receiver and manager where it is in the best interests of, among others, security holders or subscribers of the company over which the receiver and manager is appointed, or where it is appropriate for the due administration of Ontario securities law.

On April 22, 2008, the OSC issued Temporary Cease Trade Orders respecting ASL, Adrian Leemhuis (Leemhuis), and Future Growth Group of Funds (Future Growth). Those Orders have been extended to December 1, 2008 and were obtained in the course of investigations conducted by staff of the OSC, the Autorité des marchés financiers (Québec) and the MFDA. The MFDA has initiated its own proceeding against ASL and Leemhuis.

Clients of ASL who may have questions concerning their investments through ASL should direct their enquiries to the MFDA at 416-943-4602.

Copies of the Temporary Cease Trade Orders respecting ASL, Leemhuis and Future Growth are available on the OSC's website (www.osc.gov.on.ca).

The OSC would like to acknowledge the cooperation and assistance of the MFDA in this matter.

For media inquiries:

Wendy Dey
Director, Communications
& Public Affairs
416-593-8120

Laurie Gillett
Manager, Public Affairs
416-595-8913

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

For investor inquiries:

OSC Contact Centre
416-593-8314
1-877-785-1555 (Toll Free)

1.4 Notices from the Office of the Secretary

1.4.1 Abel Da Silva

FOR IMMEDIATE RELEASE
October 30, 2008

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

AND

IN THE MATTER OF
ABEL DA SILVA

TORONTO – The Office of the Secretary issued a Notice of Hearing setting the matter down to be heard on November 27, 2008, at 3:00 p.m. or as soon thereafter as the hearing can be held in the above named matter.

A copy of the Notice of Hearing dated October 21, 2008 and Statement of Allegations of Staff of the Ontario Securities Commission dated October 20, 2008 are available at **www.osc.gov.on.ca**.

OFFICE OF THE SECRETARY
JOHN P. STEVENSON
SECRETARY

For media inquiries:	Wendy Dey Director, Communications & Public Affairs 416-593-8120
	Laurie Gillett Manager, Public Affairs 416-595-8913
	Carolyn Shaw-Rimmington Assistant Manager, Public Affairs 416-593-2361
For investor inquiries:	OSC Contact Centre 416-593-8314 1-877-785-1555 (Toll Free)

1.4.2 Goldbridge Financial Inc. et al.

FOR IMMEDIATE RELEASE
October 30, 2008

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

AND

IN THE MATTER OF
GOLDBRIDGE FINANCIAL INC.,
WESLEY WAYNE WEBER, AND
SHAWN LESPERANCE

TORONTO – Following the hearing on October 28, 2008 the Commission issued an Order with certain provisions that the Order shall expire at the close of business on January 20, 2009, unless it is extended by the Commission, and this matter shall be adjourned to January 19, 2009, at 10:00 a.m.

A copy of the Order dated October 28, 2008 is available at **www.osc.gov.on.ca**.

OFFICE OF THE SECRETARY
JOHN P. STEVENSON
SECRETARY

For media inquiries:	Wendy Dey Director, Communications & Public Affairs 416-593-8120
	Laurie Gillett Manager, Public Affairs 416-595-8913
	Carolyn Shaw-Rimmington Assistant Manager, Public Affairs 416-593-2361
For investor inquiries:	OSC Contact Centre 416-593-8314 1-877-785-1555 (Toll Free)

1.4.3 Brilliante Basilcan Resources Corp. et al.

FOR IMMEDIATE RELEASE
October 31, 2008

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

AND

IN THE MATTER OF
BRILLIANTE BRASILCAN RESOURCES CORP., YORK RIO RESOURCES INC., BRIAN W. AIDELMAN, JASON GEORGIADIS, RICHARD TAYLOR AND VICTOR YORK

TORONTO – The Office of the Secretary issued a Notice of Hearing on October 23, 2008 setting the matter down to be heard on November 4, 2008 at 10:00 a.m. to consider whether it is in the public interest: 1) to extend the Temporary Order pursuant to subsections 127(7) and (8) of the Act until the conclusion of the hearing, or until such further time as considered necessary by the Commission; 2) to make such further orders as the Commission considers appropriate;

A copy of the Notice of Hearing dated October 23, 2008 and Temporary Order dated October 21, 2008 are available at **www.osc.gov.on.ca**.

OFFICE OF THE SECRETARY
JOHN P. STEVENSON
SECRETARY

For media inquiries:

Wendy Dey
Director, Communications
& Public Affairs
416-593-8120

Laurie Gillett
Manager, Public Affairs
416-595-8913

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

For investor inquiries:

OSC Contact Centre
416-593-8314
1-877-785-1555 (Toll Free)

1.4.4 Brilliante Brasilcan Resources Corp. et al.

FOR IMMEDIATE RELEASE
November 5, 2008

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

AND

IN THE MATTER
BRILLIANTE BRASILCAN RESOURCES CORP., YORK RIO RESOURCES INC., BRIAN W. AIDELMAN, JASON GEORGIADIS, RICHARD TAYLOR AND VICTOR YORK

TORONTO – The Commission issued an Order which provides that (1) the above matter is adjourned to November 14, 2008 at 10:00 a.m.; and (2) the Temporary Order is extended until the close of business November 14, 2008 unless further extended by order of the Commission.

A copy of the Order dated November 4, 2008 is available at **www.osc.gov.on.ca**.

OFFICE OF THE SECRETARY
JOHN P. STEVENSON
SECRETARY

For media inquiries:

Wendy Dey
Director, Communications
& Public Affairs
416-593-8120

Laurie Gillett
Manager, Public Affairs
416-595-8913

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

For investor inquiries:

OSC Contact Centre
416-593-8314
1-877-785-1555 (Toll Free)

1.4.5 First Global Ventures, S.A. et al.

FOR IMMEDIATE RELEASE
November 5, 2008

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

AND

IN THE MATTER OF
FIRST GLOBAL VENTURES, S.A.,
ABRAHAM HERBERT GROSSMAN
(a.k.a. ALLEN GROSSMAN)
AND ALAN MARSH SHUMAN
(a.k.a. ALAN MARSH)

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

A copy of the Reasons and Decision on Sanctions and Costs dated November 4, 2008 is available at **www.osc.gov.on.ca**.

OFFICE OF THE SECRETARY
JOHN P. STEVENSON
SECRETARY

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

Laurie Gillett
Manager, Public Affairs
416-595-8913

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

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

This page intentionally left blank

Chapter 2

Decisions, Orders and Rulings

2.1 Decisions

2.1.1 7027940 Canada Limited

Headnote

Multilateral Instrument 11-02 – Passport System – relief from requirement to pay for securities deposited under offer within 10 days of expiry date due to practical problems associated with executing an international transfer of funds under current economic conditions.

Applicable Legislative Provisions

Securities Act, R.S.O. 1990, c. S.5, as am., ss. 98.3, 104(2)(b).

October 30, 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
7027940 CANADA LIMITED
(the Filer)**

DECISION

Background

The principal regulator in the Jurisdiction has received an application from the Filer (the Application) for a decision under the securities legislation of the Jurisdiction of the principal regulator (the Legislation) for a decision under the Legislation exempting the Filer from the requirement contained in Section 98.3(1) of the *Securities Act* (Ontario) to pay for securities deposited under the bid not later than 10 days after the expiry date of the offer to purchase all of the issued and outstanding shares of PBS Coals Limited (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 in British Columbia, Alberta, Saskatchewan, Manitoba, Quebec, New Brunswick, Nova Scotia, Prince Edward Island, Newfoundland and Labrador, the Northwest Territories, the Yukon Territory and the 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. In addition, capitalized terms used but not defined herein have the meaning attributed to such term in the Application.

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* (CBCA), with its head office in Toronto, Ontario. The Filer is an affiliate of Mining Holding Company LLC, a limited liability company incorporated under the laws of Russia.

2. The Filer is not, to its knowledge, in default of its obligations under the securities legislation of Ontario or the securities legislation of the Passport Jurisdictions.

3. PBS Coals Limited (PBS Coals) is a corporation incorporated under the Canada Business Corporations Act (CBCA), with its head office in Friedens, Pennsylvania. PBS Coals does not have any material assets or operations in Canada.

4. PBS Coals is a reporting issuer or the equivalent thereof in Ontario, Alberta and British Columbia. To the knowledge of the Filer, PBS Coals is not in default of its obligations under the securities legislation of Ontario or the securities legislation of the Passport Jurisdictions.

5. PBS Coals is a reporting issuer in Ontario, the shares of PBS Coals are listed and posted for trading on the TSX (under the symbol “PBS”) and the Filer believes that the majority of the shareholders of PBS Coals are located in Ontario. Therefore, PBS Coals has the most significant connection to Ontario.

6. On August 22, 2008, the Filer and PBS Coals, among others, entered into a support and

purchase agreement (the Support Agreement) pursuant to which the Filer agreed to make, and PBS Coals agreed to support, an offer to acquire all of the issued and outstanding shares of PBS Coals (the Offer), on the terms and conditions set forth in the Support Agreement.

7. On September 5, 2008, the Filer mailed its Offer and take-over bid circular to, among others, shareholders of PBS Coals.

8. On October 10, 2008, the initial expiry date of the Offer, the Filer extended its Offer for an additional 10-day period to allow for the receipt of a required regulatory approval. The Expiry Time under the Offer, as extended, was 11:59 p.m. Toronto time on October 24, 2008.

9. Immediately prior to the Expiry Time, the Filer, PBS Coals and the Principal Shareholders reached an agreement (the Supplemental Agreement) pursuant to which (A) the Filer agreed to (a) take-up all shares tendered under the Offer within 10 days of the Expiry Time, and (b) waive all conditions to the Offer; and (B) the Principal Shareholders agreed to (i) a reduction of the proceeds payable to them (but not the other shareholders) under the Offer, and, (ii) subject to regulatory approval, an extension of the time for payment for shares tendered under the Offer to eight business days (November 5, 2008) after the Expiry Time.

10. The eight business day period contemplated by the Supplemental Agreement for payment for shares tendered under the Offer equates to 12 calendar days from the Expiry Time.

11. All of the conditions to the Offer were satisfied or waived at the Expiry Time. On October 25, 2008, the Filer issued a press release announcing the results of the Offer, including that a total of approximately 140,650,905 shares of PBS Coals, which represents approximately 99% of the outstanding shares of PBS Coals, have been tendered and not withdrawn pursuant to the Offer.

12. The Filer and its affiliates are using all reasonable efforts to have the funds available to make payment for the shares tendered under the Offer not later than 10 calendar days after the Expiry Time. However, given the settlement of the Supplemental Agreement immediately prior to the Expiry Time, and in light of the challenging circumstances in the world's financial and commodity markets and the complexities of funding the purchase price from Russia, the Filer may not have the funds from its affiliates within such 10-day period. The Filer expects to receive the funds by that time or shortly thereafter, which is why the Filer, PBS Coals and the Principal Shareholders agreed to extend the date for payment for shares tendered to the Offer, subject to regulatory approval, as provided for in the Supplemental Agreement.

13. As a result of the current global financial and credit crisis, the Filer's affiliates, which are providing the funds for the Offer, have recently experienced undue delays in the processing of wire payments, particularly for substantial amounts of funds across national borders. The combination of these delays, together with the time to comply with Russian hard currency control legislations and the fact that there are four weekend days between the Expiry Time of the Offer and the 10th calendar day following the Expiry Time, may result in the Filer not having received funds to complete the Offer by the close of business on November 3, 2008.

14. The Filer has made adequate arrangements for financing of the Offer and has complied with the financing requirements of the *Securities Act* (Ontario) and is seeking the requested relief to accommodate the practical problems associated with executing an international transfer of funds under current economic conditions.

15. The offer price of C$8.30 per share offered to shareholders, other than the Principal Shareholders, remains unchanged. Approximately 140,650,905 shares of PBS Coals, which represents approximately 99% of the outstanding shares of PBS Coals, have been tendered and not withdrawn pursuant to the Offer.

16. PBS Coals and the Principal Shareholders have agreed to the payment for shares deposited under the Offer not later than 12 days after the Expiry Time.

17. The Principal Shareholders represent approximately 80% of the outstanding shares of PBS Coals and include institutional and individual shareholders, as well as each member of the board of directors of PBS Coals and each member of management who is a shareholder of Mincorp Acquisition Corp., a subsidiary of PBS Coals.

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 the Filer pays for shares deposited under the Offer not later than 12 days after the Expiry Time.

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

"Lawrence E. Ritchie"
Commissioner
Ontario Securities Commission

2.1.2 Capstone Mining Corp.

Headnote

National Policy 11-203 Process For Exemptive Relief Applications in Multiple Jurisdictions - Multilateral Instrument 52-109 Certification of Disclosure in Issuers' Annual and Interim Filings - Application for exemptive relief from the requirement under MI 52-109 (to be replaced by National Instrument 52-109 Certification of Disclosure in Issuers' Annual and Interim Filings effective December 15, 2008) that the Filer's certifying officers file annual certificates in the form of Form 52-109F1 - Filer is a TSX-listed company that intends to complete a reverse takeover transaction (RTO) on or before December 31, 2008 whereby it will be acquired by a venture issuer - Venture issuer acquirer is currently not required to provide certificates containing representations as to disclosure controls and procedures and internal control over financial reporting - Management of the venture issuer acquirer under the RTO will constitute the management of the combined business following completion of the RTO - Filer seeks exemptive relief for its financial year ended December 31, 2008, being the first financial period ended following completion of the RTO - Relief granted subject to conditions, including that the Filer files the required annual certificates for its financial year ended December 31, 2008 in the form of Form 52-109F1 - IPO/RTO under National Instrument 52-109.

Applicable Legislative Provisions

Multilateral Instrument 52-109 Certification of Disclosure in Issuers' Annual and Interim Filings, ss. 2.1, 4.5.

October 28, 2008

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

AND

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

AND

**IN THE MATTER OF
CAPSTONE MINING CORP.
(the Filer)**

DECISION

Background

1 The securities regulatory authority or regulator in each of the Jurisdictions (the Decision Maker) has received an application from the Filer for a decision under the securities legislation of the Jurisdictions (the Legislation) for exemptive relief from the requirement to file annual certificates in the form of Form 52-109F1 under Multilateral Instrument 52-109 *Certification of Disclosure in Issuers' Annual and Interim Filings* (MI 52-109), to be replaced by National Instrument 52-109 (NI 52-109) effective December 15, 2008, for its financial year ended December 31, 2008 (the Exemption Sought).

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

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

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

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

Interpretation

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

Representations

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

1. the Filer is a corporation governed by the *Business Corporations Act* (British Columbia); the registered and head offices of the Filer are located in Vancouver, British Columbia; the Filer's common shares are listed on the Toronto Stock Exchange under the symbol “CS”;

2. Sherwood Copper Corporation (Sherwood) is a corporation continued under the *Canada Business Corporations Act* (CBCA); the registered and head offices of Sherwood are located in Vancouver, British Columbia; the Sherwood common shares and convertible debentures are listed on the TSX Venture Exchange under the symbols “SWC” and “SWC.DB” respectively;

3. the Filer is a reporting issuer in British Columbia, Alberta and Ontario; upon completion of the Arrangement, the Filer will be a reporting issuer or equivalent in each of the provinces of Canada; the Filer and, to the knowledge of the Filer, Sherwood are not in default of any of the requirements of the applicable securities legislation in any of the jurisdictions where they are respectively reporting issuers;

4. the Filer has entered into an agreement with Sherwood to combine their respective businesses pursuant to a plan of arrangement (the Arrangement) under section 192 of the CBCA (the Filer and Sherwood following completion of the Arrangement, the Combined Company);

5. a special meeting of the holders of Sherwood common shares will be held on November 14, 2008, to vote on a special resolution to approve the Arrangement; the Arrangement is expected to close before December 31, 2008;

6. under the Arrangement,

   (a) each Sherwood shareholder will be entitled to receive, for each Sherwood share held, 1.566 Filer shares; and

   (b) each outstanding Sherwood stock option, Sherwood warrant, or Sherwood debenture or other right to acquire Sherwood shares entitles the holder thereof to receive upon its exercise, exchange or conversion 1.566 Filer shares in lieu of one Sherwood share and on the same terms and conditions as the original Sherwood stock option, Sherwood warrant or Sherwood debenture;

7. as part of the Arrangement, Sherwood and a wholly-owned subsidiary of the Filer incorporated under the CBCA for the purpose of the Arrangement will amalgamate to form “Amalco” which corporation will continue as a wholly-owned subsidiary of the Filer;

8. on completion of the Arrangement, the Filer will continue to have its jurisdiction of incorporation in British Columbia; it is expected that the business operations of the Filer and Sherwood will be consolidated and the principal executive office of the Combined Company will be located at Sherwood's current head office in Vancouver, British Columbia;

9. under Canadian generally accepted accounting principles in respect of reverse takeovers as defined under such principles, Sherwood will be the acquirer of the Filer; the chief financial officer of Sherwood will be the chief financial officer of the Combined Company; the financial year ends of each of Sherwood and the Filer are December 31;

10. MI 52-109 specifies Form 52-109F1 as the required form of annual certificate; NI 52-109, which comes into force on December 15, 2008, and applies to all financial periods ending on or after that date, specifies Form 52-109F1 as the required form of annual certificate for an issuer that is a non-venture issuer and Form 52-109FV1 for an issuer that is a venture issuer;

11. the Filer as a TSX-listed company will, if this Arrangement does not complete, be required to file annual certificates in the form of Form 52-109F1; Sherwood as a TSXV-listed company will, if this Arrangement does not complete, be required to file annual certificates in the form of Form 52-109FV1;

12. section 4.4 of NI 52-109 permits an issuer that is a reverse takeover acquiree in a reverse takeover to file annual certificates in the alternative form of Form 52-109F1 – IPO/RTO for the first financial year that ends after completion of a reverse take-over where the reverse takeover acquirer was not a reporting issuer immediately before the reverse takeover; this section would apply to the Filer except that Sherwood, as the reverse takeover acquirer, is a reporting issuer before the reverse takeover;

13. section 4.5 of NI 52-109 permits an issuer to file annual certificates in the alternative form of Form 52-109F1 – IPO/RTO for the first financial year that ends after the issuer becomes a non-venture issuer if the first financial period that ends after the issuer becomes a non-venture issuer is a financial year;

14. the Filer is of the view that the circumstances of this transaction are analogous to the transactions contemplated by the exemptions provided in sections 4.4 and 4.5 of NI 52-109 in that these exemptions recognize that a

reporting issuer requires adequate time, after completion of a reverse takeover in the case of section 4.4 or after becoming a non-venture issuer in the case of section 4.5, to perform the necessary review and establish the appropriate procedures to be able to complete annual certificates in the form of Form 52-109F1; and

15. the Filer is of the view that the Exemption Sought is not against the public interest and is in the best interests of the Filer and Sherwood and their respective shareholders.

Decision

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

The decision of the Decision Makers under the Legislation is that the Exemption Sought is granted provided that:

(a) the Arrangement completes on or before December 31, 2008; and

(b) the Filer files the required annual certificates for its financial year ended December 31, 2008, in the form of Form 52-109F1 – IPO/RTO.

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

2.1.3 National Bank Securities Inc. et al.

Headnote

Mutual Reliance Review System for Exemptive Relief Applications – Exemption from the reporting requirements of clause 117(1)(c) of the Securities Act (Ontario) provided that certain disclosure is made in the management reports of fund performance for each mutual fund and that certain records of portfolio transactions are kept.

Applicable Legislative Provisions

Securities Act, R.S.O. 1990, c. S.5, as am., ss. 117(1)(c), 117(2).

Rules Cited

National Instrument 81-106 – Investment Fund Continuous Disclosure.

October 22, 2008

**IN THE MATTER OF
THE SECURITIES LEGISLATION OF
ONTARIO, BRITISH COLUMBIA, ALBERTA,
SASKATCHEWAN, NEW BRUNSWICK,
NOVA SCOTIA AND NEWFOUNDLAND
AND LABRADOR
(the Jurisdictions)**

AND

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

AND

**IN THE MATTER OF
NATIONAL BANK SECURITIES INC.,
ALTAMIRA INVESTMENT SERVICES INC.,
NBF EMISSARY TURNKEY SOLUTION LP,
NATCAN INVESTMENT MANAGEMENT INC.,
ING INVESTMENT MANAGEMENT, INC.,
HOWSON TATTERSALL INVESTMENT COUNSEL
LIMITED,
NATIONAL BANK TRUST INC. AND
NATIONAL BANK FINANCIAL INC.
(the Filers)**

MRRS DECISION DOCUMENT

Background

The local securities regulatory authority or regulator (the **Decision Maker**) in each of the Jurisdictions has received an application from the Filers for a decision, under the securities legislation of the Jurisdictions (the **Legislation**), that provisions of the Legislation requiring a management company, or in British Columbia and New Brunswick, a mutual fund manager, to file a report within thirty days after each month end in respect of each mutual fund to which it

provides services, relating to every purchase or sale effected by such mutual fund through any related person or company with respect to which the related person or company received a fee either from the mutual fund or from the other party to the transaction or both (the **Reporting Requirement**) shall not apply to the Portfolio Advisors (as defined below) in respect of purchases and sales effected by the Funds (as defined below) through any Related Dealer (as defined below) (the **Requested Relief**).

Under the Mutual Reliance Review System for Exemptive Relief Applications (**MRRS**):

(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.

AISI means Altamira Investment Services Inc.

Funds means the National Bank Mutual Funds, Omega Funds, Altamira Funds, Meritage Portfolios, Emissary Funds, Diplomat Portfolios and any other future mutual fund managed by the Managers for which a Portfolio Advisor acts as a “management company” as such term is defined in the Legislation or, in British Columbia and New Brunswick, for which a Portfolio Advisor acts as a mutual fund manager.

Howson Tattersall means Howson Tattersall Investment Counsel Limited.

ING means ING Investment Management, Inc.

Managers means AISI, NBSI and NBF Emissary.

MRFPs means management reports of fund performance.

NBF Emissary means NBF Emissary Turnkey Solution LP.

NBF Inc. means National Bank Financial Inc.

NB Related Dealers means National Bank Financial Ltd., NBF Inc., National Bank Discount Brokerage Inc., NBCN Inc., NBF International S.A., NBF Securities (USA) Corp., PI Financial Corp., Putnam Lovell NBF Securities Inc. and any other related broker or dealer that is a subsidiary of National Bank of Canada.

NBSI means National Bank Securities Inc.

NI 81-106 means National Instrument 81-106 *Investment Fund Continuous Disclosure*.

Natcan means Natcan Investment Management Inc.

Natcan Trust means Natcan Trust Company.

NBT means National Bank Trust Inc.

Portfolio Advisors means Natcan, NBF Inc., ING, Howson Tattersall and NBT and any other portfolio manager or sub-advisor to the Funds appointed by a Manager.

Related Dealers means the NB Related Dealers and any other broker or dealer that is an affiliate of a Portfolio Advisor.

Representations

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

1. NBSI is a corporation existing under the laws of Canada with its head office in Montreal and is the manager of the National Bank Mutual Funds and Omega Funds.

2. AISI is a corporation existing under the laws of Canada with its head office in Toronto and is the manager of the Altamira Funds and Meritage Portfolios.

3. NBF Emissary is a limited partnership existing under the laws of Ontario with its head office in Toronto and is the manager of the Emissary Funds and Diplomat Portfolios.

4. The Funds are or will be mutual funds that are reporting issuers in each province and territory of Canada.

5. Natcan is a corporation existing under the laws of Quebec and is the portfolio manager for the National Bank Mutual Funds, certain Omega Funds, and certain Altamira Funds. It is registered as an investment counsel and portfolio manager (or equivalent) under the securities legislation of each province and territory of Canada, other than Prince Edward Island, Nunavut and the Yukon.

6. ING is a corporation existing under the laws of Canada and is the portfolio manager for certain Omega Funds. It is registered as an investment counsel and portfolio manager (or equivalent) under the securities legislation of Ontario, British Columbia and Quebec.

7. Howson Tattersall is a corporation existing under the laws of Canada and is the portfolio manager for certain Altamira Funds. It is registered as an investment counsel and portfolio manager (or

equivalent) under the securities legislation of each province and territory of Canada.

8. NBT is a trust company existing under the laws of Quebec and is the portfolio manager for the Meritage Portfolios. It is registered as an investment counsel and portfolio manager (or equivalent) under the securities legislation of Quebec, Alberta, British Columbia, Ontario, Saskatchewan, Prince Edward Island and New Brunswick. Previously, Natcan Trust acted as the portfolio manager for the Meritage Portfolios.

9. NBF Inc. is a corporation existing under the laws of Ontario and is the portfolio manager for the Emissary and Diplomat Portfolios. It is registered as an investment dealer under the securities legislation of each province and territory of Canada.

10. Each of the Portfolio Advisors qualifies as a "management company" or equivalent under the Legislation.

11. National Bank Financial Ltd., NBF Inc., NBCN Inc. and National Bank Discount Brokerage Inc. are affiliates of the Managers who are permitted to act as dealers in various Canadian jurisdictions. National Bank Financial Ltd. is registered as an investment dealer under the securities legislation of all provinces and territories of Canada, other than Quebec and New Brunswick, and National Bank Discount Brokerage Inc. is registered as an investment dealer under the securities legislation of all provinces of Canada, other than Newfoundland and Labrador. NBCN Inc. is registered as an investment dealer under the securities legislation of all provinces and territories of Canada. NBF International S.A., NBF Securities (USA) Corp., PI Financial Corp. and Putnam Lovell NBF Securities Inc. are affiliates of the Managers who act as dealers in foreign jurisdictions.

12. Each of the NB Related Dealers, the Managers and certain of the Portfolio Advisors are subsidiaries of National Bank of Canada. The Related Dealers, other than the NB Related Dealers, are affiliates of the other Portfolio Advisors. As a result, the Related Dealers are "related persons or companies" to the Funds within the meaning of the Legislation.

13. As disclosed in the annual information forms or prospectuses of the Funds, the Portfolio Advisors may allocate brokerage business of the Funds to a Related Dealer, provided that such transactions are made on terms and conditions comparable to those offered by unrelated brokers and dealers.

14. The Portfolio Advisors of the Funds have discretion to allocate the brokerage transactions of each Fund in any manner that they believe to be in the Fund's best interests. The purchase or sale of securities effected through a Related Dealer represents the business judgement of the Portfolio Advisors uninfluenced by considerations other than the best interests of the Funds. In allocating brokerage transactions, consideration is given to commission rates and to research, execution and other services offered.

15. The introduction of NI 81-106 on June 1, 2005 has resulted in the Funds having to disclose in their interim and annual MRFPs any transactions involving Related Dealers. The Reporting Requirement, however, obligates the Portfolio Advisors to make essentially the same disclosure within 30 days of the end of any month in which such a transaction occurs in respect of the Funds.

16. Pursuant to NI 81-106 the Funds prepare and file interim and annual MRFPs that disclose any transactions involving the Related Dealers, including the identity of the Related Dealer, its relationship to the Fund, the purpose of the transaction, the measurement basis used to determine the recorded amount and any ongoing commitments to the Related Dealer. A discussion of portfolio transactions with a Related Dealer must include the dollar amount of commission, spread or any other fee that the Fund paid to any Related Dealer in connection with the transaction.

17. Although the Meritage Portfolios and the Emissary Funds have filed MRFPs disclosing transactions involving the Related Dealers, NBT (and its predecessor Natcan Trust) has inadvertently failed to comply with the Reporting Requirement in respect of fund-of-fund trades made through Related Dealers on behalf of the Meritage Portfolios and NBF Inc. has inadvertently failed to comply with the Reporting Requirement in respect of trades made through Related Dealers on behalf of the Emissary Funds.

18. In the absence of the Requested Relief, the Reporting Requirement would obligate the Portfolio Advisors to prepare a report of any purchase or sale of securities by a Fund that is effected through a Related Dealer and file the report with the Decision Makers within 30 days of the end of the month in which the transaction occurs. This report would have to disclose the issuer of the securities purchased or sold, the class or designation of the securities, the amount or number of securities, the consideration, the name of the Related Dealer receiving a fee, the name of the person or company that paid the fee to the Related Dealer and the amount of the fee received by the Related Dealer.

19. It would be costly and time consuming for the Portfolio Advisors to provide the information required by the Reporting Requirement on a monthly and segregated basis for each Fund.

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 provided that:

(a) the annual and interim MRFP for each Fund disclose

  (i) the name of the Related Dealer,

  (ii) the amount of fees paid to each Related Dealer, and

  (iii) the person or company who paid the fees, if they were not paid by the Fund; and

(b) the records of portfolio transactions maintained by each Fund include, separately for every portfolio transaction effected by the Fund through a Related Dealer,

  (i) the name of the Related Dealer,

  (ii) the amount of fees paid to the Related Dealer, and

  (iii) the person or company who paid the fees.

"Carol S. Perry"
Commissioner
Ontario Securities Commission

"Paulette L. Kennedy"
Commissioner
Ontario Securities Commission

2.1.4 Cadence Energy Inc. and Barrick Gold Corporation

Headnote

National Policy 11-203 Process For Exemptive Relief Applications in Multiple Jurisdictions - Parent company to acquire all the common shares of the Filer. Filer applying for relief so that it would have the same continuous disclosure relief had it been eligible to use the "credit support issuer" exemption in section 13.4 of National Instrument 51-102 Continuous Disclosure Obligations, which is not available for use since the Filer will have outstanding warrants after parent company acquires all the common shares of the Filer. Warrants will be exercisable for redeemable preferred shares of the Filer, which will automatically be redeemed for cash. Parent company to guarantee Filer's payment of the redemption price of the preferred shares. Filer obtaining relief from continuous disclosure requirements, certification requirements, audit committee requirements, corporate governance disclosure requirements, insider reporting requirements and SEDI requirements, subject to conditions.

Applicable Legislative Provisions

Securities Act, R.S.O. 1990, c. S.5, as am., ss. 107, 121(2).
National Instrument 51-102 Continuous Disclosure Requirements, ss. 13.1, 13.4.
Multilateral Instrument 52-109 Certification of Disclosure in Issuers' Annual and Interim Filings, s. 4.5.
Multilateral Instrument 52-110 Audit Committees, s. 8.1.
National Instrument 55-102 System for Electronic Disclosure by Insiders, s. 6.1.
National Instrument 58-101 Disclosure of Corporate Governance Practices, s. 3.1.

Citation: Barrick Gold Corporation, Re, 2008 ABASC 596

October 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
CADENCE ENERGY INC. (CADENCE)
AND
BARRICK GOLD CORPORATION
(BARRICK AND, TOGETHER WITH CADENCE,
THE FILERS)**

DECISION

Background

The securities regulatory authority or regulator in each of the Jurisdictions (**Decision Maker**) has received an application from the Filers for a decision under the securities legislation of the Jurisdictions (the **Legislation**) that Cadence or its insiders, as the case may be, be exempt from each of the following requirements:

(a) National Instrument 51-102 *Continuous Disclosure Obligations* (**NI 51-102**) (the **Continuous Disclosure Relief**);

(b) Multilateral Instrument 52-109 *Certification of Disclosure in Issuers' Annual and Interim Filings* (the **Certification Relief**);

(c) Multilateral Instrument 52-110 – *Audit Committees* (the **Audit Committee Relief**); and

(d) the insider reporting requirements and requirement to file an insider profile under National Instrument 55-102 *System for Electronic Disclosure by Insiders* (the **Insider Reporting Relief**); and

(e) National Instrument 58-101 *Disclosure of Corporate Governance Practices* (the **Corporate Governance Relief**).

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 Filers have provided notice that Section 4.7(1) of Multilateral Instrument 11-102 *Passport System* (**MI 11-102**) is intended to be relied upon in the provinces of British Columbia, Saskatchewan, Manitoba, Quebec, New Brunswick, Nova Scotia, Prince Edward Island and Newfoundland and Labrador; 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* and MI 11-102 have the same meaning if used in this decision, unless otherwise defined.

Representations

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

1. Barrick is a corporation existing under the *Business Corporations Act* (Ontario).

2. Barrick is a reporting issuer in each of the provinces and territories of Canada and is not on the lists of defaulting reporting issuers maintained pursuant to the legislation of any such jurisdiction.

3. Cadence is a corporation existing under the *Business Corporations Act* (Alberta) (the **ABCA**).

4. Cadence is a reporting issuer in each of the provinces of Canada and is not on the lists of defaulting reporting issuers maintained pursuant to the legislation of any such jurisdiction.

5. Currently, Cadence's issued and outstanding securities are:

   (a) common shares (**Cadence Shares**);

   (b) 4.75% convertible unsecured subordinated debentures due June 30, 2012 (the **Convertible Debentures**); and

   (c) two classes of warrants originally issued by Chamaelo Exploration Ltd., a wholly-owned subsidiary of Cadence, comprised of warrants to acquire Cadence Shares at an exercise price of $4.12 per Cadence Share expiring on May 26, 2009 (the **2009 Warrants**) and warrants to acquire Cadence Shares an exercise price of $11.37 per Cadence Share expiring on June 21, 2010 (the **2010 Warrants** and, collectively with the 2009 Warrants, the **Warrants**).

6. On July 30, 2008, Barrick, through its wholly-owned subsidiary, Cadence Acquisition Inc. (the **Offeror**), made an offer to acquire all of the issued and outstanding Cadence Shares (the **Offer**). On September 4, 2008, the Offeror took up Cadence Shares representing approximately 96.6% of the issued and outstanding Cadence Shares.

7. Barrick intends to acquire any issued and outstanding Cadence Shares not tendered to the Offer pursuant to an amalgamation in which Cadence and an affiliate of the Offeror will be amalgamated under the ABCA (the **Subsequent Acquisition Transaction**).

8. Upon completion of the Subsequent Acquisition Transaction, the Cadence Shares, with the exception of those held by the Offeror and those held by dissenting shareholders, will be converted into preferred shares of the post-amalgamation company (also referred to as Cadence in this Decision) that are automatically redeemable for a redemption price of $6.75 per share on the first business day after issuance (the **Redeemable Preferred Shares**). As a result of this automatic redemption feature, each Redeemable Preferred Share will effectively be the equivalent of $6.75 cash, the same consideration offered in the Offer.

9. From and after the completion of the Subsequent Acquisition Transaction and the automatic redemption of the Redeemable Preferred Shares (to occur one business day after issuance), Cadence will have issued and outstanding the following securities:

(a) Cadence Shares, of which Barrick (or an affiliate of Barrick) will be the sole holder;

(b) the Convertible Debentures;

(c) the 2009 Warrants, which will be exercisable (as a result of the Subsequent Acquisition Transaction) for Redeemable Preferred Shares at an exercise price of $4.12 per share (which will be automatically redeemed one business day after any issuance thereof for $6.75 in cash);

(d) the 2010 Warrants, which will be exercisable (as a result of the Subsequent Acquisition Transaction) for Redeemable Preferred Shares at an exercise price of $11.37 per share (which will be automatically redeemed one business day after any issuance thereof for $6.75 in cash); and

(e) from time to time, Redeemable Preferred Shares that will be automatically redeemed for $6.75 in cash one business day after their issuance, in accordance with their terms.

10. Barrick has fully and unconditionally guaranteed (the **Barrick Debenture Guarantee**) all of Cadence's payment obligations under the indenture governing the Convertible Debentures dated June 25, 2007 (the **Debenture Indenture**) by entering into a supplemental indenture with the trustee under the Debenture Indenture. The Barrick Debenture Guarantee entitles the holders of the Convertible Debentures to receive payment from Barrick within 15 days of any failure by Cadence to make a payment.

11. The Convertible Debentures are "designated credit support securities", as defined in Section 13.4(1) of NI 51-102.

12. Barrick has fully and unconditionally guaranteed all of Cadence's obligations to pay the redemption price of the Redeemable Preferred Shares to any holder of Warrants that acquires Redeemable Preferred Shares in accordance with the terms of the Subsequent Acquisition Transaction or the applicable Warrant, as the case may be, pursuant to a guarantee dated as of October 21, 2008 (the **Barrick Warrant Guarantee**). The Barrick Warrant Guarantee entitles the holders of the Warrants to receive payment from Barrick within 15 days of any failure by Cadence to pay the redemption price of the Redeemable Preferred Shares in accordance with the terms thereof.

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.

Continuous Disclosure Relief

The decision of the Decision Makers under the Legislation is that the Continuous Disclosure Relief is granted effective from and after the effective date of the Subsequent Acquisition Transaction, provided that:

(a) the Filers continue to satisfy all the conditions set forth in subsection 13.4(2) of NI 51-102, other than paragraph 13.4(2)(c);

(b) Cadence does not issue any securities other than:

(i) designated credit support securities (as such term is defined in NI 51-102) for which Barrick has provided a full and unconditional guarantee;

(ii) securities issued to and held by Barrick or an affiliate of Barrick;

(iii) debt securities issued to and held by banks, loan corporations, loan and investment corporations, savings companies, trust corporations, treasury branches or credit unions, financial services cooperatives, insurance companies or other financial institutions;

(iv) securities issued under the exemptions from the registration requirement and prospectus requirement in Section 2.35 of National Instrument 45-106 *Prospectus and Registration Exemptions*; and

(v) Redeemable Preferred Shares;

(c) Cadence does not have any securities outstanding other than:

(i) designated credit support securities (as such term is defined in NI 51-102) for which Barrick has provided a full and unconditional guarantee;

(ii) securities issued to and held by Barrick or an affiliate of Barrick;

(iii) debt securities issued to and held by banks, loan corporations, loan and investment corporations, savings companies, trust corporations, treasury branches or credit unions, financial services cooperatives, insurance companies or other financial institutions;

(iv) securities issued under the exemptions from the registration requirement and prospectus requirement in Section 2.35 of National Instrument 45-106 *Prospectus and Registration Exemptions*;

(v) the Warrants; and

(vi) Redeemable Preferred Shares;

(d) under the Barrick Debenture Guarantee, Barrick continues to provide a full and unconditional guarantee of the payments to be made by Cadence that results in the holders of the Convertible Debentures being entitled to receive payment from Cadence within 15 days of any failure by Cadence to make a payment;

(e) under the Barrick Warrant Guarantee, Barrick continues to provide a full and unconditional guarantee of the payments of the redemption price of the Redeemable Preferred Shares that results in the holders of the Warrants being entitled to receive payment from Barrick within 15 days of any failure by Cadence to make any such payment; and

(f) Cadence files on SEDAR in electronic format copies of all documents that Barrick is required to file under the Legislation at the same time or as soon as practicable after such documents are filed by Barrick on SEDAR.

Certification Relief

The further decision of the Decision Makers under the Legislation is that the Certification Relief is granted provided that the Filers continue to satisfy the conditions of the Continuous Disclosure Relief, above.

Audit Committee Relief

The further decision of the Decision Makers under the Legislation is that the Audit Committee Relief is granted provided that the Filers continue to satisfy the conditions of the Continuous Disclosure Relief, above.

Corporate Governance Relief

The further decision of the Decision Makers under the Legislation is that the Corporate Governance Relief is granted provided that the Filers continue to satisfy the conditions of the Continuous Disclosure Relief, above.

Insider Reporting Relief

The further decision of the Decision Makers under the Legislation is that the Insider Reporting Relief is granted, provided that:

(a) (i) if the insider is not Barrick, the insider does not receive, in the ordinary course, information as to material facts or material changes concerning Cadence before the material facts or material changes are generally disclosed, and (ii) the insider is not an insider of Barrick in any capacity other than by virtue of being an insider of Cadence; and

(b) if the insider is Barrick, Barrick does not beneficially own any designated credit support securities of Cadence.

“Blaine Young”
Associate Director, Corporate Finance
Alberta Securities Commission

2.1.5 AIC Limited et al.

Headnote

NP 11-203 Process for Exemptive Relief Applications in Multiple Jurisdictions – Approval of mutual fund mergers – approval required because mergers do not meet the criteria for pre-approved reorganizations and transfers in National Instrument 81-102 – continuing funds have different investment objectives and fee structures than terminating funds – certain mergers not a "qualifying exchange" or a tax-deferred transaction under Income Tax Act – securityholders of terminating funds provided with timely and adequate disclosure regarding the mergers.

Applicable Legislative Provisions

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

October 30, 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
AIC LIMITED (the Filer)

AND

IN THE MATTER OF
AIC BALANCED GROWTH PORTFOLIO FUND
AIC PPC BALANCED GROWTH PORTFOLIO POOL
AIC BALANCED INCOME PORTFOLIO FUND
AIC PPC BALANCED INCOME PORTFOLIO POOL
AIC CORE GROWTH PORTFOLIO FUND
AIC WORLD FINANCIAL INFRASTRUCTURE INCOME AND GROWTH FUND
AIC PRIVATE PORTFOLIO COUNSEL GLOBAL POOL
AIC DIVERSIFIED SCIENCE & TECHNOLOGY FUND
AIC GLOBAL INSURANCE FUND
AIC GLOBAL BANKS FUND
AND
AIC DIVERSIFIED SCIENCE & TECHNOLOGY CORPORATE CLASS
(collectively, the Terminating Funds)

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 approval of the mergers (the **Mergers**) of the Terminating Funds into the applicable Continuing Funds (as defined below) under subsection 5.5(1)(b) of National Instrument 81-102 (**NI 81-102**).

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

(i) the Ontario Securities Commission is the principal regulator for this application; and

(ii) 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, New Brunswick, Nova Scotia, Prince Edward Island, Newfoundland and Labrador, Yukon, Northwest Territories and Nunavut.

Interpretation

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

AIC Balanced Growth Portfolio Fund, Value Leaders Balanced Growth Portfolio, AIC PPC Balanced Growth Portfolio Pool, AIC Balanced Income Portfolio Fund, Value Leaders Balanced Income Portfolio, AIC PPC Balanced Income Portfolio Pool, Value Leaders Income Portfolio, AIC Core Growth Portfolio Fund, and Value Leaders Growth Portfolio are referred to as the "**Portfolio Funds**".

AIC World Financial Infrastructure Income and Growth Fund, AIC Global Wealth Management Fund, AIC Bond Fund, AIC Private Portfolio Counsel Global Pool, AIC Global Premium Dividend Income Fund, AIC Diversified Science & Technology Fund, AIC Value Fund, AIC Global Insurance Fund, AIC Global Advantage Fund and AIC Global Banks Fund are referred to as the "**Trust Funds**".

AIC Diversified Science & Technology Corporate Class and AIC Value Corporate Class are referred to as the "**Corporate Funds**".

Value Leaders Balanced Growth Portfolio, Value Leaders Balanced Income Portfolio, Value Leaders Income Portfolio, Value Leaders Growth Portfolio, AIC Global Wealth Management Fund, AIC Bond Fund, AIC Global Premium Dividend Income Fund, AIC Value Fund, AIC Global Advantage Fund and AIC Value Corporate Class are referred to as the "**Continuing Funds**".

The Portfolio Funds, Trust Funds and Corporate Funds are referred to as the "**Funds**".

Representations

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

1. The Filer is a private corporation existing under the laws of Ontario with its head office located in Burlington, Ontario.

2. The Filer is the manager and trustee of the Portfolio Funds and the Trust Funds and is the manager of the Corporate Funds.

3. AIC Investment Services Inc. (**AIS**) is the portfolio adviser of the Funds and is a wholly owned subsidiary of the Filer. AIS is registered as a mutual fund dealer, investment counsel and portfolio manager in Ontario, investment counsel and portfolio manager in Alberta, portfolio manager in Manitoba and adviser, unrestricted practice in Québec.

4. The Portfolio Funds and Trust Funds are open-end mutual fund trusts established under the laws of Ontario by declarations of trust.

5. The Corporate Funds are classes of a mutual fund corporation, AIC Corporate Fund Inc., incorporated under the law of Ontario.

6. The Filer intends to merge the Terminating Funds into the corresponding Continuing Fund as set out below:

TERMINATING FUND	CONTINUING FUND
The Portfolio Mergers	
AIC Balanced Growth Portfolio Fund	Value Leaders Balanced Growth Portfolio
AIC PPC Balanced Growth Portfolio Pool	Value Leaders Balanced Growth Portfolio
AIC Balanced Income Portfolio Fund	Value Leaders Balanced Income Portfolio
AIC PPC Balanced Income Portfolio Pool	Value Leaders Balanced Income Portfolio
AIC Core Growth Portfolio Fund	Value Leaders Growth Portfolio

TERMINATING FUND	CONTINUING FUND
The Trust Mergers	
AIC World Financial Infrastructure Income and Growth Fund	AIC Global Wealth Management Fund
AIC Private Portfolio Counsel Global Pool	AIC Global Premium Dividend Income Fund
AIC Diversified Science & Technology Fund	AIC Value Fund
AIC Global Insurance Fund	AIC Global Advantage Fund
AIC Global Banks Fund	AIC Global Advantage Fund
The Corporate Merger	
AIC Diversified Science & Technology Corporate Class	AIC Value Corporate Class

7. Units of the Portfolio Funds and Trust Funds are currently qualified for sale in each of the provinces and territories of Canada pursuant to a simplified prospectus dated April 21, 2008, as amended by Amendment No. 1 dated June 2, 2008, Amendment No. 2 dated August 26, 2008 and Amendment No. 3 dated September 19, 2008 and an annual information form dated April 21, 2008, as amended by Amendment No. 1 dated June 2, 2008, Amendment No. 2 dated August 26, 2008 and Amendment No. 3 dated September 19, 2008.

8. Shares of the Corporate Funds are offered for sale in each of the provinces and territories of Canada pursuant to a simplified prospectus dated April 1, 2008, as amended by Amendment No. 1 dated June 2, 2008 and Amendment No. 2 dated September 19, 2008 and an annual information form dated April 1, 2008, as amended by Amendment No. 1 dated June 2, 2008 and Amendment No. 2 dated September 19, 2008.

9. The Terminating Funds and the Continuing Funds are reporting issuers under the applicable securities legislation of each province and territory of Canada and are not in default of any of the requirements of the securities legislation of any of the provinces and territories of Canada.

10. Other than circumstances in which the securities regulatory authority of a province of Canada has expressly exempted a Fund therefrom, each of the Funds follows the standard investment restrictions and practices established by NI 81-102.

11. The net asset value for each of the Funds is calculated on a daily basis on each day the Toronto Stock Exchange is open for business.

12. A material change report, press release and amendments to the simplified prospectuses and annual information forms of the Funds were filed via SEDAR on September 19, 2008 with respect to the Mergers.

13. A notice of meeting, a management information circular and a proxy in connection with the meetings of securityholders was mailed to securityholders of the Terminating Funds, Value Leaders Balanced Growth Portfolio, Value Leaders Balanced Income Portfolio, Value Leaders Income Portfolio, Value Leaders Growth Portfolio, AIC Global Wealth Management Fund and AIC Value Corporate Class and filed on SEDAR on October 28, 2008.

14. A copy of the simplified prospectus of the applicable Continuing Fund was also mailed to securityholders of the Terminating Funds on October 28, 2008.

15. The Filer obtained an exemption dated May 21, 2008 (the **Prior Exemption**) from the financial statements delivery provision set out in s.5.6(1)(f)(ii) of NI 81-102 in respect of mergers of mutual funds managed by the Filer. The Filer has complied with the conditions of the Prior Exemption in respect of the Mergers.

16. Securityholders of the Terminating Funds and the Continuing Funds listed in paragraph 13 above will be asked to approve the Mergers at meetings to be held on November 19, 2008.

17. Under the Mergers, securityholders of the Terminating Funds will receive units or shares of the same class of the applicable Continuing Fund, other than:

    (a) holders of Class T5 and Class T8 Units of AIC Global Insurance Fund, who will receive Mutual Fund Units of AIC Global Advantage Fund;

(b) holders of Class T5 and Class T8 Units of AIC Global Banks Fund, who will receive Mutual Fund Units of AIC Global Advantage Fund;

(c) holders of Class T Units of AIC PPC Balanced Income Portfolio Pool, who will receive Class T5 Units of Value Leaders Balanced Income Portfolio;

(d) holders of Class T Units of AIC PPC Balanced Growth Portfolio Pool, who will receive Class T6 Units of Value Leaders Balanced Growth Portfolio; and

(e) holders of Mutual Fund Units of AIC World Financial Infrastructure Income and Growth Fund, who will receive Class T5 Units of AIC Global Wealth Management Fund.

18. Securityholders of the Terminating Funds will continue to have the right to redeem securities of the Terminating Funds for cash at any time up to the close of business on the effective date of the Mergers. The management information circular mailed to securityholders of the Terminating Funds discloses that securities of the Continuing Funds acquired by securityholders upon the Mergers are subject to the same deferred sales charge and/or low load sales charges, to which their securities of the Terminating Funds were subject prior to the Merger. As well, the management information circular states that securityholders who purchased securities under the deferred sales charge and/or low load option may be required to pay a charge (depending on their holding period) if they redeem their securities prior to the implementation of the Mergers.

19. The Independent Review Committee of the Funds provided a positive recommendation with respect to the Mergers and such recommendation was included in the management information circular mailed to securityholders of the Terminating Funds.

20. Prior to the date of the Mergers, the portfolio assets of each Terminating Fund that do not meet the investment objectives of the Continuing Fund will be liquidated. The portfolio assets of each Terminating Fund to be acquired by the Continuing Fund will be acceptable to the portfolio adviser of the Continuing Fund and consistent with the investment objectives of the Continuing Fund.

21. No sales charges, if any, will be payable in connection with the acquisition by the Continuing Funds of the investment portfolio of the applicable Terminating Funds.

22. The Filer will pay for the costs of the Mergers. These costs consist mainly of legal, proxy solicitation, printing, mailing, brokerage costs (including all brokerage expenses incurred in respect of any required sale of portfolio assets of the Terminating Funds) and regulatory fees.

23. If approved by the securityholders of the Terminating Funds and the applicable Continuing Funds, all of the Mergers will occur on or about the close of business on November 28, 2008, with the exception of AIC World Financial Infrastructure Income and Growth Fund which will occur on or about the close of business on December 15, 2008, and the Continuing Funds will continue as publicly offered open-end mutual funds. Following the Mergers, the Terminating Funds will be wound up as soon as reasonably possible.

24. The Filer believes that the Mergers will benefit securityholders of the Terminating Funds because:

(a) the Mergers will lead to cost efficiencies by eliminating the administrative and regulatory costs of operating the Terminating Funds as separate mutual funds;

(b) securityholders of the Terminating Funds may have the potential to enjoy increased economies of scale with respect to administrative expenses that are spread across a greater pool of assets;

(c) securityholders of the Terminating Funds will own units or shares of the Continuing Funds, which will have an increased profile in the marketplace as a result of their greater size; and

(d) by merging the Terminating Funds instead of terminating them, there may be savings for the Terminating Funds in brokerage charges associated with the liquidation of the Terminating Funds' portfolios on a wind-up because these charges will be borne by the Filer.

25. Approval of the Mergers is required because the Mergers do not meet all of the criteria for pre-approved reorganizations and transfers set out in section 5.6 of NI 81-102 in the following ways:

(a) the fundamental investment objectives of AIC World Financial Infrastructure Income and Growth Fund, AIC Diversified Science & Technology Fund and AIC Diversified Science & Technology Corporate Class and their respective Continuing Funds may not be considered substantially similar;

(b) the merger of:

(i) the AIC Private Portfolio Counsel Global Pool into the AIC Global Premium Dividend Income Fund;

(ii) the AIC Diversified Science & Technology Fund into the AIC Value Fund;

(iii) the AIC Global Insurance Fund into the AIC Global Advantage Fund; and

(iv) the AIC Global Banks Fund into the AIC Global Advantage Fund

will not be a "qualifying exchange" within the meaning of section 132.2 of the *Income Tax Act* (Canada) (the **ITA**) or a tax-deferred transaction under subsection 85(1), 85.1(1), 86(1) or 87(1) of the ITA; and

(c) the fee structure of the Terminating Funds (other than AIC World Financial Infrastructure Income and Growth Fund) is not substantially similar to that of their respective Continuing Funds.

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

27. Securityholders of the Terminating Funds have been provided with information about the differences between the Terminating Funds and the Continuing Funds as well as information about the tax consequences of the Mergers in the management information circular and will have the opportunity to consider this information prior to voting on the Mergers.

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 Mergers are approved.

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

2.1.6 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 Regulation to permit hedge fund to conduct several inter-fund trades with related public mutual funds – 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 – relief also subject to pricing 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.

October 31, 2008

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

AND

ALBERTA, SASKATCHEWAN,NEW BRUNSWICK,
NOVA SCOTIA, PRINCE EDWARD ISLAND
AND NEWFOUNDLAND AND LABRADOR

AND

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

AND

IN THE MATTER OF
GOODMAN & COMPANY,
INVESTMENT COUNSEL LTD.
(the "Manager" and the "Filer")

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 (the Inter-Fund Trading Prohibition) in section 118(2)(b) of the Legislation in order to permit particular funds managed by the Filer to engage in particular inter-fund trades as described below (the Inter-Fund Trades)(the Passport Exemption).

The securities regulatory authority or regulator in each of Ontario, Alberta, Saskatchewan, Nova Scotia, New Brunswick, Prince Edward Island, and Newfoundland and Labrador (the First Jurisdictions) (the First Coordinated Exemptive Relief Decision Makers) have received an application from the Filer for a decision under the securities legislation of the First Jurisdictions (the First Legislation) for an exemption from the prohibition (the Investment Counsel Prohibition) in the First Legislation that prohibits a purchase or sale of a security in which an investment counsel, or any 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 the 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) have received an application from the Filer for a decision under the securities legislation of the Second Jurisdictions (the Second Legislation) for an exemption from the prohibition (the Inter-Fund Trading Prohibition) in the Second Legislation against a portfolio manager knowingly causing an investment portfolio under its management to purchase or sell securities of any issuer from or to the account of a responsible person, any associate of a responsible person or the portfolio manager 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 (for a hybrid application):

(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, Quebec, New Brunswick, and Nova Scotia with respect to the relief sought from s. 118(2)(b) of the Act;

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

Athabasca means Athabasca Oil Sands Corp.

Athabasca Securities means the 6,091,000 common shares of Athabasca and 10,000,000 warrants representing

the right to purchase one Athabasca common share per warrant that the Selling Fund currently holds.

The **Inter-Fund Trades** means the sale of a portion of the Athabasca Securities from the Selling Fund to each of, or any of, the Recipient Funds.

The **Recipient Funds** means all of Dynamic Power Canadian Growth Fund (the **Growth Fund**), Dynamic Power Canadian Growth Class (the **Growth Class**), and Dynamic Power Balanced Fund (the **Balanced Fund**).

The **Selling Fund** means Dynamic Power Hedge Fund.

The **Funds** means, collectively, the Recipient Funds and the Selling Fund.

Representations

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

1. The Manager 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 Manager also holds a registration in the categories of “investment counsel” and “portfolio manager,” or the equivalent, in British Columbia, Alberta, Manitoba, Quebec, New Brunswick, and Nova Scotia. The head office of the Manager is in Toronto, Ontario.

2. The Manager is the manager, trustee (where applicable), principal distributor, and registrar of each of the Funds.

3. The Selling Fund is a trust established under the laws of the Province of Ontario and its securities are qualified for distribution on a private placement basis pursuant to an offering memorandum.

4. Each of the Recipient Funds is a trust established under the laws of the Province of Ontario with the exception of the Growth Class, which is a corporation incorporated pursuant to the laws of Ontario. Each of the Recipient Funds is subject to the provisions of National Instrument 81-102 – Mutual Funds (NI 81-102) and National Instrument 81-107 – Independent Review Committee for Investment Funds (NI 81-107). Units or shares in the Recipient Funds are qualified for distribution pursuant to simplified prospectuses and annual information forms that are filed in accordance with the securities legislation of each of the provinces and territories of Canada.

5. The Selling Fund currently holds the Athabasca Securities. The Athabasca Securities were acquired on September 5, 2006 through a private placement. At that time, the aggregate cost of the Athabasca Securities was $6,091,000 and the Selling Fund had a net asset value of approximately $358 million, with the result that the Athabasca Securities represented approximately 1.7 percent of the Selling Fund's net asset value. Athabasca is not a reporting issuer under the Legislation and the Athabasca Securities are not listed on a stock exchange.

6. The market capitalization of Athabasca as of December 31, 2006 was estimated to be $346 million.

7. Since September 5, 2006, the fair market value of the Athabasca Securities has materially increased. As of December 31, 2007, the market capitalization of Athabasca was estimated to be $4.65 billion.

8. At July 11, 2008, a third party trade took place wherein 1,073,875 Athabasca common shares were sold for $13.50 per share. Based upon this information, the Manager's Valuation Committee determined that the Athabasca common shares had a fair value of at least $13.50 per share and the Athabasca warrants had a fair value of $12.25 per warrant. As of September 27, 2008, the Athabasca Securities were valued at $184,256,000, representing 42.5 percent of the Selling Fund's net asset value. Subsequent market events have resulted in further adjustments to the price of the Athabasca Securities. In addition, at October 9, 2008, another third party trade took place wherein approximately 500,000 Athabasca common shares were sold for $9.00 per share.

9. The Manager will satisfy the conditions in NI 81-107 that the bid and ask price of the Athabasca Securities be "readily available" by obtaining either the last arm's length trade price from the executing dealer or an independent quote from a dealer. The Manager will consider that price to be the current market price of the Athabasca Securities at which the Inter-Fund Trades will be executed in accordance with NI 81-107.

10. The Manager understands that Athabasca received independent engineering reports from GLJ Petroleum Consultants and DeGolyer and MacNaughton Canada Ltd. in June of 2008 which, in the Manager’s view, translate into net asset value of $47 per common share (diluted) as of December 2007.

11. The Manager believes that it would be prudent to reduce the Selling Fund's current position in the Athabasca Securities as a proportion of total net asset value. The Manager continues to believe, however, that Athabasca common shares and warrants are attractive investments. Athabasca common shares and warrants are not readily obtained and once sold cannot be easily replaced. As a result, the Manager desires to sell to each of

the Recipient Funds sufficient of the Athabasca Securities to achieve a meaningful reduction in the percentage of net asset value that the Athabasca Securities represents in the Selling Fund, and at the same time build a meaningful position in the Recipient Funds. The Manager's target positioning of the Athabasca Securities in the Recipient Funds would be approximately 2 percent of the net asset value of each of the Recipient Funds. As stated, the Manager would like to transfer this portion of the Athabasca Securities to the Recipient Funds rather than to an arm's length third party as the Manager has determined that an investment in Athabasca falls within the investment objectives and strategies of the Recipient Funds and is in the best interests of the Recipient Funds.

12. At the time of initial purchase, the Athabasca Securities were not a suitable investment for the Recipient Funds because of their speculative nature. In the intervening period, given the significant internal events that have affected the value of Athabasca, the Manager has concluded that the Athabasca Securities have become a suitable investment for the Recipient Funds, that it would be in the best interests of the Recipient Funds to purchase a portion of the Athabasca Securities and that such purchase is within the investment objectives of the Recipient Funds.

13. The Inter-Fund Trades will not result in a breach of the illiquid asset thresholds, prescribed in subsection 2.4(1) of NI 81-102, of any of the Recipient Funds.

14. The Selling Fund and each of the Recipient Funds other than the Growth Class, which is a corporation, are “associates” of the Manager as defined in the Act.

15. The Manager is currently compliant with and acting in reliance on NI 81-107 and has established an Independent Review Committee (IRC) for the Recipient Funds that will review the Inter-Fund Trades. An IRC will review the Inter-Fund Trades for the Selling Fund.

16. The Manager is not in default of securities legislation in any jurisdiction in Canada in which the Funds are reporting issuers.

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 under the Legislation and the Coordinated Exemptive Relief Decision Makers under the First Legislation and the Second Legislation is that the Passport Exemption and the Coordinated Exemptive Relief are granted provided that the following conditions are satisfied:

(a) the Inter-Fund Trades are consistent with the investment objectives of each of the Recipient Funds;

(b) the IRC of each Recipient Fund has approved the Inter-Fund Trades in respect of that Fund and an IRC for the Selling Fund has approved the Inter-Fund Trades in respect of the Selling Fund in accordance with section 5.2 of NI 81-107; and

(c) the Inter-Fund Trades comply with paragraphs (b), (c), (d), (e), (f), and (g) of subsection 6.1(2) of NI 81-107.

”Mary Condon”

“James E. A. Turner”

2.1.7 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. 4.2 of NI 81-102 to permit certain funds to conduct inter-fund trades between non-public hedge fund and public mutual funds – 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.

Applicable Legislative Provisions

National Instrument 81-102 Mutual Funds, ss. 4.2, 4.3(1), 4.3(2), 19.1.
National Instrument 81-107 Independent Review Committee for Investment Funds, s. 6.1(2).

October 31, 2008

IN THE MATTER OF
THE SECURITIES LEGISLATION OF
ONTARIO

AND

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

AND

IN THE MATTER OF
GOODMAN & COMPANY,
INVESTMENT COUNSEL LTD.
(the Manager and the Filer)

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 (the Inter-Fund Trading Prohibition) in section 4.2(1) of National Instrument 81-102 – *Mutual Funds* (NI 81-102)(the Exemption Sought) to permit the NI 81-102 Funds (as defined below) to engage in particular inter-fund trades as described below (the Inter-Fund Trades).

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, Prince Edward Island, Newfoundland & Labrador, Northwest Territories, Yukon Territory and Nunavut.

Interpretation

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

Athabasca means Athabasca Oil Sands Corp.

Athabasca Securities means the 6,091,000 common shares of Athabasca and 10,000,000 warrants representing the right to purchase one Athabasca common share per warrant that the Selling Fund currently holds.

The **Inter-Fund Trades** means the sale of a portion of the Athabasca Securities from the Selling Fund to each of, or any of, the Recipient Funds.

The **Recipient Funds** means all of Dynamic Power Canadian Growth Fund (the **Growth Fund**), Dynamic Power Canadian Growth Class (the **Growth Class**), and Dynamic Power Balanced Fund (the **Balanced Fund**).

The **Selling Fund** means Dynamic Power Hedge Fund.

The **Funds** means, collectively, the Recipient Funds and the Selling Fund.

Representations

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

1. The Manager 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 Manager also holds a registration in the categories of "investment counsel" and "portfolio manager," or the equivalent, in British Columbia, Alberta, Manitoba, Quebec, New Brunswick, and Nova Scotia. The head office of the Manager is in Toronto, Ontario.

2. The Manager is the manager, trustee (where applicable), principal distributor and registrar of each of the Funds.

3. The Selling Fund is a trust established under the laws of the Province of Ontario and its securities are qualified for distribution on a private placement basis pursuant to an offering memorandum.

4. Each of the Recipient Funds is a trust established under the laws of the Province of Ontario with the exception of the Growth Class, which is a corporation incorporated pursuant to the laws of Ontario. Each of the Recipient Funds is subject to the provisions of National Instrument 81-102 – Mutual Funds (NI 81-102) and National Instrument 81-107 – Independent Review Committee for Investment Funds (NI 81-107). Units or shares in the Recipient Funds are qualified for distribution pursuant to simplified prospectuses and annual information forms that are filed in accordance with the securities legislation of each of the provinces and territories of Canada.

5. The Selling Fund currently holds the Athabasca Securities. The Athabasca Securities were acquired on September 5, 2006 through a private placement. At that time, the aggregate cost of the Athabasca Securities was $6,091,000 and the Selling Fund had a net asset value of approximately $358 million, with the result that the Athabasca Securities represented approximately 1.7 percent of the Selling Fund's net asset value. Athabasca is not a reporting issuer under the Legislation and the Athabasca Securities are not listed on a stock exchange.

6. The market capitalization of Athabasca as of December 31, 2006 was estimated to be $346 million.

7. Since September 5, 2006, the fair market value of the Athabasca Securities has materially increased. As of December 31, 2007, the market capitalization of Athabasca was estimated to be $4.65 billion.

8. At July 11, 2008, a third party trade took place wherein 1,073,875 Athabasca common shares were sold for $13.50 per share. Based upon this information, the Manager's Valuation Committee determined that the Athabasca common shares had a fair value of at least $13.50 per share and the Athabasca warrants had a fair value of $12.25 per warrant. As of September 27, 2008, the Athabasca Securities were valued at $184,256,000, representing 42.5 percent of the Selling Fund's net asset value. Subsequent market events have resulted in further adjustments to the price of the Athabasca Securities. In addition, at October 9, 2008, another third party trade took place wherein approximately 500,000 Athabasca common shares were sold for $9.00 per share.

9. The Manager will satisfy the conditions in NI 81-107 that the bid and ask price of the Athabasca Securities be "readily available" by obtaining either the last arm's length trade price from the executing dealer or an independent quote from a dealer. The Manager will consider that price to be the current market price of the Athabasca Securities at which the Inter-Fund Trades will be executed in accordance with NI 81-107.

10. The Manager understands that Athabasca received independent engineering reports from GLJ Petroleum Consultants and DeGolyer and MacNaughton Canada Ltd. in June of 2008 which, in the Manager's view, translate into net asset value of $47 per common share (diluted) as of December 2007.

11. The Manager believes that it would be prudent to reduce the Selling Fund's current position in the Athabasca Securities as a proportion of total net asset value. The Manager continues to believe, however, that Athabasca common shares and warrants are attractive investments. Athabasca common shares and warrants are not readily obtained and once sold cannot be easily replaced. As a result, the Manager desires to sell to each of the Recipient Funds sufficient of the Athabasca Securities to achieve a meaningful reduction in the percentage of net asset value that the Athabasca Securities represents in the Selling Fund, and at the same time build a meaningful position in the Recipient Funds. The Manager's target positioning of the Athabasca Securities in the Recipient Funds would be approximately 2 percent of the net asset value of each of the Recipient Funds. As stated, the Manager would like to transfer this portion of the Athabasca Securities to the Recipient Funds rather than to an arm's length third party as the Manager has determined that an investment in Athabasca falls within the investment objectives and strategies of the Recipient Funds and is in the best interests of the Recipient Funds.

12. At the time of initial purchase, the Athabasca Securities were not a suitable investment for the Recipient Funds because of their speculative nature. In the intervening period, given the significant internal events that have affected the value of Athabasca, the Manager has concluded that the Athabasca Securities have become a suitable investment for the Recipient Funds, that it would be in the best interests of the Recipient Funds to purchase a portion of the Athabasca Securities and that such purchase is within the investment objectives of the Recipient Funds.

13. The Inter-Fund Trades will not result in a breach of the illiquid asset thresholds prescribed in subsection 2.4(1) of NI 81-102 of any of the Recipient Funds.

14. The Selling Fund and each of the Recipient Funds other than the Growth Class, which is a corporation, are "associates" of the Manager as defined in the Act.

15. The Manager is currently compliant with and acting in reliance on NI 81-107 and has

established an Independent Review Committee (IRC) for the Recipient Funds that will review the Inter-Fund Trades. An IRC will review the Inter-Fund Trades for the Selling Fund.

16. The Manager is not in default of securities legislation in any jurisdiction in Canada in which the Funds are reporting issuers.

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 following conditions are satisfied for the Inter-Fund Trades:

(a) The Inter-Fund Trades are consistent with the investment objectives of each of the Recipient Funds;

(b) the IRC of each Recipient Fund has approved the Inter-Fund Trades in respect of that Fund and an IRC for the Selling Fund has approved the Inter-Fund Trades in respect of the Selling Fund in accordance with section 5.2 of NI 81-107; and

(c) the Inter-Fund Trades comply with paragraphs (b), (c), (d), (e), (f), and (g) of subsection 6.1(2) of NI 81-107.

"Vera Nunes"
Assistant Manager, Investment Funds

2.1.8 Tiomin China Limited

Headnote

NP 11-203 – Application for an order that the issuer is not a reporting issuer – Filer has not publicly held securities – Requested relief granted.

Applicable Legislative Provisions

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

November 4, 2008

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

AND

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

AND

**IN THE MATTER OF
TIOMIN CHINA LIMITED
(the Filer)**

DECISION

Background

The securities regulatory authority or regulator in each of the Jurisdictions (the **Decision Maker**) has received an application from the Filer for a decision pursuant to the securities legislation of the Jurisdictions (the **Legislation**) that the Filer is not a reporting issuer (the **Exemptive Relief Sought**).

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

(a) the Ontario Securities Commission is the principal regulator for the 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

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

1. Radiant Resources Inc. (**Radiant**) was a corporation governed by the *Business Corporations Act* (British Columbia) (the BCBCA). The common shares of Radiant were listed for trading on the TSX Venture Exchange (the **TSXV**) and it was a reporting issuer in British Columbia and the Jurisdictions.

2. Tiomin Resources Inc. (the **Purchaser**) is a corporation governed by the *Canada Business Corporations Act* (the **CBCA**). The common shares of the Purchaser are listed on the Toronto Stock Exchange and it is a reporting issuer in all of the provinces and territories of Canada.

3. On May 28, 2008, Radiant signed a letter of intent pursuant to which the Purchaser would acquire Radiant by way of plan of arrangement (the **Arrangement**), whereby all of the issued and outstanding shares of Radiant not already held by the Purchaser would be exchanged for shares of the Purchaser and Radiant would be amalgamated with 0832591 B.C. Ltd. (**Subco**), a wholly owned subsidiary of the Purchaser.

4. Subco was incorporated by the Purchaser under the BCBCA for the sole purpose of engaging in the transactions contemplated by the Arrangement. Subco was not a reporting issuer in any jurisdiction.

5. On September 23, 2008, the Arrangement was approved at a special meeting of securityholders of Radiant.

6. On September 24, 2008, the British Columbia Superior Court of Justice issued a final order approving the Arrangement.

7. On September 26, 2008, the Purchaser, Radiant and Subco completed the Arrangement, pursuant to which (i) Radiant was amalgamated with Subco to form the Filer and, as a result of the arrangement and by operation of law, the Filer became a reporting issuer in British Columbia and the Jurisdictions, (ii) all of Radiant's shares were cancelled, (iii) the Purchaser became the sole shareholder of the Filer, and (iv) the former shareholders of Radiant became shareholders of the Purchaser.

8. The Filer is a corporation governed by the BCBCA. Its head office is located at Suite 810, 18 King Street East, Toronto, Ontario, M5C 1C4.

9. The Filer is not in default of any of its obligations under the Legislation as a reporting issuer except for its obligations (as the successor corporation of Radiant) to file its audited annual financial statements, related management's discussion and analysis and officer's certificates in respect thereof for the financial year ended May 31, 2008. The default occurred after the completion of the Arrangement, when the trading of shares of Radiant on the TSXV had been halted and the sole shareholder of the Filer (the successor corporation of Radiant) was the Purchaser.

10. Radiant's common shares were delisted from the TSXV on October 1, 2008.

11. 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 in Canada and fewer than 51 security holders in total in Canada.

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

13. The Filer has no intention to seek public financing by way of an offering of securities.

14. The Filer (as the successor corporation of Radiant) applied to voluntarily surrender its status as a reporting issuer in British Columbia under British Columbia Instrument 11-502 *Voluntary Surrender of Reporting Issuer Status* on October 2, 2008 and ceased to be a reporting issuer effective October 12, 2008.

15. Upon the grant of the Exemptive Relief Sought, the Filer will not be a reporting issuer or the equivalent in any jurisdiction of Canada.

Decision

Each of 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.

"James E.A. Turner"
Vice-Chair

"Suresh Thakrar"
Commissioner

2.1.9 Barclays Global Investors Canada Limited et al.

Headnote

NP 11-203 – Exemptive relief granted to exchange-traded fund for initial and continuous distribution of units, including: relief from dealer registration requirement to permit promoter to disseminate sales communications promoting the funds subject to compliance with Part 15 of NI 81-102, relief to permit the funds' prospectus to not contain an underwriter's certificate, and relief from take-over bid requirements in connection with normal course purchases of units on the Toronto Stock Exchange subject to undertaking by unitholders not to exercise any votes attached to units which represent more than 20% of the votes attached to all outstanding units of the funds – Securities Act (Ontario).

Applicable Legislative Provisions

Securities Act, R.S.O. 1990, c. S.5, as am., s. 25(1), 59(1), 74(1), 95-100, 104(2)(c), 147.

Rules Cited

National Instrument 81-102 Mutual Fund.
National Instrument 81-104 Commodity Pools.

November 3, 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
BARCLAYS GLOBAL INVESTORS CANADA LIMITED
(the Filer or Barclays Canada)

AND

iSHARES CONSERVATIVE CORE PORTFOLIO
BUILDER FUND, iSHARES GROWTH CORE
PORTFOLIO
BUILDER FUND, iSHARES GLOBAL COMPLETION
PORTFOLIO BUILDER FUND, iSHARES
ALTERNATIVES
COMPLETION PORTFOLIO BUILDER FUND
(the New iShares Funds) and such other actively
managed exchange-traded funds (ETFs), whether or
not commodity pools, as the Filer may establish
(together with theNew iShares Funds, the Funds)

<u>DECISION</u>

Background

The principal regulator in the Jurisdiction has received an application from the Filer on behalf of the Funds for a decision under the securities legislation of the Jurisdiction of the principal regulator (the **Legislation**) for exemptive relief from:

1. the dealer registration requirement of the Legislation applicable to Barclays Canada in connection with its dissemination of sales communications relating to the distribution of units of the Funds;

2. the requirement to include a certificate of the Underwriters (as defined below) in the prospectus of the Funds; and

3. the Take-Over Bid Requirements (as defined below) in connection with the purchases of units of the Funds in the normal course through the facilities of the Toronto Stock Exchange (**TSX**).

(the **Exemption Sought**)

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

(a) the Ontario Securities Commission (**OSC**) 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 all of the provinces and territories of Canada other than Ontario.

Interpretation

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

Alternative Asset Classes means asset classes including, but not limited to, commodities, real estate investment trusts, income trusts, real return bonds, emerging market equity, emerging market bonds, high yield bonds, specialty equity, infrastructure and private equity.

Baskets means, in relation to a particular Fund, a group of securities of iShares ETFs (as defined below) and/or other securities determined by Barclays Canada from time to time for the purpose of subscription orders, exchanges, redemptions and/or for other purposes.

iShares ETFs means ETFs managed by Barclays Canada or an affiliate other than the New iShares Funds.

Designated Brokers means registered brokers and dealers that enter into agreements with the Funds to perform certain duties in relation to the Funds and **Designated Broker** means any one of them.

Prescribed Number of Units means, in relation to a Fund, the number of units of the Fund (Units) determined by Barclays Canada from time to time for the purpose of subscription orders, exchanges, redemptions or for other purposes.

Take-Over Bid Requirements means the requirements of the Legislation relating to take-over bids, including the requirement to file a report of a take-over bid and the accompanying fee.

Underwriters means registered brokers and dealers that have entered into underwriting agreements with the Funds and that subscribe for and purchase Units from the Funds, and **Underwriter** means any one of them.

Unitholders means holders of Units.

Representations

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

1. The Filer's head office is located in Toronto, Ontario. The Filer, the iShares ETFs and the New iShares Funds are not in default of securities legislation in any jurisdiction.

2. Each Fund is, or will be, a mutual fund trust governed by the laws of the province of Ontario and a reporting issuer under the laws of all of the provinces and territories of Canada.

3. Each New iShares Fund is, and certain other Funds may be, a commodity pool as such term is defined in section 1.1 of National Instrument 81-104 – *Commodity Pools* (**NI 81-104**), in that each New iShares Fund and certain other Funds will adopt fundamental investment objectives that permit the New iShares Fund and certain other Funds to use or invest in specified derivatives in a manner that is not permitted under NI 81-102.

4. Each Fund is, or will be, subject to NI 81-102, subject to any exemptions therefrom that may be granted by securities regulatory authorities including as described below and, if applicable, to the exemptions relating to commodity pools, as such exemptions are outlined in NI 81-104.

5. The New iShares Funds have applied to the securities regulatory authorities for relief from certain requirements of NI 81-102, including relief that would enable the New iShares Funds to invest in any ETF that is primarily listed on the London Stock Exchange and managed by an affiliate of the Filer on the same basis as would be permitted under section 2.5(2) of NI 81-102 if the securities of such ETF were "index participation units" within the meaning of NI 81-102.

6. Units will be listed on the TSX. Barclays Canada has applied to list the units of each New iShares Fund on the TSX. Units will not be sold to investors until the TSX has approved the listing of the Units.

7. The Funds will be actively managed. Units will not be index participation units within the meaning of NI 81-102. Each Fund will be, and will generally be described as, an ETF.

8. The investment objective of each of the New iShares Funds, other than the iShares Alternatives Completion Portfolio Builder Fund, is to provide a specified investment result by optimizing the asset mix of its portfolio among multiple asset classes. The investment objective of the iShares Alternatives Completion Portfolio Builder Fund is to provide a specified investment result by optimizing the asset mix of its portfolio among one or more Alternative Asset Classes. It is expected that other Funds will have similar investment objectives.

9. In order to achieve its investment objective, each New iShares Fund may invest in securities issued by iShares ETFs and may also invest directly in issuers and in derivatives such as options, futures contracts, forward contracts, swaps, debt-like securities and index options. Each New iShares Fund may also use derivatives to hedge, or protect, against changes in asset class prices or foreign exchange risks. Each New iShares Funds may also invest in futures contracts in order to provide market exposure for cash held by the New iShares Funds and may hold money market instruments or cash to meet its current obligations. It is expected that other Funds will use similar investment strategies.

10. The investment objective of each New iShares Fund, as well as its investment strategy, is disclosed in the preliminary prospectus dated October 6, 2008 (the **Preliminary Prospectus**) and will be disclosed on an ongoing basis in the prospectus of the New iShares Funds.

11. Barclays Canada will act as trustee and manager of the Funds. Barclays Canada is registered in the categories of portfolio manager and investment counsel (or the equivalent categories of registration) in all of the provinces and territories of Canada. Barclays Canada is also registered as a Commodity Trading Manager and Limited Market Dealer in Ontario and as a Limited Market Dealer in Newfoundland and Labrador.

12. Units may only be subscribed for or purchased directly from the Funds by Underwriters or Designated Brokers and orders may only be placed for Units in the Prescribed Number of Units (or an integral multiple thereof) on any day when there is a trading session on the TSX and the primary market or exchange for the securities held by the Funds is open for trading. Under

designated broker and underwriter agreements, the Designated Brokers and Underwriters agree to offer Units for sale to the public only as permitted by applicable Canadian securities legislation. Canadian securities legislation requires a prospectus to be delivered to purchasers buying Units as part of a distribution, including first purchasers of Units in the distribution on the TSX. Provided that the Designated Brokers and Underwriters comply with applicable Canadian securities legislation, first purchasers of Units in the distribution on the TSX will receive a prospectus from the Designated Brokers and Underwriters.

13. The Funds will appoint Designated Brokers to perform certain functions, which include standing in the market with a bid and ask price for Units for the purpose of maintaining liquidity for the Units.

14. Each Underwriter or Designated Broker that subscribes for Units must deliver, in respect of each Prescribed Number of Units to be issued, a Basket and cash in an amount sufficient so that the value of the Basket and cash delivered is equal to the net asset value (**NAV**) of the Units next determined following the receipt of the subscription order. In the discretion of Barclays Canada, the Funds may also accept cash only subscriptions for Units in an amount equal to the NAV of the Units next determined following the receipt of the subscription order.

15. The NAV per Unit of each Fund will be calculated and published and the investment portfolio of each Fund will be made available on the www.ishares.ca website on any day when there is a trading session of the TSX.

16. Upon notice given by the Filer from time to time and, in any event, not more than once quarterly, a Designated Broker will subscribe for Units in cash in an amount established by the Filer.

17. Neither the Underwriters nor the Designated Brokers will receive any fees or commissions in connection with the issuance of Units to them. Barclays Canada may, at its discretion, charge an administration fee on the issuance of Units to the Designated Brokers or Underwriters.

18. Except as described in paragraphs 12 through 17 above, Units may not be purchased directly from the Funds. Investors are generally expected to purchase Units through the facilities of the TSX. However, Units may be issued directly to Unitholders upon the reinvestment of distributions of income or capital gains.

19. Unitholders that wish to dispose of their Units may generally do so by selling their Units on the TSX, through a registered broker or dealer, subject only to customary brokerage commissions. A Unitholder that holds a Prescribed Number of Units or an integral multiple thereof of a Fund may exchange such Units with the Fund for Baskets and cash; Unitholders may also redeem their Units directly from the Funds for cash at a redemption price equal to 95% of the closing price of the Units on the TSX on the date of redemption.

20. As trustee, Barclays Canada will be entitled to receive a fee from each New iShares Fund (the **Top Fund Fee**). In addition, Barclays Canada or an affiliate is entitled to receive a fee for acting as trustee or manager of each iShares ETF in which the New iShares Fund will invest (the **Bottom Fund Fee**, and together with the **Top Fund Fee**, the **Total Annual Fee**). The Total Annual Fee will not exceed the fixed annual percentage of the NAV of each New iShares Fund that is disclosed in the Preliminary Prospectus and will be disclosed on an ongoing basis in the prospectus for the New iShares Funds. Each New iShares Fund will also pay certain other fees and expenses that are disclosed in the Preliminary Prospectus and will be disclosed on an ongoing basis in the prospectus for the New iShares Funds. It is expected that the arrangements with respect to the payment of fees and expenses by other Funds will be similar.

21. No investment dealers will act as principal distributors for the Funds in connection with the distribution of Units. The Underwriters will not receive any commission or other payment from the Funds or the Filer for distributing Units. As a result, the Filer expects to be the only entity desiring to foster market awareness and promote trading in the Units through the dissemination of sales communications. Because the Underwriters will not receive any remuneration for distributing Units, and because the Underwriters will change from time to time, it is not practical to require an Underwriters' certificate in the prospectus of the Funds.

22. Unitholders will have the right to vote at a meeting of Unitholders in respect of a Fund in certain circumstances including prior to any change in the fundamental investment objectives of the Fund, any change to their voting rights and prior to any increase in the amount of fees payable by the Fund.

23. Although Units will trade on the TSX and the acquisition of Units can therefore be subject to the Take-Over Bid Requirements:

    (a) it will not be possible for one or more Unitholders to exercise control or direction over a Fund as the declaration of trust of the Funds will ensure that there can be no changes made to the Fund which do not have the support of Barclays Canada;

(b) it will be difficult for purchasers of Units to monitor compliance with Take-Over Bid Requirements because the number of outstanding Units will always be in flux as a result of the ongoing issuance and redemption of Units by the Funds; and

(c) the way in which Units will be priced deters anyone from either seeking to acquire control of, or offering to pay a control premium for, outstanding Units because Unit pricing will generally reflect the NAV of the Funds.

24. The application of the Take-Over Bid Requirements to the Funds would have an adverse impact upon Unit liquidity because it could cause Designated Brokers and other large Unitholders to cease trading Units once prescribed take-over bid thresholds are reached. This, in turn, could serve to provide conventional mutual funds with a competitive advantage over the Funds.

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 such that:

1. the dealer registration requirement of the Legislation does not apply to Barclays Canada in connection with its dissemination of sales communications relating to the distribution of Units, provided Barclays Canada complies with Part 15 of NI 81-102;

2. in connection with the distribution of Units pursuant to a prospectus or any renewal prospectus, the Fund is exempt from the requirement of the Legislation that the prospectus or renewal prospectus contain a certificate of the Underwriters; and

3. the purchase of Units by a person or company (a **Unit Purchaser**) in the normal course through the facilities of the TSX is exempt from the Take-Over Bid Requirements for so long as the Funds remain ETFs provided that, prior to making any take-over bid for Units that is not otherwise exempt from the Take-Over Bid Requirements, the Unit Purchaser, and any person or company acting jointly or in concert with the Unit Purchaser (a **Concert Party**), provide Barclays Canada, as trustee and manager of the Funds, with an undertaking not to exercise any votes attached to the Units held by the Unit Purchaser and any Concert Party which represent more than 20% of the votes attached to all outstanding Units.

Wendell S. Wigle
Commissioner
Ontario Securities Commission

Carol S. Perry
Commissioner
Ontario Securities Commission

2.2 Orders

2.2.1 American Natural Energy Corporation – s. 144

Headnote

Section 144 - Revocation of cease trade order - Issuer subject to cease trade order as a result of its failure to file annual financial statements and related management's discussion and analysis - Issuer has brought its filings up-to-date - Issuer is otherwise not in default of applicable securities legislation.

Applicable Legislative Provisions

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

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

AND

**IN THE MATTER OF
AMERICAN NATURAL ENERGY CORPORATION**

**ORDER
(Section 144)**

WHEREAS the securities of American Natural Energy Corporation (the "Company") were subject to a temporary cease trade order dated July 26, 2007 made by the Director under paragraph 2 and paragraph 2.1 of subsection 127(1) and subsection 127(5) of the Act (the "Temporary Cease Trade Order") ordering that all trading in and all acquisitions of the securities of the Company, whether direct or indirect, cease immediately for a period of fifteen days from the date of the Temporary Cease Trade Order;

AND WHEREAS the securities of the Company are subject to a cease trade order dated August 7, 2007 made by the Director under paragraph 2 and paragraph 2.1 of subsection 127(1) of the Act (the "Cease Trade Order"), ordering that all trading in and acquisitions of the securities of the Company, whether direct or indirect, shall cease until the Cease Trade Order is revoked by the Director;

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

AND WHEREAS the Company has represented to the Commission that:

1. The Company was incorporated under the Oklahoma General Business Corporations Act on January 19, 2001 under the name "Dayton Energy Corporation". On March 23, 2001, the Company changed its name to "American Natural Energy Corporation". Pursuant to a stock purchase agreement dated as of June 6, 2001, as amended, among certain individuals and Gothic Resources Inc. ("Gothic"), a company whose shares were then listed on the TSX Venture Exchange (the "Exchange"), Gothic purchased 100% of the outstanding shares of the Company, and the Company became a wholly-owned subsidiary of Gothic.

2. On February 8, 2002, Gothic completed a plan of arrangement with the Company (the "Arrangement") under section 192 of the *Canada Business Corporations Act*, pursuant to which all of the shareholders of Gothic exchanged their common shares of Gothic for common shares of the Company. As a result of the completion of the Arrangement, Gothic became a wholly-owned subsidiary of the Company and the former shareholders of Gothic became shareholders of the Company.

3. The Arrangement became effective February 8, 2002. The common shares of the Company commenced trading on the Exchange at the opening of business on February 12, 2002, in US dollars.

4. As a result of the completion of the Arrangement, the Company became a reporting issuer under the securities legislation of the provinces of Ontario, British Columbia, Alberta, Saskatchewan, Manitoba, Quebec, New Brunswick, Prince Edward Island and Newfoundland and Labrador. The Company is not a reporting issuer or the equivalent in any other jurisdiction in Canada.

5. The Company is an "SEC foreign issuer" as such term is defined in National Instrument 71-102 ("NI 71-102") and has been relying on the exemptions from the requirements in provincial securities legislation found in Part 4 of NI 71-102, and those found in section 4.1 of Multilateral Instrument 52-109, and section 1.3(b) of National Instrument 58-101, since it became a reporting issuer in Canada, and has been complying with the terms and conditions of those exemptions since that date (other than in respect of the late filings, and the failure to hold an annual general meeting of its shareholders since the late filing of the 2006 Annual Financial Statements, referred to below). The Company intends to rely on such exemptions on a going-forward basis.

6. In addition to the Cease Trade Order, the Company is also subject to cease trade orders in the provinces of British Columbia, Alberta, Manitoba and Quebec (collectively, the "Other Cease Trade Orders"). The Company is not subject to a cease trade order, and is not currently noted in default, in Saskatchewan, New Brunswick, Prince Edward Island or Newfoundland and Labrador. The Company has concurrently filed applications with each of the British Columbia

Securities Commission, the Alberta Securities Commission, the Manitoba Securities Commission and Autorité des marchés financiers for a full revocation of the Other Cease Trade Orders.

7. The Company's shares were suspended from the Exchange on July 25, 2007 and have not been delisted from the Exchange as of the date hereof. The Company's shares are not currently listed or quoted on any other exchange or marketplace.

8. The Company's authorized capital consists of 250,000,000 common shares (the "Common Shares"), of which approximately 52,997,673 Common Shares are issued and outstanding.

9. Since February 2002, the Company has carried on the business of acquiring, exploring, and developing oil and natural gas properties.

10. The Cease Trade Order was issued as a result of the Company's failure to file its audited annual financial statements for the fiscal year ended December 31, 2006 (the "2006 Annual Financial Statements"). Subsequently, the Company also failed to file interim financial statements for the periods ending March 31, 2007, June 30, 2007 and September 30, 2007 (collectively, the "2007 Interim Financial Statements"), audited annual financial statements for the fiscal year ended December 31, 2007 (the "2007 Annual Financial Statements") and the interim financial statements for the period ending March 31, 2008 (the "2008 Interim Financial Statements") and, in each case, related management's discussion and analysis ("MD&A") and certificates under Multilateral Instrument 52-109 *Certification of Disclosure in Issuers' Annual and Interim Filings* (the "MI 52-109 Certificates").

11. The Company was unable to file the 2006 Annual Financial Statements on time due to a possible impediment to the independence of the auditors from the Company. As a consequence of that issue, the Company dismissed its auditors on July 16, 2007 and subsequently engaged a new independent auditing firm, Malone & Bailey, PC (the "Auditor") on that date, in relation to which the Company filed a Form 8-K on SEDAR, in compliance with section 4.15 of NI 71-102. The Company and the Auditor commenced to complete all reporting obligations.

12. The Auditor is not currently registered with the Canadian Public Accountability Board ("CPAB"), however it has confirmed that it has modified its quality control manual to meet CPAB's requirements and commenced the process to become registered with the CPAB on October 8, 2008. The Auditor has provided the Commission with a written undertaking that it will use reasonable efforts to complete the registration process and become registered with CPAB before issuing any further audit reports on the financial statements of the Company.

13. On January 17, 2008, the Company filed on SEDAR the 2006 Annual Financial Statements with related MD&A and MI 52-109 Certificates. All 2007 Interim Financial Statements with related MD&A and MI 52-109 Certificates were filed by March 24, 2008. On May 28, 2008, the Company filed the 2007 Annual Financial Statements with related MD&A and MI 52-109 Certificates. On June 9, 2008, the Company filed the 2008 Interim Financial Statements with related MD&A and MI 52-109 Certificates. On August 14, 2008, the Company filed the Interim Financial Statements with related MD&A and MI 52-109 Certificates for the period ended June 30, 2008.

14. On October 10, 2008, the Company filed an amended Form 51-101F1 and amended Form 51-101F3, and is now in compliance with the provisions of all of the requirements of National Instrument 51-101 *Standards of Disclosure for Oil And Gas Activities*.

15. The Company is up-to-date in its continuous disclosure filings with the Commission and has paid all outstanding activity, participation and late filing fees and is not in default of any requirement in applicable securities legislation in any jurisdiction, except for the existence of the Cease Trade Order and the Other Cease Trade Orders. The Company failed to hold an annual general meeting of its shareholders since the late filing of the 2006 Annual Financial Statements. The Company is required under applicable US corporate law to hold an annual general meeting of its shareholders once in every calendar year, and has provided an undertaking to the Commission to hold an annual general meeting of its shareholders within three months after the date on which the Cease Trade Order and the Other Cease Trade Orders are revoked.

16. The Company has not had any "material changes" within the meaning of the Act since it was cease traded and is not in default of requirements to file material change reports under applicable securities legislation.

17. The Company's SEDAR profile and SEDI issuer profile supplement are up-to-date.

18. Forthwith after the revocation of the Cease Trade Order, the Company will issue and file a news release and file a material change report on SEDAR disclosing the revocation of the Cease Trade Order and outlining the Company's future plans.

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

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

IT IS ORDERED, pursuant to section 144 of the Act, that the Cease Trade Order is revoked.

DATED at Toronto on this 29th day of October, 2008.

"Margo Paul"
Director, Corporate Finance
Ontario Securities Commission

2.2.2 Goldbridge Financial Inc. et al. – ss. 127(1), 127(2)

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

AND

IN THE MATTER OF
GOLDBRIDGE FINANCIAL INC.,
WESLEY WAYNE WEBER AND
SHAWN C. LESPERANCE

ORDER
Section 127(1) & 127(2)

WHEREAS on October 10, 2008 the Commission issued a temporary order pursuant to section 127(5) of the Act that all trading in securities by Goldbridge Financial Inc. ("Goldbridge"), Wesley Wayne Weber ("Weber") and Shawn C. Lesperance ("Lesperance") shall cease, and that the exemptions contained in Ontario securities law do not apply to Goldbridge, Weber and Lesperance (the "Temporary Order");

AND WHEREAS the Temporary Order expired on the fifteenth day after its making unless extended by the Commission;

AND WHEREAS the Commission held a hearing on October 28, 2008 at which a further order was sought pursuant to subsection 127(1) of the Act, prohibiting the Respondents from trading for a period of at least four months to permit further investigation by Staff;

AND WHEREAS Staff of the Commission and Weber and Lesperance appeared and made submissions at the hearing;

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

IT IS ORDERED pursuant to clause 2 of subsection 127(1) of the Act that all trading in securities by Goldbridge, Weber and Lesperance shall cease, subject to the exception below;

IT IS FURTHER ORDERED THAT notwithstanding the foregoing order, Goldbridge may trade solely as principal in one account ("the account") in accordance with the following conditions:

(a) the account shall be at E*TRADE Canada ("E*Trade");

(b) the account shall be in the name of Goldbridge Financial Inc.;

(c) the account shall contain only funds belonging to Goldbridge contributed by Weber or Lesperance, and shall not be

used directly or indirectly to trade on behalf of any other person or company;

(d) Goldbridge shall provide Staff with particulars of the account, including the account number, within 7 days of the date of this Order;

(e) Goldbridge shall instruct E*Trade to provide copies of all trade confirmation notices with respect to the account directly to Staff at the same time that such notices are provided to Goldbridge;

(f) securities traded in the account shall consist solely of securities listed or quoted on the New York Stock Exchange ("NYSE") or the National Association of Securities Dealers Automated Quotations ("NASDAQ"); and

(g) the Respondents shall immediately take steps to remove from the internet all advertising and postings on behalf of the Respondents offering to provide investment services and lessons in day trading;

IT IS FURTHER ORDERED that Staff may apply to the Commission to vary this Order at any time if Staff concludes that it is in the public interest to do so;

IT IS FURTHER ORDERED that this Order shall expire at the close of business on January 20, 2009, unless it is extended by the Commission, and this matter shall be adjourned to January 19, 2009, at 10:00 a.m.

Dated at Toronto this 28th day of October, 2008

"James Turner"

"Paulette Kennedy"

2.2.3 Canaccord Capital Corporation – s. 74(1)

Headnote

Subsection 74(1) of the Securities Act (Ontario) – relief from the registration requirements of paragraph 25(1)(a) of the Act granted to non-Ontario registered salespersons of the Applicant trading on behalf of an Ontario charitable foundation in connection with a charitable gift program.

Applicable Ontario Statutory Provisions

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

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

AND

**IN THE MATTER OF
CANACCORD CAPITAL CORPORATION**

**ORDER
(Subsection 74(1))**

UPON the application (the **Application**) of Canaccord Capital Corporation (the **Applicant**) to the Ontario Securities Commission (the **Commission**) for an order pursuant to subsection 74(1) of the Act that the registration requirements contained in paragraph 25(1)(a) of the Act (the **Dealer Registration Requirements**) shall not apply to non-Ontario registered salespersons of the Applicant (the **Salespersons**) in respect of trading on behalf of a public foundation (the **Foundation**, as described below) in connection with the Applicant's charitable gift program (the **Charitable Gift Program**, as described below);

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

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

The Applicant

1. The Applicant is a corporation incorporated under the *Business Corporations Act* (British Columbia) and is registered as a dealer in the category of investment dealer in Ontario and in all other provinces and territories in Canada. The Applicant is also a member of the Investment Industry Regulatory Organization of Canada (**IIROC**).

The Salespersons

2. Each Salesperson is employed by the Applicant and is registered in one or more provinces or territories in Canada as a salesperson of the

Applicant. Each Salesperson is also approved by IIROC as a registered representative.

The Foundation

3. The Foundation is an independent non-profit charitable organization with registered charitable status as a public foundation under the *Income Tax Act* (Canada) (the **Tax Act**). The head office of the Foundation is in Ontario.

4. The purpose of the Foundation is to support charities and other permitted entities as defined under the Tax Act (**Qualified Donees**) through charitable gifts received from donors. The Foundation specializes in the management and administration of donor-advised charitable gift funds and has entered into an agreement with the Applicant in connection with its Charitable Gift Program.

The Charitable Gift Program

5. Prospective charitable donors to the Foundation will, prior to making a donation, receive a program guide (a **Program Guide**) which will outline the details of the operation of the Charitable Gift Program and its fees.

6. Donors make an irrevocable charitable gift of cash and/or securities to the Foundation (a **Donor**) and receive a tax receipt generally equal to the cash, or fair market value of securities, donated to the Foundation. Securities donated to the Foundation will be liquidated by the Applicant.

7. The Foundation will deposit the proceeds of each Donor's gift into an individual account which it will open with the Applicant (each, an **Account**). Donors may also make subsequent gifts to the Foundation under the Charitable Gift Program from time to time.

8. Each Account will be opened in the name of the Foundation in a manner in which the Donor can be identified. The Donor, or his/her successor or designate, will be responsible for providing the Foundation with recommendations regarding the disbursements from the Account to Qualified Donees.

9. In order to comply with the Tax Act, the Charitable Gift Program will require that all gifts to the Foundation held in the Account are disbursed to Qualified Donees in accordance with the disbursement quotas established under the Tax Act, or held as required under the Tax Act. In particular, any property held in the Account which is "enduring property" as defined in subparagraph (c) of section 149.1(1) of the Tax Act (also known as a "ten year gift"), will be held for the required ten year period or expended strictly in accordance with any applicable exemption permitted by the Tax Act.

10. Legislation applicable to the Foundation requires that all donated assets be invested in accordance with the "prudent investor" standard. In accordance with this requirement, the Foundation will pre-select a list of mutual funds and portfolio mandates for managed accounts offered by the Applicant under the Charitable Gift Program (the **Eligible Investment Vehicles**). Every Account opened as a result of a donation under the Charitable Gift Program will be restricted to investments in one or more Eligible Investment Vehicles. Each of the Eligible Investment Vehicles is expected to be a well-diversified balanced portfolio. The Donor will be provided an opportunity to express to the Foundation his or her preference (if any) regarding which Eligible Investment Vehicles the Account should be invested in from time to time.

11. In the event that an Eligible Investment Vehicle is a mutual fund, the mutual fund will be qualified by way of a prospectus in accordance with National Instrument 81-101 *Mutual Fund Prospectus Disclosure* and available for distribution in Ontario and the province or territory in which the Donor resides.

12. The Salesperson that solicits the Donor's gift to the Foundation will initially service the Account set up with the proceeds of that Donor's gift and may also have an ongoing relationship with the Donor. The Salesperson may make a recommendation to the Donor as to the initial choice of Eligible Investment Vehicle and may subsequently recommend changes to the choice of Eligible Investment Vehicle.

13. The Foundation will have final authority over all investment decisions in each Account, except Accounts that are opened as managed accounts. In particular, after receiving the preferences of a Donor, the Foundation will make all final decisions on investments for the Account, and will send trading instructions to the Salesperson servicing that Account.

14. In the case where an Account is a managed account, investment decisions will be made by the Salesperson responsible for the Account, in accordance with the investment objectives of the Account pursuant to the portfolio mandate(s) selected by the Donor as an Eligible Investment Vehicle. The Foundation has the ability to select another Salesperson to manage the managed account. Each Salesperson exercising discretionary authority over an Account that is a managed account will be appropriately qualified to provide portfolio management services.

15. The Applicant will deliver trade confirmations and account statements (**Account Statements**) to the Foundation with respect to each Account as required under the securities legislation in the jurisdiction where such Account is located. The Applicant will make a copy of any or all Account Statements available to the applicable Donor upon request. The Foundation will deliver a quarterly donor statement to each Donor.

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

IT IS HEREBY ORDERED, pursuant to subsection 74(1) of the Act, that the Dealer Registration Requirements shall not apply to the Salespersons in respect of registrable activities undertaken on behalf of the Foundation in connection with the Applicant's Charitable Gift Program, provided that:

(a) each Salesperson undertaking registrable activities on behalf of the Foundation is registered in one or more provinces or territories in Canada as a salesperson of the Applicant and is approved by IIROC as a registered representative;

(b) each Salesperson exercising discretionary authority over a managed account in connection with the Charitable Gift Program will be appropriately qualified to provide portfolio management services;

(c) all fees, expenses and commissions related to the Charitable Gift Program will be fully disclosed in the Program Guide, or equivalent document, and the Program Guide, or equivalent document, shall be provided to every Donor by the Applicant or the applicable Salesperson prior to the Donor making a gift to the Foundation;

(d) the Donor making a gift to the Foundation receives a duplicate copy of any or all Account Statements delivered to the Foundation by the Applicant upon request; and

(e) the Foundation delivers a quarterly donor statement to each Donor.

October 31, 2008

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

"Suresh Thakrar"
Commissioner
Ontario Securities Commission

2.2.4 Toronto-Dominion Bank and TD Capital Trust II

Headnote

Application by bank (the Bank) and capital trust subsidiary (the Trust) for an order granting the Trust relief from the requirement in OSC Rule 13-502 Fees (the Fees Rule) to pay participation fees - Bank has paid, and will continue to pay, participation fees applicable to it under s. 2.2 of the Fees Rule, and Bank includes capitalization of Trust in its fee calculation - relief analogous to relief for "subsidiary entities" contained in s. 2.9(2) of the Fees Rule - Trust may not, from a technical accounting perspective, be considered to be a "subsidiary entity" of Bank for Canadian GAAP purposes and may not be entitled to rely on the exemption in s. 2.9(2) of the Fees Rule - Trust and Bank satisfy conditions of exemption in s. 2.9(2) but for definition of "subsidiary entity" - Trust exempt from requirement to pay participation fees, subject to conditions.

Applicable Legislative Provisions

OSC Rule 13-502 Fees, s. 2.9(2).

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

AND

IN THE MATTER OF
THE TORONTO-DOMINION BANK AND
TD CAPITAL TRUST II

ORDER

WHEREAS the Director has received an application from The Toronto-Dominion Bank (the **Bank**) and TD Capital Trust II (the **Trust**) for an order, pursuant to Section 6.1 of Ontario Securities Commission (the **Commission**) Rule 13-502 – *Fees* (the **Fees Rule**), that the requirement to pay a participation fee under Section 2.2 of the Fees rule shall not apply to the Trust, subject to certain terms and conditions.

AND WHEREAS the Bank and the Trust have represented to the Commission that:

1. The Trust is a open-end trust established under the laws of the Province of Ontario by The Canada Trust Company as trustee (as succeeded by Computershare Trust Company of Canada, the **Trustee**) pursuant to a declaration of trust dated September 10, 2002 (as amended and restated on October 22, 2002).

2. The Trust has a financial year-end of December 31.

3. The Trust is a reporting issuer in Ontario and, to its knowledge, is not in default of any requirement under the securities legislation of the Province of Ontario.

4. Pursuant to an administration agreement dated October 22, 2002, the Trustee has delegated to the Bank certain of its obligations in relation to the administration of the Trust, including the day-to-day operations of the Trust and other matters as may be requested by the Trustee from time to time.

5. The outstanding securities of the Trust consist of (i) 350,000 TD Capital Trust II Securities – Series 2012-1 (the **TD CaTS II**), each with a face value of $1,000 and (ii) 2,000 Special Trust Securities, each with a face value of $1,000. The Trust distributed the TD CaTS II in a public offering (the **Offering**) pursuant to a prospectus dated October 15, 2002 (the **Prospectus**) and may from time to time issue further series of TD Capital Trust II Securities. All of the Special Trust Securities, which are the only voting securities of the Trust, are held by the Bank. (The TD Capital Trust II Securities and the Special Trust Securities are collectively referred to herein as **Trust Securities**.)

6. No Trust Securities are currently listed on a marketplace as defined in National Instrument 21-101 *Marketplace Operation*.

7. The Trust's only business is to invest its assets and its objective is to acquire and hold assets, consisting primarily of a senior deposit note of the Bank (the **Bank Deposit Note**), which will generate income for distribution to holders of the Trust Securities. The Trust does not and will not carry on any independent business activities other than to acquire and hold assets to generate income as described above.

8. Pursuant to an MRRS decision document dated December 19, 2002 (the **2002 Continuous Disclosure Exemption**) granted to the Trust by the Commission, as principal regulator, on behalf of itself and the other decision makers (collectively, the **Decision Makers**), the Decision Makers determined that the requirement contained in the securities legislation of the Province of Ontario and in other applicable jurisdictions (collectively, the **Legislation**) to:

   (a) file interim financial statements and audited annual financial statements (collectively, the **Financial Statements**) with the Decision Makers and deliver such statements to the security holders of the Trust;

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

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

shall not apply to the Trust for so long as:

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

   (ii) the Bank files with the Decision Makers, in electronic format under the Trust's SEDAR profile, the documents listed in (a) to (c) above in this paragraph 8, at the same time as they are required under the Legislation to be filed by the Bank;

   (iii) the Trust pays all filing fees that would otherwise be payable by the Trust in connection with the filing of the documents referred to in (a) to (c) above in this paragraph 8;

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

   (v) all outstanding securities of the Trust are either TD Capital Trust II Securities or Special Trust Securities;

   (vi) the rights and obligations (other than the economic terms thereof) of holders of additional series of TD Capital Trust II Securities are the same in all material respects as the rights and obligations of the holders of the TD CaTS II on the date hereof; and

   (vii) the Bank is the beneficial owner of all Special Trust Securities;

and provided that the 2002 Continuous Disclosure Exemption shall expire 30 days after the date that a material adverse change occurs in the affairs of the Trust.

In addition, the Decision Makers in Ontario, Saskatchewan and Quebec determined that the requirements to file an annual information form (an **AIF**) and management's discussion and analysis (**MD&A**) of the financial condition and results of operation of the Trust with the Decision Makers in Ontario, Saskatchewan and Quebec and send such MD&A to the security holders of the Trust, where applicable, shall not apply to the Trust for so long as:

(viii) the conditions set out in clauses (i), (v), (vi) and (vii) above of this paragraph 8 are complied with;

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

(x) the Trust pays all filing fees that would otherwise be payable by the Trust in connection with the filing of the documents referred to in clauses (a) to (c) above of this paragraph 8; and

(xi) the Bank sends its annual and interim MD&A and its AIF, as applicable, to holders of Trust Securities at the same time and in the same manner as if the holders of Trust Securities were holders of Bank Common Shares;

and provided that the 2002 Continuous Disclosure Exemption shall expire 30 days after the date that a material adverse change occurs in the affairs of the Trust.

9. Pursuant to an MRRS Decision Document dated May 31, 2004 (the **2004 Continuous Disclosure Exemption**) granted to the Trust by the Commission, as principal regulator, on behalf of itself and the other Decision Makers, the Decision Makers determined that the requirement contained in the Legislation to:

(a) file annual certificates (**Annual Certificates**) with the Decision Makers under Section 2.1 of Multilateral Instrument 52-109 – *Certification of Disclosure in Issuer's Annual and Interim Filings* (MI 52-109); and

(b) file interim certificates (**Interim Certificates**) with the Decision Makers under Section 3.1 of MI 52-109;

shall not apply to the Trust for so long as:

(i) the Trust is not required to, and does not, file its own interim filings and annual filings (each as defined in MI 52-109);

(ii) the Bank files with the Decision Makers, in electronic format under the Trust's SEDAR profile, the Bank's Annual Certificates and Interim Certificates at the same time as such documents are required under the Legislation to be filed by the Bank; and

(iii) the Trust qualifies for the relief contemplated by, and is in compliance with, the requirements and conditions set out in the 2002 Continuous Disclosure Exemption;

and provided that if a material adverse change occurs in the affairs of the Trust, the 2004 Continuous Disclosure Exemption shall expire 30 days after the date of such change.

10. The Trust was established by the Bank in order to comply with the regulatory requirements of the Office of the Superintendent of Financial Institutions (**OSFI**) relating to the issuance of innovative capital instruments (as contained in OSFI's Principles Governing Inclusion of Innovative Instruments in Tier 1 Capital (the **OSFI Guidelines**)).

11. OSFI maintains strict guidelines and standards (the **OSFI Guidelines**) with respect to the capital adequacy requirements of federally regulated financial institutions, including the Bank, and, in particular, specifies minimum required amounts of capital to be maintained by such institutions. Tier 1 capital consists of common shareholders' equity, qualifying non-cumulative perpetual preferred shares, qualifying innovative instruments and qualifying non-controlling interests arising on consolidation from Tier 1 capital instruments. Innovative instruments, such as the TD CaTS II, must satisfy the detailed requirements of the OSFI Guidelines to be included in the Tier 1 capital of the Bank, including the requirement that such instruments be issued by a special purpose vehicle (such as the Trust), whose primary purpose is to raise innovative Tier 1 capital. OSFI approved the inclusion of the TD CaTS II as Tier 1 capital of the Bank. If the Bank could issue the TD CaTS II directly, this capital would be included in the calculation of the participation fee payable by the Bank.

12. No continuous disclosure documents concerning only the Trust will be filed with the Commission.

13. The Trust is a "Class 2 reporting issuer" under the Fees Rule and would be required (but for this Order) to pay participation fees under such rule.

14. The Bank controls the Trust though its ownership of the Special Trust Securities issued by the Trust. The Bank has paid, and will continue to pay, participation fees applicable to it under section 2.2 of the Fees Rule.

15. The Fees Rule includes an exemption for "subsidiary entities" in subsection 2.9(2) of the Fees Rule. The Bank and the Trust meet all of the substantive requirements to rely on the exemption in subsection 2.9(2) of the Fees Rule, but for the definition of "subsidiary entity". The Fees Rule defines "subsidiary entity" by reference to the accounting definition under Canadian generally accepted accounting principles (**Canadian GAAP**), rather than by reference to a legal definition based on control.

16. On November 1, 2004, the Canadian Institute of Chartered Accountants adopted Guideline 15, Consolidation of Variable Interest Entities (the **VIE Guideline**). According to the VIE Guideline, the Bank may not consolidate the Trust because the assets of the Trust consist primarily of the Bank Deposit Note, a liability of the Bank. As a result, the Trust may not, from a technical accounting perspective, be considered to be a "subsidiary entity" of the Bank for Canadian GAAP purposes and may not be entitled to rely on the exemption in subsection 2.9(2) of the Fees Rule.

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

(i) the Bank and the Trust continue to satisfy all of the conditions contained in the 2002 Continuous Disclosure Exemption and the 2004 Continuous Disclosure Exemption; and

(ii) the capitalization of the Trust represented by the TD CaTS II and any additional securities of the Trust that may be issued, from time to time, by the Trust is included in the participation fee calculation applicable to the Bank and the Bank has paid the participation fee calculated on this basis.

DATED at Toronto this 31st day of October, 2008.

"Erez Blumberger"
Manager, Corporate Finance
Ontario Securities Commission

2.2.5 Vicis Capital LLC – s. 80 of the CFA

Headnote

Section 80 of the Commodity Futures Act (Ontario)(CFA) – Relief from the adviser registration requirements of subsection 22(1)(b) of the CFA granted to non-resident adviser in respect of advising a de minimus number of permitted clients in Ontario in connection with advising certain non-Canadian investment funds and similar investment vehicles primarily offered outside of Canada in respect of trades in commodity futures contracts and commodity futures options primarily traded on commodity futures exchanges outside Canada and primarily cleared through clearing corporations outside Canada, subject to certain terms and conditions. Relief mirrors exemption available in section 7.1 of Ontario Securities Commission Rule 35-502 – Non Resident Advisers.

Statutes Cited:

Commodity Futures Act, R.S.O. 1990, c. C.20, as am., ss. 22(1), 38(1).
Securities Act, R.S.O. 1990, c S.5, as am. – Rule 35-502 Non Resident Advisers.

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

AND

IN THE MATTER OF
VICIS CAPITAL LLC

ORDER
(Section 80 of the CFA)

UPON the application (the **Application**) to the Ontario Securities Commission (the **Commission**) by Vicis Capital LLC (the **Applicant**) for an order of the Commission, pursuant to section 80 of the CFA, that the Applicant (including its directors, partners, officers, employees or other individual representatives, acting on its behalf), is exempt from the adviser registration requirement in the CFA (as defined below) in connection with the Applicant acting as an adviser to one or more Funds (as defined below), in respect of Contracts (as defined below);

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

AND WHEREAS for the purposes of this Order;

(i) the following terms shall have the following meanings:

"adviser registration requirement in the CFA" means the requirement set out in paragraph 22(1)(b) of the CFA that prohibits a person or company from acting as an adviser, as defined in the

CFA, unless the person or company satisfies the applicable provisions of section 22 of the CFA;

"adviser registration requirement in the OSA" means the requirement set out in paragraph 25(1)(c) of the OSA that prohibits a person or company from acting as an adviser, as defined in the OSA, unless the person or company satisfies the applicable provisions of section 25 of the OSA;

"Contract" means a commodity futures contract or a commodity futures option that is, in each case, primarily traded on one or more organized exchanges that are located outside of Canada and primarily cleared through one or more clearing corporations that are located outside of Canada;

"OSA" means the *Securities Act* (Ontario);

"OSC Rule 35-502" means Ontario Securities Commission Rule 35-502 – *Non Resident Advisers*, made under the OSA;

"prospectus requirement in the OSA" means the requirement in the OSA that prohibits a person or company from distributing a security unless a preliminary prospectus and prospectus for the security have been filed and receipts obtained for them; and

(ii) terms used in this Order that are defined in the OSA, and not otherwise defined in this Order or in the CFA, shall have the same meaning as in the OSA, unless the context otherwise requires;

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

AND UPON the Applicant having represented to the Commission that:

1. The Applicant is a limited liability company established under the laws of the State of Delaware and is registered as an investment adviser under the U.S. *Investment Advisers Act of 1940*, as amended.

2. The Applicant is not ordinarily resident in Ontario and is not registered in any capacity under the CFA or the OSA.

3. The Applicant acts as an investment adviser to the Vicis Capital Fund (International) and certain other redeemable or non-redeemable investment funds and may in the future advise certain other redeemable or non-redeemable investment funds or similar investment vehicles (collectively, the **Funds**).

4. The Funds may, as a part of their investment program, invest in Contracts.

5. The Applicant is responsible for, in addition to other things, providing certain administrative services, investment advice and other investment management services to the Funds and arranging for the execution of the Funds' securities transactions.

6. The Funds advised by the Applicant are, or will be, established outside of Canada and securities of the Funds are, or will be, primarily offered outside of Canada. Securities of the Funds may be offered to a small number of clients resident in Ontario (**Ontario clients**) and will be distributed in Ontario in reliance upon an exemption from the prospectus requirement in the OSA.

7. Each of the Ontario clients qualifies as a "permitted client" (as such term is defined in OSC Rule 35-502).

8. None of the Funds in respect of which the Applicant may act as an adviser has any intention of becoming a reporting issuer under the OSA or under the securities legislation of any other jurisdiction in Canada.

9. Paragraph 22(1)(b) of the CFA prohibits a person or company from acting as an adviser unless the person or company is registered as an adviser under the CFA, or is registered as a representative or as a partner or an officer of a registered adviser and is acting on behalf of such registered adviser, and otherwise satisfies the applicable requirements specified in section 22 of the CFA. Under the CFA, "adviser" means a person or company engaging in or holding himself, herself or itself out as engaging in the business of advising others as to trading in "contracts", and "contracts" is defined in subsection 1(1) of the CFA to mean "commodity futures contracts" and "commodity futures options" (with these latter terms also defined in subsection 1(1) of the CFA).

10. Where securities of the Funds are offered by the Funds to an Ontario resident, and the Applicant engages in the business of advising the Funds as to the investing in or the buying or selling of securities, the Applicant may, by so acting, be interpreted as acting as an adviser, as defined in the OSA, to the Ontario resident who acquires the securities offered by the Funds, as suggested in the Notice of the Commission dated October 2, 1998, requesting comments on the then-proposed OSA Rule 35-502. Similarly, where securities of

the Funds are offered to an Ontario resident, and the Applicant engages in the business of advising the Funds as to trading in commodity futures contracts or commodity futures options, the Applicant may, by so acting, also be interpreted as acting as an adviser (as defined in the CFA) to the Ontario resident who acquires the securities offered by the Funds.

11. There is currently no rule or other regulation under the CFA that provides an exemption from the adviser registration requirement in the CFA for a person or company acting as an adviser, in respect of commodity futures options or commodity futures contracts, that corresponds to the exemption from the adviser registration requirement in the OSA for acting as an adviser, as defined in the OSA, in respect of securities, that is contained in section 7.1 of OSC Rule 35-502.

12. Section 7.1 of OSC Rule 35-502 provides that the adviser registration requirement in the OSA does not apply to a person or company, not ordinarily resident in Ontario, if

    (a) it, and its affiliates or affiliated partnerships that are not ordinarily resident in Ontario, did not act as an adviser during the preceding 12 months for more than five clients in Canada;

    (b) it acts as an adviser in Ontario in reliance upon the exemption provided by section 7.1 of OSC Rule 35-502 solely for permitted clients (as defined in OSC Rule 35-502), other than a fund (as defined in OSC Rule 35-502);

    (c) it does not solicit clients in Ontario;

    (d) its acting as an adviser in Ontario for Canadian securities is incidental to its acting as an adviser in Ontario for foreign securities (as defined in OSC Rule 35-502);

    (e) before advising an Ontario client, it notifies the Ontario client that it is not registered as an adviser in Ontario; and

    (f) all assets of its Ontario clients are held by persons or companies that meet the requirements of paragraph 3.7(1) or are referred to in subsection 3.7(3) of OSC Rule 35-502.

13. The Applicant, where required, is or will be appropriately registered or licensed or is, or will be, entitled to rely on appropriate exemptions from such registration or licensing requirements to provide advice to the Funds pursuant to the applicable legislation of its principal jurisdiction.

14. In respect of the Vicis Capital Fund (International), the Applicant filed a notice of exemption from registration as a commodity pool operator with the United States Commodity Futures Trading Commission on June 1, 2004, which became effective upon the filing of the notice of exemption. The Applicant will file similar notices of exemption in respect of all other Funds.

15. Prior to purchasing any securities of the Funds, the Ontario clients shall have received disclosure that includes:

    (a) a statement to the effect that there may be difficulty in enforcing any legal rights against the Funds or the Applicant (including the individual representatives of the Applicant acting on behalf of the Applicant), because the Applicant is a resident outside of Canada and, to the extent applicable, all or substantially all of its assets are situated outside of Canada; and

    (b) a statement to the effect that the Applicant is not, or will not be, registered (or licensed) under the CFA or the OSA and, as a result, investor protections that might otherwise be available to clients of a registered adviser under the OSA or CFA will not be available to purchasers of securities of the Funds.

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

IT IS ORDERED, pursuant to section 80 of the CFA, that the Applicant (including its directors, partners, officers, employees or other individual representatives, acting on its behalf) is exempted from the adviser registration requirement in the CFA, for a period of five years, in connection with the Applicant acting as an adviser to one or more Funds in respect of Contracts, provided that, at the time the Applicant so acts as an adviser to any such Fund:

(a) the Applicant is not ordinarily resident of Ontario;

(b) the Applicant is appropriately registered or licensed, or entitled to rely upon appropriate exemptions from registration or licensing requirements, in order to provide to the Fund advice as to trading in the corresponding Contracts, pursuant to the applicable legislation of the Applicant's principal jurisdiction;

(c) the Applicant, and its affiliates or affiliated partnerships that are not ordinarily resident in Ontario, did not act as an adviser during the preceding 12 months for more than five clients in Canada;

(d) each of the Ontario clients qualifies as a "permitted client" (as defined in OSC Rule 35-502), other than a fund (as defined in OSC Rule 35-502);

(e) the Applicant does not solicit clients in Ontario;

(f) the Applicant's acting as an adviser in Ontario for Canadian securities is incidental to its acting as an adviser in Ontario for foreign securities (as defined in OSC Rule 35-502);

(g) before advising an Ontario client, the Applicant notifies the Ontario client that it is not registered as an adviser in Ontario;

(h) all assets of the Ontario clients are held by persons or companies that meet the requirements of paragraph 3.7(1) or are referred to in subsection 3.7(3) of OSC Rule 35-502;

(i) the Funds are offered in Ontario only in reliance upon an exemption from the prospectus requirements in the OSA; and

(j) prior to their purchasing any securities of the Funds, the Ontario clients shall have received disclosure that includes:

    (i) a statement to the effect that there may be difficulty in enforcing any legal rights against the Funds or the Applicant (including the individual representatives of the Applicant acting on behalf of the Applicant), because the Applicant is a resident outside of Canada and, to the extent applicable, all or substantially all of its assets are situated outside of Canada; and

    (ii) a statement to the effect that the Applicant is not, or will not be, registered (or licensed) under the CFA or the OSA and, as a result, investor protections that might otherwise be available to clients of a registered adviser under the OSA or CFA will not be available to purchasers of securities of the Funds.

October 31, 2008.

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

"Suresh Thakrar"
Commissioner
Ontario Securities Commission

2.2.6 MacGregor Global Investments LLC – s. 218 of the Regulation

Headnote

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

Regulation Cited

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

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

AND

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

AND

IN THE MATTER OF
MACGREGOR GLOBAL INVESTMENTS LLC

ORDER
(Section 218 of the Regulation)

UPON the application (the **Application**) of MacGregor Global Investments LLC (the **Applicant**) to the Ontario Securities Commission (the **Commission**) for an order, pursuant to section 218 of the Regulation, exempting the Applicant from the requirement under section 213 of the Regulation that the Applicant be incorporated, or otherwise formed or created, under the laws of Canada or a province or territory of Canada as a condition of registration under the Act as a dealer in the category of limited market dealer (**LMD**);

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

AND UPON the Applicant having represented to the Commission that:

1. The Applicant is a corporation organized under the laws of the State of Illinois. The Applicant has its principal place of business at 980 North Michigan Avenue, Suite 1350, Chicago, Illinois.

2. The Applicant is registered in the United States with the United States Securities and Exchange Commission as a broker-dealer. The Applicant is also a member of the Financial Industry Regulatory Authority.

3. The Applicant is a limited broker dealer servicing clients in the United States and internationally and engages in private placements of securities.

4. The Applicant is not presently registered in any capacity under the Act. However, the Applicant is in the process of applying to the Commission for registration under the Act as a dealer in the category of LMD (non-resident).

5. As an LMD in Ontario, the Applicant proposes to engage in trading in securities with "accredited investors" (as defined under National Instrument 45-106 – *Prospectus and Registration Exemptions*) in Ontario, or otherwise pursuant to prospectus exemptions.

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

7. The Applicant is not incorporated, formed or created under the laws of Canada or any province or territory of Canada. The Applicant is not a resident of Canada and does not require a separate Canadian company to carry out its proposed LMD activities in Ontario because it is more efficient and cost effective for the Applicant to carry out those activities through the existing company.

8. The Applicant requests an exemption from the requirement under section 213 of the Regulation to permit it to obtain registration as an LMD without having to incorporate a separate company under the laws of Canada or a province or territory of Canada.

9. Without the relief requested, the Applicant would not meet the requirements for registration as an LMD because the Applicant is not a company incorporated, formed or created under the laws of Canada or a province or territory of Canada.

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

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

1. Before the Applicant carries on any trading activities for any person or company pursuant to its registration under the Act as an LMD , the Applicant shall (if it has not already done so)

provide to that person or company a statement in writing that:

(a) discloses the non-resident status of the Applicant in Ontario;

(b) identifies the Applicant's jurisdiction of residence and the name and address of the Applicant's agent for service of process in Ontario; and

(c) discloses that legal rights may not be enforceable as a result of the non-resident status of the Applicant in Ontario.

2. he Applicant will not change its agent for service of process in Ontario without giving the Commission and its clients 30 days' prior written notice of such change, which shall, in the case of the Commission, be given by filing with the Commission (Attention: Manager, Registrant Regulation) a new *Submission to Jurisdiction and Appointment of Agent for Service of Process*, in the required form.

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

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

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

(a) that it has ceased to be registered with the United States Securities and Exchange Commission as a broker-dealer;

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

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

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

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

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

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

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

(a) so advise the Commission; and

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

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

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

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

(a) so advise the Commission; and

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

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

October 31, 2008.

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

"Suresh Thakrar"
Commissioner
Ontario Securities Commission

2.2.7 SINOPIA Asset Management S.A. – s. 80 of the CFA

Headnote

Section 80 of the Commodity Futures Act (Ontario) – Relief from the adviser registration requirements of subsection 22(1)(b) of the CFA in respect of acting as an adviser to certain non-Canadian investment funds and similar investment vehicles primarily offered outside of Canada in respect of trades in commodity futures contracts and commodity futures options primarily traded on commodity futures exchanges outside Canada and primarily cleared through clearing corporations outside Canada, subject to certain terms and conditions. Relief mirrors exemption available in section 7.10 of Ontario Securities Commission Rule 35-502 – Non Resident Advisers.

Statutes Cited

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

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

AND

**IN THE MATTER OF
SINOPIA ASSET MANAGEMENT S.A.**

**ORDER
(Section 80 of the CFA)**

UPON the application (the **Application**) of SINOPIA Asset Management S.A. (the **Applicant**) to the Ontario Securities Commission (the **Commission** or **OSC**) for an order, pursuant to section 80 of the CFA, that the Applicant (including its directors, officers and employees) be exempt, for a period of five years, from the adviser registration requirement in paragraph 22(1)(b) of the CFA in connection with the Applicant acting as an adviser to certain non-Canadian mutual funds, non-redeemable investment funds and similar investment vehicles (the **Funds**, as defined below) primarily offered outside of Canada in respect of trades in commodity futures contracts and commodity futures options primarily traded on commodity futures exchanges outside Canada and primarily cleared through clearing corporations outside Canada;

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

AND UPON the Applicant having represented to the Commission that:

1. The Applicant is a corporation organized under the laws of France, with a head office located in

Paris le Defense, France. The Applicant does not have an office in Canada and has no directors, officers or employees resident in Canada.

2. The Applicant is registered or otherwise qualified under the applicable laws of France to provide investment counselling and portfolio management services. The Applicant is not registered and has no current intention of becoming registered in any capacity under the CFA or under the *Securities Act* (Ontario) (**OSA**).

3. HSBC Global Asset Management (Canada) Limited (**AMCA**), formerly HSBC Investments (Canada) Limited, is a corporation organized under the *Canada Business Corporations Act*, with its head office located in Vancouver, British Columbia. AMCA is an affiliate of the Applicant. AMCA is registered under the OSA as an adviser in the categories of investment counsel and portfolio manager and in equivalent categories in all other Canadian provinces, other than Prince Edward Island. AMCA is also registered under the OSA as a dealer in the category of limited market dealer.

4. The Applicant acts as an investment adviser in respect of certain mutual funds, non-redeemable investment funds or similar investment vehicles, including the Oblig Inflation World Fund (Global Inflation Limited Bond Fund), and may in the future establish or advise certain other non-Canadian mutual funds, non-redeemable investment funds or similar investment vehicles (collectively, the **Funds**).

5. The Funds advised by the Applicant are and will be established outside of Canada. Securities of the Funds are and will be primarily offered outside of Canada to institutional investors and high net worth individuals. To the extent the securities of the Funds are offered to Canadian investors, such investors will each qualify as an "accredited investor" for the purposes of National Instrument 45-106 – *Prospectus and Registration Exemptions*, and will only be distributed in Ontario through one or more registrants under the OSA, in reliance upon an exemption from the prospectus requirements of the OSA.

6. None of the Funds has any intention of becoming a reporting issuer under the OSA or under the securities legislation of any other jurisdiction in Canada.

7. The Funds may, as a part of their investment program, invest in commodity futures contracts and commodity futures options primarily traded on commodity futures exchanges outside Canada and primarily cleared through clearing corporations outside Canada.

8. Paragraph 22(1)(b) of the CFA prohibits a person or company from acting as an adviser unless the person or company is registered as an adviser under the CFA, or is registered as a representative or as a partner or an officer of a registered adviser and is acting on behalf of such registered adviser, and otherwise satisfies the applicable requirements specified in section 22 of the CFA. Under the CFA, "adviser" means a person or company engaging in or holding himself, herself or itself out as engaging in the business of advising others as to trading in "contracts", and "contracts" means commodity futures contracts and commodity futures options.

9. Where securities of the Funds are offered by the Funds to an Ontario resident, and the Applicant engages in the business of advising the Funds as to the investing in or the buying or selling of securities, the Applicant may, by so acting, be interpreted as acting as an adviser, as defined in the OSA, to the Ontario resident who acquires the securities offered by the Funds, as suggested in the Notice of the Commission dated October 2, 1998, requesting comments on the then-proposed OSA Rule 35-502. Similarly, where securities of the Funds are offered to an Ontario resident, and the Applicant engages in the business of advising the Funds as to trading in commodity futures contracts or commodity futures options, the Applicant may, by so acting, also be interpreted as acting as an adviser (as defined in the CFA) to the Ontario resident who acquires the securities offered by the Funds.

10. There is presently no rule under the CFA that provides an exemption from the adviser registration requirement in paragraph 22(1)(b) of the CFA for a person or company acting as an adviser in respect of commodity futures options and commodity futures contracts that is similar to the exemption from the adviser registration requirement in section 25(1)(c) of the OSA for acting as an adviser (as defined in the OSA) in respect of securities that is provided under section 7.10 of Rule 35-502.

11. As would be required under section 7.10 of Rule 35-502, securities of the Funds are or will be:

    (a) primarily offered outside of Canada;

    (b) only distributed in Ontario through one or more registrants under the OSA; and

    (c) distributed in Ontario in reliance upon an exemption from the prospectus requirements of the OSA.

12. The Applicant, where required, is or will be appropriately registered or licensed or is, or will be, entitled to rely on appropriate exemptions from such registrations or licences to provide advice to

the Funds pursuant to the applicable legislation of its principal jurisdiction.

13. Prior to purchasing any securities in one or more of the Funds, all investors in the Funds who are Ontario residents will receive disclosure that includes:

(a) a statement that there may be difficulty in enforcing any legal rights against the Funds or the Applicant (or the individual representatives of the Applicant) advising the Funds because such entity is resident outside of Canada and all or substantially all of its assets are situated outside of Canada; and

(b) a statement that the Applicant advising the Funds is not, or will not be, registered with or licensed by any regulatory authority in Canada and, accordingly, the protections that might otherwise be available to clients of a registered adviser under the OSA and the CFA will not be available to purchasers of securities of the Funds.

AND UPON being satisfied that it would not be prejudicial to the public interest for the Commission to grant the exemption requested on the basis of the terms and conditions proposed;

IT IS ORDERED pursuant to section 80 of the CFA, that the Applicant (including its directors, officers and employees) is exempted, for a period of five years, from the adviser registration requirement in paragraph 22(1)(b) of the CFA in connection with the Applicant acting as an adviser to the Funds provided that at the relevant time that such activities are engaged in:

(a) the Applicant is not ordinarily resident in Ontario;

(b) the Applicant is appropriately registered or licensed, or entitled to rely upon appropriate exemptions from registration or licensing requirements, in order to provide advice to the Funds pursuant to the applicable legislation of the Applicant's principal jurisdiction;

(c) the Funds invest in commodity futures contracts and commodity futures options primarily traded on commodity futures exchanges outside Canada and primarily cleared through clearing corporations outside Canada;

(d) securities of the Funds are:

(i) primarily offered outside of Canada,

(ii) only distributed in Ontario through one or more registrants under the OSA; and

(iii) distributed in Ontario, in reliance on an exemption from the prospectus requirements of the OSA; and

(e) prior to purchasing any securities in one or more of the Funds, all investors in the Funds who are Ontario residents shall have received disclosure that includes:

(i) a statement that there may be difficulty in enforcing any legal rights against the Funds or the Applicant (or the individual representatives of the Applicant) advising the Funds because such entity is resident outside of Canada and all or substantially all of its assets are situated outside of Canada; and

(ii) a statement that the Applicant advising the Funds is not, or will not be, registered with or licensed by any regulatory authority in Canada and, accordingly, the protections that might otherwise be available to clients of a registered adviser under the OSA and the CFA will not be available to purchasers of securities of the Funds.

October 31, 2008

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

"Suresh Thakrar"
Commissioner
Ontario Securities Commission

2.2.8 Brilliante Brasilcan Resources 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
BRILLIANTE BRASILCAN RESOURCES CORP.,
YORK RIO RESOURCES INC., BRIAN W. AIDELMAN,
JASON GEORGIADIS, RICHARD TAYLOR AND
VICTOR YORK.**

**ORDER
(Subsections 127(1) and (8))**

WHEREAS on October 21, 2008, the Ontario Securities Commission ("Commission") ordered pursuant to subsection 127(1) of the *Securities Act*, R.S.O. 1990, c. S.5, as amended (the "Act") that all trading in the securities of Brilliante Brasilcan Resources Corp. ("Brilliante") shall cease and that Brilliante, York Rio Resources Inc. ("York Rio") and their representatives, including Brian W. Aidelman ("Aidelman"), Jason Georgiadis, Richard Taylor, and Victor York ("York") shall cease trading in all securities (the "Temporary Order");

AND WHEREAS on October 21, 2008, the Commission further ordered pursuant to subsection 127(6) of the Act that the Temporary Order shall take effect immediately and shall expire on the fifteenth day after its making unless extended by order of the Commission;

AND WHEREAS the Commission issued a Notice of Hearing on October 23, 2008 to consider, among other things, whether to extend the Temporary Order;

AND WHEREAS on November 4, 2008 at 10:00 am, the Commission held a hearing, Staff attended and advised that counsel for York Rio and counsel for York had requested an adjournment of the hearing and were consenting to the extension of the Temporary Order until November 14, 2008, Aidelman attended personally and on behalf of Brilliante, consented to the adjournment request and to the extension of the Temporary Order and none of the other Respondents attended;

AND WHEREAS the Commission is satisfied that reasonable steps have been taken by Staff to give all Respondents notice of the hearing and all Respondents, other than Richard Taylor, have been duly served with such notice;

AND WHEREAS the Commission is of the opinion that the time required to conclude a hearing could be prejudicial to the public interest;

AND WHEREAS satisfactory information has not been provided by the Respondents to the Commission;

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

AND WHEREAS by Commission order made April 1, 2008 pursuant to section 3.5(3) of the Act, any one of W. David Wilson, James E.A. Turner, Lawrence E. Ritchie, Paul K. Bates and David L. Knight, acting alone, is authorized to make orders under section 127 of the Act;

IT IS ORDERED pursuant to subsection 127(8) of the Act that the hearing is adjourned to November 14, 2008 at 10:00 am;

IT IS FURTHER ORDERED pursuant to subsection 127(8) of the Act that the Temporary Order is extended until the close of business November 14, 2008 unless further extended by order of the Commission.

Dated at Toronto this 4th day of November, 2008

"James E. A. Turner"

Chapter 3

Reasons: Decisions, Orders and Rulings

3.1 OSC Decisions, Orders and Rulings

3.1.1 Donald James Fitzgerald – s. 26(3)

IN THE MATTER OF
THE REGISTRATION OF
DONALD JAMES FITZGERALD

OPPORTUNITY TO BE HEARD BY THE DIRECTOR
SECTION 26(3) OF THE SECURITIES ACT

Date: October 27, 2008

Director: David M. Gilkes
Manager, Registrant Regulation
Ontario Securities Commission

Submissions: Rebecca Stefanec
For the staff of the Commission

Donald James Fitzgerald
For the Registrant

Background

1. Mr. Fitzgerald (the **Registrant**) has been registered with the Ontario Securities Commission (**OSC**) as a mutual fund salesperson since August 1995. He has been sponsored by PFSL Investments Canada Ltd. (**PFSL**) since December 2003. On May 1, 2008, PFSL submitted a financial disclosure change notice to the OSC that indicated that Mr. Fitzgerald had filed for bankruptcy.

2. On August 19, 2008, OSC staff sent a letter to the Registrant and to PFSL proposing terms and conditions for monthly close supervision reporting, be imposed on the registration of Donald James Fitzgerald.

3. The Director may restrict a registration by imposing terms and conditions under subsection 26 of the *Securities Act* but must provide the registrant with the opportunity to be heard by the Director. The Registrant requested an opportunity to be heard through a written submission. The submission was received on September 8, 2008.

Submissions

4. The Registrant asked that his registration be allowed to continue without terms and conditions. Mr. Fitzgerald noted that PFSL would no longer continue to sponsor his registration as a mutual fund salesperson if there are terms and conditions imposed on his registration.

5. Mr. Fitzgerald wished to continue servicing his clients and hoped an alternative solution to terms and conditions could be found. He did not suggest any alternative solution.

Suitability for Registration

6. The fit and proper standard for registration is both an initial and an ongoing requirement for registrants. The fit and proper standard is based on three well established criteria that have been identified by the OSC:

> The [Registrant Regulation] section administers a registration system which is intended to ensure that all Applicants under the Securities Act and the Commodity Futures Act meet appropriate standards of integrity, competence and financial soundness …
>
> (Ontario Securities Commission, Annual Report 1991, Page 16)

When analyzing these criteria staff consider:

- **integrity** – honesty and good faith, particularly in dealings with clients, and compliance with Ontario securities law;

- **competence** – prescribed proficiency and knowledge of the requirements of Ontario securities law; and

- **financial soundness** – an indicator of a firm's capacity to fulfill its obligations and can be an indicator of the risk that an individual will engage in self-interested activities at the expense of clients.

7. In this case neither the Registrant's integrity nor his competence are in question. However, filing for bankruptcy raises concern regarding the financial soundness of the Registrant. To mitigate the potential risk concerning self-interested activities by the Registrant, OSC staff recommended that terms and conditions for monthly close supervision reporting be imposed on the registration of Donald James Fitzgerald.

Decision

8. It is OSC staff practice to impose terms and conditions for monthly close supervision reporting on an individual's registration should that person file for bankruptcy, receive a garnishment, receive a requirement to pay overdue taxes, or file for a consumer proposal. The terms and conditions are removed when the financial obligations resulting from the event have been satisfied. This practice is consistent with the investor protection mandate of the OSC.

9. I find that the bankruptcy does have a negative impact on the registrant's financial soundness. Therefore, I impose the terms and conditions as set out in Exhibit A on the registration of Donald James Fitzgerald.

October 27, 2008

"David M. Gilkes"

Exhibit A

Terms and Conditions of Registration
for
Donald James Fitzgerald

Monthly Close Supervision Reports are to be completed on the registrant's sales activities and dealings with clients. The supervision reports are to be retained with the sponsoring firm and must be made available for review upon request. These terms and conditions are to continue until the obligation has been satisfied and acceptable evidence has been provided to the OSC.

___________________________	___________________________
Approved Officer for PFSL Investments Canada Ltd.	Donald James Fitzgerald
___________________________	___________________________
Print Name of Approved Officer	Date

Monthly Close Supervision Report*

I hereby certify that supervision has been conducted for the month ending ____________ of the trading activities of (***name***), by the undersigned. I further certify the following:

1. All orders from the salesperson were reviewed and approved by a compliance officer or branch manager of PFSL Investments Canada Ltd.

2. There were no client complaints received during the preceding month. If there were complaints, a description of the complaint and follow-up action initiated by the company is attached.

3. All payments for the purchase of the investments were made payable to the dealer. There were no cash payments accepted.

4. The transactions of the salesperson were reviewed during the preceding month to ensure compliance with the policies and procedures of the dealer, including the suitability of investments for clients. If there were any violations, a description of the violation and follow-up action is attached.

____
Signature
Compliance Officer/Branch Manager
PFSL Investments Canada Ltd.

____________________________ ________________________
Print Name Date

* In the case of violations or client complaints, the regulator must be notified within five business days.

3.1.2 First Global Ventures, S.A. et al. – 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
FIRST GLOBAL VENTURES, S.A.,
ABRAHAM HERBERT GROSSMAN
(a.k.a. ALLEN GROSSMAN)
AND ALAN MARSH SHUMAN
(a.k.a. ALAN MARSH)

REASONS AND DECISION ON SANCTIONS AND COSTS
(Sections 127 and 127.1 of the Securities Act)

Hearing: August 8, 2008

Decision: November 4, 2008

Panel:	Wendell S. Wigle, Q.C	-	Commissioner and Chair of the Panel
	Suresh Thakrar	-	Commissioner
	Margot C. Howard	-	Commissioner
Counsel:	Derek Ferris	-	For Staff of the Ontario Securities Commission
	Allen Grossman	-	On his own behalf
	Alan Marsh Shuman	-	No one appeared on behalf of Alan Marsh Shuman
	First Global Ventures, S.A.	-	No one appeared on behalf of First Global Ventures, S.A.

TABLE OF CONTENTS

A. **OVERVIEW**
- 1. History of the Proceeding
- 2. Regulatory Orders Against the Respondents in Ontario and in Other Jurisdictions
- 3. The Merits Decision

B. **ADDITIONAL EVIDENCE ADDUCED AT THE SANCTIONS AND COSTS HEARING**

C. **POSITION OF THE PARTIES**
- 1. Sanctions and Costs Requested By Staff
- 2. Summary of Grossman's Position

D. **THE LAW**
- 1. The Purposes of the Act
- 2. Sanctioning Factors

E. **ANALYSIS**
- 1. The Appropriate Sanctions in this Case
  - (a) Seriousness of Conduct
    - (i) Staff's Submissions
    - (ii) Grossman's Submissions
    - (iii) Conclusion
  - (b) Proportionality of the Sanctions Sought by Staff Against Grossman, Shuman, and First Global
    - (i) Grossman's Submissions
    - (ii) Staff's Submissions
    - (iii) Conclusion
  - (c) The Relevance of the Alleged Negligence of Grossman's Former Counsel and the Decision of the Assessment Officer
    - (i) Grossman's Submissions
    - (ii) Staff's Submissions
    - (iii) Conclusion
- 2. Costs

F. **CONCLUSION**

REASONS AND DECISION ON SANCTIONS AND COSTS

A. OVERVIEW

1. History of the Proceeding

[1] This was a bifurcated 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 with respect to sanctions and costs against First Global Ventures, S.A. ("First Global"), Abraham Herbert Grossman (a.k.a. Allen Grossman) ("Grossman"), and Alan Marsh Shuman (a.k.a. Alan Marsh or Al Marsh) ("Shuman") (collectively, the "Respondents").

[2] On April 17, 19 and 20, 2007, we heard the evidence in relation to the Amended Amended Statement of Allegations in this matter dated March 8, 2007 and an Amended Amended Notice of Hearing in this matter dated March 9, 2007 (the "Merits Hearing"). Grossman was represented by counsel, "Kulidjian & Associates", at the Merits Hearing. Shuman represented himself and was present only on the first day of the hearing. First Global did not participate at the Merits Hearing and did not provide any written submissions. Written submissions on the merits were received from Staff of the Commission ("Staff") on May 18, 2007, Shuman on June 29, 2007, and Grossman on July 9, 2007. Staff also provided written reply submissions on July 18, 2007.

[3] A decision on the merits was rendered on November 30, 2007 (*Re First Global et al.* (2007), 30 O.S.C.B. 10473 [the "Merits Decision"]). The Merits Decision directed the parties to file written submissions on sanctions and costs and to set a date for hearing arguments with respect to sanctions and costs. A hearing to address sanctions and costs was scheduled for April 30, 2008 at 10:00 a.m. (the "Sanctions and Costs Hearing").

[4] On January 14, 2008, Grossman appealed the Merits Decision to the Ontario Divisional Court. We were advised at the Sanctions and Costs Hearing that the appeal before the Ontario Divisional Court has not yet been perfected.

[5] Written submissions on sanctions and costs were filed by Staff on February 8, 2008, and by Grossman through his counsel on February 20, 2008. Staff submitted Affidavits of Jasmine Handanovic, an assistant investigator with the Enforcement branch of the Commission, sworn on February 26, 2008 and February 28, 2008. Staff also submitted written reply submissions on February 28, 2008. First Global and Shuman did not provide any written submissions on sanctions and costs.

[6] On April 10, 2008, the Commission was advised by Kulidjian & Associates that they were no longer acting as counsel for Grossman. The Commission was also provided with Grossman's Notice of Intention to Act in Person.

[7] On April 30, 2008, a hearing was held before a Panel and was attended by Grossman and Staff. At this time, Grossman requested an adjournment of the Sanctions and Costs Hearing, which was to proceed on that day. Grossman submitted that an adjournment was necessary because: (1) he was waiting for information from the Law Society of Upper Canada ("LSUC") with respect to the conduct of Kulidjian & Associates who previously represented him; and (2) he was unaware that the purpose of the April 30, 2008 hearing was to address sanctions and costs. After hearing submissions from the parties on these issues, the Panel ordered that:

1. the hearing on sanctions is adjourned until June 20, 2008 at 10 a.m.;

2. by no later than June 10, 2008, Grossman shall:

   a. inform the Office of the Secretary in writing whether he wishes to withdraw the written submissions on sanctions filed by his former counsel; and

   b. file with the Office of the Secretary any new written submissions on sanctions; and

3. Staff shall file any reply written submissions on sanctions by June 16, 2008.

[8] Grossman brought a motion returnable June 18, 2008, to request another adjournment of the Sanctions and Costs Hearing. Grossman requested an adjournment on the grounds that: (1) he was still waiting for information from the LSUC with respect to his complaints against his former lawyer; (2) a decision was issued by the Alberta Court of Appeal finding that there was negligence and/or inadvertence on the part of Kulidjian & Associates in a matter before the Alberta Courts; and (3) Grossman needed time to "provide [the Panel] with the evidence as it pertains to this matter".

[9] On June 18, 2008, the Panel heard submissions from Grossman and Staff. The Panel issued an order dated June 26, 2008 ordering that:

1. the sanctions hearing in this matter is adjourned to August 8, 2008 at 10:00 a.m.;

2. Grossman shall file his written submissions on sanctions no later than July 15, 2008; and

3. Staff shall file any reply written submissions on sanctions by July 22, 2008.

[10] Grossman withdrew the submissions of his former counsel and submitted written submissions on July 14, 2008.

[11] Staff submitted written reply submissions on July 22, 2008, but Staff did not withdraw their written reply to the written submissions filed by Grossman's former counsel. Staff also submitted two more affidavits of Jasmine Handanovic sworn on July 18, 2008 and July 25, 2008 respectively.

[12] The Sanctions and Costs Hearing was held on August 8, 2008 and was attended by Staff and Grossman. First Global and Shuman were not represented by counsel and did not participate in the Sanctions and Costs Hearing.

[13] These are our reasons and decision as to the appropriate sanctions and costs to order against the Respondents.

2. Regulatory Orders Against the Respondents in Ontario and in Other Jurisdictions

[14] Staff presented to us a series of orders made against the Respondents, both by this Commission as well as by securities commissions in other provinces and countries.

[15] The Commission issued a temporary order against Maitland, Grossman, and others on January 24, 2006, and on May 19, 2006, a section 122 proceeding was commenced against Grossman, Maitland, and Hanoch Ulfan.

[16] First Global is subject to a suspension order of the Panamanian National Securities Commission dated September 19, 2006.

[17] The New Brunswick Securities Commission ("NBSC") issued a Decision on the Merits and Reasons on February 21, 2008 as well as a Decision on Administrative Penalties and Costs on May 30, 2008 against the Respondents. The NBSC ordered permanent cease trade orders against First Global, Grossman, and Shuman, and all three parties were ordered to pay an administrative penalty in the amount of $75,000, and they were ordered to jointly and severally pay costs in the amount of $23,033.35.

[18] On June 7, 2007 the Alberta Securities Commission ("ASC") ordered a twenty year trading ban, a twenty year director and officer ban, an administrative penalty of $250,000 and costs in the amount of $50,000 against Grossman, in relation to the Maitland proceeding.

[19] We note that these orders were presented to us by Staff during the hearing and we have summarized them in our decision for the purpose of providing a complete background and chronology; however, we did not rely on these orders in coming to our decision on appropriate sanctions and costs.

3. The Merits Decision

[20] The Merits Decision related to conduct whereby investors were solicited by phone to purchase First Global shares in exchange for their Maitland shares and an additional sum of money.

[21] The findings of the Panel are described briefly below.

[22] The Panel found that the Respondents engaged in acts in furtherance of a trade in relation to First Global and therefore traded in First Global shares, contrary to subsection 25(1) of the Act and contrary to the public interest as none of the Respondents were registered under the Act. With respect to each respondent, the Merits Decision found that:

(i) Grossman's conduct was found to have sufficient proximity to the trades of First Global shares. The Commission found that Grossman engaged in acts in furtherance of trades because Grossman sold the names of 673 potential investors to First Global which included the names of Maitland shareholders, he contracted with the Web Development Company to create First Global's website, he provided courier accounts and he communicated with Maitland shareholders about the opportunity to trade in Maitland shares for First Global shares by paying an additional sum of money for First Global shares (Merits Decision, *supra* at paras. 125 -138);

(ii) Shuman's actions were done for the purpose of promoting the sale of First Global shares. "In particular, Shuman communicated with investors to discuss the attractiveness of First Global shares. This was more than

a minimal involvement. By communicating with potential investors of First Global, Shuman took a direct approach to personally promote and sell First Global shares. (Merits Decision, *supra* at para. 134); and

(iii) "First Global, through its officer Shuman, and its employees/representatives, such as Sam Richards and Rick Lopez, engaged in acts in further of trades of First Global" (Merits Decision, *supra* at para. 136).

[23] The Panel also found that the Respondents did not qualify for exemptions under the Act; none of the investors were "accredited investors" as per section 1.1 of National Instrument 45-106. Furthermore, the Commission rejected counsel for Grossman's submission that the form that the Respondents made the investors sign stating that they met the requirements of the exemptions was sufficient. The Merits Decision states that the "responsibility for ensuring that the requirements of an exemption are met is the responsibility of the person seeking to rely on the exemption" (Merits Decision, *supra* at para. 141).

[24] Further, the Panel concluded that First Global was not a reporting issuer, and the conduct of the Respondents violated subsection 53(1) of the Act because at the time the acts in furtherance of trades of First Global shares took place, First Global shares were not previously issued and therefore constituted a distribution, and this was contrary to the public interest (Merits Decision, *supra* at para. 148).

[25] In addition, Grossman's acts in furtherance of trades of First Global shares violated the terms of the Maitland Cease Trade Order (as defined in the Merits Decision), dated January 24, 2006, which ordered Grossman to cease trading in all securities (Merits Decision, *supra* at para. 151). First Global's conduct breached the Commission order of May 29, 2006. However, there was insufficient evidence to establish that Shuman's conduct breached the Commission orders of May 29, 2006 and June 28, 2006 (Merits Decision, *supra* at para. 155 and 156).

[26] The Panel also concluded that Shuman, Grossman and First Global (through its employees and representatives) engaged in high-pressure sales tactics when selling First Global shares to the public, contrary to the public interest. The Commission stated that comments made to investors:

> were made in order to influence individuals to purchase First Global shares, and together these comments gave an impression to investors that First Global shares were attractive and were good investments that had to be acted on quickly otherwise an investment opportunity would be lost. In our view these are high pressure sales tactics used by the Respondents to persuade potential investors including Maitland shareholders to invest in First Global shares, and this conduct is contrary to the public interest. (Merits Decision, *supra* at para. 165)

[27] First Global also failed to comply with the Commission's order dated September 12, 2006 requiring it to post a copy of the order on its website (Merits Decision, *supra* at para. 166).

[28] In the Panel's view, the Respondents engaged in conduct contrary to the public interest and harmful to the integrity of Ontario's capital markets. In coming to this conclusion, aside from the key findings listed above, the Commission noted that First Global's website contained information which misled investors in regards to proceedings against First Global commenced by provincial securities commissions in Canada, that the Respondents blatantly disregarded Commission orders, and that the Respondents made a series of misrepresentations to investors contrary to the public interest (Merits Decision, *supra* at paras. 172 to 184). The Commission specifically found that:

> Transparency and efficiency in the markets is diminished when inaccurate information is disseminated in the market place. In this case numerous misrepresentations were made by the Respondents as part of a plan to entice individuals to invest in First Global. We find that the combination of these misrepresentations, misleading information published on First Global's website and the disregard of Commission Orders amounts to egregious conduct on behalf of the Respondents. (Merits Decision, *supra* at para. 182)

B. ADDITIONAL EVIDENCE ADDUCED AT THE SANCTIONS AND COSTS HEARING

[29] During the Sanctions and Costs Hearing, Staff submitted new evidence to the Panel, specifically, the Affidavits of Jasmine Handanovic sworn on February 26 and 28, 2008 and July 18, 2008 and July 25, 2008. Grossman was given the opportunity to cross-examine Jasmine Handanovic; however, he did not choose to do so.

[30] The evidence from the July affidavits purported to show that Grossman made additions and changes to the First Global website beginning on March 16, 2008, after the Merits Decision was issued. Consequently, Staff took the position that Grossman continued to be involved with First Global and had again breached the cease trade order issued against him on January 24, 2006.

[31] We note that Staff's new evidence was filed, but there was no cross-examination by the Respondents. Furthermore we note that the sanctions requested by Staff on February 8, 2008 and July 22, 2008 are the same; that is unchanged by the new evidence. We did not consider the new evidence in coming to our decision on the appropriate sanctions in this matter.

C. POSITION OF THE PARTIES

1. Sanctions and Costs Requested By Staff

[32] Staff requested that the following sanctions and costs should be imposed on the Respondents:

(a) pursuant to paragraph 2 of subsection 127(1) of the Act, trading in any securities by or of First Global will cease permanently;

(b) pursuant to paragraph 2 of subsection 127(1) of the Act, Grossman and Shuman will cease trading in securities for a period of twenty (20) years with the exception that Grossman and Shuman are permitted to trade securities for the account of their registered retirement savings plans (as defined in the *Income Tax Act* (Canada));

(c) pursuant to paragraph 3 of subsection 127(1) of the Act, any exemptions contained in Ontario securities law do not apply to Shuman and Grossman for a period of twenty (20) years, except for the exemptions needed to trade in securities in the manner specified in paragraph (b) above;

(d) pursuant to paragraph 8 of subsection 127(1) of the Act, Grossman and Shuman are prohibited for a period of twenty (20) years from becoming or acting as a director or officer of any issuer;

(e) pursuant to subsection 37(1) of the Act, the Respondents are for a period of twenty (20) years prohibited from telephoning residences within or outside Ontario for the purpose of trading in securities;

(f) pursuant to paragraph 9 of subsection 127(1) of the Act, each of Grossman and First Global will pay an administrative penalty of $200,000 and Shuman will pay an administrative penalty of $20,000 for failing to comply with Ontario securities law;

(g) pursuant to subsection 127.1(2) of the Act, Grossman and First Global jointly will pay costs of Staff's investigation and the hearing in the amount of $50,000 plus $6,208.08 in disbursements, and Shuman will pay $10,000 in costs inclusive of disbursements.

[33] Staff referred us to the sanctioning factors set out in *Re Belteco Holdings Inc.* (1998), 21 O.S.C.B. 7743 ("*Re Belteco Holdings Inc.*"), and *Re M.C.J.C. Holdings Inc. and Michael Cowpland*, (2002), 25 O.S.C.B. 1133 ("*Re M.C.J.C. Holdings*"). Specifically, Staff considered the seriousness of the conduct, the Respondents' previous experience in the capital markets, the Respondents' recognition of the seriousness of the conduct, the harm suffered by investors, the damage to the integrity of the capital markets, the need to deter others, past conduct and prior sanctions, previous decisions made in similar circumstances, and mitigating and aggravating factors to support ordering the proposed sanctions.

2. Summary of Grossman's Position

[34] Grossman withdrew the submissions provided by his former counsel, Kulidjian & Associates, and filed his own submissions. Grossman principally submitted that: (a) his former counsel was grossly ineffective and the Panel should consider this a mitigating factor when considering sanctions; (b) the Panel should wait for the assessment officer at the Ontario Superior Court of Justice, whose purpose is to assess the value of the services performed by the solicitor on behalf of the client (the "Assessment Officer") to reach a decision with respect to his former counsel's conduct before ordering sanctions; and (c) the sanctions proposed by Staff against Grossman are not proportionate to the sanctions proposed against the other Respondents.

[35] Accordingly, Grossman submits that the following sanctions would be adequate:

(a) an order that trading in any securities by Grossman will cease until such time as the Commission has received the decision of the Assessment Officer, at which time the Commission will make its final decision on sanctions;

(b) an order that any exemptions contained in Ontario securities law do not apply to Grossman pending the decision of the Assessment Officer, at which time the Commission will render its final decision on sanctions;

(c) an order that Grossman is prohibited from telephoning residences within or outside of Ontario for the purpose of trading in securities pending the decision of the Assessment Officer, at which time, the Commission will render its final decision on sanctions.

[36] In Grossman's view, these sanctions are consistent with the purpose of the Commission's public interest jurisdiction, which is neither remedial or punitive, but is protective and preventative.

D. THE LAW

1. The Purposes of the Act

[37] In considering appropriate sanctions, the Commission is guided by the underlying purposes of the Act. The purposes as set out in section 1.1 of the Act 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.

[38] 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 described 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).

2. Sanctioning Factors

[39] In determining the appropriate sanctions in this matter, we must consider the specific circumstances of this case to ensure that the sanctions are proportionate (*Re M.C.J.C. Holdings Inc.*, *supra* at para. 26).

[40] Further, sanctions should be determined by taking into account the specific circumstances of each case. As set out in *Re Belteco Holdings Inc.*, the Commission may consider a number of factors in determining the nature and duration of sanctions, including but not limited to:

(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;

(f) any mitigating factors;

Re Belteco Holdings Inc., *supra* at paras. 25 and 26.

[41] Additional factors that the Commission may consider were also established in *Re M.C.J.C. Holdings Inc.*:

(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 or voluntary payment when considered with other factors;

(d) the effect any sanction might have on the livelihood of the respondent; the restraint any sanction may have on the ability of the respondent to participate without check in the capital markets;

(e) the respondent's experience in the marketplace; the reputation and prestige of the respondent; and

(f) the shame, or financial pain, that any sanction would reasonably cause to the respondent; and the remorse of the respondent.

Re M.C.J.C. Holdings Inc., *supra* at para 26.

[42] The Commission has observed that these are only some of the factors to consider. Depending on the case, any number of these factors may be relevant (*Re M.C.J.C. Holdings Inc.*, *supra* at para. 26).

[43] The Supreme Court of Canada has affirmed that the Commission may 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.).

E. ANALYSIS

1. The Appropriate Sanctions in this Case

(a) Seriousness of Conduct

(i) Staff's Submissions

[44] Staff submitted that the conduct engaged in by the Respondents was of a serious nature. Staff noted that the Merits Decision found that the Respondents used high pressure sales techniques to sell First Global shares over the telephone, solicited investors who, in many cases, had previously purchased Maitland shares (as described in the Merits Decision at paragraphs 34 to 37), made misrepresentations to investors over the telephone as well as through First Global's website, repeatedly breached Commission orders, Grossman sold the contact information of 673 potential investors to First Global through his consulting company, and Grossman used his prior relationship with Maitland investors to influence their investment decisions with regards to First Global.

[45] Staff submitted that First Global's absence from the hearing on the merits and Shuman's attendance on a portion of only the first day of the hearing on the merits speaks to their lack of recognition as to the seriousness of their conduct. Staff further submitted that Shuman's written submissions blamed others including Staff, and he did not accept responsibility for his actions.

[46] First Global and Shuman's breach of Commission Orders was also cited by Staff as an indication of their lack of recognition of the seriousness of their conduct.

(ii) Grossman's Submissions

[47] Throughout the hearing, and in his written submissions, Grossman did not address the nature of his conduct and seriousness of the findings of the Merits Decision. With respect to the findings in the Merits Decision, Grossman argued that "counsel for Grossman [Kulidjian & Associates] provided grossly ineffective assistance of [sic] counsel, which in turn led the Commission to find against Grossman". We address Grossman's arguments relating to the conduct of his counsel separately below.

(iii) Conclusion

[48] In our view, general and specific deterrence are important factors to consider in this case because the Respondents engaged in conduct that was serious in nature and egregious and requires a clear message from the Commission that such conduct will not be tolerated.

[49] For example, the use of telephone solicitations by non-registered salespersons to sell shares, misleading and fraudulent representations made by salespersons as well as postings on the First Global website, high pressure sales techniques, selective solicitation of vulnerable investors who had previously purchased Maitland shares, sales and solicitations made without regard to the investor's needs and without regard to the requirements of the Act, and the use of pseudonyms by salespersons, damages the integrity of the capital markets. This activity is contrary to the public interest.

[50] In the Merits Decision, we found that First Global was intimately connected to Grossman and Introvest. Specifically, Introvest sold 673 investor leads to First Global for $67,300, thousands of telephone calls were made by First Global from Introvest's office, between May 27, 2006 and June 5, 2006, First Global's email accounts were being accessed from computers with unique IP addresses assigned to Maitland Bell accounts, Introvest FedEx and Purolator accounts were used by First Global, that First Global and Maitland used the same fax machine, that a fax dated January 16, 2007 from First Global to the

Panamanian National Securities Commission originated from Interactive offices in North York, and that one of the investors was told that he would be treated as a preferred client of First Global because he was a friend of Grossman's.

[51] In addition, the posting made by First Global on its website informing investors that ongoing investigations by various Canadian securities commissions were frivolous and without merit, undermines the integrity of capital markets by questioning the authority and competence of Canadian securities regulators.

[52] For these reasons, we find that it is appropriate to restrict the activities of the Respondents in the capital markets for a lengthy period.

(b) Proportionality of the Sanctions Sought by Staff Against Grossman, Shuman, and First Global

(i) Grossman's Submissions

[53] Grossman submitted that the sanctions sought by Staff against him implied that he was an equal participant of First Global and was responsible for the conduct of First Global and Shuman. Grossman submitted that the Commission "made no finding that Grossman operated in any official capacity" for First Global in the Merits Decision, and that thus the sanctions sought against him by Staff were improper. Grossman did not address the Commission's finding that he acted in furtherance of trades in regards to First Global shares.

(ii) Staff's Submissions

[54] In their written submissions Staff reviewed a series of illegal distribution cases by various provincial securities commissions, and the sanctions imposed in each case. Staff asserted that the cases confirm that those who intentionally mislead investors should be removed from the capital markets for a significant length of time and that significant administrative fines and/or disgorgement orders should be imposed for serious breaches of the registration and prospectus requirements of the Act (See: *Re Allen* (2006), 29 O.S.C.B. 3944, *Re Ochnik* (2006), 29 O.S.C.B. 3929, *Re Momentas Corporation* (2007), 30 O.S.C.B. 6475, *Re Marchment & MacKay Ltd. et al.* (1999), 22 O.S.C.B. 6446, and *Re Euston Capital Corp.*, 2007 ABASC 338) We find that these cases are important to keep in mind to ensure that similar sanctions are imposed in similar circumstances.

[55] Staff submitted that in this case a higher level of sanctions were requested against Grossman because Grossman was intimately involved in the scheme. He helped First Global contact potential investors, including Maitland shareholders, to ultimately sell First Global shares. Grossman's dealings with Maitland put him in a prior relationship with many of the potential First Global investors, and this put Grossman in a position to influence investors regarding investing in First Global. The evidence also demonstrates that Grossman's company, Introvest, for which he was the sole officer and director, invoiced First Global $324,0404.78 and was paid at least $149,760.47. In contrast, there was little evidence as to what Shuman was paid.

(iii) Conclusion

[56] We do not agree with Grossman's submission that he was not responsible for the conduct at issue relating to First Global. His consulting company, Introvest, invoiced First Global for $324,040.78 in consulting fees, as evidenced by six invoices covering May 2 to October 2, 2006. Introvest's bank records indicate that Introvest received payments from First Global in the amounts of US $21,892.25 and US $114,446.77 from April 17 to September 29, 2006. Grossman was intimately involved in the conduct. Since Grossman was more intimately involved with First Global and Introvest with respect to collecting money from investors and collecting the profits, we find that it is appropriate to impose an administrative penalty on him in the amount of $200,000.

[57] We find that each of First Global and Grossman must pay an administrative penalty of $200,000.

[58] Shuman had a lesser role with respect to the scheme and as a result, we have imposed an administrative penalty of $20,000 on him.

[59] In our view, the sanctions sought against each of the Respondents are appropriate and proportionate in these circumstances considering the criteria set out in *Re Belteco Holdings Inc.* and *Re M.C.J.C. Holdings Inc.*

(c) The Relevance of the Alleged Negligence of Grossman's Former Counsel and the Decision of the Assessment Officer

(i) Grossman's Submissions

[60] Grossman submitted that the representation provided to him by counsel during the Merits Hearing was "grossly ineffective", which "in turn led the Commission to find against" him. Grossman submitted that his former counsel, Kulidjian & Associates, has a "history of misconduct" in its representation of Grossman in various matters. To support his position

Grossman referred the Panel to the Alberta Court of Appeal's decision which found that his counsel's inadvertence in another matter (Maitland Capital) was the cause of the failure to file an appeal in time. In that case the court extended the time to allow Grossman to file an appeal. Grossman also referred the Panel to alleged failures on the part of his counsel to provide effective assistance on the Maitland matter, as well as at the hearing on the merits in this matter.

[61] Further, Grossman submitted that the Panel should wait for the Assessment Officer dealing with the assessment of the account rendered by Grossman's former counsel to reach a decision, before making a final order on sanctions. Grossman did not elaborate on how the Panel would be aided in waiting for the decision.

(ii) Staff's Submissions

[62] In reply, Staff asserted that the findings of fact by the Commission were based on (i) the evidence of nine witnesses; and (ii) an Agreed Statement of facts. According to Staff, Grossman's "attempts to blame" his former counsel "for the Commission's decision on the merits is misguided and demonstrates a lack of remorse". Staff further noted that the conduct of Grossman's former counsel "is irrelevant to the sanctions to be imposed by the Commission", and that the "sanctions decision should not be based on allegations of negligence for which no evidence has been introduced and which, if proved, would only be relevant to a civil action or as a possible new ground of appeal".

[63] Staff also submitted that the decision of the Assessment Officer is not relevant to these proceedings. Staff stated in its written submissions that "while one of the considerations applicable to an assessment is the degree of skill and competence demonstrated by the solicitor, a finding of negligence is not needed to determine the value of the services performed by the solicitor".

(iii) Conclusion

[64] In our view, a sanctions decision should not be based on allegations of negligence for which no evidence has been introduced.

[65] In order to render our order on sanctions and costs, we must base it on:

(a) the evidence filed at the merits and sanctions hearing in this matter;

(b) the agreed statement of facts; and

(c) the Panel's findings in the Merits Decision.

[66] These are the factors that we considered in this case to make our Order on sanctions and costs.

2. Costs

[67] Staff submits that they incurred total costs of $120,395.58 since October 2006. In their factum at paragraph 72, Staff explains that this number includes investigation fees in the amount of $61,983.75, litigation fees in the amount of $52,203.75 and disbursements in the amount of $6,208.08. Staff only claimed costs against the Respondents for the lead litigation counsel and the lead investigator.

[68] Staff also explained at paragraph 73 of their factum that the disbursements relating directly to Shuman totaled $3,634.34.

[69] According to Staff, Grossman and First Global should be jointly ordered to pay a portion of Staff's costs, specifically fees of $50,000 and disbursements of $6,208.08, and Shuman should be ordered to pay costs in the amount of $10,000 inclusive of disbursements (in the amount of $3,634.34).

[70] Staff states that disbursements relating directly to Shuman total $3,634.34, and that Shuman's total of $10,000 is inclusive of disbursements, which leaves a difference of $2,573.74 of disbursements left to be paid by First Global and Grossman. As a result, we find that First Global and Grossman should pay the balance of $2,573.74 of the total amount of disbursements.

[71] With respect to First Global and Grossman, we find that the amount of $50,000 in costs sought by Staff is reasonable. With respect to Shuman, we also find that the amount of $10,000, inclusive of disbursements, is a reasonable amount. Staff did not claim costs for the assistant investigator, law clerk, articling student and assistant involved in the file. No investigation costs or hearing costs were claimed for the period of May to September 2006, as such time was docketed to the ongoing Maitland proceeding.

[72] We find that Grossman and First Global should be jointly and severally ordered to pay $50,000 in costs and $2,573.74 in disbursements instead of just jointly as requested by Staff.

F. CONCLUSION

[73] For the reasons discussed above, we find that the sanctions and costs imposed by our Order are proportionately appropriate to the circumstances before us. We consider that it is important in this case to impose sanctions that not only deter the Respondents but also like-minded people from engaging in future conduct that violates securities law. Accordingly, we are of the opinion that it is in the public interest to order that:

(1) pursuant to paragraph 2 of subsection 127(1) of the Act, trading in any securities by or of First Global shall cease permanently;

(2) pursuant to paragraph 2 of subsection 127(1) of the Act, Grossman and Shuman shall cease trading in securities for a period of twenty (20) years with the exception that Grossman and Shuman are permitted to trade securities for the account of their registered retirement savings plans (as defined in the *Income Tax Act* (Canada));

(3) pursuant to paragraph 3 of subsection 127(1) of the Act, any exemptions contained in Ontario securities law do not apply to Shuman and Grossman for a period of twenty (20) years, except for the exemptions needed to trade in securities in the manner specified in paragraph (2) above;

(4) pursuant to paragraph 8 of subsection 127(1) of the Act, Grossman and Shuman are prohibited for a period of twenty (20) years from becoming or acting as a director or officer of any issuer;

(5) pursuant to subsection 37(1) of the Act, First Global is permanently prohibited from telephoning residences within or outside Ontario for the purpose of trading in securities;

(6) pursuant to subsection 37(1) of the Act, Grossman and Shuman are for a period of twenty (20) years prohibited from telephoning residences within or outside Ontario for the purpose of trading in securities;

(7) pursuant to paragraph 9 of subsection 127(1) of the Act, each of Grossman and First Global shall pay an administrative penalty of $200,000, to be allocated by the Commission to or for the benefit of third parties in accordance with subsection 3.4(2) of the Act;

(8) pursuant to paragraph 9 of subsection 127(1) of the Act, Shuman shall pay an administrative penalty of $20,000, to be allocated by the Commission to or for the benefit of third parties in accordance with subsection 3.4(2) of the Act;

(9) pursuant to section 127.1 of the Act, Grossman and First Global shall jointly and severally pay the costs of Staff's investigation and the hearing in the amount of $50,000, plus $2,573.74 in disbursements;

(10) pursuant to section 127.1 of the Act, Shuman shall pay the costs of Staff's investigation and the hearing in the amount of amount of $10,000, which is inclusive of disbursements, which amounted to $3,634.34.

Dated this 4th day of November 2008.

"Wendell S. Wigle"

"Suresh Thakrar"

"Margot C. Howard"

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
Energy Conversion Technologies Inc.	03 Nov 08	14 Nov 08		
World Wide Inc.	03 Nov 08	14 Nov 08		
Diagem Inc.	04 Nov 08	14 Nov 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
Toxin Alert Inc.	30 Oct 08	12 Nov 08			

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		
Toxin Alert Inc.	30 Oct 08	12 Nov 08			
Argenta Oil & Gas Inc.	05 Nov 08	18 Nov 08			

This page intentionally left blank

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
10/10/2008	1	9.35% USD Cash Settled Callable Kick-In Goal on Worst of Shares of DJ Euro Stoxx 50/Nikkei 225/SMI/S&P 500 Expiry 27 July 2010 - Units	174,443.83	295,000.00
10/23/2008	12	Alexco Resources Corp. - Flow-Through Shares	7,000,000.00	3,500,000.00
10/21/2008	6	Canterra Seeds Holdings Ltd. - Common Shares	138,896.00	119,600.00
10/14/2008 to 10/23/2008	20	CMC Markets UK plc - Contracts for Differences	183,000.00	20.00
10/27/2008	7	Decade Resources Ltd. - Units	165,099.75	1,100,665.00
10/17/2008	2	Dumont Nickel Inc. - Common Shares	30,000.00	900,000.00
10/17/2008	6	Dumont Nickel Inc. - Flow-Through Shares	75,000.00	1,200,000.00
10/17/2008	5	Dynamic Fuel Systems Inc. - Units	793,000.00	7,930,000.00
10/21/2008 to 10/23/2008	16	Edgeworth Mortgage Investment Corporation - Preferred Shares	467,500.00	46,750.00
10/15/2008	10	EnerAsia Renewable Corp. - Units	107,500.00	537,500.00
10/23/2008	2	Explor Resources inc. - Common Shares	12,000.00	100,000.00
10/29/2008	1	Fancamp Exploration Ltd. - Flow-Through Units	500,000.00	1,000,000.00
10/15/2008	1	First Leaside Elite Limited Partnership - Limited Partnership Interest	248,986.79	210,970.00
10/24/2008	1	First Leaside Elite Limited Partnership - Limited Partnership Interest	8,530.00	6,700.00
10/15/2008	1	First Leaside Expansion Limited Partnership - Limited Partnership Interest	65,000.00	65,000.00
10/16/2008	3	First Leaside Fund - Trust Units	265,000.00	265,000.00
10/21/2008	1	First Leaside Fund - Trust Units	150,000.00	150,000.00
10/23/2008	1	First Leaside Fund - Trust Units	150,000.00	150,000.00
10/23/2008	4	First Leaside Fund - Trust Units	109,996.00	109,996.00
10/17/2008	1	First Leaside Investors Limited Partnership - Limited Partnership Interest	100,000.00	100,000.00

Transaction Date	No of Purchasers	Issuer/Security	Total Purchase Price ($)	No of Securities Distributed
10/22/2008	1	First Leaside Investors Limited Partnership - Limited Partnership Interest	50,000.00	50,000.00
10/16/2008 to 10/17/2008	2	First Leaside Wealth Management Inc. - Preferred Shares	225,000.00	225,000.00
10/01/2008	1	Flatiron Trust - Trust Units	400,000.00	198.76
10/15/2008 to 10/28/2008	7	Fuel Transfer Technologies Inc. - Preferred Shares	110,825.00	34,100.00
03/05/2008	5	Hamilton Lane Co-Investment Fund II L.P. - Limited Partnership Interest	74,235,000.00	NA
10/15/2008	130	Huron Energy Corporation - Common Shares	23,379,376.50	6,818,712.00
10/09/2008	6	KERN Energy Partners III, LP - Limited Partnership Units	107,500,000.00	107.50
10/08/2008	36	Lakota Resources Inc. - Common Share Purchase Warrant	1,225,520.00	9,011,179.00
10/21/2008	92	Liberty International Mineral Corporation - Units	1,613,240.33	2,203,519.00
10/15/2008	11	MetLife Inc. - Common Shares	50,351,416.00	1,609,700.00
10/22/2008	1	Miraculins Inc. - Common Shares	20,770.00	310,000.00
10/24/2008	4	Nakina Systems Inc. - Preferred Shares	3,642,842.92	18,459,167.00
10/17/2008	11	Newbaska Gold and Copper Mines Ltd. - Common Shares	158,895.00	1,059,300.00
10/14/2008 to 10/22/2008	11	Newport Canadian Equity Fund - Units	247,000.00	2,183.23
10/20/2008 to 10/21/2008	3	Newport Fixed Income Fund - Units	85,000.00	850.80
10/14/2008 to 10/22/2008	10	Newport Global Equity Fund - Units	215,000.00	3,497.83
10/14/2008 to 10/22/2008	33	Newport Yield Fund - Units	829,143.93	8,032.58
10/21/2008	3	NewStep Networks Inc. - Notes	437,613.07	3.00
07/07/2008 to 07/23/2008	2	NRX Global Corp. - Debentures	1,014,131.00	1,014,131.00
10/14/2008	3	Opalis Software Inc. - Preferred Shares	1,370,657.90	4,773,483.00
09/16/2008	2	PAKIT Inc. - Debentures	36,000.00	964,033.50
10/21/2008	4	Platinum 5 Acres and a Mule Limited Partnership - Limited Partnership Units	450,000.00	18.00
10/10/2008	2	Sextant Strategic Opportunities Hedge Fund LP - Units	424,500.00	6,268.60
10/16/2008	29	Silverbirch Inc. - Units	530,600.00	6,632,500.00

Transaction Date	No of Purchasers	Issuer/Security	Total Purchase Price ($)	No of Securities Distributed
10/15/2008	38	Synergy Wellness Centre Limited Partnership - Limited Partnership Units	7,740,000.00	4,260.00
09/30/2008	23	USA Video Interactive Corp. - Units	300,000.00	6,000,000.00
10/24/2008	3	USI Senior Holdings Inc. - Common Shares	31,998,020.00	2,785,090.00
10/22/2008	8	Variation Biotechnologies (US), Inc. - Preferred Shares	24,998,010.58	10,309,279.00
10/17/2008	18	Walton AZ Silver Reef Investment Corporation - Common Shares	528,750.00	52,875.00
10/15/2008	160	Walton AZ Silver Reef Investment Corporation - Common Shares	3,547,940.00	354,794.00
10/17/2008	16	Walton AZ Silver Reef Limited Partnership - Limited Partnership Units	588,701.50	49,083.00
10/15/2008	25	Walton AZ Silver Reef Limited Partnership - Units	4,174,016.34	360,762.00
10/17/2008	40	Walton GA Arcade Meadows Limited Partnership 1 - Limited Partnership Units	1,084,109.99	91,695.00
10/21/2008	28	Wild River Resources Ltd. - Flow-Through Shares	5,092,500.00	1,050,000.00
10/17/2008	1	Wimberly Apartments Limited Partnership - Limited Partnership Interest	99,144.37	119,796.00
10/24/2008	1	Zorzal Incorporated - Common Shares	150,000.00	428,571.00
10/24/2008	7	Zorzal Incorporated - Debentures	399,860.00	399,860.00

This page intentionally left blank

Chapter 11

IPOs, New Issues and Secondary Financings

Issuer Name:
Ark Catapult Energy Class Fund
Principal Regulator - Ontario
Type and Date:
Preliminary Simplified Prospectus dated November 3, 2008
NP 11-202 Receipt dated November 4, 2008
Offering Price and Description:
Series A, F and I Shares
Underwriter(s) or Distributor(s):
-
Promoter(s):
Ark Fund Management Ltd.
Project #1337431

Issuer Name:
Barclays Bank Plc
Principal Regulator - Ontario
Type and Date:
Preliminary Short Form Base Shelf Prospectus dated October 31, 2008
NP 11-202 Receipt dated November 4, 2008
Offering Price and Description:
U.S.$21,000,000,000.00 - Medium-Term Notes, Series A
Underwriter(s) or Distributor(s):
-
Promoter(s):
-
Project #1337721

Issuer Name:
Big 8 Split Inc.
Principal Regulator - Ontario
Type and Date:
Preliminary Prospectus dated October 31, 2008
NP 11-202 Receipt dated November 3, 2008
Offering Price and Description:
$ * - * Class B Preferred Shares Price: $ * per Class B Preferred Share
Underwriter(s) or Distributor(s):
TD Securities Inc.
Promoter(s):
TD Sponsored Companies Inc.
Project #1337085

Issuer Name:
Chai Cha Na Mining Inc.
Principal Regulator - Ontario
Type and Date:
Preliminary Prospectus dated October 28, 2008
NP 11-202 Receipt dated October 31, 2008
Offering Price and Description:
$488,700.00 - 3,258,000 COMMON SHARES ISSUABLE UPON THE EXERCISE OF SPECIAL WARRANTS Price: $0.15 per Special Warrant
Underwriter(s) or Distributor(s):
-
Promoter(s):
Frederick Fisher
Project #1335011

Issuer Name:
Chrysos Capital Corporation
Principal Regulator - Nova Scotia
Type and Date:
Preliminary CPC Prospectus dated October 28, 2008
NP 11-202 Receipt dated October 29, 2008
Offering Price and Description:
$400,000.00 - 4,000,000 Common Shares Price $0.10 per Common Share
Underwriter(s) or Distributor(s):
Citadel Securities Inc.
Promoter(s):
-
Project #1334704

Issuer Name:
CI Financial Income Fund
Principal Regulator - Ontario
Type and Date:
Preliminary Short Form Base Shelf Prospectus dated November 3, 2008
NP 11-202 Receipt dated November 3, 2008
Offering Price and Description:
$1,000,000,000.00 - Debt Securities (subordinated indebtedness) Subscription Receipts
Units
Underwriter(s) or Distributor(s):
-
Promoter(s):
-
Project #1337202

Issuer Name:
Claymore 1-5 Yr Laddered Corporate Bond ETF
Principal Regulator - Ontario
Type and Date:
Preliminary Prospectus dated November 3, 2008
NP 11-202 Receipt dated November 4, 2008
Offering Price and Description:
Units
Underwriter(s) or Distributor(s):
Claymore Investments, Inc.
Promoter(s):
Claymore Investments, Inc.
Project #1337768

Issuer Name:
Enbridge Pipelines Inc.
Principal Regulator - Alberta
Type and Date:
Preliminary Short Form Base Shelf Prospectus dated October 29, 2008
NP 11-202 Receipt dated October 30, 2008
Offering Price and Description:
$2,000,000,000.00 - Medium Term Notes (Unsecured)
Underwriter(s) or Distributor(s):
Scotia Capital Inc.
BMO Nesbitt Burns Inc.
CIBC World Markets Inc.
HSBC Securities (Canada) Inc.
National Bank Financial Inc.
RBC Dominion Securities Inc.
TD Securities Inc.
Promoter(s):
-
Project #1335647

Issuer Name:
Excel Latin America Fund
Principal Regulator - Ontario
Type and Date:
Preliminary Simplified Prospectus dated October 31, 2008
NP 11-202 Receipt dated October 31, 2008
Offering Price and Description:
Series A and F Units
Underwriter(s) or Distributor(s):
Excel Funds Management Inc.
Promoter(s):
Excel Funds Management Inc.
Project #1336920

Issuer Name:
FNSSC-Multi Manager Fund
Principal Regulator - Ontario
Type and Date:
Preliminary Simplified Prospectus dated October 30, 2008
NP 11-202 Receipt dated October 31, 2008
Offering Price and Description:
Series A Units
Underwriter(s) or Distributor(s):
Sprott Asset Management Inc.
Promoter(s):
Sprott Asset Management Inc.
Project #1336255

Issuer Name:
Lazard Capital Allocator Opportunistic Strategies Fund
Principal Regulator - Ontario
Type and Date:
Preliminary Simplified Prospectus dated November 3, 2008
NP 11-202 Receipt dated November 3, 2008
Offering Price and Description:
Series A and F Shares
Underwriter(s) or Distributor(s):
-
Promoter(s):
First Defined Portfolio Management Co.
Project #1337210

Issuer Name:
Ridgemont Capital Corp.
Principal Regulator - British Columbia
Type and Date:
Preliminary CPC Prospectus dated October 29, 2008
NP 11-202 Receipt dated October 30, 2008
Offering Price and Description:
$200,000.00 - 2,000,000 Common Shares Price: $0.10 per Common Share
Underwriter(s) or Distributor(s):
Research Capital Corp.
Promoter(s):
Thomas A. Doyle
Greg Burnett
Kevin Hason
Terry Amisano
Project #1335688

Issuer Name:
AAER Inc.
Principal Regulator - Quebec
Type and Date:
Preliminary Short Form Prospectus dated November 4, 2008
NP 11-202 Receipt dated November 4, 2008
Offering Price and Description:
$ *
* A Units
* B Units
Price - $0.15 per A Unit
Price - $1,000 per B Unit
Underwriter(s) or Distributor(s):
Canaccord Capital Corporation
Industrial Alliance Securities Inc.
Promoter(s):
-
Project #1337813

Issuer Name:
BMO SHORT-TERM INCOME CLASS
(BMO Guardian Short-Term Income Class Advisor Series and
BMO Guardian Short-Term Income Class Series H)
BMO AMERICAN EQUITY CLASS
(BMO Guardian American Equity Class Advisor Series and
BMO Guardian American Equity Class Series H)
BMO CANADIAN EQUITY CLASS
(BMO Guardian Canadian Equity Class Advisor Series and
BMO Guardian Canadian Equity Class Series H)
BMO CANADIAN LARGE CAP EQUITY CLASS
(BMO Guardian Canadian Large Cap Equity Class Advisor Series and
BMO Guardian Canadian Large Cap Equity Class Series H)
BMO DIVIDEND CLASS
(BMO Guardian Dividend Class Advisor Series and
BMO Guardian Dividend Class Series H)
BMO EMERGING MARKETS CLASS
(BMO Guardian Emerging Markets Class Advisor Series and
BMO Guardian Emerging Markets Class Series H)
BMO ENTERPRISE CLASS
(BMO Guardian Enterprise Class Advisor Series and
BMO Guardian Enterprise Class Series H)
BMO GLOBAL ABSOLUTE RETURN CLASS
(BMO Guardian Global Absolute Return Class Advisor Series and
BMO Guardian Global Absolute Return Class Series H)
BMO GLOBAL DIVIDEND CLASS
(BMO Guardian Global Dividend Class Advisor Series and
BMO Guardian Global Dividend Class Series H)
BMO GLOBAL ENERGY CLASS
(BMO Guardian Global Energy Class Advisor Series ,
BMO Guardian Global Energy Class Series F and
BMO Guardian Global Energy Class Series H)
BMO GLOBAL EQUITY CLASS
(BMO Guardian Global Equity Class Advisor Series and
BMO Guardian Global Equity Class Series H)
BMO GLOBAL SMALL CAP CLASS
(BMO Guardian Global Small Cap Class Advisor Series and
BMO Guardian Global Small Cap Class Series H)
BMO GLOBAL TECHNOLOGY CLASS
(BMO Guardian Global Technology Class Advisor Series and
BMO Guardian Global Technology Class Series H)
BMO GREATER CHINA CLASS
(BMO Guardian Greater China Class Advisor Series ,
BMO Guardian Greater China Class Series F and
BMO Guardian Greater China Class Series H)
BMO INTERNATIONAL VALUE CLASS
(BMO Guardian International Value Class Advisor Series ,
BMO Guardian International Value Class Series F and
BMO Guardian International Value Class Series H)
BMO RESOURCE CLASS
(BMO Guardian Resource Class Advisor Series and
BMO Guardian Resource Class Series H)
BMO SUSTAINABLE CLIMATE CLASS
(BMO Guardian Sustainable Climate Class Advisor Series ,
BMO Guardian Sustainable Climate Class Series F and
BMO Guardian Sustainable Climate Class Series H)

BMO SUSTAINABLE OPPORTUNITIES CLASS
(BMO Guardian Sustainable Opportunities Class Advisor Series ,
BMO Guardian Sustainable Opportunities Class Series F and
BMO Guardian Sustainable Opportunities Class Series H)
BMO ASIAN GROWTH AND INCOME CLASS
(BMO Guardian Asian Growth and Income Class Advisor Series and
BMO Guardian Asian Growth and Income Class Series H)
BMO SELECTCLASS AGGRESSIVE GROWTH PORTFOLIO
(BMO Guardian SelectClass Aggressive Growth Portfolio Advisor Series ,
BMO Guardian SelectClass Aggressive Growth Portfolio Series H ,
BMO Guardian SelectClass Aggressive Growth Portfolio Series T 5 and
BMO Guardian SelectClass Aggressive Growth Portfolio Series T 8)
BMO SELECTCLASS BALANCED PORTFOLIO
(BMO Guardian SelectClass Balanced Portfolio Advisor Series ,
BMO Guardian SelectClass Balanced Portfolio Series H ,
BMO Guardian SelectClass Balanced Portfolio Series T 5 and
BMO Guardian SelectClass Balanced Portfolio Series T 8)
BMO SELECTCLASS GROWTH PORTFOLIO
(BMO Guardian SelectClass Growth Portfolio Advisor Series ,
BMO Guardian SelectClass Growth Portfolio Series H ,
BMO Guardian SelectClass Growth Portfolio Series T 5 and
BMO Guardian SelectClass Growth Portfolio Series T 8)
BMO SELECTCLASS SECURITY PORTFOLIO
(BMO Guardian SelectClass Security Portfolio Advisor Series ,
BMO Guardian SelectClass Security Portfolio Series H ,
BMO Guardian SelectClass Security Portfolio Series T 5 and
BMO Guardian SelectClass Security Portfolio Series T 8)
BMO GLOBAL HIGH YIELD BOND FUND
(BMO Guardian Global High Yield Bond Fund Advisor Series and
BMO Guardian Global High Yield Bond Fund Series F)
BMO INCOME TRUST FUND
(BMO Guardian Income Trust Fund Advisor Series)
BMO MORTGAGE AND SHORT-TERM INCOME FUND
(BMO Guardian Mortgage and Short -Term Income Fund Advisor Series and
BMO Guardian Mortgage and Short -Term Income Fund Series F)
BMO NORTH AMERICAN DIVIDEND FUND
(BMO Guardian North American Dividend Fund Advisor Series)
BMO PRECIOUS METALS FUND
(BMO Guardian Precious Metals Fund Advisor Series)
BMO RESOURCE FUND
(BMO Guardian Resource Fund Advisor Series and
BMO Guardian Resource Fund Series F)
BMO SPECIAL EQUITY FUND
(BMO Guardian Special Equity Fund Advisor Series and
BMO Guardian Special Equity Fund Series F)
BMO U.S. SPECIAL EQUITY FUND
(BMO Guardian U.S. Special Equity Fund Advisor Series)
BMO LIFESTAGE PLUS 2017 FUND
(BMO Guardian LifeStage Plus 2017 Fund Advisor Series)
BMO LIFESTAGE PLUS 2020 FUND
(BMO Guardian LifeStage Plus 2020 Fund Advisor Series)
BMO LIFESTAGE PLUS 2025 FUND
(BMO Guardian LifeStage Plus 2025 Fund Advisor Series)
BMO LIFESTAGE PLUS 2030 FUND
(BMO Guardian LifeStage Plus 2030 Fund Advisor Series)
Principal Regulator - Ontario
Type and Date:
Final Simplified Prospectuses dated October 29, 2008
NP 11-202 Receipt dated October 31, 2008
Offering Price and Description:
-
Underwriter(s) or Distributor(s):
BMO Investments Inc.
Promoter(s):
BMO Investments Inc.
Project #1322437

Issuer Name:
BMO Nesbitt Burns All Equity Portfolio Fund (Class A, Class F and Class I Units)
BMO Nesbitt Burns Balanced Fund (Class A and Class F Units)
BMO Nesbitt Burns Balanced Portfolio Fund (Class A and Class F Units)
BMO Nesbitt Burns Bond Fund (Class A and Class F Units)
BMO Nesbitt Burns Canadian Stock Selection Fund (Class A and Class F Units)
BMO Nesbitt Burns Growth Portfolio Fund (Class A and Class F Units)
BMO Nesbitt Burns International Equity Fund (Class A and Class F Units)
BMO Nesbitt Burns U.S. Stock Selection Fund (Class A and Class F Units)
Principal Regulator - Ontario
Type and Date:
Final Simplified Prospectuses dated October 31, 2008
NP 11-202 Receipt dated November 3, 2008
Offering Price and Description:
-
Underwriter(s) or Distributor(s):
BMO Nesbitt Burns Inc.
Promoter(s):
BMO Nesbitt Burns Inc.
Project #1327386

Issuer Name:
Covington Venture Fund Inc.
Type and Date:
Amendment #1 dated October 16, 2008 to the Prospectus dated January 30, 2008
Receipted on October 29, 2008
Offering Price and Description:
Class A Shares
Underwriter(s) or Distributor(s):
-
Promoter(s):
CFPA Sponsor Inc.
Covington Capital Corporation
Project #1200910

Issuer Name:
Criterion Diversified Commodities Currency Hedged Fund
Principal Regulator - Ontario
Type and Date:
Amendment #1 dated October 22, 2008 to the Prospectus dated June 19, 2008
NP 11-202 Receipt dated November 4, 2008
Offering Price and Description:
-
Underwriter(s) or Distributor(s):
-
Promoter(s):
Criterion Investments Limited
Project #1263435

Issuer Name:
Excel China Fund
Principal Regulator - Ontario
Type and Date:
Amendment #1 dated October 20, 2008 to the Simplified Prospectus and Annual Information Form dated November 30, 2007
NP 11-202 Receipt dated October 30, 2008
Offering Price and Description:
-
Underwriter(s) or Distributor(s):
Excel Funds Management Inc.
Promoter(s):
Excel Funds Management Inc.
Project #1169747

Issuer Name:
Series A, Series B, Series F and Series O Units (unless otherwise indicated) of:
Fidelity Canadian Disciplined Equity Fund (Series T5, T8, S5 and S8 Units also available)
Fidelity Canadian Growth Company Fund
Fidelity Canadian Large Cap Fund
Fidelity Canadian Opportunities Fund
Fidelity Dividend Fund (Series T5, T8, S5 and S8 Units also available)
Fidelity Greater Canada Fund (Series T5, T8, S5 and S8 Units also available)
Fidelity Special Situations Fund
Fidelity True North Fund (Series T5, T8, S5 and S8 Units also available)
Fidelity American Disciplined Equity Fund (Series T5, T8, S5 and S8 Units also available)
Fidelity American Opportunities Fund
Fidelity American Value Fund
Fidelity Growth America Fund (Series T5, T8, S5 and S8 Units also available)
Fidelity Small Cap America Fund
Fidelity AsiaStar Fund
Fidelity China Fund
Fidelity Emerging Markets Fund
Fidelity Europe Fund
Fidelity Far East Fund
Fidelity Global Fund (Series T5, T8, S5 and S8 Units also available)
Fidelity Global Disciplined Equity Fund (Series T5, T8, S5 and S8 Units also available)
Fidelity Global Dividend Fund (Series T5, T8, S5 and S8 Units also available)
Fidelity Global Opportunities Fund
Fidelity International Disciplined Equity Fund (Series T5, T8, S5 and S8 Units also available)
Fidelity International Value Fund
Fidelity Japan Fund
Fidelity Latin America Fund
Fidelity NorthStar Fund (Series T5, T8, S5 and S8 Units also available)
Fidelity Overseas Fund
Fidelity Global Consumer Industries Fund
Fidelity Global Financial Services Fund
Fidelity Global Health Care Fund
Fidelity Global Natural Resources Fund
Fidelity Global Real Estate Fund (Series T5, T8, S5 and S8 Units also available)
Fidelity Global Technology Fund
Fidelity Global Telecommunications Fund
Fidelity Canadian Asset Allocation Fund (Series T5, T8, S5 and S8 Units also available)
Fidelity Canadian Balanced Fund (Series T5, T8, S5 and S8 Units also available)
Fidelity Monthly Income Fund (Series T5, T8, S5 and S8 Units also available)
Fidelity Global Asset Allocation Fund (Series T5, T8, S5 and S8 Units also available)
Fidelity Global Monthly Income Fund (Series T5, T8, S5 and S8 Units also available)
Fidelity Income Portfolio (Series T5, T8, S5, S8, F5 and F8 Units also available)

Fidelity Global Income Portfolio (Series T5, T8, S5, S8, F5 and F8 Units also available)
Fidelity Balanced Portfolio (Series T5, T8, S5, S8, F5 and F8 Units also available)
Fidelity Global Balanced Portfolio (Series T5, T8, S5, S8, F5 and F8 Units also available)
Fidelity Growth Portfolio (Series T5, T8, S5, S8, F5 and F8 Units also available)
Fidelity Global Growth Portfolio (Series T5, T8, S5, S8, F5 and F8 Units also available)
Fidelity ClearPath 2005 Portfolio (Series T5, T8, S5 and S8 Units also available)
Fidelity ClearPath 2010 Portfolio (Series T5, T8, S5 and S8 Units also available)
Fidelity ClearPath 2015 Portfolio
Fidelity ClearPath 2020 Portfolio
Fidelity ClearPath 2025 Portfolio
Fidelity ClearPath 2030 Portfolio
Fidelity ClearPath 2035 Portfolio
Fidelity ClearPath 2040 Portfolio
Fidelity ClearPath 2045 Portfolio
Fidelity ClearPath Income Portfolio (Series T5, T8, S5 and S8 Units also available)
Fidelity Income Replacement 2017 Portfolio
Fidelity Income Replacement 2019 Portfolio
Fidelity Income Replacement 2021 Portfolio
Fidelity Income Replacement 2023 Portfolio
Fidelity Income Replacement 2025 Portfolio
Fidelity Income Replacement 2027 Portfolio
Fidelity Income Replacement 2029 Portfolio
Fidelity Income Replacement 2031 Portfolio
Fidelity Income Replacement 2033 Portfolio
Fidelity Income Replacement 2035 Portfolio
Fidelity Income Replacement 2037 Portfolio
Fidelity Canadian Bond Fund
Fidelity Canadian Money Market Fund (Series C and D Units also available)
Fidelity Canadian Short Term Bond Fund
Fidelity American High Yield Fund
Fidelity American High Yield Currency Neutral Fund
Fidelity U.S. Money Market Fund (Series A and B Units only)
Fidelity Global Bond Fund
Fidelity Global Bond Currency Neutral Fund
Fidelity Income Trust Fund
Fidelity Monthly High Income Fund (Series T8 and S8 Units also available)
Principal Regulator - Ontario
Type and Date:
Final Simplified Prospectuses dated October 30, 2008
NP 11-202 Receipt dated November 4, 2008
Offering Price and Description:
Series A, Series B, Series F, Series O, Series T5, Series T8, Series S5 and Series S8 Units @ Net Asset Value
Underwriter(s) or Distributor(s):
Fidelity Investments Canada Limited
Fidelity Investments Canada ULC
Promoter(s):
-
Project #1320759

Issuer Name:
First Asset CanBanc Split Corp.
Principal Regulator - Ontario
Type and Date:
Final Prospectus dated October 31, 2008
NP 11-202 Receipt dated October 31, 2008
Offering Price and Description:
$ 100,000,000.00 (Maximum) 4,000,000 Preferred Shares and 4,000,000 Class A Shares $10.00 per Preferred Share and $15.00 per Class A Share
Underwriter(s) or Distributor(s):
CIBC World Markets Inc.
RBC Dominion Securities Inc.
BMO Nesbitt Burns Inc.
National Bank Financial Inc.
Scotia Capital Inc.
TD Securities Inc.
Canaccord Capital Corporation
Dundee Securities Corporation
HSBC Securities (Canada) Inc.
Raymond James Ltd.
Blackmont Capital Inc.
Manulife Securities Incorporated
Richardson Partners Financial Limited
Wellington West Capital Inc.
Promoter(s):
First Asset Investment Management Inc.
Project #1319907

Issuer Name:
GrowthWorks Canadian Fund Ltd. (formerly, GrowthWorks WV Canadian Fund Inc.)
Principal Regulator - Ontario
Type and Date:
Final Prospectus dated November 3, 2008
NP 11-202 Receipt dated November 4, 2008
Offering Price and Description:
Class A Shares of the following series:
Venture / GIC Commission I
Venture / GIC Commission II
Venture / Growth Commission I
Venture / Growth Commission II
Venture / Income Commission I
Venture / Income Commission II
Venture / Financial Services Commission I
Venture / Financial Services Commission II
Venture / Diversified Commission I
Venture / Diversified Commission III
Underwriter(s) or Distributor(s):
GrowthWorks Capital Ltd.
Promoter(s):
-
Project #1328659

Issuer Name:
GrowthWorks Commercialization Fund Ltd.
Principal Regulator - Ontario
Type and Date:
Final Prospectus dated October 30, 2008
NP 11-202 Receipt dated October 31, 2008
Offering Price and Description:
Class A Shares, 09 Series
(FundSERV No. WVN 509)
Maximum Offering: $60 million
Offering Price: $10 per share until March 1, 2009
and thereafter Net Asset Value per 09 Series Share
Class A Shares, 10 Series
(FundSERV No. WVN 510)
Maximum Offering: $60 million
Offering Price: $10 per share from initial offering date
(on or about September 1, 2009) until March 1, 2010 and
thereafter Net Asset Value per 10 Series Share
Underwriter(s) or Distributor(s):
GrowthWorks Capital Ltd.
Promoter(s):
-
Project #1329602

Issuer Name:
ING DIRECT Streetwise Balanced Class
ING DIRECT Streetwise Balanced Growth Class
ING DIRECT Streetwise Balanced Income Class
Principal Regulator - Ontario
Type and Date:
Amendment #2 dated October 23, 2008 to the Simplified
Prospectuses and Annual Information Forms dated
January 2, 2008
NP 11-202 Receipt dated October 29, 2008
Offering Price and Description:
-
Underwriter(s) or Distributor(s):
ING Direct Funds Limited
Promoter(s):
Ing Asset Management Limited
Project #1170221

Issuer Name:
JOV TALISMAN FUND
Principal Regulator - Ontario
Type and Date:
Amendment #1 dated October 22, 2008 to the Amended
and Restated Simplified Prospectus and Annual
Information Form dated August 20, 2008, amending and
restating the Simplified Prospectus and Annual Information
Form dated April 25, 2008.
NP 11-202 Receipt dated October 30, 2008
Offering Price and Description:
-
Underwriter(s) or Distributor(s):
MGI Securities Inc.
Promoter(s):
JovFunds Management Inc.
Project #1231719

Issuer Name:
Rogers Communications Inc.
Type and Date:
Amendment #1 dated October 29, 2008 to the Final Short
Form Base Shelf Prospectus dated November 8, 2007
Receipted on October 31, 2008
Offering Price and Description:
-
Underwriter(s) or Distributor(s):
-
Promoter(s):
-
Project #1175381

Issuer Name:
TD Managed Income Portfolio
(Investor Series, Premium Series, H-Series and K-Series Units)
TD Managed Income & Moderate Growth Portfolio
(Investor Series, Premium Series, H-Series and K-Series Units)
TD Managed Balanced Growth Portfolio
(Investor Series, Premium Series, H-Series and K-Series Units)
TD Managed Aggressive Growth Portfolio
(Investor Series and Premium Series Units)
TD Managed Maximum Equity Growth Portfolio
(Investor Series and Premium Series Units)
TD FundSmart Managed Income Portfolio
(Investor Series, Premium Series, H-Series and K-Series Units)
TD FundSmart Managed Income & Moderate Growth Portfolio
(Investor Series, Premium Series, H-Series and K-Series Units)
TD FundSmart Managed Balanced Growth Portfolio
(Investor Series, Premium Series, H-Series and K-Series Units)
TD FundSmart Managed Aggressive Growth Portfolio
(Investor Series and Premium Series Units)
TD FundSmart Managed Maximum Equity Growth Portfolio
(Investor Series and Premium Series Units)
TD Managed Index Income Portfolio
(Investor Series and e -Series Units)
TD Managed Index Income & Moderate Growth Portfolio
(Investor Series and e -Series Units)
TD Managed Index Balanced Growth Portfolio
(Investor Series and e -Series Units)
TD Managed Index Aggressive Growth Portfolio
(Investor Series and e -Series Units)
TD Managed Index Maximum Equity Growth Portfolio
(Investor Series and e -Series Units)
Principal Regulator - Ontario
Type and Date:
Final Simplified Prospectuses dated October 29, 2008
NP 11-202 Receipt dated October 31, 2008
Offering Price and Description:
Investor Series Units, e-Series Units, Premium Series Units, H-Series Units and K-Series Units @ Net Asset Value
Underwriter(s) or Distributor(s):
TD Investment Services Inc. (for Investor Series and Premium Series units only)
TD Investment Services Inc. (for Investor Series and Premium Series units)
TD Investment Services Inc. (for Investor Series and e-Series units)
Promoter(s):
-
Project #1322153

Issuer Name:
TD Managed Income Portfolio
(Advisor Series and T-Series Units)
TD Managed Income & Moderate Growth Portfolio
(Advisor Series and T-Series Units)
TD Managed Balanced Growth Portfolio
(Advisor Series and T-Series Units)
TD Managed Aggressive Growth Portfolio
(Advisor Series Units)
TD Managed Maximum Equity Growth Portfolio
(Advisor Series Units)
TD FundSmart Managed Income Portfolio
(Advisor Series and T-Series Units)
TD FundSmart Managed Income & Moderate Growth Portfolio
(Advisor Series and T-Series Units)
TD FundSmart Managed Balanced Growth Portfolio
(Advisor Series and T-Series Units)
TD FundSmart Managed Aggressive Growth Portfolio
(Advisor Series Units)
TD FundSmart Managed Maximum Equity Growth Portfolio
(Advisor Series Units)
Principal Regulator - Ontario
Type and Date:
Final Simplified Prospectuses dated October 29, 2008
NP 11-202 Receipt dated October 31, 2008
Offering Price and Description:
Advisor Series and T-Series Units @ Net Asset Value
Underwriter(s) or Distributor(s):
TD Investment Services Inc. (for Investor Series and Premium Series units only)
TD Investment Services Inc. (for Investor Series and Premium Series units)
Promoter(s):
-
Project #1322163

Chapter 12

Registrations

12.1.1 Registrants

Type	Company	Category of Registration	Effective Date
Merger	Companies: J.P. Morgan Securities Inc. and Bear, Stearns & Co. Inc., Surviving entity: Bear, Stearns & Co. Inc.	International Adviser (Investment Counsel & Portfolio Manager) & International Dealer	October 1, 2008
Name Change	From: Bear, Stearns & Co. Inc. To: J.P. Morgan Securities Inc.	International Adviser (Investment Counsel & Portfolio Manager) & International Dealer	October 1, 2008
Name Change	From: Waterfall Investments Inc. To: Sentry Select Investments Inc.	Limited Market Dealer & Investment Counsel & Portfolio Manager	October 29, 2008
Name Change	From: Enhanced Investment Technologies, LLC To: INTECH Investment Management LLC	International Adviser (Investment Counsel & Portfolio Manager).	October 28, 2008

This page intentionally left blank

Chapter 13

SRO Notices and Disciplinary Proceedings

13.1.1 MFDA Issues Notice of Hearing Regarding Michele and Jeffrey Longchamps

NEWS RELEASE
For immediate release

MFDA ISSUES NOTICE OF HEARING REGARDING
MICHELE AND JEFFREY LONGCHAMPS

November 3, 2008 (Toronto, Ontario) – The Mutual Fund Dealers Association of Canada ("MFDA") today announced that it has commenced disciplinary proceedings against Michele and Jeffrey Longchamps (the "Respondents").

MFDA staff alleges in its Notice of Hearing that the Respondents engaged in the following conduct contrary to the By-laws, Rules or Policies of the MFDA:

> **Allegation #1:** Between October 2004 and June 2007, Michele failed to deal fairly, honestly and in good faith with 22 clients by soliciting and accepting from them the total amount of $1,524,956.59 to invest on their behalf and failing to repay or otherwise account for all but $55,444.87 of the monies, contrary to MFDA Rule 2.1.1.
>
> **Allegation #2:** Commencing on July 18, 2007, Michele failed to provide a report in writing and produce records requested by the MFDA in the course of an investigation, contrary to section 22.1 of MFDA By-law No. 1.
>
> **Allegation # 3:** Between March 2005 and April 2007, Jeffrey had and continued in a dual occupation without obtaining the approval of the Member, WFG Securities Canada Inc. ("WFG"), contrary to MFDA Rule 1.2.1(d).

The first appearance in this matter will take place by teleconference before a Hearing Panel of the MFDA Central Regional Council in the Hearing Room located at the offices of the MFDA, 121 King Street West, Suite 1000, Toronto, Ontario on Friday, January 9, 2009 at 10:00 a.m. (Eastern) or as soon thereafter as can be held.

The purpose of the first appearance is to schedule the date for the commencement of the hearing on its merits and to address any other procedural matters.

The first appearance is open to the public, except as may be required for the protection of confidential matters. Members of the public attending the first appearance will be able to listen to the proceeding by teleconference.

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 155 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 Reschedules Hearing on Merits Regarding Farm Mutual Financial Services Inc.

NEWS RELEASE
For immediate release

MFDA RESCHEDULES HEARING ON MERITS REGARDING FARM MUTUAL FINANCIAL SERVICES INC.

November 3, 2008 (Toronto, Ontario) – The Hearing on Merits in this matter has been rescheduled to take place on Wednesday, December 10, 2008 at 10:00 a.m. (Toronto) or as soon thereafter as can be held in the Hearing Room located at the offices of the MFDA, 121 King Street West, Suite 1000, Toronto, Ontario.

The hearing is 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 website.

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 155 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 Adjourns Hearing on Merits in the Matter of Brian Edward Mark Nerdahl

NEWS RELEASE
For immediate release

MFDA ADJOURNS HEARING ON MERITS
IN THE MATTER OF
BRIAN EDWARD MARK NERDAHL

November 3, 2008 (Toronto, Ontario) – The Mutual Fund Dealers Association of Canada ("MFDA") commenced a disciplinary proceeding in respect of Brian Nerdahl by Notice of Hearing dated March 25, 2008.

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 155 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

13.1.4 Technical Amendments to CDS Procedures – Dormant Participants – Notice of Effective Date

CDS CLEARING AND DEPOSITORY SERVICES INC. (CDS®)

TECHNICAL AMENDMENTS TO CDS PROCEDURES

DORMANT PARTICIPANTS

NOTICE OF EFFECTIVE DATE

A. DESCRIPTION OF THE AMENDMENTS

Background

Changes to the *Participating in CDS Services Procedures* are required in order to implement recent material rule amendments regarding dormant participants. Amendments to CDS Participant Rules 2 and 3 were approved by the CDS Board of Directors on June 17, 2008, and have been published for comments.

As currently set out in the procedures noted above, participants may choose to become dormant and request that their status be changed from active to dormant by sending CDS a formal letter to this effect. The proposed amendments add a 'deemed to be dormant' category for participants that have not used any CDS services or functions in any of their CUIDs or ledgers for a period of six or more consecutive months.

Currently, participants are permitted to continue indefinitely as dormant participants provided that they pay the annual dormancy fee of $2,000. The proposed amendments will change this in that dormant participants will be required to pay the positive difference between the original entrance fee they paid and the current re-assessed entrance fee, as well as meet all participant eligibility requirements every five years of dormancy, in order to maintain their dormant participant status.

Currently, if a dormant participant wishes to become active again, it must submit an application to CDS's Customer Service and if accepted, the dormant participant is reactivated without having to pay any additional fees. Under the proposed amendments, dormant participants must still complete the application process and pay the positive difference between the original entrance fee paid (or the last re-assessed entrance fee) and the newly assessed entrance fee.

In addition, the proposed amendments also provide for CDS to approach dormant participants every five years to determine their status and re-assess their qualifications, and confirm a participant's dormant status is non-transferable to firms that acquire such participant.

These proposed amendments are intended to prevent dormant participants from remaining dormant indefinitely and reactivating without payment of an additional entrance fee. The concern is that once reactivated, participants can benefit from CDS's services without having sufficiently contributed to the development and operating costs incurred by CDS during the dormancy period. Further, the annual dormancy fee of $2,000 does not reflect increases in CDS's development and operating costs since the 1980's.

The Procedures marked for the amendments may be accessed at the CDS website at:

http://www.cds.ca/cdsclearinghome.nsf/Pages/-EN-blacklined?Open

Description of Proposed Amendments

The following procedures will be impacted by this initiative:

Participating in CDS Services:
- Chapter 1 Introduction to CDS, Section 1.7

B. REASONS FOR TECHNICAL CLASSIFICATION

The amendments proposed pursuant to this Notice are considered technical amendments as they are consequential amendments intended to implement a material rule that has been published for comment pursuant to the rule protocol, and which only contain material aspects already contained in the material rule or disclosed in the notice accompanying the material rule.

C. EFFECTIVE DATE OF THE RULE

Pursuant to Appendix A (“Rule Protocol Regarding The Review And Approval Of CDS Rules By The OSC”) of the Recognition and Designation Order, as amended on November 1, 2006, and Annexe A (“Protocole d’examen et d’approbation des Règles de Services de Dépot et de Compensation CDS Inc. par l’Autorité des marchés financiers”) of AMF Decision 2006-PDG-0180, made effective on November 1, 2006, CDS has determined that these amendments will become effective on a date subsequently determined by CDS, and as stipulated in the related CDS Bulletin.

These amendments were reviewed and approved by the CDS Strategic Development Review Committee (“SDRC”) on **July 31, 2008**.

D. QUESTIONS

Questions regarding this notice may be directed to:

Eduarda Matos
Legal Counsel
The Canadian Depository for Securities Limited
85 Richmond Street West
Toronto, Ontario M5H 2C9

Telephone: 416-365-3567
Fax: 416-365-1984
e-mail: attention@cds.ca

JAMIE ANDERSON
Managing Director, Legal

13.1.5 Technical Amendments to CDS Rules – Ongoing Documentation Requirements for Dormant Participants – Notice of Effective Date

CDS CLEARING AND DEPOSITORY SERVICES INC. (CDS®)

TECHNICAL AMENDMENTS TO CDS RULES

ONGOING DOCUMENTATION REQUIREMENTS FOR DORMANT PARTICIPANTS

NOTICE OF EFFECTIVE DATE

A. DESCRIPTION OF THE PROPOSED AMENDMENTS

The proposed amendments are consequential amendments to the material Rule amendments published for comment on June 27, 2008 and subsequent technical CDS procedures amendments to be effective on November 1, 2008. The proposed amendments clarify the ongoing documentation requirements for dormant participants that elect to continue as dormant participants (as opposed to dormant participants that elect to be designated as an active participant). A new Rule 2.7.10(e) is proposed by extracting from Rule 2.7.10(d) the documentation requirements for dormant participants electing to continue in dormant status.

B. REASONS FOR TECHNICAL CLASSIFICATION

The amendments proposed pursuant to this Notice are considered technical amendments as they are consequential amendments intended to implement a material rule that has been published for comment pursuant to this protocol which only contain material aspects already contained in the material rule or disclosed in the notice accompanying the material rule.

C. EFFECTIVE DATE OF THE RULE

Pursuant to Appendix A (“Rule Protocol Regarding The Review And Approval Of CDS Rules By The OSC”) of the Recognition and Designation Order, as amended on November 1, 2006, and Annexe A (“Protocole d’examen et d’approbation des Règles de Services de Dépot et de Compensation CDS Inc. par l’Autorité des marchés financiers”) of AMF Decision 2006-PDG-0180, made effective on November 1, 2006, CDS has determined that these amendments will become effective on a date subsequently determined by CDS, and as stipulated in the related CDS Bulletin.

Pursuant to the unanimous shareholder agreement between The Canadian Depository for Securities Limited (“CDS Ltd.”) and CDS, effective as of November 01, 2006 whereby CDS Ltd., which acts under the supervision of its Board of Directors, assumes all rights, powers, and duties of the CDS Board of Directors, these amendments were reviewed and approved by the Board of Directors of CDS Ltd. on October 8, 2008.

D. QUESTIONS

Questions regarding this notice may be directed to:

Jamie Anderson
Managing Director, Legal
CDS Clearing and Depository Services Inc.
85 Richmond Street West
Toronto, Ontario M5H 2C9

Fax: 416-365-1984
e-mail: attention@cds.ca

TOOMAS MARLEY
Chief Legal Officer

13.1.6 Technical Amendments to CDS Procedures – Enhanced Selection Criteria and Inclusion of Withholding Tax on the Settled Transactions Report (000038B) – Notice of Effective Date

CDS CLEARING AND DEPOSITORY SERVICES INC. (CDS®)

TECHNICAL AMENDMENTS TO CDS PROCEDURES

ENHANCED SELECTION CRITERIA AND INCLUSION OF WITHHOLDING TAX ON THE SETTLED TRANSACTIONS REPORT (000038B)

NOTICE OF EFFECTIVE DATE

A. DESCRIPTION OF THE AMENDMENTS

Background

The CDS Strategic Development Review Committee (“SDRC”) Entitlement subcommittee has requested the following enhancements to the Settled Transactions report:

Enhanced Selection Criteria:

When requesting a Settled Transactions report for transaction type ‘E’ (entitlements), two new optional criteria fields will be provided - event transaction subtype and/or event type. This will allow CDS Participants to generate a report based on an event transaction subtype and/or event type. If these fields have been populated, along with the required currency, only those entitlement transactions meeting these criteria will appear on the report.

Inclusion of Withholding Tax:

The Funds Amount (“FA”) field on the Settled Transactions report reports the actual dollar amount that the CDS Participant's FA has been debited or credited. In the case of some entitlement payments, CDS Participants find this number difficult to reconcile as it is the net amount (i.e. gross amount of the entitlement less the withholding tax applicable to the participant's Qualified Intermediary status), rather than the gross amount that they expected. In order to assist in the reconciliation process, a breakdown of the payment amount (i.e. tax withheld amount) is required on the report. When compiling the data for the report, the tax withheld on an entitlement payment will be extracted from NCS and placed in the column currently used exclusively for trade related client name data. The column currently called ‘Client’ will be renamed ‘Client/Tax Withheld’ on the Settled Transactions report.

The Procedures marked for the amendments may be accessed at the CDS website at:

http://www.cds.ca/cdsclearinghome.nsf/Pages/-EN-blacklined?Open

Description of Proposed Amendments

The following procedures will be impacted by this initiative:

CDS Reporting Procedures:
- Chapter 25 Transaction Reports, Section 25.5

CDSX Procedures and User Guide:
- Chapter 8 Entitlement Activities, Section 8.3

B. REASONS FOR TECHNICAL CLASSIFICATION

The amendments proposed pursuant to this Notice are considered technical amendments as they are matters of a technical nature in routine operating procedures and administrative practices relating to the settlement services.

C. EFFECTIVE DATE OF THE RULE

Pursuant to Appendix A (“Rule Protocol Regarding The Review And Approval Of CDS Rules By The OSC”) of the Recognition and Designation Order, as amended on November 1, 2006, and Annexe A (“Protocole d’examen et d’approbation des Règles de Services de Dépot et de Compensation CDS Inc. par l’Autorité des marchés financiers”) of AMF Decision 2006-PDG-0180, made effective on November 1, 2006, CDS has determined that these amendments will become effective on a date subsequently determined by CDS, and as stipulated in the related CDS Bulletin.

These amendments were reviewed and approved by the SDRC on **September 25, 2008.**

D. QUESTIONS

Questions regarding this notice may be directed to:

Eduarda Matos
Legal Counsel
The Canadian Depository for Securities Limited
85 Richmond Street West
Toronto, Ontario M5H 2C9

Telephone: 416-365-3567
Fax: 416-365-1984
e-mail: attention@cds.ca

JAMIE ANDERSON
Managing Director, Legal

Index

7027940 Canada Limited
Decision ... 10819

AIC Balanced Growth Portfolio Fund
Decision ... 10831

AIC Balanced Income Portfolio Fund
Decision ... 10831

AIC Core Growth Portfolio Fund
Decision ... 10831

AIC Diversified Science & Technology Corporate Class
Decision ... 10831

AIC Diversified Science & Technology Fund
Decision ... 10831

AIC Global Banks Fund
Decision ... 10831

AIC Global Insurance Fund
Decision ... 10831

AIC Limited
Decision ... 10831

AIC PPC Balanced Growth Portfolio Pool
Decision ... 10831

AIC PPC Balanced Income Portfolio Pool
Decision ... 10831

AIC Private Portfolio Counsel Global Pool
Decision ... 10831

AIC World Financial Infrastructure Income and Growth Fund
Decision ... 10831

Aidelman, Brian W.
Notice of Hearing – ss. 127(7), 127(8) ... 10813
Notice from the Office of the Secretary ... 10816
Order – 127(1), 127(8) ... 10864

Altamira Investment Services Inc.
MRRS Decision ... 10823

American Natural Energy Corporation
Order – s. 144 ... 10847

Argenta Oil & Gas Inc.
Cease Trading Order ... 10879

ASL Direct Inc.
News Release ... 10814

Barclays Global Investors Canada Limited
Decision ... 10843

Barrick Gold Corporation
Decision ... 10827

Bear, Stearns & Co. Inc.
Merger ... 10969
Name Change ... 10969

Brilliante Brasilcan Resources Corp.
Notice of Hearing – ss. 127(7), 127(8) ... 10813
Notice from the Office of the Secretary ... 10816
Order – 127(1), 127(8) ... 10864

Cadence Energy Inc.
Decision ... 10827

Canaccord Capital Corporation
Order – s. 74(1) ... 10850

Capstone Mining Corp.
Decision ... 10821

CDS Procedures – Dormant Participants – Notice of Effective Date
Notice ... 10809
SRO Notices and Disciplinary Proceedings ... 10974

CDS Procedures – Enhanced Selection Criteria and Inclusion of Withholding Tax on the Settled Transactions Report (000038B) – Notice of Effective Date
Notice ... 10809
SRO Notices and Disciplinary Proceedings ... 10977

CDS Rules – Ongoing Documentation Requirements for Dormant Participants – Notice of Effective Date
Notice ... 10809
SRO Notices and Disciplinary Proceedings ... 10976

CoolBrands International Inc.
Cease Trading Order ... 10879

Da Silva, Abel
Notice of Hearing ... 10809
Notice from the Office of the Secretary ... 10815

Diagem Inc.
Cease Trading Order ... 10879

Energy Conversion Technologies Inc.
Cease Trading Order ... 10879

Enhanced Investment Technologies, LLC
Name Change ... 10969

FAP USA, L.P.
Notice of Correction 10808

Farm Mutual Financial Services Inc.
SRO Notices and Disciplinary Proceedings 10972

First Global Ventures, S.A.
Notice from the Office of the Secretary 10817
OSC Reasons – ss. 127, 127.1 10869

Fitzgerald, Donald James
OSC Reasons – s. 26(3) 10865

Georgiadis, Jason
Notice of Hearing – ss. 127(7), 127(8) 10813
Notice from the Office of the Secretary 10816
Order – 127(1), 127(8) 10864

Goldbridge Financial Inc.
Notice from the Office of the Secretary 10815
Order – ss. 127(1), 127(2) 10849

Goodman & Company, Investment Counsel Ltd.
Decision 10836
Decision 10839

Grossman, Abraham Herbert
Notice from the Office of the Secretary 10817
OSC Reasons – ss. 127, 127.1 10869

Grossman, Allen
Notice from the Office of the Secretary 10817
OSC Reasons – ss. 127, 127.1 10869

Hip Interactive Corp.
Cease Trading Order 10879

Howson Tattersall Investment Counsel Limited
MRRS Decision 10823

IIROC Notice 08-0163
Notice 10808

IIROC Proposed Amendments to the Universal Market Integrity Rules
Notice 10808

ING Investment Management, Inc.
MRRS Decision 10823

INTECH Investment Management LLC
Name Change 10969

iShares Alternatives Completion Portfolio Builder Fund
Decision 10843

iShares Conservative Core Portfolio Builder Fund
Decision 10843

iShares Global Completion Portfolio Builder Fund
Decision 10843

iShares Growth Core Portfolio Builder Fund
Decision 10843

J.P. Morgan Securities Inc.
Merger 10969
Name Change 10969

Lesperance, Shawn
Notice from the Office of the Secretary 10815
Order – ss. 127(1), 127(2) 10849

Longchamps, Jeffrey
SRO Notices and Disciplinary Proceedings 10971

Longchamps, Michele
SRO Notices and Disciplinary Proceedings 10971

MacGregor Global Investments LLC
Order – s. 218 of the Regulation 10859

Marsh, Alan
Notice from the Office of the Secretary 10817
OSC Reasons – ss. 127, 127.1 10869

Natcan Investment Management Inc.
MRRS Decision 10823

National Bank Financial Inc.
MRRS Decision 10823

National Bank Securities Inc.
MRRS Decision 10823

National Bank Trust Inc.
MRRS Decision 10823

NBF Emissary Turnkey Solution LP
MRRS Decision 10823

Nerdahl, Brian Edward Mark
SRO Notices and Disciplinary Proceedings 10973

Sentry Select Investments Inc.
Name Change 10969

Shuman, Alan Marsh
Notice from the Office of the Secretary 10817
OSC Reasons – ss. 127, 127.1 10869

SINOPIA Asset Management S.A.
Order – s. 80 of the CFA 10861

Taylor, Richard
Notice of Hearing – ss. 127(7), 127(8) 10813
Notice from the Office of the Secretary 10816
Order – 127(1), 127(8) 10864

TD Capital Trust II
Order 10852

Tiomin China Limited
Decision 10841

Toronto-Dominion Bank
Order..10852

Toxin Alert Inc.
Cease Trading Order 10879

Vicis Capital LLC
Order – s. 80 of the CFA...10855

Waterfall Investments Inc.
Name Change..10969

Weber, Wesley Wayne
Notice from the Office of the Secretary...................10815
Order – ss. 127(1), 127(2)..10849

World Wide Inc.
Cease Trading Order 10879

York Rio Resources Inc.
Notice of Hearing – ss. 127(7), 127(8)....................10813
Notice from the Office of the Secretary...................10816
Order – 127(1), 127(8)..10864

York, Victor
Notice of Hearing – ss. 127(7), 127(8)....................10813
Notice from the Office of the Secretary...................10816
Order – 127(1), 127(8)..10864

This page intentionally left blank