The Ontario Securities Commission

OSC Bulletin

November 28, 2008

Volume 31, Issue 48

(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)

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Published under the authority of the Commission by:
Carswell, a Thomson Reuters business
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2075 Kennedy Road
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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

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ISSN 0226-9325
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Notices / News Releases

1.1 Notices

1.1.1 Current Proceedings Before The Ontario Securities Commission

NOVEMBER 28, 2008

CURRENT PROCEEDINGS

BEFORE

ONTARIO SECURITIES COMMISSION

- -

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

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Wendell S. Wigle, Q.C.	—	WSW

SCHEDULED OSC HEARINGS

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/CSP
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/ST/PLK
December 4-17, 2008 11:00 a.m.	**Shane Suman and Monie Rahman** s. 127 & 127(1) C. Price in attendance for Staff Panel: JEAT/MCH
December 5, 2008 9:00 a.m.	**New Life Capital Corp., New Life Capital Investments Inc., New Life Capital Advantage Inc., New Life Capital Strategies Inc., 1660690 Ontario Ltd., L. Jeffrey Pogachar, Paola Lombardi and Alan S. Price** s. 127 S. Kushneryk in attendance for Staff Panel: WSW/ST

December 8, 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
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 5-16, 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 12-23, 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 20, 2009 3:00 p.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: DLK/ST
January 26-30, 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 9-13, 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 23 - March 13, 2009 10:00 a.m.	**John Illidge, Patricia McLean, David Cathcart, Stafford Kelley and Devendranauth Misir** S. 127 and 127.1 I. Smith in attendance for Staff Panel: TBA
March 3, 2009 2:30 p.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
March 23-April 3, 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 13-17, 2009 10:00 a.m.	**Matthew Scott Sinclair** s.127 P. Foy in attendance for Staff Panel: TBA
April 20-27, 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 4-29, 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
May 12, 2009 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: JEAT/ST
June 1-3, 2009 10:00 a.m.	**Robert Kasner** s. 127 H. Craig in attendance for Staff Panel: TBA

June 4, 2009 10:00 a.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
September 21-25, 2009 10:00 a.m.	**Swift Trade Inc. and Peter Beck** s. 127 S. Horgan in attendance for Staff Panel: TBA
November 16-December 11, 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	**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	
TBA	**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	
TBA	**Abel Da Silva**	
	s.127	
	M. Boswell in attendance for Staff	
	Panel: ST/CSP	
TBA	**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/MGC	

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 Commission Approval – Amendments to MFDA Recognition Order and to MFDA By-law No. 1 Regarding the Definition of "Public Director"

MUTUAL FUND DEALERS ASSOCIATION OF CANADA (MFDA)

AMENDMENTS TO MFDA RECOGNITION ORDER AND MFDA BY-LAW NO. 1 REGARDING THE DEFINITION OF "PUBLIC DIRECTOR"

NOTICE OF COMMISSION ORDER AND APPROVAL

On October 28, 2008, the Commission issued an order pursuant to section 144 of the *Securities Act* (Ontario) to vary and restate an order dated February 6, 2001, as amended on March 30, 2004 and November 3, 2006, recognizing the MFDA as a self-regulatory organization for mutual fund dealers (Recognition Order). The amendments to the Recognition Order remove the definition of "Public Director" from the terms and conditions, and make housekeeping amendments to correct inconsistencies and typographical errors. The British Columbia Securities Commission, Nova Scotia Securities Commission and Saskatchewan Financial Services Commission have also made similar amendments to their recognition orders. A copy of the varied and restated Recognition Order is published in Chapter 2 of this bulletin.

On the same date, the Commission approved amendments to various provisions of MFDA By-law No. 1 (the By-law). These include the definition of "Public Director" to permit individuals currently ineligible to act as public directors to qualify where appropriate, and the terms of office and maximum tenure for all MFDA directors. The Alberta Securities Commission, Saskatchewan Financial Services Commission, Manitoba Securities Commission, New Brunswick Securities Commission and Nova Scotia Securities Commission have also approved, and the British Columbia Securities Commission have not objected to, the amendments to the By-law.

The MFDA's application regarding the proposed amendments to the Recognition Order and the proposed amendments to the By-law were published for comment on May 23, 2008 at (2008) 31 OSCB 5348. The MFDA's summary of public comments and response is being published in Chapter 13 of this Bulletin. Some non-material changes have been made to the proposal relating to the By-law since the time it was published. A blacklined version of the approved amendments is also being published in Chapter 13 of this Bulletin.

1.1.3 Notice of Commission Approval – IIROC Amendments to Rule 100.4E – Offsets Between Strip Coupon Positions and/or Residual Debt Positions

THE INVESTMENT INDUSTRY REGULATORY ORGANIZATION OF CANADA (IIROC)

AMENDMENTS TO RULE 100.4E OFFSETS BETWEEN STRIP COUPON POSITIONS AND/OR RESIDUAL DEBT POSITIONS

NOTICE OF COMMISSION APPROVAL

The Ontario Securities Commission approved amendments to IIROC Rule 100.4E regarding offsets between strip coupon positions and/or residual debt positions (the Amendments). In addition, the British Columbia Securities Commission did not object, and the Alberta Securities Commission, the Autorité des marchés financiers, the New Brunswick Securities Commission, the Nova Scotia Securities Commission and the Department of Government Services of Newfoundland and Labrador approved the Amendments. The purpose of the Amendments is to align the margin and capital requirements for each offset with its respective risk by allowing offsets between strip coupon positions, offsets between residual debt positions, and offsets between strip coupon and residual debt positions.

A copy and description of the Amendments were published on January 4, 2008, at (2008) 31 OSCB 349. No comments were received. The Amendments were later revised to include the addition of the term "or a customer" immediately following the words "Where a Dealer Member" under paragraphs (e) and (f) of Rule 100.4E. This addition was intended to be part of the Investment Dealers Association of Canada (IDA) amendments extending debt offsets to customer positions (Regulations 100.4A, 100.4B, 100.4C, 100.4D, 100.4E and 100.4K), that were approved by the Commission in November 2006, but was missing in the version of the amendments that was published for comments at the time (in OSC Bulletin (2006) 29 OSCB 8203).

A copy of the final version of the Amendments is contained in Chapter 13 of this OSC Bulletin.

1.1.4 CSA Notice 11-311 – Notice of Extension of Comment Period – CSA Consultation Paper 11-405 – "Securities Regulatory Proposals Stemming from the 2007-08 Credit Market Turmoil and its Effect on the ABCP Market in Canada"

CSA NOTICE 11-311

NOTICE OF EXTENSION OF COMMENT PERIOD

CSA CONSULTATION PAPER 11-405
"SECURITIES REGULATORY PROPOSALS STEMMING
FROM THE 2007-08 CREDIT MARKET TURMOIL AND
ITS EFFECT ON THE ABCP MARKET IN CANADA"

On October 6, 2008, the Canadian Securities Administrators published a consultation paper entitled "Securities Regulatory Proposals Stemming from the 2007-08 Credit Market Turmoil and its Effect on the ABCP Market in Canada". The paper is currently open for public comment until December 20, 2008. At the request of constituents, the CSA is extending the end date for public comment to February 16, 2009.

The Consultation Paper is available on the websites of various CSA members.

November 28, 2008

1.1.5 CSA Staff Notice 52-323 – Coming into Force of National Instrument 52-109 *Certification of Disclosure in Issuers' Annual and Interim Filings* and Consequential Policy Amendments

CSA STAFF NOTICE 52-323

COMING INTO FORCE OF NATIONAL INSTRUMENT 52-109
CERTIFICATION OF DISCLOSURE IN ISSUERS' ANNUAL AND INTERIM FILINGS
AND CONSEQUENTIAL POLICY AMENDMENTS

Background

On August 15, 2008, the Canadian Securities Administrators (CSA or we) published notice that effective December 15, 2008, subject to applicable ministerial approvals, we would repeal Multilateral Instrument 52-109 *Certification of Disclosure in Issuers' Annual and Interim Filings* (MI 52-109), Form 52-109F1, 52-109FT1, 52-109F2 and 52-109FT2 and withdraw Companion Policy 52-109CP and replace them with the following:

- National Instrument 52-109 *Certification of Disclosure in Issuers' Annual and Interim Filings* (NI 52-109);
- Forms 52-109F1, 52-109FV1, 52-109F1 – IPO/RTO, 52-109F1R, 52-109F1 – AIF, 52-109F2, 52-109FV2, 52-109F2 – IPO/RTO and 52-109F2R (the Forms); and
- Companion Policy 52-109CP *Certification of Disclosure in Issuers' Annual and Interim Filings* (Companion Policy 52-109CP, together with NI 52-109 and the Forms, the New Materials).

The CSA also indicated that, in conjunction with the New Materials, we would make consequential amendments to Form 51-102F1 *Management's Discussion & Analysis* of National Instrument 51-102 *Continuous Disclosure Obligations* (the Consequential Amendments).

Applicable Ministerial Approvals Obtained

The New Materials and Consequential Amendments have received all applicable ministerial approvals and, as a result, will come into force in all CSA jurisdictions effective December 15, 2008.

Transition

The New Materials apply in respect of annual filings and interim filings for financial periods of reporting issuers (other than investment funds) ending on or after December 15, 2008. We remind issuers that the requirements of MI 52-109, although repealed effective December 15, 2008, will continue to apply for officers' certificates relating to financial periods ending before December 15, 2008.

Consequential Policy Amendments

In addition to the Consequential Amendments, effective December 15, 2008, we are making consequential amendments to the following policies (the Consequential Policy Amendments) in order to replace existing cross-references to MI 52-109 with references to NI 52-109:

- National Policy 12-202 *Revocation of a Compliance-Related Cease Trade Order*
- National Policy 12-203 *Cease Trade Orders for Continuous Disclosure Defaults*
- National Policy 41-201 *Income Trusts and Other Indirect Offerings* (NP 41-201)
- Companion Policy 51-102CP *Continuous Disclosure Obligations*
- Companion Policy 71-102CP *Continuous Disclosure and Other Exemptions Relating to Foreign Issuers*

We are also making a further consequential amendment to NP 41-201 by striking out the reference to Part 4 of Companion Policy 52-109CP in section 7.1 of NP 41-201 and substituting a reference to section 3.2 of Companion Policy 52-109CP.

In Quebec, the Consequential Policy Amendments replacing existing cross-references to MI 52-109 with references to NI 52-109 are not applicable.

The Consequential Policy Amendments are contained in Appendices "A" to "E" to this notice.

Questions

Please refer your questions to any of the following individuals:

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November 28, 2008

APPENDIX "A"

AMENDMENTS TO NATIONAL POLICY 12-202
REVOCATION OF A COMPLIANCE-RELATED CEASE TRADE ORDER

1. National Policy 12-202 *Revocation of a Compliance-Related Cease Trade Order* is amended:

(a) in Part 2 by,

(i) striking out "MI 52-109**" and substituting "**NI 52-109**"; and**

(ii) striking out "Multilateral**" and substituting "**National**".**

(b) in paragraph 3.1(1)(b) by striking out "Multilateral**" and substituting "**National**".**

(c) in subsection 3.1(2) by striking out "MI 52-109**" wherever it occurs and substituting "**NI 52-109**".**

2. This amendment comes into force December 15, 2008.

APPENDIX "B"

AMENDMENTS TO NATIONAL POLICY 12-203
CEASE TRADE ORDERS FOR CONTINUOUS DISCLOSURE DEFAULTS

1. National Policy 12-203 *Cease Trade Orders for Continuous Disclosure Defaults* is amended in Part 2 by striking out "Multilateral**" and substituting "**National**".**

2. This amendment comes into force December 15, 2008.

APPENDIX "C"

AMENDMENTS TO NATIONAL POLICY 41-201
INCOME TRUSTS AND OTHER INDIRECT OFFERINGS

1. National Policy 41-201 *Income Trusts and Other Indirect Offerings* is amended in section 7.1 by,

(a) striking out "Multilateral Instrument 52-109**" wherever it occurs and substituting "**National Instrument 52-109**".**

(b) striking out "MI 52-109**" wherever it occurs and substituting "**NI 52-109**".**

(c) striking out "part 4 of Companion Policy 52-109CP**" and substituting "**section 3.2 of Companion Policy 52-109CP**".**

2. This amendment comes into force December 15, 2008.

APPENDIX "D"

AMENDMENTS TO COMPANION POLICY 51-102
CONTINUOUS DISCLOSURE OBLIGATIONS

1. Companion Policy 51-102CP *Continuous Disclosure Obligations* is amended in section 1.6 by striking out "Multilateral**" and substituting "**National**".**

2. This amendment comes into force December 15, 2008.

APPENDIX "E"

AMENDMENTS TO COMPANION POLICY 71-102CP
CONTINUOUS DISCLOSURE AND OTHER EXEMPTIONS RELATING TO FOREIGN ISSUERS

1. Companion Policy 71-102CP *Continuous Disclosure and Other Exemptions Relating to Foreign Issuers* is amended in paragraph 6.4(b) by striking out "Multilateral**" and substituting "**National**".**

2. This amendment comes into force December 15, 2008.

1.4 Notices from the Office of the Secretary

1.4.1 Rodney International et al.

FOR IMMEDIATE RELEASE
November 21, 2008

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

AND

IN THE MATTER OF
RODNEY INTERNATIONAL, CHOEUN CHHEAN
(ALSO KNOWN AS PAULETTE C. CHHEAN)
AND MICHAEL A. GITTENS
(ALSO KNOWN AS ALEXANDER M. GITTENS)

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

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

OFFICE OF THE SECRETARY
JOHN P. STEVENSON
SECRETARY

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1.4.2 John Illidge et al.

FOR IMMEDIATE RELEASE
November 24, 2008

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

AND

IN THE MATTER OF
JOHN ILLIDGE, PATRICIA McLEAN,
DAVID CATHCART, STAFFORD KELLEY AND
DEVENDRANAUTH MISIR

TORONTO – The Commission issued an Order which provides that the dates now set for the hearing of this matter are vacated and the hearing is adjourned to commence on February 23, 2009 and to continue until March 13, 2009.

A copy of the Order dated November 24, 2008 is available at **www.osc.gov.on.ca**.

OFFICE OF THE SECRETARY
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SECRETARY

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1.4.3 Shallow Oil & Gas Inc. et al.

FOR IMMEDIATE RELEASE
November 26, 2008

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

AND

IN THE MATTER OF
SHALLOW OIL & GAS INC., ERIC O'BRIEN,
ABEL DA SILVA, GURDIP SINGH GAHUNIA
also known as MICHAEL GAHUNIA,
ABRAHAM HERBERT GROSSMAN
also known as ALLEN GROSSMAN,
MARCO DIADAMO, GORD McQUARRIE,
KEVIN WASH, AND WILLIAM MANKOFSKY

TORONTO – The Commission issued an Order in the above noted matter extending the Temporary Orders to the conclusion of the hearing on the merits. The next appearance is set down for June 4, 2009 at 10:00 a.m.

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

OFFICE OF THE SECRETARY
JOHN P. STEVENSON
SECRETARY

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Chapter 2

Decisions, Orders and Rulings

2.1 Decisions

2.1.1 Nortel Networks Limited

Headnote

National Policy 11-203 Process For Exemptive Relief Applications in Multiple Jurisdictions - Exemption from dealer registration requirement and prospectus requirement with respect to certain trades in, and distributions of, units of proprietary pooled mutual funds, made by employer to or for the benefit of members of its defined contribution pension and savings plans - Relief granted on standard terms and conditions of CAP Exemption, although certain of the employer's savings plans, including unregistered savings plans and RRIFs, are not CAPs - Some of the investment options will not fully comply with Part 2 of NI 81-102 because of their fund-of-fund-of-fund structure.

Applicable Legislative Provisions

Statutes Cited

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

Rules Cited

National Instrument 81-102Mutual Funds.
National Instrument 45-106 Prospectus and Registration Exemptions.

Published Documents Cited

Amendments to National Instrument 45-106 – Registration and Prospectus Exemption for Certain Capital Accumulation Plans, October 21, 2005 (2005), 25 OSCB 8681.
Joint Forum of Financial Market Regulators, Guidelines for Capital Accumulation Plans, May 28, 2004.

November 21, 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
NORTEL NETWORKS LIMITED ("Nortel")

DECISION

Background

The Principal Regulator (as defined below) in the Jurisdiction has received an application from Nortel for a decision under the securities legislation of the Jurisdiction ("the **Legislation**") for an order pursuant to section 144 of the *Securities Act* (Ontario) (the "**Act**") (the "**Decision**") to vary the Prior Order (as defined below) to permit Fund Investments (as defined below). The "**Prior Order**" (as set out in Appendix A) granted an exemption from the dealer registration requirements and the prospectus requirements in sections 25 and 53 of the Act, respectively, and the equivalent provisions in the Passport Jurisdictions (as defined below) for trades in securities of the Funds (as defined below) to Plan Members.

Under the Process for Exemptive Relief Applications in Multiple Jurisdictions:

(a) the Ontario Securities Commission is the principal regulator for this application (the "**Principal Regulator**"), and

(b) Nortel has provided notice that section 4.7(1) of Multilateral Instrument 11-102 *Passport System* ("**MI 11-102**") is intended to be relied upon in each of the provinces and territories of Canada (the "**Passport Jurisdictions**")

Interpretation

Defined terms contained in the Prior Order have the same meanings in this Decision unless they are otherwise defined in this Decision.

Representations

1. This Decision is based on the facts as set out in paragraphs 1 to 29 under the Representations in the Prior Order, except to the extent modified in paragraphs 2 and 3 below with respect to proposed TFSAs (as defined below) and in paragraphs 4 to 17 below with respect to proposed Fund Investments.

Tax Free Savings Account

2. Paragraph 3(c) of the Prior Order provides that the Nortel Networks After Tax Savings Vehicle and the Nortel Networks After Tax Savings Plan (together, the "ATSV") are after-tax savings

vehicles which are included in the Plans. In the February 2008 Budget, the Federal Minister of Finance announced a new initiative – tax free savings account ("**TFSAs**"), to be effective starting in 2009. Under the TFSAs, Canadian taxpayers will be allowed to contribute up to $5,000 each year to a TFSA. While contributions will not be tax deductible, all income earned will accrue on a tax free basis.

3. The Applicant wishes to add the TFSAs to the ATSV to supplement further the non-registered retirement and savings component of the Plans. As a result, a Plan Member that reaches the contribution limits imposed by the *Income Tax Act* (Canada) maximums under the Registered Savings Plans will first direct further contributions to the TFSA component of the ATSV and thereafter direct any contributions that exceed the TFSA limit to the non-TFSA component of the ATSV.

Fund Investments

4. After further consideration and development of the Proposed Structure, the Applicant has determined that it would be in the best interests of potential investors (including Plan Members and Target Date Funds) that invest in the Active Pools and/or Passive Pools that certain Active Pools (as determined from time to time by the Applicant) and all Passive Pools each be permitted to invest 90 - 100% of its portfolio in a pooled fund managed by the portfolio advisor (a "**Portfolio Advisor Pool**") for that Pool (the "**Modified Proposed Structure**"). For example, it is currently proposed that the portfolio advisor for the NNL Active Core Bond Pool, a proposed Active Pool, would invest 90 - 100% of its portfolio in the portfolio advisor's pooled bond fund, being a Portfolio Advisor Pool. Another example would be the proposal to have 90-100% of the portfolio of the NNL Passive Canada Equity Pool, a proposed Passive Pool, invest in the pooled Canada equity index pool of the portfolio advisor, being a Portfolio Advisor Pool of the portfolio advisor of that Asset Pool.

5. The Applicant proposes to invest the remaining 0-10% of the portfolio of each certain Active Pool or each Passive Pool with Northern Trust, the custodian of the Pools, in the NT Liquidity Pool. The NT Liquidity Pool is a pooled fund that complies with Part 2 of NI 81-102 and invests only in short-term liquid securities. This liquidity pool is needed to fund redemptions and will be used only for this purpose by the applicable Active Pool and/or Passive Pool.

6. Accordingly, at any given time, certain Active Pools (as determined from time to time by the Applicant) and all Passive Pools will each be invested in the NT Liquidity Pool and one Portfolio Advisor Pool. No Active Pool or Passive Pool will invest in multiple Portfolio Advisor Pools.

7. The rationale for such Active Pools and for Passive Pools being able to invest in Portfolio Advisor Pools is to provide Plan Members who invest in those Asset Pools with the benefits of a diversified portfolio chosen by the portfolio advisor in question on a cost efficient basis. More particularly, the Applicant has determined that (i) in the case of certain Active Pools, the relatively smaller size of each such Asset Pool might dictate that the investment of such Active Pool in the relevant portfolio advisor's Portfolio Advisor Pool would provide a diversified portfolio and a reasonable representation of the performance of the relevant sector at a lower cost; and (ii) in the case of Passive Pools, the objective is to mirror a specified index and it is more cost effective to do so through the investment of the Passive Pool's portfolio in a Portfolio Advisor Pool of the portfolio advisor with an investment objective that replicates that index.

8. As a result of the Modified Proposed Structure: (a) an Active Pool or Passive Pool that invests 90 - 100% of its portfolio in a Portfolio Advisor Pool would in essence be a flow-through vehicle, as the portfolio advisor providing its services to that Asset Pool would be doing so through its investment of the portfolio in the Portfolio Advisor Pool (a "**Fund of Fund Investment**"); (b) each Target Date Fund would be investing in (i) Active Pools which invest directly in certain types of securities (ii) and/or certain Active Pools which each invest in a Portfolio Advisor Pool and the NT Liquidity Pool, (iii) and/or Passive Pools which each invest in a Portfolio Advisor Pool and the NT Liquidity Pool ((ii) and (iii) are each a "**Fund of Fund of Fund Investment**", and together, the "**Fund Investments**").

9. Each Portfolio Advisor Pool could be either a pooled fund or a prospectus-qualified fund. Each Portfolio Advisor Pool, however, will comply with Part 2 of NI 81-102.

10. No Target Date Fund will invest directly in any Portfolio Advisor Pool. Plan Members will not be permitted to invest directly in any Portfolio Advisor Pool.

11. No additional management fees, incentive fees, sales fees or redemption fees would be payable in connection with an investment by an Active Pool and/or a Passive Pool in a Portfolio Advisor Pool or the NT Liquidity Pool. Accordingly, Nortel's move to the Modified Proposed Structure will not result in any additional management fees being payable by Plan Members. As noted in Paragraph 19 of the Prior Order, no management fees or incentive fees will be payable by a Target Date Fund that would duplicate a fee payable by an

Active Pool and/or Passive Pool for the same service. No sales fees or redemption fees are payable by a Target Date Fund in relation to its purchases or redemptions of the securities of an Active Pool and/or Passive Pool.

12. The disclosure to Plan Members would meet the disclosure requirements under the Prior Order.

13. Any Fund of Fund Investment would result in the Active Pool and/or Passive Pool that invests in a Portfolio Advisor Pool not complying with Part 2 of N1 81-102 to the extent the Active Pool or Passive Pool, as the case may be, would not technically meet the investment tests concerning concentration restrictions and restrictions on the ownership of private mutual funds as contained in section 2.1 and 2.2(1)(a) of Part 2 of 81-102.

14. In addition, the Fund of Fund Investments would not comply with the condition enumerated in section 2.5(2)(a) of NI 81-102 because the Portfolio Advisor Pools may not be mutual funds governed by National Instrument 81-101 *Mutual Fund Distributions*. As stated above, however, the Portfolio Advisor Pools (in which certain Active Pools and Passive Pools would be investing) would comply with Part 2 of NI 81-102.

15. Any Fund of Fund of Fund Investment would result in the Target Date Fund that invests in such Active Pool and/or Passive Pool investing indirectly in a Portfolio Advisor Pool, and thereby not complying with NI 81-102 for the reasons outlined in paragraph 13 above.

16. In addition, the Fund of Fund of Fund Investments would not comply with the conditions enumerated in section 2.5(2)(b) of NI 81-102 because an Active Pool and/or Passive Pool in which the Target Date Funds would invest could potentially invest more than 10% of the market value of its net assets in securities of another mutual fund.

17. To the extent that the operation of the Plans does not comply technically with the Proposed CAP Exemption and the Blanket Orders or the Prior Order, it will comply with the spirit and intent: the portfolio assets of an Asset Pool under a Fund Investment will ultimately be substantially invested in a Portfolio Advisor Pool which complies with the investment restrictions in Part 2 of NI 81-102, and no duplication of any fees would result.

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 for the Fund Investments is granted provided that the following conditions are satisfied:

1. Condition 2 of the Prior Order is amended as follows:

   The Asset Pools comply with Part 2 of NI 81-102 except that:

   (a) none of the Target Date Funds will comply with sections 2.1, 2.2(1)(a), 2.5(2)(a) and 2.5(2)(b) with respect to purchases by the Target Date Funds of securities issued by Active Pools and/or Passive Pools; and

   (b) none of the Active Pools and Passive Pools will comply with sections 2.1, 2.2(1)(a) and 2.5(2)(a) with respect to purchases by Active Pools and/or Passive Pools of securities issued by Portfolio Advisor Pools;

2. Each Portfolio Advisor Pool complies with Part 2 of NI 81-102;

3. No additional management fees, incentive fees, sales fees or redemption fees are payable in connection with an investment by the Active Pools and/or Passive Pools in a Portfolio Advisor Pool; and

4. The Applicant complies with paragraphs 1,3 and 4 of the Prior Order.

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

"David L. Knight"
Commissioner
Ontario Securities Commission

APPENDIX A

August 12, 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
NORTEL NETWORKS LIMITED ("Nortel")

DECISION

Background

The principal regulator in the Jurisdiction has received an application from Nortel for a decision under the securities legislation of the Jurisdiction ("the **Legislation**") of the principal regulator for an exemption from the dealer registration requirement in paragraph 25(1)(a) of the *Securities Act* (Ontario) (the "**Act**") (the "**Dealer Registration Requirement**") and the prospectus requirement in section 53 of the Act (the "**Prospectus Requirement**") with respect to certain trades in, and distributions of, units of investment funds (the "**Funds**", as set out in paragraph 10 below), made by Nortel, or officers or employees of Nortel acting on its behalf, to or for the benefit of Plan Members (as defined below) in respect of assets held in the DC Plans (as defined below) (the "**Exemption Sought**").

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

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

(b) Nortel has provided notice that section 4.7(1) of Multilateral Instrument 11-102 *Passport System* ("**MI 11-102**") is intended to be relied upon in each of the provinces and territories of Canada (the "**Passport Jurisdictions**").

Interpretation

Defined terms contained in National Instrument 14-101 – *Definitions* and MI 11-102 have the same meanings in this decision ("**Decision**") unless they are otherwise defined in this Decision.

Representations

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

1. Nortel is a corporation incorporated under the *Canada Business Corporations Act*. Its executive head office is located in Toronto, Ontario. Nortel and its affiliates have approximately 6793 employees (as of December 31, 2007) across Canada. Nortel sponsors both defined benefit and defined contribution retirement and savings plans for its employees, employees of its affiliates and former employees of Nortel and its affiliates.

2. Nortel is not in default of the securities legislation in any of the Passport Jurisdictions.

3. Nortel's retirement and savings plans include the following:

   (a) The NNL Managerial and Non-Negotiated Pension Plan (combination defined benefit/defined contribution), the NNL Money Purchase Pension Plan (defined contribution) and the NNL Negotiated Pension Plan (combination defined benefit/defined contribution), which are registered pension plans under the *Pension Benefits Act* (Ontario) and the *Income Tax Act* (Canada) (the "**Registered Pension Plans**").

   (b) The Nortel Networks Non-Negotiated Deferred Profit Sharing Plan, the Negotiated Deferred Profit Sharing Plan, the Non-Negotiated Group Retirement Savings Plan, the Negotiated Group Retirement Savings Plan, the Sun Life Financial Trust RRSPs, the Locked-in RRSPs and the Sun Life Financial Sponsored Group Choices RRSP and Locked-in RRSP (the "**Registered Savings Plans**"), which are registered plans under the *Income Tax Act* (Canada). The Registered Savings Plans operate under the umbrella of the Nortel Networks Investment Plan for Employees – Canada (the "**Investment Plan**") and the Nortel Networks Savings Plan for Employees – Canada (the "**Savings Plan**") for the non-unionized and unionized employees respectively.

   (c) The Nortel Networks After Tax Savings Vehicle and the Nortel Networks After Tax Savings Plan are both after-tax savings vehicles which operate under the umbrella of the Investment Plan (for non-unionized employees) or the Savings Plan (for unionized employees) (the "**Unregistered Savings Plans**").

   (d) The Nortel Group Sponsored LIF/RIFs are registered retirement income funds under the *Income Tax Act* (Canada) (the "**RRIFs**").

In addition to the defined contribution components of the Registered Pension Plans, the Registered Savings Plans, the Unregistered Savings Plans and the RRIFs described above (collectively, the "**DC Plans**" or the "**Plans**"), Nortel sponsors the defined benefit components of the Registered Pension Plans, and a Health and Welfare Trust which funds health care benefits provided to certain employees of Nortel and its affiliates.

4. The assets in the DC Plans all stem from contributions and investment returns earned on contributions made to the Plans by Nortel, its affiliates, or Plan Members as permitted by the Plans.

5. Although the level of employer and employee contributions vary from Plan to Plan, Nortel and its affiliates and their employees each make contributions toward retirement and savings as follows:

   (a) Under the defined contribution components of the Registered Pension Plans, the "Employer", being Nortel or an affiliate, makes a minimum contribution of 2% of an employee's earnings for its employees who are members of those Plans. Employees may make additional contributions which attract further matching contributions by Nortel (up to certain limits).

   (b) Under the Investment Plan and the Savings Plan, employees may elect to make basic contributions of between 2% and 6% of their earnings as well as additional contributions. The Employer makes contributions equal to 50% of the employee's basic contributions. Generally, employee contributions are directed to the RRSP or the SunLife Financial Trust RRSP and the Employer's contributions are directed to the DPSP. Any contributions that exceed *Income Tax Act* (Canada) maximums are directed to the Unregistered Savings Plans.

   (c) The RRIFs are established for former employees of the Employers to hold any assets that they, at their option, elect to transfer from the Registered Pension Plans, the Registered Savings Plans or other registered arrangements. No other contributions are permitted to be made to the RRIFs.

6. Members of the DC Plans ("**Plan Members**") include current or former employees of Nortel or its affiliates who participate in one or more of the Plans in accordance with their terms, and may also include

   (a) a spouse of a current or former employee, or former spouse in the case of a marriage breakdown; or

   (b) a trustee, custodian or administrator who is acting on behalf of the Plan Member, or for the Plan Member's benefit, or on behalf of or for the benefit of the Plan Member,

   that has assets in a DC Plan, and includes a person that is eligible to participate in one or more of the DC Plans. Apart from the individuals noted above, no individual who is not a current or former employee of Nortel or an affiliate, may participate in any of the DC Plans.

7. The management and administration of the DC Plans are the responsibility of Nortel. These responsibilities are discharged by the Board of Directors of Nortel acting through the Pension Fund Policy Committee, Pension Investment Committee, Retirement Plan Committee and Nortel's Treasury Department.

8. Except as specified below, each of the DC Plans is a "capital accumulation plan" ("**CAP**" or "**CAP Plan**"), as that term is defined under the proposed amendments to National Instrument 45-106, *Prospectus and Registration Exemptions* (the "**Proposed CAP Exemption**"), which were published by the Canadian Securities Administrators on October 21, 2005 and adopted in the form of a blanket exemption (the "**Blanket Orders**") in each of the Jurisdictions other than Ontario, Québec, Newfoundland and Labrador, the Yukon and Nunavut:

   (a) The Unregistered Savings Plans do not qualify as CAP Plans only on account of the fact that they are not tax-assisted vehicles. As set out above, the Unregistered Savings Plans are a component of Nortel's Investment Plan and Savings Plan which allow Plan Members to accumulate monies that they would otherwise contribute to one or more of the Plans that are CAP Plans but for the maximum retirement savings limits imposed by the *Income Tax Act* (Canada). All Plan Members of the Unregistered Savings Plans are or were at one time also Plan Members of the Registered Savings Plans or the Registered Pension Plans.

   (b) The RRIFs are comprised of monies originally invested in Plans that are CAP Plans or other registered plans earned from such monies but which are subsequently transferred to RRIFs in order to generate a retirement income after cessation of employment. All Plan

Members of the RRIFs are former employees of Nortel or one of its affiliates and were at one time Plan Members of one or more of the other DC Plans or the defined benefit components of the Registered Pension Plans.

The assets of the Unregistered Savings Plans and RRIFs will be invested in the same manner as the other Plans (the Registered Pension Plans and the Registered Savings Plans) which do qualify as CAP Plans.

9. At present, the Plan Members, through a series of group annuity policies issued by a licensed insurer to Nortel or the trustee of the assets of the Registered Pension Plans or the Registered Savings Plans, have access to a variety of single-manager investment options that are managed (with the exception of GICs and the Nortel Stock Fund) by external investment managers using a segregated fund platform. Plan Members determine from this menu of investment options how their account(s) within each of the DC Plans will be invested. The approximately $3.2 billion in assets relating to the defined benefit components of the Registered Pension Plans are invested separately in a pension master trust under different investment mandates and using different investment managers.

10. Nortel proposes to restructure the investments made available under the Plans. Under the proposed structure (the "**Proposed Structure**"), Nortel would create common investment pools (the "**Funds**"). The Funds would consist of a series of target retirement date funds ("**Target Date Funds**") plus a series of investment pools including active pools ("**Active Pools**"), each of which would be specific to a particular asset class (i.e., Canadian equity), and passive pools ("**Passive Pools**", and collectively with the Target Date Funds and the Active Pools, the "**Asset Pools**"). The purpose of the Proposed Structure is to make a diversified range of investment alternatives available to all Plans, which would allow Plan Members to have access to the traditionally higher rates of returns, lower investment manager fees and flexibility regarding external investment manager replacement and investment expertise that are currently available in respect of the defined benefit components of the Registered Pension Plans. The Funds would be created for the investment of the assets of the Plans, defined benefit components of the Registered Pension Plans and the Health and Welfare Trust and not available to the public for investment.

11. Each Fund would be created pursuant to a declaration of trust and would be a mutual fund as defined under the Act. The Funds will not be prospectus qualified. A federally incorporated trust corporation registered under the *Loan and Trust Corporations Act* (Ontario) and which complies with the requirements in Part 6 of National Instrument 81-102 *Mutual Funds* ("**NI 81-102**") would act as trustee and custodian of the Funds (the "**Trustee**"). Nortel would administer the Funds and, as administrator, would appoint registered portfolio advisers to manage the portfolios of the Asset Pools according to investment mandates determined by Nortel and set out in a statement of investment policies and procedures. Each portfolio adviser of the Asset Pools will be registered under the Act as an advisor in the subcategories of investment counsel and portfolio manager or will comply with section 7.3 of Ontario Securities Commission Rule 35-502 – *Non-Resident Advisers*. All trades in connection with the securities owned by each of the Funds would be effected through the Trustee.

12. The Plans will be managed and administered in accordance with the CAP Guidelines issued by the Joint Forum of Financial Market Regulators (the "**CAP Guidelines**").

13. In respect of their account(s) under the DC Plans, Plan Members would have a well-diversified array of investment options made available to them. Specifically, Plan Members would be entitled to invest their account(s) in units of (i) one or more of the relevant Target Date Funds (as described below), and/or (ii) one or more of the Active Pools and/or Passive Pools. Accordingly, the only investment options available to Plan Members under the Proposed Structure will be the Funds. Plan members will however be allowed to continue to hold units in the Nortel Stock Fund and GICs (until the scheduled maturity dates) that were acquired prior to the implementation of the Proposed Structure.

14. The portfolio management for the Asset Pools would be delegated by Nortel to one or more external investment managers. All Funds would be valued on a daily basis and redemptions and transfers between Funds would be permitted daily, except that restrictions would be placed on trades within a single Fund occurring within the same month. Plan Members would not interact directly with the Trustee or the external investment managers for the Funds and would not be able to invest in the assets held in the Funds.

15. Each of the Target Date Funds will invest only in units of two or more of the Active and/or Passive Pools, with the particular asset mix for each Target Date Fund geared toward Plan Members with a particular expected retirement date.

16. Each of the Asset Pools will comply with Part 2 of NI 81-102 except that none of the Target Date Funds will comply with sections 2.1, 2.2(1)(a) and 2.5(2)(a) with respect to purchases by the Target

Date Funds of securities issued by Active Pools and/or Passive Pools.

17. A Plan Member wishing to invest in a Target Date Fund would be expected to choose the Target Date Fund closest to his or her expected retirement date. If no investment choice is made by a Plan Member, then the Plan Member's interest in the Plans will be invested in the Target Date Fund closest to his or her expected retirement date as the default.

18. Each Target Date Fund would be structured, in essence, as an asset allocation model, and the disclosure to Plan Members would outline the initial asset allocation for a Target Date Fund among the Active Pools and/or Passive Pools, as determined by a registered adviser, with the asset allocation varied (with the advice of the registered adviser) from time to time with particular regard to the proximity of the target/retirement date.

19. No management fees or incentive fees will be payable by a Target Date Fund that would duplicate a fee payable by an Active Pool and/or Passive Pool for the same service. No sales fees or redemption fees are payable by a Target Date Fund in relation to its purchases or redemptions of the securities of an Active Pool and/or Passive Pool.

20. In directing the investment of their account(s) amongst the Funds, the Plan Members would deal exclusively with, employees of Nortel, a record keeper ("**Record Keeper**"), and, should they wish, their own investment advisers. The Record Keeper, which is a "service provider" as defined in the Proposed CAP Exemption, would act as the registrar for the Plans, maintaining records of investment directions, net redemptions and acquisitions of interests in the Funds as they relate to the Plans, interfund transfers and benefit payments. The Record Keeper would also distribute Fund performance information and general educational principles governing the selection of Funds to Plan Members once Nortel has approved the communications.

21. A prospectus would not be issued in respect of the Funds. Plan Members however would receive information materials relevant to investment considerations as required by the Proposed CAP Exemption, including a written explanation of the terms and conditions of the Plans and Plan Members' rights and duties under the Plans, an information statement regarding each of the Funds that describes at minimum a Fund's name, investment objective, investment strategies or composition, risks associated with investing in the Funds, fees disclosure, performance information, current portfolio manager(s), information as to how a Plan Member can obtain more information about the Funds' holdings and other information, semi-annual written account statements as well as access to electronic account statements at any time.

22. At least 60 days prior to the implementation of the Proposed Structure, Nortel will inform Plan Members about the Proposed Structure and provide to each Plan Member the information set out in paragraph 21 in connection with investment decisions the Plan Member will be required to make in respect of investments in the Funds.

23. All of the assets in the Funds would originate from the DC Plans except that assets of the defined benefit components of the Registered Pension Plans and the Health and Welfare Trust will also be invested in some or all of the Funds.

24. Under the Proposed Structure, the DC Plans themselves will remain in place but, instead of the current investment options, the Funds would become the only investment options available. The Plans would otherwise remain managed and administered by Nortel in accordance with the CAP Guidelines issued by the Joint Forum of Financial Market Regulators.

25. Under the Proposed Structure, units of the Funds would be issued pursuant to the Plans for the benefit of Plan Members and, accordingly, each such issue would be a distribution to which the dealer registration requirements and the prospectus requirements apply.

26. The issuance of units of the Funds would not technically comply with the registration and prospectus exemptions for CAP Plans under the Proposed CAP Exemption or the Blanket Orders in two respects: (i) the Unregistered Savings Plans and the RRIFs are not CAP Plans; and (ii) given the fund of fund structure, with Target Date Funds investing all of their portfolios in Active and/or Passive Pools, the Target Date Funds would not comply with Part 2 of NI 81-102 (a condition of the Proposed CAP Exemption) since the Asset Pools would not be prospectus qualified funds.

27. The oversight of the external investment managers, the Trustee, and the Record Keeper would be undertaken by Nortel for the Unregistered Savings Plans and RRIFs in the same manner as the oversight of these parties for purposes of the Registered Pension Plans and Registered Savings Plans. The same rigour, standards, and practices in overseeing the administration of the Funds and the Plans will therefore apply to the RRIFs and Unregistered Savings Plans.

28. In respect of the fund of fund structure, whereby Target Date Funds invest in Active and/or Passive Pools, the Target Date Funds would not technically meet several of the investment tests,

including concentration restrictions and restrictions on the ownership of private mutual funds, contained in Part 2 of NI 81-102. However, as stated above, each of the Target Date Funds would only be investing in the Active Pools and/or Passive Pools, and the Active and Passive Pools would comply with Part 2 of NI 81-102.

29. To the extent that the operation of the Plans does not comply technically with the Proposed CAP Exemption and the Blanket Orders, such as described above, it will comply with the spirit and intent: the Unregistered Savings Plans and RRIFs would be operated in the same manner as CAP Plans, and the Target Date Funds would be investing in the Active and/or Passive Pools which would in turn comply with the investment restrictions in Part 2 of NI 81-102.

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:

1. Nortel:

   (a) selects the Funds that Plan Members will be able to invest in under the Plans;

   (b) establishes a policy, and provides Plan Members with a copy of the policy and any amendments to it, describing what happens if a Plan Member does not make an investment decision;

   (c) provides Plan Members, in addition to any other information that Nortel believes is reasonably necessary for Plan Members to make investment decisions within the Plans, and unless that information has previously been provided, with the following information about each Fund the Plan Members may invest in:

      (i) the name of the Fund;

      (ii) the name of the manager of the Fund and its portfolio advisers;

      (iii) the fundamental investment objective of the Fund;

      (iv) the investment strategies of the Fund or the types of investments the Fund may hold;

      (v) a description of the risks associated with investing in the Fund;

      (vi) where a Plan Member can obtain more information about each Fund's portfolio holdings; and

      (vii) where a Plan Member can obtain more information generally about each Fund, including any continuous disclosure;

   (d) provides Plan Members with a description and amount of any fees, expenses and penalties relating to the Plans that are borne by the Plan Members, including:

      (i) any costs that must be paid when a Fund is bought or sold;

      (ii) costs associated with accessing or using any of the investment information, decision-making tools or investment advice provided by Nortel;

      (iii) Fund management fees;

      (iv) Fund operating expenses;

      (v) record keeping fees;

      (vi) any costs of transferring among investment options, including penalties, book and market value adjustments and tax consequences;

      (vii) account fees; and

      (viii) fees for services provided by service providers,

   provided that Nortel may disclose the fees, penalties and expenses on an aggregate basis, if Nortel discloses the nature of the fees, expenses and penalties, and the aggregated fees do not include fees that arise because of a choice that is specific to a particular Plan Member;

   (e) at least annually, provides Plan Members with performance information about each Fund the Plan Members may invest in, including:

      (i) the name of the Fund for which the performance is being reported;

(ii) the performance of the Fund, including historical performance for one, three, five and ten years if available;

(iii) a performance calculation that is net of investment management fees and Fund expenses;

(iv) the method used to calculate the Fund's performance return calculation, and information about where a Plan Member could obtain a more detailed explanation of that method;

(v) the name and description of a broad-based securities market index, selected in accordance with National Instrument 81-106 *Investment Fund Continuous Disclosure*, for the Fund, and corresponding performance information for that index; and

(vi) a statement that past performance of the Fund is not necessarily an indication of future performance;

(f) at least annually, informs Plan Members if there were any changes in the choice of Funds that Plan Members could invest in and where there was a change, provided information about what Plan Members needed to do to change their investment decision, or make a new investment;

(g) provides Plan Members with investment decision-making tools that Nortel reasonably believes are sufficient to assist them in making an investment decision within the Plans;

(h) provides the information required by paragraphs (b), (c), (d) and (g) prior to the Plan Member making an investment decision under any of the Plans; and

(i) if Nortel makes investment advice from a registrant available to Plan Members, Nortel must provide Plan Members with information about how they can contact the registrant;

2. The Asset Pools comply with Part 2 of NI 81-102 except that none of the Target Date Funds will comply with sections 2.1, 2.2(1)(a) and 2.5(2)(a) with respect to purchases by the Target Date Funds of securities issued by Active Pools and/or Passive Pools;

3. Before the first time a Fund relies on this Decision, the Fund files a notice in the form found in Appendix C of the Proposed CAP Exemption in each jurisdiction in which the Fund expects to distribute its securities; and

4. (a) the Dealer Registration Relief will terminate upon the coming into force in NI 45-106, proposed National Instrument 31-103 – *Registration Requirements* or another instrument, of a dealer registration exemption for trades in a security of a mutual fund to a CAP, or 60 days after the Decision Maker publishes in its Bulletin a notice or a statement to the effect that it does not propose to provide such a dealer registration exemption; and

(b) the Prospectus Relief will terminate upon the coming into force in NI 45-106 or another instrument, of a prospectus exemption for trades in a security of a mutual fund to a CAP, or 60 days after the Decision Maker publishes in its Bulletin a notice or a statement to the effect that it does not propose to provide such a prospectus exemption.

"Carol S. Perry"
Commissioner
Ontario Securities Commission

"David L. Knight"
Commissioner
Ontario Securities Commission

2.1.2 IA Clarington Investments Inc. and IA Clarington Energy Plus Class

Headnote

Passport System for Exemptive Relief Applications – a mutual fund is granted exemptions from National Instrument 81-102 Mutual Funds to engage in short selling of securities up to 20% of net assets, subject to certain conditions and requirements.

Applicable Legislative Provisions

National Instrument 81-102 Mutual Funds, ss. 2.6(a) and (c), 6.1(1), 19.1.

November 20, 2008

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

AND

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

AND

IN THE MATTER OF
IA CLARINGTON INVESTMENTS INC.
(the Manager)

AND

IN THE MATTER OF
IA CLARINGTON ENERGY PLUS CLASS
(New Fund and collectively with the Manager, the Filers)

DECISION

Background

The securities regulatory authority or regulator in each of the Jurisdictions (Decision Maker) has received an application from the Manager on behalf of the New Fund and any other mutual fund managed by the Manager or any affiliate of the Manager (together with the New Fund, the Funds) for a decision under the securities legislation of the Jurisdictions (the Legislation) exempting the Funds from the requirements in subsections 2.6(a), 2.6(c) and 6.1(1) of National Instrument 81-102 *Mutual Funds* (NI 81-102) to permit each Fund to sell securities short, provide a security interest over Fund assets in connection with short sales and deposit Fund assets with dealers as security in connection with such transactions (the Exemption Sought).

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

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

(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 British Columbia, Alberta, Saskatchewan, Manitoba, New Brunswick, Nova Scotia, Prince Edward Island, Newfoundland and Labrador, Northwest Territories, Yukon Territories and Nunavut; and

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

Interpretation

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

Representations

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

1. The Manager is a corporation established under the laws of Canada and will be the manager of the New Fund, once it is created. The head office of the Manager is located in Quebec City, Quebec.

2. Each Fund is or will be an open-end mutual fund trust or a class of shares of a mutual fund corporation, established under the laws of the Province of Ontario, of which the Manager, or an affiliate of the Manager, is or will be the manager.

3. Each Fund is or will be a reporting issuer in all of the provinces and territories of Canada and distributes or will distribute securities under a simplified prospectus and annual information form and be otherwise subject to NI 81-102.

4. Each of the Filers is not in default of securities legislation in any jurisdiction.

5. The investment practices of each Fund will comply in all respects with the requirements of Part 2 of NI 81-102, except to the extent that the Fund has received permission from the applicable securities regulatory authorities or regulators to deviate therefrom.

6. The Manager proposes that each Fund be authorized to engage in a limited, prudent and disciplined amount of short selling. The Manager is of the view that the Funds could benefit from the implementation and execution of a controlled and limited short selling strategy. This strategy would complement the Funds' primary discipline of buying securities with the expectation that they will appreciate in market value.

7. Short sales will be made consistent with each Fund's investment objectives.

8. In order to effect a short sale, a Fund will borrow securities from either its custodian or a dealer (in either case, the "Borrowing Agent"), which Borrowing Agent may be acting either as principal for its own account or as agent for other lenders of securities.

9. The simplified prospectus and annual information form of a Fund that proposes to use short selling will disclose the proposed use of short selling by a Fund and the specific risks related to short selling.

10. Each Fund will implement the following requirements and controls when conducting a short sale:

    (a) securities will be sold short for cash, with the Fund assuming the obligation to return to the Borrowing Agent the securities borrowed to effect the short sale;

    (b) the short sale will be effected through market facilities through which the securities sold short are normally bought and sold;

    (c) the Fund will receive cash for the securities sold short within normal trading settlement periods for the market in which the short sale is effected;

    (d) the securities sold short will be liquid securities, and "liquid securities" are securities that satisfy either (i) or (ii) below:

        (i) the securities are listed and posted for trading on a stock exchange; and

            (A) the issuer of the security has a market capitalization of not less than CDN $300 million, or the equivalent thereof, at the time the short sale is effected; or

            (B) the Fund's portfolio advisor has pre-arranged to borrow the securities for the purpose of such sale; or

        (ii) the securities are bonds, debentures or other evidences of indebtedness of, or guaranteed by, the Government of Canada or any province or territory of Canada or the Government of the United States of America;

    (e) at the time securities of a particular issuer are sold short:

        (i) the aggregate market value of all securities of that issuer sold short by the Fund will not exceed 5% of the total net assets of the Fund; and

        (ii) the Fund will place a "stop-loss" order with a dealer to immediately purchase for the Fund an equal number of the same securities if the trading price of the securities exceeds 120% (or such lesser percentage as the Manager may determine) of the price at which the securities were sold short;

    (f) the Fund will deposit Fund assets with the Borrowing Agent as security in connection with the short sale transaction;

    (g) the Fund will maintain appropriate internal controls regarding short sales prior to conducting any short sales, including written policies and procedures and risk management controls; and

    (h) the Fund will keep proper books and records of all short sales and Fund assets deposited with Borrowing Agents as security.

11. A preliminary simplified prospectus and annual information form dated October 24, 2008 have been filed for purposes of qualifying for distribution securities of the New Fund in all of the provinces and territories of Canada.

Decision

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

The decision of the Decision Makers under the Legislation is that the Exemption Sought is granted provided that in respect of each Fund:

1. the aggregate market value of all securities sold short by the Fund will not exceed 20% of the net assets of the Fund on a daily marked-to-market basis;

2. any short sales made by the Fund will be subject to compliance with the investment objectives of the Fund;

3. the Exemption Sought does not apply to a Fund that is classified as a money market fund or a short-term income fund;

4. the Fund maintains appropriate internal controls regarding its short sales including written policies and procedures, risk management controls and proper books and records;

5. the Fund holds "cash cover" (as defined in NI 81-102) in an amount, including the Fund assets deposited with Borrowing Agents as security in connection with short sale transactions, that is at least 150% of the aggregate market value of all securities sold short by the Fund on a daily marked-to-market basis;

6. no proceeds from short sales by the Fund will be used by the Fund to purchase long positions in securities other than cash cover;

7. for short sale transactions in Canada, every dealer that holds Fund assets as security in connection with short sale transactions by the Fund shall be a registered dealer in Canada and a member of a self-regulatory organization that is a participating member of the Canadian Investor Protection Fund;

8. for short sale transactions outside of Canada, every dealer that holds Fund assets as security in connection with short sale transactions by the Fund :

   (a) is a member of a stock exchange and, as a result, subject to a regulatory audit; and

   (b) has a net worth in excess of the equivalent of CDN $50 million determined from its most recent audited financial statements that have been made public;

9. except where the Borrowing Agent is the Fund's custodian, when the Fund deposits Fund assets with a Borrowing Agent as security in connection with a short sale transaction, the amount of Fund assets deposited with the Borrowing Agent does not, when aggregated with the amount of Fund assets already held by the Borrowing Agent as security for outstanding short sale transactions of the Fund, exceed 10% of the total assets of the Fund, taken at market value as at the time of the deposit;

10. the security interest provided by the Fund over any of its assets that is required to enable the Fund to effect short sale transactions is made in accordance with industry practice for that type of transaction and relates only to obligations arising under such short sale transactions;

11. prior to conducting any short sales, the Fund discloses in its simplified prospectus a description of: (i) short selling, (ii) how the Fund intends to engage in short selling, (iii) the risks associated with short selling, and (iv) in the Investment Strategy section of the simplified prospectus, the Fund's strategy and this exemptive relief;

12. prior to conducting any short sales, the Fund discloses in its annual information form the following information:

   (a) that there are written policies and procedures in place that set out the objectives and goals for short selling and the risk management procedures applicable to short selling;

   (b) who is responsible for setting and reviewing the policies and procedures referred to in the preceding paragraph, how often the policies and procedures are reviewed, and the extent and nature of the involvement of the board of directors of the Manager in the risk management process;

   (c) the trading limits or other controls on short selling in place and who is responsible for authorizing the trading and placing limits or other controls on the trading;

   (d) whether there are individuals or groups that monitor the risks independent of those who trade; and

   (e) whether risk measurement procedures or simulations are used to test the portfolio under stress conditions;

13. prior to conducting any short sales, the Fund has provided to its securityholders not less than 60 days' written notice that discloses the Fund's intent to begin short selling transactions and the disclosure required in the Fund's simplified prospectus and annual information form as outlined in paragraphs 11 and 12 above, or the Fund's initial simplified prospectus and annual information form and each renewal thereof has included such disclosure; and

The Exemption Sought shall terminate upon the coming into force of any legislation or rule of the Decision Makers dealing with matters referred to in subsections 2.6(a), 2.6(c) and 6.1(1) of NI 81-102.

"Josée Deslauriers"
Director, Investment Funds and Continuous Disclosure

2.2 Orders

2.2.1 Caldwell Investment Management Ltd. et al.

Headnote

One time trade of securities between pooled funds, both advised by the same portfolio manager and investment counsel, to implement a reorganization – sale of securities exempt from the self-dealing prohibitions in paragraph 118(2)(b) of the Securities Act (Ontario) and subsection 115(6) of the General Regulation to the Securities Act (Ontario) – transaction approved by unitholders in accordance with constating document – all costs of the transaction to be borne by the manager.

Applicable Legislative Provisions

Securities Act, R.S.O. 1990, c. S.5, as am., ss. 118(2)(b), 121(2)(a)(ii), 147.
Ontario Regulation 1015 – General Regulation made under the Securities Act, R.R.O. 1990, Reg. 1015, as am., s. 115(6).

November 21, 2008

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

AND

IN THE MATTER OF
CALDWELL INVESTMENT MANAGEMENT LTD.
(the "Filer")

AND

IN THE MATTER OF
CALDWELL ICM NEW YORK LP
(the "Partnership")

AND

IN THE MATTER OF
CALDWELL ICM MARKET STRATEGY TRUST
(the "Fund")

ORDER

Background

The Ontario Securities Commission (the "**Commission**") has received an application from the Filer for a decision under the Act for relief from:

(i) subsection 118(2)(b) of the Act, which prohibits a portfolio manager from causing any investment portfolio managed by it to purchase or sell the securities of any issuer from or to the account of a "responsible person" (as defined in the Act), or an associate of a responsible person or the portfolio manager; and

(ii) subsection 115(6) of Regulation 1015 under the Act, which prohibits a purchase or sale of any security in which an investment counsel or any partner, officer or associate of an investment counsel has a direct or indirect beneficial interest to be made from or to any portfolio managed or supervised by the investment counsel

in connection with the purchase (the "**Purchase**") of all of the assets of the Partnership (the "**Partnership Assets**") by the Fund in exchange for Series A units of the Fund (the "**Fund Units**") (the "**Requested Relief**").

Interpretation

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

Representations

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

The Partnership

1. The Partnership was established pursuant to a limited partnership agreement dated as of November 8, 2005, as amended and restated as of December 29, 2006 (the "**LP Agreement**"). The registered office of the Partnership is located in Toronto, Ontario.

2. The Partnership is not a reporting issuer in any jurisdiction in Canada.

3. Caldwell New York General Partner VI Ltd. is the general partner (the "**General Partner**") of the Partnership. The General Partner was incorporated under the laws of Ontario on November 8, 2005. The head office, registered office and principal business address of the General Partner is located in Toronto, Ontario.

4. The Partnership's investment objective is to achieve long-term capital appreciation by purchasing memberships on the New York Stock Exchange or securities of any entity that is a successor in interest of the undertaking of the New York Stock Exchange.

5. As at September 30, 2008, the net asset value of the Partnership was $3,218,752.83.

The Filer

6. The Filer was incorporated under the laws of Ontario on August 23, 1990. The head office, registered office and principal business address of the Filer is located in Toronto, Ontario.

7. The Filer is registered as an advisor under the Act in the categories of "investment counsel" and "portfolio manager".

8. The Filer acts as manager and portfolio advisor of the Partnership.

The Fund

9. The Fund is an open-end mutual fund trust established pursuant to a declaration of trust dated January 20, 2007 (the "**Declaration of Trust**").

10. The Fund is not a reporting issuer in any jurisdiction in Canada.

11. The Fund's investment objective is to generate long-term capital growth through both traditional and non-traditional investments and strategies. The Fund's investment strategies include, *inter alia*, acquiring indirectly interests in memberships and seats on private securities exchanges globally.

12. Pursuant to the Declaration of Trust, the Filer acts as the trustee, manager and portfolio advisor of the Fund. The Filer is responsible for the management of the Fund's investment portfolio as well as the day-to-day administration of the Fund. The Fund is an "associate" (as defined in the Act) of the Filer as the Filer is the trustee of the Fund.

13. As at October 31, 2008, the net asset value of the Fund was $13,496,127.08.

The Purchase

14. The Filer proposes to sell the Partnership Assets to the Fund for an amount equal to the value of the Partnership Assets to be satisfied by the Fund (i) as to an amount equal to the liabilities of the Partnership, by the assumption of such liabilities, and (ii) as to the balance (the "**Balance**"), by the issuance of Fund Units having an aggregate net asset value equal to the Balance. The Partnership Assets consist of shares of the NYSE Euronext and units of an investment fund managed by the Filer.

15. The transfer of the Partnership Assets and the issuance of Fund Units will be based on the relative net asset value of the Partnership and the Fund. The Fund and the Partnership have substantially similar valuation procedures and the Partnership Assets will be valued as if they were portfolio assets of the Fund. The Fund Units to be issued to the Partnership in satisfaction of the Balance will be issued at the net asset value per unit of the Fund determined on the effective date of the Purchase.

16. The Purchase is subject to prior approval by holders of units ("**LP Units**") of the Partnership (the "**Partnership Unitholders**") holding LP Units with an aggregate net asset value of 66 2/3% or more of the net asset value of the Partnership. Approval of the Partnership Unitholders will be sought in accordance with the LP Agreement. If such approval is obtained, the Purchase is anticipated to be effected on or about February 28, 2009. Approval of the Purchase by the unitholders of the Fund is not required under the Declaration of Trust.

17. The Purchase will be conducted on a taxable basis to the Partnership Unitholders. There will not be any adverse tax consequences to the unitholders of the Fund.

18. Following the completion of the Purchase, the Partnership will be subsequently dissolved (the "**Dissolution**"), resulting in the distribution of such Fund Units to the Partnership Unitholders and General Partner in accordance with their respective interests.

19. Upon the completion of the Dissolution, Partnership Unitholders will become unitholders of the Fund. The Filer believes that the Purchase will benefit Partnership Unitholders because the Fund will offer the following significant enhancements over the Partnership:

    (i) the Fund has a more diversified portfolio of assets than the Partnership;

    (ii) the Fund offers Fund Units on a continuous basis, whereas the Partnership does not;

    (iii) Fund Units are redeemable monthly with 15 days' notice, whereas LP Units are only redeemable on a quarterly basis with 90 days' notice; and

    (iv) the portfolio of the Fund is managed on an active basis, whereas the portfolio of the Partnership is managed on a passive basis.

20. The Purchase will benefit the Fund because the Purchase will substantially increase the size of the Fund and thus assist in lowering the expense ratio of the Fund as fixed cost expenses are spread out over a larger asset base.

21. Neither the Fund nor the Partnership will be charged a commission on the trade of the Partnership Assets from the Partnership to the Fund. The Filer will bear all the expenses related to the Purchase.

22. Unless the Requested Relief is granted, the Filer would be prohibited by subsection 118(2)(b) of the

Act from knowingly causing the Fund to purchase the Partnership Assets from the Partnership.

23. Unless the Requested Relief is granted, the Purchase will be prohibited by subsection 115(6) of Regulation 1015 under the Act because the purchase of the Partnership Assets by the Fund would be a purchase of securities from a portfolio managed or supervised by the Filer.

Decision

The Commission is satisfied that the test contained in the Act that provides the Commission with the jurisdiction to make the decision has been met.

The decision of the Commission under the Act is that the Requested Relief is granted.

"Lawrence E. Ritchie"
Commissioner

"David L. Knight"
Commissioner

2.2.2 John Illidge et al.

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

AND

**IN THE MATTER OF
JOHN ILLIDGE, PATRICIA McLEAN, \
DAVID CATHCART, STAFFORD KELLEY AND
DEVENDRANAUTH MISIR**

ORDER

WHEREAS a Motion for disclosure and to adjourn the date set for the hearing of this matter (the "Motion") was made to the Ontario Securities Commission (the "Commission") by Devendranauth Misir ("Misir") on Thursday, November 6, 2008, upon which date the submissions of counsel for Misir and for Staff of the Commission were heard;

AND WHEREAS further submissions of counsel were heard on the Motion on November 12, 2008;

AND WHEREAS the Motion was adjourned to November 24, 2008;

AND WHEREAS Staff of the Commission has consented to the Motion;

AND WHEREAS it is in the public interest to make this order;

IT IS HEREBY ORDERED THAT:

1. The dates now set for the hearing of this matter are vacated and the hearing is adjourned to commence on February 23, 2009 and to continue until March 13, 2009.

Dated November 24, 2008

"David L. Knight"

"Carol S. Perry"

2.2.3 Ogx Petróleo e Gás Participações S.A.

Headnote

Subsection 74(1) - exemption from prospectus requirement in connection with first trade of shares - issuer not a reporting issuer in any jurisdiction in Canada - the conditions of the exemption in section 2.14 of National Instrument 45-102 Resale of Securities not fully met as resident of Canada will own more than 10% of the total number of shares - the common shares held by Canadian residents are concentrated, with one institutional investor owning over 90% of the total common shares owned by Canadian residents - relief granted subject to conditions, including that the first trade must be made through an exchange or market outside of Canada or to a person or company outside of Canada.

Applicable Legislative Provisions

Securities Act, R.S.O. 1990, c. S.5, as am., ss. 53, 74(1).
National Instrument 45-102 Resale of Securities.

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

AND

IN THE MATTER OF
OGX PETRÓLEO E GÁS PARTICIPAÇÕES S.A.

ORDER

Background

The principal securities regulator (the **Decision Maker)** in Ontario (the **Jurisdiction**) has received an application from the Ontario Teachers' Pension Plan Board (the **Applicant**) for a decision under the securities legislation of the Jurisdiction of the principal regulator (the **Legislation**) for an exemption under section 74(1) of the Legislation from the prospectus requirements contained at section 53 of the Legislation in connection with the first trades of common shares in OGX Petróleo e Gás Participações S.A. (**OGX**) (the **Requested Relief**).

Interpretation

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

Representations

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

1. The Applicant is an independent corporation established on December 31, 1989 by the *Teachers' Pension Act* (Ontario) to administer and manage a pension plan established for the benefit of the Province of Ontario's primary and secondary school teachers and to pay members of the pension plan their respective benefits under the plan. The head office of the Applicant is located at 5650 Yonge Street, Toronto, Ontario, Canada.

2. OGX is a corporation incorporated, existing and in good standing under the laws of Brazil, with shares listed on the Novo Mercado of the São Paulo Stock Exchange (the **Bovespa**). OGX is in the business of exploring, producing, and marketing petroleum and its by-products, natural gas and other hydrocarbonate fluids, including in the geographic areas for which concessions have been granted by the National Petroleum, Natural Gas and Biofuels Agency of the Republic of Brazil. The head office of OGX is located at Praia do Flamengo, No. 154, 7th floor, Rio de Janeiro, Brazil.

3. Immediately prior to the IPO (as defined below) and assuming the exercise of a warrant granted to the controlling shareholder of OGX, the share capital of OGX consisted of R$2,324,176,536.78 billion, of which 18,469,733 common shares ("**Common Shares**"), 7,196,000 class A preferred shares ("**Class A Preferred Shares**") and 719,600 class B preferred shares ("**Class B Preferred Shares**") were outstanding. Following the IPO and the exercise of the over-allotment option granted to Credit Suisse in connection with the IPO, the share capital of OGX consisted of R$9,035,852,088 billion, of which 32,319,606 Common Shares were outstanding.

4. On December 18, 2007, the Applicant purchased 450,000,000 Class A Preferred Shares and 45 Common Shares (in each case prior to a 125:1 share consolidation which occurred on May 23, 2008), representing approximately 22% of the total number of outstanding shares of OGX at such time. The shares were sold to the Applicant in a private placement transaction in which the Applicant qualified as an accredited investor in reliance on the registration and prospectus exemptions contained in National Instrument 45-106. Pursuant to their terms, the Class A Preferred Shares and the Class B Preferred Shares were automatically converted to Common Shares following the initial public offering of OGX on June 12, 2008 ("IPO"). In addition to the shares of OGX purchased on December 18, 2007, the Applicant purchased an additional 237,000 Common Shares in the IPO (out of a total of 5,934,458 Common Shares issued pursuant to the IPO and the exercise of the over-allotment option granted to Credit Suisse in connection with the IPO).

5. Immediately following the IPO and the exercise of the over-allotment option granted to Credit Suisse in connection with the IPO, the Applicant held a total of 3,837,699 Common Shares, representing

approximately 11.874% of the total number of issued and outstanding Common Shares at such time.

6. Immediately following the IPO and the exercise of the over-allotment option granted to Credit Suisse in connection with the IPO, Canadian investors, other than the Applicant, held less than 2% of the total number of outstanding Common Shares, all of which were purchased pursuant to the IPO.

7. Immediately following the IPO and the exercise of the over-allotment option granted to Credit Suisse in connection with the IPO, Canadian-resident investors, other than the Applicant, represent less than 10% of the total number direct or indirect holders of outstanding Common Shares as of such time.

8. OGX is not a reporting issuer or its equivalent in the Province of Ontario or any other province or territory of Canada, nor are any of its securities listed or posted for trading on any exchange, or market, located in Canada. OGX has no present intention of becoming listed in Canada or of becoming a reporting issuer under the Act or under any other Canadian securities laws, and no market for the Common Shares exists in Canada and none is expected to develop.

9. In the absence of the exemption requested hereby, the first trade of Common Shares held by the Applicant will be deemed to be a distribution and subject to section 53 of the Act.

10. The prospectus exemption in section 2.6 of National Instrument 45-102 will not be applicable in this situation because OGX is not a reporting issuer or its equivalent in the Province of Ontario or any other province or territory of Canada.

11. The prospectus exemption in section 2.14 of National Instrument 45-102 would be applicable in this situation, but will not be available to the Applicant with respect to its first trade of Common Shares because, immediately following the IPO, residents of Canada, including the Applicant, own more than 10% of the outstanding Common Shares.

Decision

This Order evidences the decision of the Decision Maker (the **Decision**).

The Decision Maker is satisfied that the test contained in the Legislation that provides the Decision Maker with the jurisdiction to make the Decision has been met.

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

i) at the date of the trade, OGX is not a reporting issuer in any jurisdiction of Canada where that concept exists; and

ii) the trade is executed through the facilities of the Bovespa or any other exchange market outside Canada or to a person or company outside of Canada.

DATED at Toronto this 14th day of November, 2008

"Paulette Kennedy"
Commissioner
Ontario Securities Commission

"Wendell S. Wigle"
Commissioner
Ontario Securities Commission

2.2.4 McWatters Mining Inc. – s. 144

Headnote

Section 144 - Revocation of cease trade order and management cease trade order- Issuer subject to cease trade order and management cease trade order as a result of its failure to file annual financial statements and interim financial statements - Issuer has brought its filings up-to-date.

Applicable Legislative Provisions

Securities Act, R.S.O. 1990, c. S.5, as am., ss. 127(1), 127(5), 127(8), 144.

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

AND

IN THE MATTER OF
MCWATTERS MINING INC.

ORDER
(Section 144)

WHEREAS the securities of McWatters Mining Inc. (the "**Applicant**") are currently subject to (i) a cease trade order dated July 29, 2004, made under paragraph 2 of Subsection 127(1) and Subsection 127(5) of the Act, as extended on August 10, 2004, and ii) a management cease trade order dated May 26, 2004, made under paragraph 2 of Subsection 127(1) and Subsection 127(5) of the Act, as extended on June 8, 2004 (collectively, the "**OSC Cease Trade Orders**") made by the Ontario Securities Commission (the "**Commission**") each directing that trading in the securities of the Applicant cease unless revoked by a further order of revocation;

AND WHEREAS the Applicant has applied to the Commission pursuant to Section 144 of the Act for an order revoking the OSC Cease Trade Orders (the "**Application**");

AND WHEREAS the Applicant has represented to the Commission that:

1. The Applicant was incorporated under Part IA of the *Companies Act (*Québec) on November 15, 1994, and was formerly engaged in gold mining, development and exploration before it ceased all of its operations in 2004.

2. The Applicant is a reporting issuer or its equivalent in British Columbia, Alberta, Saskatchewan, Manitoba, Ontario, Québec, New Brunswick, Nova Scotia, Prince Edward Island and Newfoundland and Labrador.

3. The Applicant is not a reporting issuer or its equivalent in any other jurisdiction in Canada.

4. The head office of the Applicant is located in the Province of Québec.

5. The securities of the Applicant are currently subject to the OSC Cease Trade Orders.

6. The OSC Cease Trade Orders were made as a result of the failure of the Applicant to file its annual financial statements for the year ended December 31, 2003, as well as its interim financial statements for the quarter ended March 31, 2004.

7. The securities of the Applicant are also currently subject to cease trade orders in British Columbia, Alberta, Manitoba and Québec (collectively with the OSC Cease Trade Orders, the "**Cease Trade Orders**").

8. Applications were also made with the securities regulatory authorities of British Columbia, Alberta, Manitoba and Québec for the revocation of the above mentioned Cease Trade Orders.

9. On May 6, 2008, the shareholders of the Applicant approved an arrangement (the "**Arrangement**") under the provisions of Section 49 and 123.107 and following of the *Companies Act* (Québec) involving the Applicant, its shareholders and CFT Capital Inc. ("**CFT Capital**"). The Arrangement was subsequently approved by the Superior Court of Québec (the "**Court**") on May 26, 2008, and became effective on June 2, 2008.

10. On May 7, 2008, the creditors of the Applicant approved an amended proposal (the "**Amended Proposal**") submitted to them by Raymond Chabot Inc., in its capacity as interim receiver of the Applicant under the *Bankruptcy and Insolvency Act* (Canada). The Amended Proposal was subsequently approved by the Court on May 26, 2008.

11. As part of the Arrangement, effective as of June 2, 2008, among other things:

    (a) Class A Preferred Shares of the share capital of the Applicant (the "**Class A Preferred Shares**") were created and the 560,652,194 common shares of the share capital of the Applicant (the "**Common Shares**") that were outstanding immediately prior to the effective time of the Arrangement were exchanged, on a one-for-one basis, for 560,652,194 Class A Preferred Shares representing approximately 80% of the voting rights attached to the outstanding shares of the share capital of the Applicant immediately following the completion of the Arrangement;

(b) Class A Common Shares of the share capital of the Applicant (the "**Class A Common Shares**") were created;

(c) CFT Capital subscribed for 140,163,049 Class A Common Shares representing approximately 20% of the voting rights attached to the outstanding shares of the share capital of the Applicant immediately following the completion of the Arrangement, for a subscription price of $200,000 in the aggregate;

(d) the Applicant's share capital was amended to delete the authorized Common Shares from the Applicant's share capital; and

(e) Robert A. Friesen, Douglas Proctor and Ray W. Jenner were appointed to the board of directors of the Applicant.

12. On June 2, 2008, the board of directors of the Applicant appointed Robert A. Friesen as President and Secretary of the Applicant.

13. On June 10, 2008, in connection with the Arrangement, the board of directors of the Applicant appointed the accounting firm Harel Drouin – PKF as its auditors.

14. The OSC Cease Trade Orders were partially revoked pursuant to an order made by the Commission on March 26, 2008, to permit certain trades in connection with the Arrangement.

15. The share capital of the Applicant currently consists in an unlimited number of Class A Common Shares and an unlimited number of Class A Preferred Shares, of which 140,163,049 Class A Common Shares and 560,652,194 Class A Preferred Shares are currently outstanding. The outstanding shares of the Applicant are not currently listed on any exchange.

16. In accordance with the letter of undertaking dated October 29, 2007 (the "**Undertaking**") addressed by CFT Capital to, and accepted by, the securities regulatory authorities of British Columbia, Alberta, Manitoba, Ontario and Québec, on October 10, 2008, the Applicant has filed on the System for Electronic Document Analysis and Retrieval ("**SEDAR**") audited annual financial statements and annual management's discussion and analysis ("**MD&As**") for its financial years ended on December 31, 2005, 2006 and 2007, as well as unaudited interim financial statements and interim MD&As for the interim periods ended March 31 and June 30, 2008, together with the related certificates required pursuant to Multilateral Instrument 52-109 *Certification of Disclosure in Issuers' Annual and Interim Filings* ("**MI 52-109**").

17. In accordance with the Undertaking, the Applicant has not prepared or filed: (a) any annual or interim financial statements or annual or interim MD&As for its financial years ended on December 31, 2003 and 2004, nor the related certificates required pursuant to MI 52-109; (b) any interim financial statements or interim MD&As for its financial years ended on December 31, 2005, 2006 and 2007, nor the related certificates required pursuant to MI 52-109; (c) any annual information form for its financial years ended on December 31, 2003, 2004, 2005, 2006 and 2007; (d) any information circular for its financial years ended on December 31, 2003, 2004, 2005, 2006 and 2007.

18. On or about November 14, 2008, a notice of meeting, a management proxy circular and other proxy material in compliance with National Instrument 51-102 *Continuous Disclosure Obligations* and Form 51-102F5 Information Circular (collectively, the "**Information Circular**") were mailed to the Applicant's shareholders in connection with an annual general meeting of its shareholders (the "**Meeting**") to be held in Montréal on December 23, 2008 for the following purposes:

(a) to receive the financial statements of the Applicant for the financial years ended December 31, 2005, 2006 and 2007 and the report of the auditors thereon;

(b) to elect the directors;

(c) to appoint the auditors and to authorize the directors to fix their remuneration; and

(d) to transact such other business as may properly be brought before the Meeting or any adjournment thereof.

The Information Circular contained the disclosure required by Form 52-110F2 under Multilateral Instrument 52-110 *Audit Committees* and by Form 58-101F2 under National Instrument 58-101 *Disclosure of Corporate Governance Practice*.

19. As a result of the foregoing, the Applicant has now filed on SEDAR, in accordance with the Undertaking, all continuous disclosure documents required to be filed by the Applicant under the Act or the rules and regulations made pursuant thereto.

20. The Applicant's profiles on SEDAR and on the System for Electronic Disclosure for Insiders are up-to-date, and the Applicant has paid to the Commission all applicable outstanding activity and participation fee required by the Commission to be paid by the Applicant.

21. Forthwith after the revocation of the Cease Trade Orders, the Applicant will issue and file a news release and file a material change report on SEDAR disclosing the revocation of the Cease Trade Orders.

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

AND UPON being satisfied that the following order is not prejudicial to the public interest;

IT IS ORDERED, pursuant to Section 144 of the Act, that the OSC Cease Trade Orders are hereby revoked.

DATED at Toronto this 24th day of November, 2008

"Erez Blumberger"
Manager, Corporate Finance
Ontario Securities Commission

2.2.5 MFDA Variation and Restatement of Recognition Order – s. 144

Headnote

Application under section 144 of the Act to vary and restate an order recognizing the Mutual Fund Dealers Association of Canada as a self-regulatory organization.

Applicable Legislative Provision

Securities Act, R.S.O. 1990, c. S.5, as am., ss. 21.1, 144.

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

AND

IN THE MATTER OF
MUTUAL FUND DEALERS ASSOCIATION OF CANADA/
ASSOCIATION CANADIENNE DES COURTIERS DE FONDS MUTUELS
(THE "MFDA")

VARIATION AND RESTATEMENT
OF RECOGNITION ORDER
(Section 144)

WHEREAS the Commission issued an order dated February 6, 2001, as amended on March 30, 2004 and November 3, 2006, recognizing the MFDA as a self-regulatory organization for mutual fund dealers pursuant to section 21.1 of the Act ("Previous Order");

AND WHEREAS the MFDA has applied to the Commission to vary and restate the Previous Order to delete the definition of “Public Director” from the terms and conditions of recognition;

AND WHEREAS the Commission has determined that it is not prejudicial to the public interest to issue an order that varies and restates the Previous Order to delete the definition of “Public Director”;

IT IS ORDERED pursuant to section 144 of the Act that the Previous Order be varied and restated as follows:

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

AND

IN THE MATTER OF
MUTUAL FUND DEALERS ASSOCIATION
OF CANADA/
ASSOCIATION CANADIENNE DES COURTIERS
DE FONDS MUTUELS
(the "MFDA")

RECOGNITION ORDER
(Section 21.1)

WHEREAS the Commission recognized the MFDA as a self-regulatory organization for mutual fund dealers by an order dated February 6, 2001, as amended on March 30, 2004 and November 3, 2006 ("Previous Order"), subject to terms and conditions;

AND WHEREAS the MFDA has requested in an application dated March 18, 2008, that changes be made to the Previous Order to remove the definition of public director;

AND WHEREAS the MFDA will continue to regulate, in accordance with its by-laws, rules, regulations, policies, forms, and other similar instruments (“Rules”), the operations and the standards of practice and business conduct of its members and their Approved Persons as defined under its Rules;

AND WHEREAS the Commission has considered the application and related submissions of the MFDA for continued recognition as a self-regulatory organization for mutual fund dealers;

AND WHEREAS the Commission is satisfied that continuing to recognize the MFDA would not be prejudicial to the public interest;

THE COMMISSION HEREBY VARIES AND RESTATES the MFDA's recognition as a self-regulatory organization so that the recognition pursuant to section 21.1 of the Act continues, subject to the terms and conditions set out in Schedule A.

Dated February 6, 2001, as amended on March 30, 2004, November 3, 2006, and October 28, 2008.

"James E. A. Turner"

"L. E. Ritchie"

SCHEDULE A

TERMS AND CONDITIONS OF RECOGNITION OF THE MUTUAL FUND DEALERS ASSOCIATION OF CANADA AS A SELF-REGULATORY ORGANIZATION FOR MUTUAL FUND DEALERS

1. DEFINITIONS

For the purposes of this Schedule:

"Approved Person" has the same meaning as that under the MFDA rules, as amended by the MFDA and approved by the Commission from time to time;

"member" means a member of the MFDA;

"rules" means the by-laws, rules, regulations, policies, forms, and other similar instruments of the MFDA; and

"securities legislation" has the same meaning as that defined in National Instrument 14-101.

2. STATUS

The MFDA is and shall remain a not-for-profit corporation.

3. CORPORATE GOVERNANCE

(A) The MFDA's arrangements with respect to the appointment, removal from office and functions of the persons ultimately responsible for making or enforcing the rules of the MFDA, being the Board of Directors (the "Board"), shall secure a proper balance between the interests of the different members of the MFDA in order to ensure diversity of representation on the Board. In recognition that the protection of the public interest is a primary goal of the MFDA, a reasonable number and proportion of directors on the Board and on the committees of the Board shall be and remain during their term of office Public Directors as defined in By-law No. 1 of the MFDA.

(B) The MFDA's governance structure shall provide for:

(i) at least 50% of its directors, other than its President and Chief Executive Officer, shall be Public Directors;

(ii) the President and Chief Executive Officer of the MFDA is deemed to be neither a Public Director nor a non-Public Director;

(iii) appropriate representation of Public Directors on committees and bodies of the Board, in particular:

(a) at least 50% of directors on the governance committee of the Board shall be Public Directors,

(b) a majority of directors on the audit committee of the Board shall be Public Directors,

(c) at least 50% of directors on the executive committee of the Board, if any, shall be Public Directors,

(d) meetings of the Board shall have a quorum requirement of a reasonable number and proportion of Public Directors and non-Public Directors, with at least two Public Directors, and

(e) meetings of any committee or body of the Board shall have a quorum requirement of a reasonable number and proportion of Public Directors and non-Public Directors, provided that if the committee or body has Public Directors then the quorum must require at least one Public Director be present;

(iv) the remaining number of directors serving on the Board and on the above referred to committees and bodies of the Board, shall consist of directors representing the different members of the MFDA to ensure diversity of representation on the Board in accordance with paragraph (A);

(v) appropriate qualification, remuneration, and conflict of interest provisions and provisions with respect to the limitation of liability of and indemnification protection for directors, officers and employees of the MFDA; and

(vi) a chief executive officer and other officers, all of whom, except for the chair of the Board, are independent of any member.

4. FEES

(A) Any and all fees imposed by the MFDA on its members shall be equitably allocated and bear a reasonable relation to the costs of regulating members, carrying out the MFDA's objects and protecting the public interest. Fees shall not have the effect of creating unreasonable barriers to membership and shall be designed to ensure that the MFDA has sufficient revenues to discharge its responsibilities.

(B) The MFDA's process for setting fees shall be fair, transparent, and appropriate.

5. COMPENSATION OR CONTINGENCY TRUST FUNDS

The MFDA shall co-operate with compensation funds or contingency trust funds that are from time to time considered by the Commission under securities legislation to be compensation funds or contingency trust funds for mutual fund dealers and with any such fund that has applied to the Commission to be considered such funds (the "IPPs"). The MFDA shall ensure that its rules give it the power to assess members, and require members to pay such assessments, on account of assessments or levies made by or in respect of an IPP.

6. MEMBERSHIP REQUIREMENTS

(A) The MFDA's rules shall permit all properly registered mutual fund dealers who satisfy the membership criteria to become members thereof and shall provide for the non-transferability of membership.

(B) Without limiting the generality of the foregoing, the MFDA's rules shall provide for:

(i) reasonable financial and operational requirements, including minimum capital and capital adequacy, debt subordination, bonding, insurance, record-keeping, new account, knowledge of clients, suitability of trades, supervisory practices, segregation, protection of clients' funds and securities, operation of accounts, risk management, internal control and compliance (including a written compliance program), client statement, settlement, order taking, order processing, account inquiries, confirmation and back office requirements;

(ii) reasonable proficiency requirements (including training, education and experience) with respect to Approved Persons of members;

(iii) consideration of disciplinary history, including breaches of applicable securities legislation, the rules of other self-regulatory organizations or MFDA rules, prior involvement in criminal, relevant quasi-criminal, administrative or insolvency proceedings or civil proceedings involving business conduct or alleging fraudulent conduct or deceit, and prior business and other conduct generally, of applicants for membership and any partners, directors and officers, in order that membership may, where appropriate, be refused where any of the foregoing have previously engaged in improper conduct, and shall be refused where the past conduct of any of the foregoing affords reasonable grounds for belief that the applicant's business would not be conducted with integrity;

(iv) reasonable consideration of relationships with other members and other business activities to ensure the appropriateness thereof; and

(v) consideration of the ownership of applicants for membership under the criteria established in paragraph 6(E).

(C) The MFDA shall require members to confirm to the MFDA that persons that it wishes to sponsor, employ or associate with as Approved Persons comply with applicable securities legislation and are properly registered.

(D) The MFDA rules shall require a member to give prior notice to the MFDA before any person or company acquires a material registered or beneficial interest in securities or indebtedness of or any other ownership interest in the member, directly or indirectly, or becomes a transferee of any such interests, or before the member engages in any business combination, merger, amalgamation, redemption or repurchase of securities, dissolution or acquisition of assets. In each case there may be appropriate exceptions in the case of publicly traded securities, de minimis transactions that do not involve changes in de facto or legal control or the acquisitions of material interests or assets, and non-participating indebtedness.

(E) The MFDA rules shall require approval by the MFDA in respect of all persons or companies proposing to acquire an ownership interest in a member in the circumstances outlined in paragraph 6(D) and, except as provided in paragraph 6(F), for approval of all persons or companies that satisfy criteria providing for:

(i) consideration of disciplinary history, including breaches of applicable securities legislation, the rules of other self-regulatory organizations or MFDA rules, involvement in criminal, relevant quasi-criminal, administrative or insolvency proceedings or civil proceedings involving business conduct or alleging fraudulent conduct or deceit, and prior business and other conduct generally; and

(ii) reasonable consideration of relationships with other members and involvement in other business activities to ensure the appropriateness thereof.

(F) The MFDA rules shall give the MFDA the right to refuse approval of all persons or companies that are proposing to acquire an ownership interest in a member in the circumstances outlined in paragraph 6(D) who do not agree to:

(i) submit to the jurisdiction of the MFDA and comply with its rules;

(ii) notify the MFDA of any changes in his, her or its relationship with the member or of any involvement in criminal, relevant quasi-criminal, administrative or insolvency proceedings or in civil proceedings involving business conduct or alleging fraudulent conduct or deceit;

(iii) accept service by mail in addition to any other permitted methods of service;

(iv) authorize the MFDA to co-operate with other regulatory and self-regulatory organizations, including sharing information with these organizations; and

(v) provide the MFDA with such information as it may from time to time request and full access to and copies of any records.

(G) The MFDA shall notify the Commission forthwith of members whose rights and privileges will be suspended or terminated or whose membership will be terminated, and in each case the MFDA shall identify the member, the reasons for the proposed suspension or termination and provide a description of the steps being taken to ensure that the member's clients are being dealt with appropriately.

7. COMPLIANCE BY MEMBERS WITH MFDA RULES

(A) The MFDA shall enforce, as a matter of contract between itself and its members, compliance by its members and their Approved Persons with the rules of the MFDA and the MFDA shall cooperate with the Commission in ensuring compliance with applicable securities legislation relating to the operations, standards of practice and business conduct of members and Approved Persons, without prejudice to any action that may be taken by the Commission under securities legislation.

(B) The MFDA shall conduct periodic reviews of its members and the members' Approved Persons to ensure compliance by its members and the members' Approved Persons with the rules of the MFDA and shall conduct such reviews at a frequency requested by the Commission or its staff. The MFDA shall provide notice to staff of the Commission of any material violations of securities legislation of which it becomes aware in the ordinary course operation of its business. The MFDA shall also cooperate with the Commission in the conduct of reviews of its members and the members' Approved Persons as requested by the Commission or its staff, to ensure compliance by its members and their Approved Persons with applicable securities legislation.

(C) The MFDA shall promptly report to the Commission when:

(i) any member has failed to file on a timely basis any required financial, operational or other report;

(ii) early warning thresholds established by the MFDA that would reasonably be expected to raise concerns about a member's liquidity, risk-adjusted capital or profitability have been triggered by any member; and

(iii) any condition exists with respect to a member which, in the opinion of the MFDA, could give rise to payments being made out of an IPP, including any condition which, alone or together with other conditions, could, if appropriate corrective action is not taken, reasonably be expected to:

(a) inhibit the member from promptly completing securities transactions, promptly segregating clients' securities as required or promptly discharging its responsibilities to clients, other members or creditors,

(b) result in material financial loss, or

(c) result in material misstatement of the member's financial statements.

The MFDA shall, in each case, identify the member, describe the circumstances that gave rise to the reportable event and describe the MFDA's proposed response to ensure the identified circumstances are resolved.

(D) The MFDA shall promptly report to the Commission actual or apparent misconduct by members and their Approved Persons and others where investors, creditors, members, an IPP or the MFDA may reasonably be expected to suffer serious damage as a consequence thereof, including where the solvency of a member is at risk, fraud is present or there exist serious deficiencies in supervision or internal controls or non-compliance with MFDA rules or securities legislation. The MFDA shall, in each case, identify the member, the Approved Persons, or others, and the misconduct or deficiency as well as the MFDA's proposed response to ensure that the identified problem is resolved.

(E) The MFDA shall advise the Commission promptly following the taking of any action by it with respect to any member in financial difficulty.

(F) The MFDA shall promptly advise each other self-regulatory organization and IPP of which a member is a participant or which provides compensatory coverage in respect of the member, of any actual or apparent material breach of the rules thereof of which the MFDA becomes aware.

8. DISCIPLINE OF MEMBERS AND APPROVED PERSONS

(A) The MFDA shall, as a matter of contract, have the right to and shall appropriately discipline its members and their Approved Persons for violations of the rules of the MFDA and shall cooperate with the Commission in the enforcement of applicable securities legislation relating to the operations, standards of practice and business conduct of the members and Approved Persons, without prejudice to any action that may be taken by the Commission under securities legislation.

(B) The MFDA rules shall enable it to prevent the resignation of a member from the MFDA if the MFDA considers that any matter affecting the member or any registered or beneficial holder of a direct or indirect ownership interest in securities, indebtedness or other interests in the member, or in a person or company associated or affiliated with the member or affecting the member's Approved Persons or any of them, should be investigated or that the member or any such person, company or Approved Person should be disciplined.

(C) The MFDA shall require its members and their Approved Persons to be subject to the MFDA's review, enforcement and disciplinary procedures.

(D) The MFDA shall notify

(i) the Commission in writing, and

(ii) the public and the media

(a) of any disciplinary or settlement hearing, as soon as practicable and in any event not less than 14 days prior to the date of the hearing, and

(b) of the disposition of any disciplinary action or settlement, including any discipline imposed, and shall promptly make available any written decision and reasons.

(E) Any notification required under paragraph 8 (D) shall include, in addition to any other information specified in paragraph 8 (D), the names of the member and the relevant Approved Persons together with a summary of circumstances that gave rise to the proceedings.

(F) The MFDA shall maintain a register to be made available to the public, summarizing the information which is required to be disclosed to the Commission under paragraphs 8 (D) and (E).

(G) The information given to the Commission under paragraphs 8 (D) and (E) will be published by the Commission unless the Commission determines otherwise.

(H) The MFDA shall at least annually review all material settlements involving its members or their Approved Persons and their clients with a view to determining whether any action is warranted, and the MFDA shall prohibit members and their Approved Persons from imposing confidentiality restrictions on clients vis-à-vis the MFDA or the Commission, whether as part of a resolution of a dispute or otherwise.

(I) Disciplinary and settlement hearings shall be open to the public and media except where confidentiality is required for the protection of confidential matters. The criteria and any changes thereto for determining these exceptions shall be specified and submitted to the Commission for approval.

9. DUE PROCESS

The MFDA shall ensure that the requirements of the MFDA relating to admission to membership, the imposition of limitations or conditions on membership, denial of membership and termination of membership are fair and reasonable, including in respect of notice, an opportunity to be heard or make representations, the keeping of a record, the giving of reasons and provision for appeals.

10. PURPOSE OF RULES

(A) The MFDA shall, subject to the terms and conditions of its recognition and the jurisdiction and oversight of the Commission in accordance with securities legislation, establish such rules as are necessary or appropriate to govern and regulate all aspects of its business and affairs and shall in so doing:

(i) seek to ensure compliance by members and their Approved Persons with applicable securities legislation relating to the operations, standards of practice and business conduct of the members;

(ii) seek to prevent fraudulent and manipulative acts and practices and to promote the protection of investors, just and equitable principles of trade and high standards of operations, business conduct and ethics;

(iii) seek to promote public confidence in and public understanding of the goals and activities of the MFDA and to improve the competence of members and their Approved Persons;

(iv) seek to standardize industry practices where appropriate for investor protection;

(v) seek to provide for appropriate discipline;

and shall not:

(vi) permit unfair discrimination among investors, mutual funds, members or others; or

(vii) impose any barrier to competition that is not appropriate.

(B) Unless otherwise approved by the Commission, the rules of the MFDA governing the conduct of member business regulated by the MFDA shall afford investors protection at least equivalent to that afforded by securities legislation, provided that higher standards in the public interest shall be permitted and are encouraged.

11. RULES AND RULE-MAKING

(A) No new rules, changes to rules (which shall include any revocation in whole or in part of a rule) or suspension of rules shall be made effective by the MFDA without prior approval of the Commission. Any such rules, changes or suspensions shall be justified by reference to the permitted purposes thereof (having regard to paragraph 10). The approval process shall be subject to a memorandum of understanding between the

Commission and the MFDA to be established regarding the review and approval of rules and amendments and suspensions thereto.

(B) Prior to proposing a new rule, changes to a rule (which shall include any revocation in whole or in part of a rule) or a suspension of a rule, the Board shall have determined that the entry into force of such rule or change or the suspension of the rule would be in the public interest and every proposed new rule, change or suspension must be accompanied by a statement to that effect.

(C) All rules, changes to rules and suspensions of rules adopted by the Board must be filed with the Commission.

(D) A copy of all written notices relevant to the rules or to the business and activities of members, their Approved Persons or other employees or agents to assist in the interpretation, application of and compliance with the rules and legislation relevant to such business and activities shall be provided to the Commission.

(E) The MFDA shall, wherever practicable, document its interpretations of its rules and distribute copies of that documentation to its members and the Commission.

12. OPERATIONAL ARRANGEMENTS AND RESOURCES

(A) The MFDA shall have adequate arrangements and resources for the effective monitoring and enforcement of compliance with its rules. With the consent of the Commission, the arrangements for monitoring and enforcement may make provision for the following:

(i) one or more parts of those functions to be performed (and without affecting its responsibility) by another body or person that is able and willing to perform it; and

(ii) its members and their Approved Persons to be deemed to be in compliance with its rules by complying with the substantially similar rules of such other body or person.

The Commission's consent may be varied or revoked from time to time and may be subject to terms and conditions.

(B) The MFDA shall respond promptly and effectively to public inquiries and generally shall have effective arrangements for the investigation of complaints (including anonymous complaints) against its members or their Approved Persons. With the consent of the Commission, such arrangements may make provision for one or more parts of that function to be performed on behalf of the MFDA (and without affecting its responsibility) by another body or person that is able and willing to perform it. The Commission's consent may be varied or revoked from time to time and may be subject to terms and conditions. The MFDA and any other body or person performing such function on behalf of the MFDA shall not refrain from investigating complaints due to the anonymity of the complainant where the complaint is otherwise worthy of investigation and sufficiently detailed to permit investigation.

(C) The MFDA shall ensure that it is accessible to the public and shall designate and make available to the public the names and telephone numbers of persons to be contacted for various purposes, including making complaints and enquiries.

(D) The arrangements and resources referred to in paragraphs (A) and (B) above shall consist at a minimum of:

(i) a sufficient complement of qualified staff, including professional and other appropriately trained staff;

(ii) an adequate supervisory structure;

(iii) adequate management information systems;

(iv) a compliance department and an enforcement department with appropriate reporting structures directly to senior management, and with written procedures wherever practicable;

(v) procedures and structures that minimize or eliminate conflicts of interest within the MFDA;

(vi) inquiry and complaint procedures and a public information facility, including with respect to the discipline history of members and their Approved Persons;

(vii) guidelines regarding appropriate disciplinary sanctions; and

(viii) the capacity and expertise to hold disciplinary hearings (including regarding proposed settlements) utilizing public representatives within the meaning of the current section 19.5 of the MFDA's By-law No. 1 together with member representatives.

(E) The MFDA shall cooperate and assist with any reviews, scheduled or unscheduled, of its self-regulatory functions by an IPP or the Commission. In addition, in the event that the Commission is of the view that there has been a serious actual or apparent failure in the MFDA's fulfilment of its self-regulatory functions, the MFDA shall, where requested by the Commission, undergo an independent third party review on terms and by a person or persons satisfactory to or determined by the Commission, which review shall be at the expense of the MFDA.

(F) The MFDA shall cooperate and assist with any reviews, scheduled or unscheduled, of its corporate governance structure by the Commission. In addition, in the event that the Commission is of the view that there has been a serious weakness in the MFDA's corporate governance structure, the MFDA shall upon the request of the Commission undergo an independent third party review on terms and by a person or persons satisfactory to or determined by the Commission, which review shall be at the expense of the MFDA.

(G) The MFDA shall not make material changes to its organizational structure, which would affect its self-regulatory functions, without prior approval of the Commission.

(H) The MFDA shall comply with reporting requirements set out in Appendix A, as amended from time to time by the Commission or its staff. The MFDA shall also provide the Commission with other reports, documents and information as the Commission or its staff may reasonably request.

13. INFORMATION SHARING

The MFDA shall cooperate, by sharing information and otherwise, with IPPs, the Commission and its staff, and other Canadian federal, provincial and territorial recognized self-regulatory organizations and regulatory authorities, including without limitation, those responsible for the supervision or regulation of securities firms, financial institutions, insurance matters and competition matters. The Commission and its staff shall have unrestricted access to the books and records, management, staff and systems of the MFDA.

14. SUSPENSION OF MFDA RULE 2.4.1

MFDA Rule 2.4.1 is suspended and will continue to be suspended until December 31, 2008, in the Provinces of British Columbia, Saskatchewan, Ontario and Nova Scotia, and during such period the MFDA shall comply with the following conditions:

(A) the MFDA shall co-operate with the Commission and its staff, including participating on any joint industry and regulatory committee struck by the Commission and its staff, in their efforts to develop amendments to applicable securities legislation that would, among other things, allow an Approved Person to carry on securities related business (within the meaning of the MFDA rules) through a corporation, while preserving that Approved Person's and the member's liability to clients for the Approved Person's actions;

(B) the MFDA shall, as a condition of a member or Approved Person being entitled to rely on the suspension of Rule 2.4.1, require that the member and its Approved Persons agree, and cause any recipient of commissions on behalf of Approved Persons that is itself not registered as a dealer or a salesperson to agree, to provide to the MFDA, the Commission and the applicable member access to its books and records for the purpose of determining compliance with the rules of the MFDA and applicable securities legislation;

(C) the MFDA shall ensure in connection with the suspension of Rule 2.4.1 that members and Approved Persons comply with the remaining rules, with specific reference to Rule 1 Business Structures and Qualifications, Rule 1.2.1(d) Dual Occupations and the requirement noted above in paragraph (B);

(D) the MFDA shall ensure that members applying for membership are made aware of the requirements of Rule 1 by delivering to each applicant a copy of its Notice MR-0002; and

(E) the MFDA shall not accept a member whose relationship with its Approved Persons does not comply with the rules of the MFDA and in particular, Rule 1, unless the MFDA has granted exemptive relief to that applicant under the authority granted to the Board of Directors under section 38 of By-law No. 1.

APPENDIX A

Reporting Requirements

1. Prior Notification

1.1 The MFDA shall advise the Commission in advance of any proposed material changes or reductions in its financial review program or operational and sales compliance review programs, including as to procedures or scope, or any proposed changes in its external audit instructions and of any proposed material changes or reductions in the operation of its investigation or enforcement programs.

2. Immediate Notification

2.1 The MFDA shall give the Commission notice of new directors, officers and committee chairpersons, including a 5 year employment history and information as to the involvement in criminal, relevant quasi-criminal, administrative or insolvency proceedings and civil proceedings involving business conduct or alleging fraudulent conduct or deceit in respect of each such person.

3. Annual Reporting

The MFDA shall within 120 days of its fiscal year end file the following information and reports to the Commission:

3.1 The MFDA's self-regulatory staff complement, by function, and of any material changes or reductions in self-regulatory staff, by function;

3.2 Copy or summary of self-assessment by management of the MFDA's performance of its self-regulatory responsibilities and any proposed actions arising therefrom. The self-assessment shall, for each of the MFDA's member regulatory functions, set performance measurements against which performance can be compared, and identify major successes, significant problem areas, plans to resolve these problems, recruitment and training plans, and other information as reasonably requested by the Commission or its staff; and

3.3 The MFDA's budget and audited financial statements.

2.2.6 Banff Rocky Mountain Resort Limited Partnership – s. 144

Headnote

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

Statutes Cited

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

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

AND

IN THE MATTER OF
BANFF ROCKY MOUNTAIN RESORT
LIMITED PARTNERSHIP

ORDER
(Section 144)

WHEREAS a Director of the Ontario Securities Commission (the "Commission") issued a temporary cease trade order dated May 12, 2008 made pursuant to paragraph 2 and 2.1 of subsection 127(1) and subsection 127(5) of the Act, as extended by a further order dated May 23, 2008 made pursuant to paragraph 2 and 2.1 subsection 127(1) of the Act, (collectively, the "Ontario Cease Trade Order") ordering that trading in the securities of Banff Rocky Mountain Resort Limited Partnership (the "Filer") shall cease until further order by the Director;

AND WHEREAS Banff Rocky Mountain Resort Ltd. (the "Applicant") has applied on behalf of the Filer to the Ontario Securities Commission (the "Commission") pursuant to section 144 of the Act for an order revoking the Ontario Cease Trade Order (the "Application");

AND WHEREAS the Applicant has represented to the Commission that:

1. The Filer is registered in Ontario and was originally declared under the Limited Partnerships Act on April 22, 1988.

2. The Filer's registered office is in Toronto, Ontario.

3. The Applicant is registered and carrying on business in Alberta and was incorporated pursuant to the Business Corporations Act (Alberta) on December 15, 1980 and is governed under the laws of the Province of Alberta. The Applicant is also extra-provincially registered in Ontario.

4. The Applicant's registered office is in Calgary, Alberta.

5. The authorized capital of the Filer consists of 23,000 limited partnership units.

6. The limited partnership units are not listed or quoted on any exchange or market in Canada or elsewhere.

7. The Filer is a reporting issuer in Ontario, British Columbia, Alberta and Saskatchewan. The Applicant is not a reporting issuer or the equivalent in any other jurisdiction in Canada.

8. In addition to the Ontario Cease Trade Order, the Filer is also subject to a cease trade order in Alberta (the "Alberta Cease Trade Order"). The Filer has concurrently filed an application for revocation of the Alberta Cease Trade Order.

9. The Ontario Cease Trade Order and the Alberta Cease Trade Order were issued due to the Filer's failure to file with the Commission and the Alberta Securities Commission the Filer's audited annual financial statements for the year ended December 31, 2007 (the "Financial Statements").

10. The Filer failed to file the Financial Statements in a timely manner because it was required to restate the previously issued audited annual financial statements for the year ended December 31, 2006 and expand the disclosure contained in the accompanying annual Management's Discussion and Analysis (the "MD&A").

11. On May 30, 2008, the Filer filed the Financial Statements. The Filer also filed the unaudited interim financial statements, MD&A and certificates, as required under Multilateral Instrument 52-109 *Certification of Disclosure in Issuer's Annual and Interim Filings* for the period ended June 30, 2008.

12. The Filer filed and mailed an information circular dated October 17, 2008 with respect to an annual general meeting to be held on December 4, 2008.

13. The Filer is up-to-date in its continuous disclosure obligations, has paid all outstanding fees and is not in is no longer in default of the requirements of the Act or any of the regulations made thereunder.

14. Upon issuance of this revocation order, the Filer will issue and file a news release and a material change report on SEDAR.

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

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

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

DATED this 25th day of November, 2008.

"Lisa Enright"
Manager, Corporate Finance Branch

2.2.7 Shallow Oil & Gas Inc. 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
SHALLOW OIL & GAS INC., ERIC O'BRIEN,
ABEL DA SILVA, GURDIP SINGH GAHUNIA
also known as MICHAEL GAHUNIA,
ABRAHAM HERBERT GROSSMAN
also known as ALLEN GROSSMAN,
MARCO DIADAMO, GORD McQUARRIE,
KEVIN WASH, AND WILLIAM MANKOFSKY

ORDER
(Subsections 127(1) & 127(8))

WHEREAS on January 16, 2008, the Ontario Securities Commission ("the Commission") issued a Temporary Order pursuant to subsections 127(1) and (5) of the Securities Act R.S.O. 1990, c. S.5, as amended (the "Act") that: (i) all trading in securities by Shallow Oil & Gas Inc. ("Shallow Oil") shall cease and that all trading in Shallow Oil securities shall cease; and (ii) Eric O'Brien ("O'Brien"), Abel Da Silva ("Da Silva"), Gurdip Singh Gahunia, also known as Michael Gahunia ("Gahunia"), and Abraham Herbert Grossman, also known as Allen Grossman ("Grossman"), cease trading in all securities (the "Temporary Order");

AND WHEREAS on January 16, 2008, the Commission ordered that the Temporary Order shall expire on the 15th day after its making unless extended by order of the Commission;

AND WHEREAS on January 18, 2008, the Commission issued a Notice of Hearing to consider, among other things, the extension of the Temporary Order, such hearing to be held on January 30, 2008 commencing at 2:00 p.m.;

AND WHEREAS Staff of the Commission ("Staff") served all of the respondents with copies of the Temporary Order and the Notice of Hearing as evidenced by the two Affidavits of Wayne Vanderlaan sworn on January 24 and 29, 2008, and the two Affidavits of Diana Page both sworn on January 21, 2008, and filed with the Commission;

AND WHEREAS a hearing to extend the Temporary Order was held on January 30, 2008 commencing at 2:00 p.m. before Vice-Chair Turner, and Staff and Grossman appeared;

AND WHEREAS Shallow Oil, O'Brien, Da Silva, and Gahunia did not appear;

AND WHEREAS Grossman contested the extension of the Temporary Order;

AND WHEREAS the hearing to consider the extension of the Temporary Order was adjourned to January 31, 2008 at 10:00 a.m. to be heard before a panel of the Commission;

AND WHEREAS on January 31, 2008, a panel of the Commission ordered pursuant to subsection 127(8) of the Act that the Temporary Order be extended to March 31, 2008; and that the hearing be adjourned to Monday, March 31, 2008, at 2:00 p.m.;

AND WHEREAS on March 31, 2008 a hearing was held commencing at 2:00 p.m. and Staff and Grossman appeared, presented evidence and made submissions as to the extension of the Temporary Order;

AND WHEREAS on March 31, 2008, the panel of the Commission considered the evidence and submissions made to it;

AND WHEREAS on March 31, 2008, the panel of the Commission concluded that satisfactory information had not been provided to the Commission by Grossman, as contemplated by subsection 127(8) of the Act;

AND WHEREAS on March 31, 2008, the panel extended the Temporary Order until June 18, 2008;

AND WHEREAS on June 10, 2008, Staff issued a Statement of Allegations in this matter with respect to the respondents Shallow Oil, O'Brien, Da Silva, Gahunia, Grossman, Marco Diadamo ("Diadamo"), Gord McQuarrie ("McQuarrie"), Kevin Wash ("Wash"), and William Mankofsky ("Mankofsky");

AND WHEREAS on June 11, 2008, the Commission issued a Notice of Hearing for June 18, 2008 to consider, among other things:

(a) the issuance of a temporary cease trade order against Diadamo, McQuarrie, Wash, and Mankofsky; and,

(b) the extension of the original Temporary Order dated January 16, 2008;

AND WHEREAS Staff served all respondents with copies of the Notice of Hearing for June 18, 2008 as evidenced by the Affidavits of Wayne Vanderlaan and Diana Page sworn on June 16, 2008, and filed with the Commission;

AND WHEREAS on June 18, 2008, a hearing was held commencing at 10:00 a.m. and Staff and Grossman appeared, presented evidence and made submissions, and Diadamo, McQuarrie, and Mankofsky appeared before a panel of the Commission and made submissions as to the issuance of a temporary cease trade order against them;

AND WHEREAS on June 18, 2008, Shallow Oil, O'Brien, Da Silva, and Wash did not appear;

AND WHEREAS on June 18, 2008, Gahunia did not appear, but Staff informed the Commission that Gahunia did not oppose an extension of the Temporary Order until November 25, 2008;

AND WHEREAS on June 18, 2008, the panel of the Commission considered the evidence and submissions of Staff and Grossman, and the submissions of Diadamo, McQuarrie, and Mankofsky;

AND WHEREAS on June 18, 2008, the panel of the Commission concluded that satisfactory information had not been provided to the Commission by any of the respondents in this matter, as contemplated by subsection 127(8) of the Act;

AND WHEREAS on June 18, 2008, the panel of the Commission ordered, pursuant to subsection 127(8) of the Act, that the Temporary Order as against Shallow Oil, O'Brien, Da Silva, and Grossman be extended until the conclusion of the hearing on the merits in this matter;

AND WHEREAS on June 18, 2008, the panel of the Commission ordered, pursuant to subsection 127(8) of the Act, that the Temporary Order as against Gahunia be extended until November 26, 2008;

AND WHEREAS on June 18, 2008, the panel of the Commission ordered, pursuant to subsection 127(5) of the Act, that Diadamo, McQuarrie, Wash, and Mankofsky cease trading in any securities until November 26, 2008 (the "Second Temporary Order"), with the following exception:

> Diadamo shall be permitted to trade in securities that are listed on a public exchange recognized by the Commission and only in his own existing trading accounts. Furthermore, any such trading by Diadamo shall be for his sole benefit and only through a dealer registered with the Commission.

AND WHEREAS on June 18, 2008, the panel of the Commission ordered that the hearing with respect to the Temporary Orders in this matter against Gahunia, Diadamo, McQuarrie, Wash and Mankofsky be adjourned to November 25th, 2008, at 2:30 p.m.;

AND WHEREAS Staff served all of the respondents with a certified copy of the Order of the Commission dated June 19, 2008 as evidenced by the Affidavit of Service of Kathleen McMillan sworn on November 20, 2008;

AND WHEREAS on November 25, 2008, a hearing was held commencing at 2:30 p.m. and Staff and McQuarrie appeared before a panel of the Commission and made submissions as to the extension of the Temporary Order and the Second Temporary Order;

AND WHEREAS on November 25, 2008, Shallow Oil, O'Brien, Da Silva, Gahunia, Grossman, Diadamo, Wash and Mankofsky did not appear;

AND WHEREAS on November 25, 2008, the panel of the Commission concluded that satisfactory information had not been provided to the Commission by McQuarrie, Diadamo, Wash, Mankofsky, and Gahunia, as contemplated by subsection 127(8) of the Act;

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

IT IS HEREBY ORDERED pursuant to subsection 127(8) of the Act that the Temporary Order is extended as against Gahunia until the conclusion of the hearing on the merits in this matter;

IT IS HEREBY ORDERED pursuant to subsection 127(8) of the Act that the Second Temporary Order is extended as against Diadamo, McQuarrie, Wash, and Mankofsky until the conclusion of the hearing on the merits in this matter; and

IT IS FURTHER ORDERED that the hearing with respect to the Notice of Hearing dated June 11, 2008 and Staff's Statement of Allegations dated June 10, 2008 is adjourned to June 4th, 2009 at 10:00 a.m.

DATED at Toronto this 25th day of November, 2008.

"David L. Knight"

"Carol S. Perry"

"Paulette L. Kennedy"

Chapter 3

Reasons: Decisions, Orders and Rulings

3.1 OSC Decisions, Orders and Rulings

3.1.1 Rodney International et al.

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

AND

IN THE MATTER OF
RODNEY INTERNATIONAL, CHOEUN CHHEAN
(ALSO KNOWN AS PAULETTE C. CHHEAN)
AND MICHAEL A. GITTENS
(ALSO KNOWN AS ALEXANDER M. GITTENS)

Hearing:	September 18, 2008		
Decision:	November 19, 2008		
Panel:	Wendell S. Wigle, Q.C.	-	Commissioner and Chair of the Panel
	Suresh Thakrar	-	Commissioner
Counsel:	Matthew Britton	-	For the Ontario Securities Commission

REASONS AND DECISION

I. BACKGROUND

[1] This was a hearing before the Ontario Securities Commission (the "Commission") to decide whether Rodney International ("Rodney") and Michael A. Gittens (also known as Alexander M. Gittens) ("Gittens") breached the *Securities Act*, R.S.O. 1990, c. S.5, as amended (the "Act") and acted contrary to the public interest, during April and March 2008, by (i) trading securities without being registered in accordance with Ontario securities law, contrary to section 25(1)(a) of the Act; and (ii) distributing securities without a preliminary prospectus and a prospectus having been filed and receipts having been issued by the Director, contrary to subsection 53(1) of the Act.

[2] On June 4, 2008, the Commission issued a temporary order (the "Temporary Order") that: (i) pursuant to clause 2 of subsection 127(1) of the Act, all trading in securities of Rodney shall cease; (ii) pursuant to clause 2 of subsection 127(1) of the Act, all trading by Rodney, Gittens and Choeun Chhean (also known as Paulette C. Chhean) ("Chhean") shall cease: and (iii) pursuant to clause 3 of section 127(1) of the Act, the exemptions contained in Ontario securities law do not apply to Rodney, Gittens or Chhean (the "Original Respondents"). The Temporary Order was continued pending the release of the sanctions decision.

[3] The proceeding was commenced by a Statement of Allegations and Notice of Hearing dated June 5, 2008.

[4] At the conclusion of the hearing, the Panel gave an oral ruling, based on the uncontested evidence and submissions of Staff, that in March and April 2008, the Respondents, Gittens and Rodney, breached subsections 25(1) and 53(1) of the Act and acted contrary to the public interest, and that a sanctions hearing would be scheduled following the release of written reasons on the merits in this matter.

[5] The following are our reasons.

II. THE RESPONDENTS' FAILURE TO APPEAR AT THE HEARING ON THE MERITS

[6] The Original Respondents did not appear, either personally or through counsel, at any of the appearances in this matter, held on June 17, 2008, August 5, 2008 and September 4, 2008, or at the hearing on the merits, held on September 18, 2008.

[7] At the hearing on the merits, counsel for Staff of the Commission ("Staff") advised that Staff would not be proceeding against Chhean. Staff subsequently filed a Notice of Withdrawal with respect to Chhean on October 6, 2008, effective September 18, 2008. Accordingly, we make no findings or orders with respect to Chhean.

[8] On August 5, 2008, at the request of Staff counsel, no one appearing for Rodney or Gittens (the "Respondents"), we adjourned the hearing to September 4, 2008 to give Staff additional time to attempt to serve a certified copy of the Temporary Order and the Notice of Hearing on Gittens. We also noted in our order that Staff had served the Temporary Order and Notice of Hearing on Rodney by delivering a certified copy of the Temporary Order and Notice of Hearing to Rodney's mailing address.

[9] At the hearing on September 4, 2008, no one appeared for the Respondents. Staff advised that it had not been able to find Gittens' current address. However, Staff filed the process server's August 25, 2008 affidavit of service affirming that Gittens had been served with the Statement of Allegations, Notice of Hearing and the August 5, 2008 Temporary Order at the Windsor court house that day (August 25, 2008). The hearing on the merits was set down for September 18, 2008 and we directed Staff to attempt service of our September 4, 2008 order on Gittens as soon as possible before the hearing on the merits, and to give evidence at that time about attempted service.

[10] No one appeared for the Respondents at the hearing on the merits on September 18, 2008. Staff filed three affidavits from Mehran Shahviri ("Shahviri"), the Commission's primary investigator in this matter, sworn June 13, 2008, September 12, 2008 and September 16, 2008. Shahviri's June 13, 2008 affidavit describes the investigation in this matter, while his September 12, 2008 and September 16, 2008 affidavits concern service.

[11] Exhibit B to Shahviri's September 12, 2008 affidavit is the process server's Affidavit of Service affirming that he served Gittens with the Statement of Allegations, Notice of Hearing and August 5, 2008 Temporary Order at the Windsor court house on August 25, 2008.

[12] Staff counsel advises that Staff had made further attempts to find Gittens' address, but to no avail.

[13] In his September 16, 2008 affidavit, Shahviri affirms that on September 12, 2008, he and Staff counsel reached Gittens by telephone at the number given on the Rodney website, at which time Gittens acknowledged that he had been served with the documents (the Notice of Hearing, Statement of Allegations and Temporary Order) and suggested a meeting with Staff to discuss the matter further. An appointment was made for September 15, 2008. However, Gittens left a message on the voice-mail of Staff counsel in the early hours of September 15, 2008 stating that he would not attend the meeting and suggesting that Staff convey to the Panel that he was prepared to agree with Staff's position.

[14] In light of the circumstances, we accept that Gittens was served with the Statement of Allegations and the Notice of Hearing, as well as the August 5, 2008 Temporary Order, and that he received sufficient notice that a hearing on the merits would take place on September 18, 2008, but advised Staff that he would not attend. In the circumstances, considering Staff's inability to find Gittens' current mailing address, we are satisfied this was sufficient.

[15] Further, we accept that Gittens carries on business through Rodney, and therefore we accept that Rodney, as well as Gittens, received notice of this hearing on the merits, and chose not to participate in it.

[16] Accordingly, having satisfied ourselves that the Respondents were served with notice of this hearing, we continued with the hearing in the absence of the Respondents, as permitted pursuant to section 7 of the *Statutory Powers Procedure Act*, R.S.O. 1990, c. S.22 ("SPPA").

III. THE ISSUES

[17] The issues are as follows:

1. Did Rodney and Gittens, in March and April 2008, trade securities without being registered in accordance with Ontario securities law, contrary to section 25(1)(a) of the Act?

2. Did Rodney and Gittens, in March and April 2008, distribute securities without a preliminary prospectus and a prospectus having been filed and receipts having been issued by the Director, contrary to section 53(1) of the Act?

3. Was the alleged conduct contrary to the public interest?

IV. THE EVIDENCE

[18] Staff filed Shahviri's three affidavits, along with a Document Brief, and Shahviri testified for Staff. His evidence was uncontested, and we accept it.

[19] Shahviri testified that this matter came to the attention of Staff through securities regulators in the U.S., and that Staff responded to the U.S. enquiries by determining that Gittens was not an Ontario registrant. Staff filed five section 139 certificates in relation to the various names used by Gittens, showing that no one so named has been registered to trade securities in Ontario.

[20] Shahviri explained the findings and orders of the U.S. securities regulators in his testimony.

A. *Texas State Securities Board*

[21] On March 28, 2008, the Texas State Securities Board ("TSSB") issued a cease and desist order against Rodney and Gittens in relation to the sale of securities without registration, materially misleading statements and fraud. The TSSB made the following findings of fact:

a. Respondents Gittens and Rodney share the same address in Windsor Ontario as well as an address in Detroit Michigan.

b. Gittens is the Senior Investment Officer of Rodney.

c. Gittens and Rodney solicited residents of Texas to purchase an investment in the "Ulysses Project" through advertisements on Craigslist that target residents of several Texas cities.

d. "The Ulysses Project is a debt product secured by the assets of Respondent Rodney and the value of its real estate portfolio. Respondent Gittens is the Project Manager of the Ulysses Project and he retains the exclusive authority to manage the operations and affairs of the Ulysses Project and to make all decisions regarding the business thereof.

Respondents are representing that investors in the Ulysses Project will receive a promissory note and that they will be entitled to interest ranging from 14.25% to 24.00% payable on an annual basis. Investors are told that their funds will be used by Respondents to invest in real estate projects."

e. Gittens and Rodney are not registered to trade in securities in Texas and neither the Ulysses Project nor any other securities traded by Gittens and Rodney are registered to be sold in Texas.

f. Gittens and Rodney represent that Gittens holds a "360 degree certification for selling all securities in Canada." This is materially misleading or otherwise likely to deceive the public because Gittens is not registered to sell securities in Texas and the Ontario Securities Commission has no record of Gittens having been registered in Ontario.

g. Gittens and Rodney are representing to Texas investors that they can earn "referral income" or a "finder's fee" ranging between $350.00 and $30,000.00 for each person they refer to Rodney who invests in the Ulysses Project. This representation is materially misleading or otherwise likely to deceive the public because Texas residents who refer prospective investors for a fee must comply with requirements under Texas securities legislation.

h. Gittens and Rodney are representing that Gittens is entitled to receive a monthly fee after interest payments have been disbursed to investors. This representation is materially misleading or otherwise likely to deceive the public in light of the fact that Respondents fail to disclose the amount of the monthly fee.

i. Respondents are intentionally failing to disclose the material fact that on or about June 12, 2007, Gittens was charged with 53 offenses in Canada relating to selling or attempting to sell counterfeit watches.

[22] The TSSB reached the following conclusions of law:

a. The investments in the Ulysses Project are "securities" under Texas securities legislation.

b. The Respondents are violating Texas securities law by selling securities that are not registered for sale in Texas.

c. The Respondents are violating Texas securities law by offering securities for sale in Texas without being registered pursuant to Texas securities legislation.

d. The Respondents are making an offer containing statements that are materially misleading or otherwise likely to deceive the public.

e. The Respondents are engaging in fraud in connection with the offer for sale of securities.

f. The Respondents' conduct threatens immediate and irreparable public harm.

[23] Therefore, the TSSB ordered the Respondents to immediately cease and desist: (i) from offering any security for sale in Texas without its being registered or offered pursuant to an exemption from registration in Texas; (ii) from acting as securities dealers or agents in Texas without being registered or acting pursuant to an exemption from registration in Texas; (iii) from offering securities through an offer that contains statements that are materially misleading or otherwise likely to deceive the public; and (iv) from engaging in fraud in connection with the offer for sale of any security in Texas.

B. *Maryland State Securities Division*

[24] On April 8, 2008, the Securities Commissioner of the State of Maryland issued a cease and desist and show cause order against Gittens, Chhean, Rodney, and an individual identified as Rupert Clement Rodney (the "Maryland Respondents").

[25] The Maryland State Securities Division ("MSSD") alleged four counts against the Maryland Respondents: (i) offer and sale of unregistered securities, (ii) fraud in connection with the offer or sale of securities, (iii) fraud in investment advisory activities, and (iv) acting as a broker-dealer and/or agent without being registered under Maryland's securities legislation.

[26] Accordingly, the Maryland Respondents were ordered by the MSSD to immediately cease and desist from offering and selling securities and from engaging in investment advisory activities. They were each ordered to show cause why they should not be barred permanently and why a monetary penalty should not be entered against them for each violation.

[27] The Order relied on a statement of facts, including the following:

a. In March 2008, an investigator for the MSSD discovered the Rodney website on the internet. The website offered a number of different investment vehicles offering above-market rates of interest, both compounded and non-compounded, that varied, depending on the amount invested, from 14.25% per year on an investment of $10,000 to 24% per year on $1,000,000.

b. On March 12, 2008, the investigator sent an inquiry to the email address alexander.gittens@rodneyinternational.com. He received a reply from someone who identified himself as "Alexander M. Gittens, B.Comm., MBA, Senior Investment Officer, Rodney International." Attached to the reply email were several documents, entitled "Confidential Project Memorandum & Investment Agreement" (the "Memorandum"), "Investment Application", "Simple Investing Checklist" and "Now What Do I Do?" (collectively, the "Investor Package").

c. The Memorandum described the investment as a "private offering" of "promissory notes" and stated the notes are not securities. It also stated that the investor would be restricted from selling the notes "for an indefinite period." The notes were stated as having terms ranging from 6 to 24 months.

d. The Memorandum gave the same two mailing addresses for Rodney that were identified by the TSSB, one in Windsor, Ontario and one in Detroit, Michigan.

e. Another of the documents, entitled, "Now What Do I Do?", included information about a "finder's fee" for investors who refer new investors to Rodney.

f. When the investigator asked, by email, how to invest by way of wire transfer, he received an email reply from "Gittens" giving information about a bank account.

g. None of Gittens, Chhean and Rupert Clement Rodney is registered in Maryland as a broker-dealer, broker-dealer agent, investment adviser or investment adviser representative or issuer agent. Rodney is not registered in Maryland as a broker-dealer or investment adviser, nor is it a registered issuer.

h. Neither Rodney nor anyone associated with it provided potential investors with disclosures regarding the company, its officers, the specific nature of the investments, the source of profits or the risks of investing in it.

C. *Pennsylvania Securities Commission*

[28] On April 15, 2008, the Pennsylvania Securities Commission ("PSC") issued a summary cease and desist order against Rodney and Rodney International (Canada) ("Rodney Canada"). Rodney was identified as having the same mailing address in Detroit, Michigan as in the TSSB and MSSD orders. Rodney Canada was identified as having the same mailing address in Windsor, Ontario as in the TSSB and MSSD orders.

[29] Based on a preliminary investigation by its staff, the PSC determined that evidence exists to support the following findings and conclusions:

a. In or about March 2008, Rodney and Rodney Canada posted an ad on an internet message board stating "You Can Get 14.25% Rate on Low $10,000 Secured Investment".

b. In or about March 2008, at least one Pennsylvania resident responded to the ad by sending an email requesting more information. In reply, a representative of Rodney and Rodney Canada emailed certain offering materials which stated:

i. The minimum investment is $10,000 and the maximum is $2,500,000.

ii. The investment funds will be used to invest in real estate.

iii. The investment period is at least six months for investments of $100,000 or more, and at least twelve months for investments under $100,000.

iv. The interest rate ranges from 14.25% annually on an investment of $10,000 to $24,999.9 to 24% annually on an investment of $1,000,000 or more; and

v. Investments are "tripled [sic] covered" by the value of the real estate holdings, the value of the Ulysses Project and the assets of Rodney and Rodney Canada.

[30] The PSC concluded that:

a. The ad does not contain required disclosures.

b. The investment is a "security" as defined under Pennsylvania securities legislation, but is not registered in accordance with Pennsylvania securities legislation, is not exempt from registration and is not a federally covered security.

[31] Accordingly, the PSC issued a cease and desist order against Rodney and Rodney Canada "and every successor, affiliate, control person, agent, servant, and employee of each of them, and every entity owned, operated, or indirectly or directly controlled or hereinafter organized by or on behalf of them."

D. *The Commission's Investigation*

[32] Shahviri testified that the TSSB sent Staff hard copies of the four documents included in the Investor Package. The documents were included in Staff's Document Brief, and Shahviri pointed out the relevant excerpts, which support the findings of the U.S. securities regulators and the findings Staff asks us to make in this proceeding.

[33] Further, Staff filed screen shots from various pages of Rodney's website, which was linked to Craigslist in Austin, Lubbock and El Paso, Texas. The screen shots support the findings of the TSSB and the findings Staff asks us to make in this proceeding. Most significantly, the website:

a. describes Rodney as "a portfolio based company that makes secured equity loans to real estate professionals" and functions "as a private, small-cap version of a Real Estate Investment Trust (REIT)";

b. offers a 14.25 to 24 percent annual rate of return on a "secured investment", depending on the amount invested;

c. invites prospective investors to contact "Alexander M. Gittens", who is identified as Senior Investment Officer, for more information;

d. gives a phone number and email address for Gittens; and

e. explains that an investment can be made by returning the documents in the Investor Package "with your Bank Draft or Certified Check to our US or Canadian office".

[34] Shahviri testified that the phone number given on Rodney's website was the number he and Staff counsel called on September 12, 2008, and which was answered by someone who identified himself as Alexander Gittens.

[35] Finally, Shahviri testified that Staff identified a $24,000 deposit to Rodney's CIBC account in LaSalle, Ontario from a U.S. investor. There were two subsequent withdrawals from this account in the amounts of $21,000 to Chhean, who is described as Rodney's VP of Operations, and $3,000 made payable to cash.

V. FINDINGS

[36] Staff's case relies largely on hearsay evidence, namely the decisions of the TSSB, MSSD and PSC. However, subsection 15(1) of the SPPA allows administrative tribunals, including the Commission, to admit relevant evidence, whether or not it is admissible as evidence in court. We admitted the hearsay evidence from the TSSB, MSSD and PSC in this case based on the undisputed evidence of Shahviri and the submissions of counsel for Staff.

[37] We make the following findings of fact.

[38] Rodney is a sole proprietorship registered under the *Business Names Act*, R.S.O. 1990, c. B.17, as amended. Its registered mailing and business address are in Windsor, Ontario. Rodney has never been registered under the Act, is not and has never been a reporting issuer in Ontario, and has never filed a prospectus with the Commission.

[39] We accept that Gittens has never been registered under the Act.

[40] Though Chhean is registered as the sole proprietor of Rodney and identified as Rodney's VP of Operations on an investor cheque, we accept that in fact, Rodney is Gittens' business, for the following reasons:

a. The website for Rodney lists Gittens as Senior Investment Officer and provides a phone number and email link for him.

b. TSSB and MSSD investigators who sent undercover emails to Rodney received email replies from a person who identified himself as Gittens.

c. The Memorandum Gittens emailed an undercover investigator in March 2008 identifies Gittens as the Project Manager for the Ulysses Project.

d. TSSB investigators, using the telephone number listed on the Rodney website, contacted a person who identified himself as Gittens. On September 12, 2008, Staff contacted Gittens by calling the same telephone number.

[41] Further, we are satisfied that these events have a substantial connection to Ontario and that Rodney and Gittens engaged in acts in furtherance of trades in Ontario, and therefore, that the Commission has jurisdiction to issue the Order requested by Staff, for the following reasons:

a. A domain registration search for Rodney gives a Toronto address.

b. According to the Business Names Report issued by the Ministry of Consumer and Business Services, Rodney's registered mailing and business address is in Windsor, Ontario. Gittens gave the same Windsor, Ontario address for Rodney in email responses to the TSSB and MSSD undercover investigators. The address given appears to be a UPS mailbox.

c. In addition to the mailing address associated with Rodney, Gittens is associated with two other Windsor, Ontario addresses in the TSSB order. One of these addresses is listed in the Corporation Profile Report issued by the Ministry of Consumer and Business Services as the registered mailing and business address for Michael Gittens Financial Inc. ("MGFI"), of which Gittens is President. That same address was also identified as Gittens' address in the June 12, 2007 information charging him with 53 offences in connection with the sale or attempted sale of counterfeit watches. It was on August 25, 2008, when he attended at the Windsor, Ontario court house, that Gittens was served with the Notice of Hearing, Statement of Allegations and Temporary Order dated August 5, 2008.

d. We are satisfied, considering all the evidence, that Gittens resides in Ontario.

e. The Rodney website, on its "How to Invest" page, tells investors that once "your Account Officer" sends the details of the plan, "You simply sign and return the documents with your Bank Draft or Certified Check to our US or Canadian office."

f. In response to undercover enquiries by a TSSB investigator, Gittens instructed the putative investor to wire transfer the money to a branch of the CIBC in LaSalle, Ontario. Speaking to another TSSB investigator by telephone, Gittens identified the CIBC as the lender for many of the loans involved.

g. A $24,000 cheque from a U.S. investor was deposited to Rodney's Canadian bank account, and the funds were later paid out in two cheques, one made payable to Chhean and the other to cash.

h. The documents that were emailed to prospective investors give mailing addresses for Rodney in Windsor, Ontario and Detroit, Michigan.

i. The Memorandum and Gittens' email replies to undercover TSSB and MSSD investigators represented that the Ulysses Project is invested in real estate in the Greater Toronto Area.

[42] We accept that the investments offered by Rodney are "securities" as defined in subsection 1(1) of the Act.

[43] We find that by advertising an investment product, soliciting investors and accepting and depositing into the Rodney account at least one cheque from an investor, Gittens and Rodney engaged in an "act, advertisement, solicitation, conduct or negotiation directly or indirectly in furtherance of" a "trade" as that term is defined in subsection 1(1) of the Act.

[44] In addition, we note that Rodney's website and the documents included in the Investor Package promised unrealistically high returns, and offered referral fees. Further, we are advised by Staff counsel that there is no evidence of any actual investment activity in Toronto, as advertised.

[45] As neither Gittens nor Rodney is registered with the Commission, we find that they breached subsection 25(1) of the Act in that they traded in securities without being registered, no exemption being available.

[46] Further, we find that Gittens and Rodney breached subsection 53(1) of the Act by distributing securities without a preliminary prospectus and a prospectus having been filed and receipts having been issued by the Commission.

VI. CONCLUSION

[47] For the reasons given above, we find that the Respondents Gittens and Rodney breached subsections 25(1) and 53(1) of the Act, and acted contrary to the public interest.

[48] Within ten days of the release of this decision, the parties shall contact the Office of the Secretary to schedule a sanctions hearing, failing which, a date for a sanctions hearing will be set by the Office of the Secretary.

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

"Wendell S. Wigle"

"Suresh Thakrar"

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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
Virexx Medical Corp.	20 Nov 08	4 Dec 08		
Sunorca Development Corp.	07 Nov 08	19 Nov 08	21 Nov 08	
Banff Rocky Mountain Resort Limited Partnership	12 May 08	23 May 08	23 May 08	25 Nov 08
McWatters Mining Inc.	29 July 04	10 Aug 04	10 Aug 04	24 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
Constellation Copper Corporation	20 Nov 08	04 Dec 08			
CPI Plastics Group Limited	24 Nov 08	08 Dec 08			
Cybersurf Corp.	11 Nov 08	24 Nov 08	25 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	12 Nov 08		
Argenta Oil & Gas Inc.	05 Nov 08	18 Nov 08	18 Nov 08		
Cybersurf Corp.	11 Nov 08	24 Nov 08	25 Nov 08		
MTI Global Inc.	18 Nov 08	01 Dec 08			
High River Gold Mines Ltd.	19 Nov 08	03 Dec 08			
Constellation Copper Corporation	20 Nov 08	04 Dec 08			
CPI Plastics Group Limited	24 Nov 08	08 Dec 08			

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Chapter 5

Rules and Policies

5.1.1 Notice and Guidelines for Executive Director's Settlements

NOTICE AND GUIDELINES FOR
EXECUTIVE DIRECTOR'S SETTLEMENTS

On March 21, 2008 the Commission published, for a 60 day comment period, its proposed guidelines for the approval by the Executive Director of settlements of enforcement matters ("Executive Director's settlements") prior to the issue of a notice of hearing. The proposed guidelines appeared in (2008) 31 OSCB at pages 3311 to 3315.

The proposed guidelines reflect the Commission's policy approach to oversight of enforcement matters – in this case, early settlement of matters through Executive Director's settlements. Executive Director's settlements provide an opportunity for early resolution of matters before the formal commencement of proceedings. These guidelines are not rules and are not intended to affect the legal rights or obligations of any person.

The Commission received two comment letters through the formal comment process. These comments were posted on the Commission's website together with the proposed guidelines. The Commission also received some comments as a result of its informal consultations.

All commenters were supportive of the proposed guidelines and offered very constructive comments and suggestions. The Commission thanks the commenters for taking the time to provide these comments and suggestions. Some of the commenters suggested that the guidelines do not go far enough in certain aspects. At this time, the Commission is not prepared to extend its guidance beyond that set out in the guidelines being published with this Notice. However, some of the matters raised by the commenters may be considered at a later time, as part of an ongoing review of the Commission's overall approach to the settlement process.

The Commission has prepared a brief summary of the written comments received, together with its responses to the significant issues and concerns brought to the Commission's attention during the comment period. The summary of comments and the Commission responses follow this Notice as Schedule A.

As a result of the comments received, the Commission has made some changes to the proposed guidelines in order to provide clarification. Those changes are not material. The final guidelines are set out at Schedule B. The guidelines are effective immediately.

SCHEDULE A

Guidelines for Executive Director's Settlements
Summary of Comments and Responses

Summarized Comment	Response
1. Supportive of the proposed guidelines, particularly with regard to accountability and transparency aspects.	General response: The Commission appreciates the views and suggestions communicated by those who provided comments on the proposed guidelines and thanks the commenters for taking the time. The comments we received have been helpful in expanding the Commission's understanding of perceptions of Executive Director's settlements and the settlement process generally. These comments will assist the Commission in connection with future developments in this area.
2. Consider adding to the introductory language that cites the purposes of the Securities Act, a reference to Section 2.1, which outlines "fundamental principles" that have been incorporated into the legislation and to which the Commission is to have regard. In particular, principle 3 and principle 6 (costs and restrictions should be proportionate to the significance of the regulatory objectives) would seem to be particularly relevant.	2. Response: In the Commission's view, it is not necessary to include a reference to these principles in the guidelines because the guidance in the Act is applicable to the Executive Director's exercise of discretion.
3. The last sentence of the second paragraph seems to suggest that settlement at an early stage may somehow be inconsistent with openness, transparency, fairness, timeliness or efficiency. However, this is not necessarily correct, as the third paragraph of the guidelines would suggest in its articulation of the rationale for Executive Director's settlements. Consider removing or modifying that sentence.	3. Response: The Commission agrees with this comment. We have removed the word "however" from the last sentence, to clarify our intention.
4. The Executive Director should also be permitted to approve settlements after proceedings have been commenced if the Executive Director concludes that this would be in the public interest. This flexibility would allow for fair results in circumstances where the conduct is not sufficiently serious to warrant an order under section 127. Approval by a panel of commissioners should be mandatory only when the sanction that the Executive Director considers appropriate in the public interest must be imposed by the Commission in an order made under section 127 of the Act.	4. Response: The Commission believes that the parameters outlined in the proposed guidelines are reasonable, and permit sufficient flexibility, in the circumstances. At this time, the Commission is of the view that, once the allegations have been made public, any resolution of these should be determined or approved by the Commission.
5. There is substantial overlap between the criteria to be applied to "Nature of matters that can be resolved" and "Factors to be considered in approving an Executive Director's settlement", and in application they are likely to be largely indistinguishable.	5. Response: The Commission acknowledges that there may be some overlap between these points, but is of the view that any overlap is helpful to clarify the purpose of and intent behind Executive Director's settlements. However, in order to clarify the intention regarding the nature of matters

Summarized Comment	Response
The potential policy implications of a settlement resolution should not be a factor limiting the availability of an Executive Director's settlement. Rather, policy implications should be considered only as a factor in determining whether a specific settlement should be approved by the Executive Director, along with the other factors outlined in the proposed guidelines with respect to the seriousness of the conduct under consideration, the nature of the sanctions that flow from it and the effectiveness of the settlement in achieving the Act's objectives. This approach, if accepted, may result in a limitation on the sanctions available in an Executive Director's settlement that the proposed guidelines would permit. The proposed guidelines would permit an Executive Director's settlement to require a voluntary payment to be made for the benefit of third parties for subsequent allocation by the Commission in its discretion. The Act contemplates, however, that such payments must be made either under a section 127 order that imposes an administrative fine or disgorgement or "to settle enforcement proceedings commenced by the Commission" (Act, s. 3.4). Consideration should be given to whether settlements requiring such payments should have to be approved by a Commission panel. This is not the case with respect to the payment of costs or a payment for the benefit of specific persons who have been harmed by a respondent's conduct. In fact, a respondent's willingness to compensate persons who have been harmed by his or her conduct may be a factor militating against a severe sanction that only the Commission has authority to impose.	that can be resolved, we have amended paragraph (i). This paragraph now provides that the Executive Director should not approve an Executive Director's settlement where, in his or her opinion, "the matter or settlement raises an important or novel policy issue or could be viewed as a significant precedent, which would reasonably be expected to be addressed by the Commission". The Commission does not agree that settlements under the guidelines that provide for a payment to be made for the benefit of unspecified third parties, for subsequent allocation by the Commission, must be approved by a Commission panel. These do not constitute administrative penalties or disgorgement, but rather, as in the case of the other payments contemplated by the guidelines, are voluntary payments by the settling party, which would be approved by the Executive Director. The subsequent allocation of any payments for the benefit of unspecified third parties would be made by the Commission.
6. The limitation on consultation with a commissioner other than the Chair appears arbitrary in view of the substantial identity between the factors that the Executive Director should consider when determining whether to approve an Executive Director's settlement and those that are included, in more general terms, as going to the nature of the matters that can be resolved under the proposed guidelines. As the Chair does not sit as a panel member in adjudicative proceedings, consultation with him may be acceptable. But broader consultation runs the risk of involving members of the Commission in the settlement negotiation process in an informal manner. Even though a commissioner who is consulted will not be entitled to participate in any subsequent adjudicative proceeding relating to the same matter, including approval of the settlement, in view of the fact that the criteria necessarily involve the merits of the matter, it is questionable whether such consultation should be permitted to occur on an ex parte basis.	6. Response: In order to avoid any concern that a consultation could potentially extend beyond the "scope" of the matter, the Commission has removed the provision for consultation with a commissioner other than the Chair.
7. Supportive of the proposal for a joint memorandum of the Director and settling parties to be submitted to the Executive Director. If the memorandum is not jointly prepared, the	7. Response: The Commission acknowledges the commenter's concern and notes that the language of the proposed guidelines appears to be sufficient for the

Summarized Comment	Response
settling party should be given an opportunity to review and comment on the staff memorandum, before it is sent to the Executive Director. While this procedure need not be made mandatory, it should be expressly encouraged in the proposed guidelines.	purposes. In particular, the Executive Director may encourage a joint proposal in appropriate cases.
8. Supportive of the proposal for publication of Executive Director's settlements, but questions why the Executive Director needs to be authorized to issue public statements with respect to settlements. As settlements should not be used as a basis for announcing new policies or policy changes, such statements should be treated with caution, in part because a change in policy is a matter for the Commission. The proposed guidelines should, therefore, discourage such statements by the Executive Director and, if they are to be issued, should confine them to the Executive Director's reasons for approving a settlement on a factual basis.	8. Response: In the Commission's view, it is not necessary for the guidelines to specify how or when the Executive Director may exercise his or her discretion in terms of any statements made in connection with the approval of a settlement.
9. The quarterly written reports from the Executive Director to the Commission should be published in the OSC Bulletin. In addition, the guidelines should state that the Commission will consider such reports with a view to monitoring Executive Director's settlements and practices relating to them, that the reports may be referred to the OSC Enforcement Advisory Committee for comment, and that they may provide a basis for amending the guidelines or adopting further guidelines.	9. Response: All Executive Director's settlements will be published following approval. As such, there is no need to publish the Executive Director's report to the Commission.
10. Supportive of the proposed transparency for Executive Director's settlements but the Executive Director should have the discretion not to publish settlements, in particular since there may be certain factual situations in which there could be a compelling argument made for not publishing the settlement.	10. Response: The Commission acknowledges the comment but notes that transparency is an important aspect of these guidelines. As noted in the response to Comment 9, all Executive Director's settlements will be published following approval.
11. It would be best if the guidelines specifically state that it is permissible for the Executive Director to settle without any admission of wrongdoing.	11. Response: The guidelines do not address this issue, nor do they attempt to limit the Executive Director's discretion relating to the substance of any settlement.

SCHEDULE B

Ontario Securities Commission

Guidelines for the Approval by the Executive Director of Settlements of Enforcement Matters

The purposes of the *Ontario Securities Act* (the "Act") are set out in Section 1.1 of the Act as follows:

(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.

The role of the Executive Director's Settlements in the administration of the Act

To promote public confidence in the administration of the Act, securities regulation generally, and enforcement proceedings in particular, must be conducted in an open and transparent manner. In resolving enforcement matters, the Commission must balance the requirements for a fair, timely and efficient disposition of matters with the need to encourage compliance by sending effective messages of deterrence. For the fair and expeditious administration of the Commission's enforcement authority under the Act, it may be in the public interest to resolve a matter through settlement at an early stage rather than through formal proceedings (after the issue of a notice of hearing) before a Commission panel or in the courts.

The resolution of enforcement matters at an early stage through agreement between Staff and parties alleged to have acted contrary to the Act, can result in more effective and immediate protection of investors and more rapid restoration of confidence in the capital markets than would be achieved through a more protracted formal proceeding. The early resolution of enforcement matters through settlement can also: (i) avoid unnecessary and potentially harmful delays; (ii) avoid circumstances where a detailed but unproven statement of allegations has been publicly issued and remains outstanding for an extended period; (iii) allow for a more flexible approach that achieves the Commission's regulatory objectives; (iv) avoid uncertainty to market participants as to the terms of a possible settlement and as to whether a settlement will be approved; (v) avoid the incurrence of unnecessary costs by market participants and the Commission; and (vi) result in a more efficient use of the Commission's resources.

In certain circumstances it may be appropriate that Staff, with the consent of the Executive Director, exercise its discretion to resolve an enforcement matter prior to the formal commencement of proceedings by entering into a voluntary settlement agreement with a party (an "Executive Director's Settlement"). For this purpose, a proceeding is considered to have been formally commenced either (i) on the issuance of a Statement of Allegations and Notice of Hearing in respect of a proceeding; or (ii) on the consent of the Chair of the Commission to the commencement of a proceeding under Section 122 of the Act in respect of a court proceeding. The settlement of an administrative proceeding that has been formally commenced must be approved by a panel of Commissioners.

Although the Commission recognizes that the decision to enter into an Executive Director's Settlement is an appropriate exercise of Staff's discretion, the Commission, in the exercise of its oversight of the administration of the Act, may from time to time provide general guidance on (i) the nature of matters that may be resolved by an Executive Director's Settlement, and (ii) the factors the Executive Director should consider in approving such a settlement.

Nature of matters that can be resolved

While it is within the discretion of the Executive Director to resolve any matter prior to initiation of a formal Proceeding[1], the Executive Director should not approve an Executive Director's Settlement where, in her or his opinion,

(i) the matter or settlement raises an important or novel policy issue or could be viewed as a significant precedent, which would reasonably be expected to be addressed by the Commission;

(ii) the alleged conduct is egregious; or

(iii) the matter or settlement involves or imposes significant terms or obligations.

The Executive Director may approve a settlement agreement for an Executive Director's Settlement containing a provision for a voluntary payment only where the payment has been or is to be made:

[1] The Commission recognizes that the Executive Director has discretion prior to the commencement of a formal proceeding, to decide such matters as (i) whether particular circumstances will be investigated, (ii) whether an investigation will be closed and on what terms, and (iii) whether a formal proceeding will be commenced. Approval of Executive Director's Settlements is consistent with that discretion.

(i) for the benefit of specific persons or classes of persons identified as having been harmed by any alleged misconduct;

(ii) for the benefit of unspecified third parties for subsequent allocation by the Commission in its discretion; or

(iii) to the Commission to reimburse costs incurred or to be incurred by the Commission.

Factors to be considered in approving an Executive Director's Settlement

In approving any Executive Director's Settlement, the Executive Director may consider such factors as the Executive Director determines are appropriate or relevant in the circumstances. These factors would generally include:

- The party's history of compliance with securities law requirements and any enforcement action taken in respect of the party in the past;
- The manner in which the misconduct arose and/or came to the party's attention, the steps taken by the party in response and, in particular, whether the party would qualify for credit under Ontario Securities Commission Staff Notice 15-702 – *Credit for Cooperation*;
- The nature and seriousness of the misconduct and, in particular, whether the misconduct:
  - (i) would be considered to be a technical breach of the Act, or a more serious violation deserving of the kind of regulatory consequences available only in proceedings either before the Commission or in the courts;
  - (ii) was deliberate or reckless;
- The nature and extent of the harm caused by the misconduct and, in particular, the harm to investors; and
- The appropriateness and effectiveness of the settlement in achieving the regulatory and policy objectives of the Act.

The overriding consideration, in every case, will be the Executive Director's determination that entering into an Executive Director's Settlement is in the public interest.

The Executive Director may consult with, and seek the advice of, the Chair at any time in connection with the Executive Director's consideration of a proposed settlement. The Chair does not sit on any panels in any proceedings, including any proceedings to consider a proposed settlement.

Procedure for approval of a settlement by the Executive Director

The Director of Enforcement, or such other Staff member of the Enforcement Branch as the Director may designate, shall provide to the Executive Director at the time of requesting the Executive Director's approval of a settlement:

(i) a copy of the proposed settlement agreement to be approved;

(ii) a memorandum of the Director (or a joint memorandum of the Director and the settling parties) setting out the reasons why the Director (or the Director and the settling parties together) recommends the approval of the settlement and a statement of the Director that he or she believes the settlement can be entered into in accordance with these Guidelines; and

(iii) any other information the Director (or the Director and the settling parties) believes to be relevant to the Executive Director's determination or that the Executive Director requests.

The Executive Director may, in her or his discretion, adopt such procedures for the consideration and approval of Executive Director's Settlements as she or he deems appropriate consistent with these Guidelines.

Publication of Executive Director's Settlements

Every settlement approved by the Executive Director shall be published in the *OSC Bulletin* and posted on the Commission's website as soon as practicable following its approval.

Concurrently with the publication of an approved settlement, the Executive Director may issue a public statement with respect to the settlement if, in her or his discretion, the Executive Director deems it advisable to do so in the public interest.

Reporting to the Commission

The Executive Director shall on at least a quarterly basis prepare a written report to the Commission describing any Executive Director's Settlements approved in such period.

Guidelines only

These Guidelines reflect the Commission's policy approach to Executive Director's Settlements and are not intended as prescriptive rules or to affect the legal rights or obligations of any person or the legal validity of any settlement agreement.

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Chapter 7

Insider Reporting

This chapter is available in the print version of the OSC Bulletin, as well as as in Carswell's internet service SecuritiesScource (see www.carswell.com).

This chapter contains a weekly summary of insider transactions of Ontario reporting issuers in the System for Electronic Disclosure by Insiders (SEDI). The weekly summary contains insider transactions reported during the seven days ending Sunday at 11:59 pm.

To obtain Insider Reporting information, please visit the SEDI website (www.sedi.ca).

Chapter 8

Notice of Exempt Financings

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
11/12/2008	56	1263343 Alberta Inc. - Receipts	1,459,000.00	1,459,000.00
11/07/2008 to 11/14/2008	7	473 Albert Street Office Limited Partnership - Limited Partnership Units	130,000.00	130,000.00
11/13/2008	1	AAC Capital NEBO Feeder II LP - Limited Partnership Interest	106,788,461.00	69,230,769.00
11/17/2008	1	Academy Ventures Inc. - Common Shares	6,165,000.00	4,500,000.00
11/13/2008	5	Activplant Corporation - Notes	500,000.00	500,000.00
11/06/2008	2	Alinda Infrastructure Parallel Fund II, L.P. - Limited Partnership Interest	118,180,000.00	100,000,000.00
11/17/2008	23	ArcticAx Inc. - Preferred Shares	1,200,000.00	12,500.00
11/12/2008	4	Bayswater Uranium Corporation - Flow-Through Units	750,000.00	7,500,000.00
11/07/2008	90	Beijing Marvel Cleansing Supplies Co., Ltd. - Units	8,692,401.99	9,503,717.00
11/12/2008	5	Big Deal Games Inc. - Preferred Shares	232,860.00	310,480.00
11/04/2008	2	Bitterroot Resources Ltd. - Flow-Through Shares	129,600.00	1,080,000.00
09/30/2008	4	Brandimensions Inc. - Notes	2,000,000.00	4.00
11/13/2008	25	CareVest First Mortgage Investment Corporation - Preferred Shares	2,213,031.00	2,213,031.00
11/13/2008	29	CareVest First Mortgage Investment Corporation - Preferred Shares	2,297,743.00	2,297,743.00
11/20/2008	2	Clear Vistas Community #1 Limited Partnership - Limited Partnership Units	90,000.00	9,000.00
11/06/2008 to 11/13/2008	13	CMC Markets UK plc - Contracts for Differences	62,501.00	13.00
11/14/2008 to 11/21/2008	9	CMC Markets UK plc - Contracts for Differences	50,625.00	9.00
10/30/2008	4	Concretes Associates V Investment Corp. - Limited Partnership Units	230,000.00	230,000.00
09/23/2008	1	Concretes Associates V Investment Corp. - Limited Partnership Units	300,000.00	300,000.00
11/07/2008 to 11/10/2008	26	DeeThree Exploration Ltd. - Common Shares	9,575,000.00	4,787,500.00

Transaction Date	No of Purchasers	Issuer/Security	Total Purchase Price ($)	No of Securities Distributed
11/07/2008 to 11/10/2008	4	DeeThree Exploration Ltd. - Flow-Through Shares	4,500,000.00	1,875,000.00
11/06/2008	10	East Coast Energy Inc. - Common Shares	100,700.00	1,678,333.00
11/13/2008	4	EnerAsia Renewable Corp. - Units	97,500.00	487,500.00
10/01/2008	40	Energy TV Inc. - Debentures	2,348,450.00	2,348.45
10/15/2008	2	Equinav Finance Limited Partnership - Limited Partnership Units	130,000.00	54.00
11/06/2008 to 11/10/2008	3	First Leaside Elite Limited Partnership - Limited Partnership Interest	275,899.41	232,872.00
11/12/2008 to 11/18/2008	4	First Leaside Elite Limited Partnership - Limited Partnership Interest	223,435.05	182,273.00
11/05/2008	1	First Leaside Fund - Trust Units	3,120.48	2,691.00
11/05/2008 to 11/11/2008	3	First Leaside Fund - Trust Units	329,698.00	329,698.00
11/06/2008 to 11/10/2008	4	First Leaside Investors Limited Partnership - Limited Partnership Interest	218,333.00	218,333.00
11/06/2008 to 11/10/2008	3	First Leaside Wealth Management Inc. - Preferred Shares	428,300.00	428,300.00
11/07/2008 to 11/14/2008	2	Fuel Transfer Technologies Inc. - Preferred Shares	20,150.00	6,200.00
11/20/2008	18	Gamecorp. Ltd. - Common Shares	1,000,000.00	4,000,000.00
03/01/2008	14	GPEC Global Inc. - Debt	1,959,500.00	14.00
05/01/2008	4	GPEC Global Inc. - Debt	345,000.00	4.00
11/12/2008 to 11/14/2008	32	IGW Real Estate Investment Trust - Units	821,626.20	750,155.00
11/10/2008	1	Imex Systems Inc. - Common Share Purchase Warrant	15,000.12	12,245.00
11/10/2008	1	Imex Systems Inc. - Common Share Purchase Warrant	15,000.12	12,245.00
11/13/2008	1	Imperial Capital Equity Partners Ltd. - Capital Commitment	1,000,000.00	1,000,000.00
11/10/2008	5	Limited Partnership Land Pool 2007 - Limited Partnership Units	169,560.00	157,000.00
10/31/2008	4	MBK Partners Fund II, L.P. - Limited Partnership Interest	395,362,500.00	325,000,000.00
10/30/2008	1	MGM Mirage - Notes	66,013,637.98	58,000,000.00
11/16/2008	20	Nelson Financial Group Ltd. - Notes	1,924,348.49	20.00
11/12/2008	1	New Solutions Financial (II) Corporation - Debenture	200,000.00	1.00
11/12/2008	2	Oro Silver Resources Ltd. - Common Shares	131,500.00	438,333.00

Transaction Date	No of Purchasers	Issuer/Security	Total Purchase Price ($)	No of Securities Distributed
11/13/2008	10	Redlen Technologies Inc. - Notes	1,749,784.00	1,749,784.00
11/13/2008	3	Reva LP - Preferred Shares	6,000,000.00	6,000,000.00
11/13/2008	51	Ryland Oil Corporation - Flow-Through Shares	14,240,790.00	31,646,200.00
11/04/2008	16	Sonomax Hearing Healthcare Inc. - Common Share Purchase Warrant	645,000.00	5,160,000.00
11/03/2008	284	St. Albert Crossing Limited Partnership - Limited Partnership Units	13,150,000.00	643.00
10/22/2008	1	TenXc Wireless Inc. - Debentures	336,514.98	269,233.52
10/22/2008	3	TenXc Wireless (Delaware) Inc. - Debentures	388,993.69	311,319.85
11/13/2008 to 11/20/2008	8	The RSP 2008 Limited Partnership - Limited Partnership Units	1,650,000.00	66.00
02/19/2008	1	TPG Partners VI, L.P. - Limited Partnership Interest	765,000,000.00	750,000,000.00
09/03/2008	1	TPG Partners VI, L.P. - Limited Partnership Interest	53,000,000.00	50,000,000.00
03/17/2008	4	TPG Partners VI, L.P. - Limited Partnership Interest	410,000,000.00	410,000,000.00
11/07/2008	2	Uracan Resources Ltd. - Flow-Through Units	610,000.00	2,440,000.00
11/12/2008	43	Vacci-Test Corporation - Units	870,750.00	86.00
11/01/2008	1	Vicis Capital Fund (International) - Units	10,340,250.00	8,500.00
11/05/2008	21	Walton AZ Silver Reef 3 Investment Corporation - Common Shares	478,270.00	47,827.00
11/06/2008	26	Walton AZ Silver Reef Investment Corporation - Common Shares	751,400.00	75,140.00
11/05/2008	89	Walton GA Arcade Meadows 1 Investment Corporation - Common Shares	2,058,940.00	205,894.00
11/05/2008	8	Walton GA Arcade Meadows Limited Partnership 1 - Limited Partnership Units	2,329,185.13	193,921.00
11/05/2008	9	Walton Income 1 Investment Corporation - Common Shares	4,500.00	900.00
11/05/2008	9	Walton Income 1 Investment Corporation - Notes	958,000.00	9.00
11/06/2008	17	Walton Ottawa Region Investment Corporation - Common Shares	435,760.00	43,576.00
11/05/2008	2	Wescan Goldfields Inc. - Flow-Through Shares	736,000.00	3,200,000.00
11/05/2008	1	WestView Capital Partners II, L.P. - Limited Partnership Interest	86,970,000.00	86,970,000.00

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Chapter 11

IPOs, New Issues and Secondary Financings

Issuer Name:
AGF Dollar Cost Averaging Fund
Principal Regulator - Ontario
Type and Date:
Preliminary Simplified Prospectus dated November 21, 2008
NP 11-202 Receipt dated November 21, 2008
Offering Price and Description:
Mutual Fund Series and Series D Units
Underwriter(s) or Distributor(s):
-
Promoter(s):
-
Project #1346776

Issuer Name:
Canadian Diversified Resource Investment Listed Liquidity Fund
Principal Regulator - Ontario
Type and Date:
Amended and Restated Preliminary Long Form Prospectus dated November 20, 2008
NP 11-202 Receipt dated November 21, 2008
Offering Price and Description:
$ * - * Units - Price: $10.00 per Unit Each Unit consists of one transferable trust unit (Trust Unit) and one Trust Unit purchase warrant (Warrant)
Minimum Purchase: 100 Units
Underwriter(s) or Distributor(s):
Research Capital Corporation
Canaccord Capital Corporation
Blackmont Capital Inc.
Desjardins Securities Inc.
GMP Securities L.P.
Raymond James Ltd.
Wellington West Capital Markets Inc.
Haywood Securities Inc.
MGI Securities Inc.
Promoter(s):
Folio Asset Management Limited
Project #1346302

Issuer Name:
Canadian Mining Diversified Asset Strategy Fund
Principal Regulator - Ontario
Type and Date:
Amended and Restated Preliminary Long Form Prospectus dated November 25, 2008
NP 11-202 Receipt dated November 25, 2008
Offering Price and Description:
$ * - * Units Each Unit consists of one transferable trust unit (Trust Unit) and one Trust Unit purchase warrant (Warrant) Price - $10.00 per Unit Minimum Purchase - 100 Units
Underwriter(s) or Distributor(s):
Research Capital Corporation
Canaccord Capital Corporation
Blackmont Capital Inc.
Desjardins Securities Inc.
GMP Securities L.P.
Raymond James Ltd.
Wellington West Capital Markets Inc.
Haywood Securities Inc.
MGI Securities Inc.
Promoter(s):
Folio Asset Management Limited
Project #1346263

Issuer Name:
CGF Canadian Heavyweight Equity Class
CGF Canadian Resources Class
CGF Fixed Income Class
CGF Global Heavyweight Equity Class
CGF Income & Equity Class
CGF Income Fund Class
CGF International Heavyweight Equity Class
CGF Money Market Class
CGF US Heavyweight Equity Class
CGF Value Fund Class
Principal Regulator - Alberta
Type and Date:
Preliminary Simplified Prospectuses dated November 18, 2008
NP 11-202 Receipt dated November 19, 2008
Offering Price and Description:
Series MF, Series F and Series O Shares
Underwriter(s) or Distributor(s):
-
Promoter(s):
Canadian Income Fund Group Inc.
Project #1345722

Issuer Name:
Eurogas International Inc.
Principal Regulator - Ontario
Type and Date:
Preliminary Non-Offering Long Form Prospectus dated November 21, 2008
NP 11-202 Receipt dated November 24, 2008
Offering Price and Description:
-
Underwriter(s) or Distributor(s):
-
Promoter(s):
Eurogas Corporation
Project #1346961

Issuer Name:
Minefinders Corporation Ltd.
Principal Regulator - British Columbia
Type and Date:
Preliminary Base Shelf Prospectus dated November 21, 2008
NP 11-202 Receipt dated November 21, 2008
Offering Price and Description:
US$200,000,000.00:
Common Shares
Warrants to Purchase Common Shares
Share Purchase Contracts
Subscription Receipts
Underwriter(s) or Distributor(s):
-
Promoter(s):
-
Project #1346900

Issuer Name:
Pinnacle American Core-Plus Bond Fund
Pinnacle American Large Cap Growth Equity Fund
Pinnacle American Mid Cap Growth Equity Fund
Pinnacle American Mid Cap Value Equity Fund
Pinnacle American Value Equity Fund
Pinnacle Canadian Growth Equity Fund
Pinnacle Canadian Mid Cap Value Equity Fund
Pinnacle Canadian Small Cap Equity Fund
Pinnacle Canadian Value Equity Fund
Pinnacle Global Equity Fund
Pinnacle Global Real Estate Securities Fund
Pinnacle High Yield Income Fund
Pinnacle Income Fund
Pinnacle International Equity Fund
Pinnacle International Small to Mid Cap Value Equity Fund
Pinnacle Short Term Income Fund
Pinnacle Strategic Balanced Fund
Principal Regulator - Ontario
Type and Date:
Preliminary Simplified Prospectuses dated November 19, 2008
NP 11-202 Receipt dated November 20, 2008
Offering Price and Description:
Class F and Class I Units
Underwriter(s) or Distributor(s):
Scotia Capital Inc.
Promoter(s):
Scotia Capital Inc.
Project #1346105

Issuer Name:
Return on Innovation Fund Inc.
Type and Date:
Preliminary Long Form Prospectus dated November 20, 2008
Receipted on November 21, 2008
Offering Price and Description:
Class A Shares, Series IV - Private Placements
Underwriter(s) or Distributor(s):
-
Promoter(s):
ACTRA Toronto Sponsor Inc.
Return on Innovation Management Ltd.
Project #1346428

Issuer Name:
Tectonic Captial Corp.
Principal Regulator - British Columbia
Type and Date:
Preliminary CPC Prospectus dated November 19, 2008
NP 11-202 Receipt dated November 19, 2008
Offering Price and Description:
$200,000.00 - 2,000,000 COMMON SHARES Price: $0.10 per Common Share
Underwriter(s) or Distributor(s):
Canaccord Capital Corporation
Promoter(s):
Shawn Perger
Project #1346047

Issuer Name:
Barclays Bank Plc
Principal Regulator - Ontario
Type and Date:
Final Base Shelf Prospectus dated November 14, 2008
NP 11-202 Receipt dated November 19, 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:
Class A-1 Income
Class B-1 Canadian Equity
Class C-1 U.S. Equity
Class D-1 International Equity
Class E-1 Emerging Markets Equity
Class F-1 Alternative Strategies
of
PIE Portfolio Index Evolution Corporation
(Series A, F and I Shares)
Principal Regulator - Ontario
Type and Date:
Amended and Restated Simplified Prospectuses and Annual Information Forms dated November 13, 2008 (the amended prospectus) amending and restating the Simplified Prospectuses and Annual Information Forms dated November 4, 2008.
NP 11-202 Receipt dated November 24, 2008
Offering Price and Description:
-
Underwriter(s) or Distributor(s):
-
Promoter(s):
R.N. Croft Financial Group Inc.
Project #1318933

Issuer Name:
Doorway Capital Corp.
Principal Regulator - Ontario
Type and Date:
Amendment #1 dated November 14, 2008 to the Prospectus dated August 19, 2008
NP 11-202 Receipt dated November 19, 2008
Offering Price and Description:
$400,000.00 - 2,000,000 Common Shares Price of $0.20 per Common Share
Underwriter(s) or Distributor(s):
Leede Financial Markets Inc.
Promoter(s):
Peter Clausi
Project #1290990

Issuer Name:
First Capital Realty Inc.
Principal Regulator - Ontario
Type and Date:
Amended and Restated Base Shelf Prospectus dated November 14, 2008 to the Base Shelf Prospectus dated June 15, 2007
NP 11-202 Receipt dated November 19, 2008
Offering Price and Description:
$1,300,000,000.00 - Debt Securities
Underwriter(s) or Distributor(s):
-
Promoter(s):
-
Project #1115649

Issuer Name:
Series A, E, F, I, J and O Securities (unless otherwise indicated) of:
*Symmetry Equity Class (also offering E6, E8, J6, J8, P, T6, T8, W and G Securities)
*Symmetry One Growth Portfolio (also offering E6, E8, J6, J8, P, T6, T8 and G Securities)
*Symmetry One Moderate Growth Portfolio (also offering E6, E8, J6, J8, P, T6, T8 and G Securities)
*Symmetry One Balanced Portfolio (also offering E6, E8, J6, J8, P, T6, T8 and G Securities)
*Symmetry One Conservative Portfolio (also offering E6, E8, J6, J8, P, T6, T8 and G Securities)
*Symmetry Fixed Income Class (also offering E6, E8, J6, J8, P, T6, T8 and W Securities)
*(of Mackenzie Financial Capital Corporation)
Symmetry One Registered Growth Portfolio (also offering Series G Securities)
Symmetry One Registered Moderate Growth Portfolio (also offering Series G Securities)
Symmetry One Registered Balanced Portfolio (also offering Series G Securities)
Symmetry One Registered Conservative Portfolio (also offering Series G Securities)
Symmetry Registered Fixed Income Pool (also offering Series W Securities)
Symmetry Allocation Pool (offering Series A Securities only)
**Symmetry Equity Pool (offering Series R Securities only)
**Symmetry Fixed Income Pool (offering Series R Securities only)
**(of Multi-Class Investment Corp.)
Principal Regulator - Ontario
Type and Date:
Final Simplified Prospectus and Annual Information Form (NI 81-101) dated November 19, 2008
NP 11-202 Receipt dated November 21, 2008
Offering Price and Description:
Series A, E, F, I, J, O, E6, E8, J6, J8, P, T6, T8, W, and G Securities @ Net Asset Value
Underwriter(s) or Distributor(s):
-
Promoter(s):
Mackenzie Financial Corporation
Project #1320695

Issuer Name:
The VenGrowth Advanced Life Sciences Fund Inc.
The VenGrowth III Investment Fund Inc.
The Vengrowth Traditional Industries Fund Inc.
Type and Date:
Final Long Form Prospectus dated November 21, 2008
Receipted on November 21, 2008
Offering Price and Description:
Class A Shares, Series A
Class A Shares, Series B
Class A Shares, Series C
Class A Shares, Series F
Underwriter(s) or Distributor(s):
-
Promoter(s):
-
Project #1332209

Issuer Name:
Triangle Petroleum Corporation
Principal Regulator - Alberta
Type and Date:
Final Long Form Prospectus dated November 20, 2008
NP 11-202 Receipt dated November 21, 2008
Offering Price and Description:
-
Underwriter(s) or Distributor(s):
-
Promoter(s):
-
Project #1327435

Issuer Name:
Scotia Global Climate Change Fund
Principal Regulator - Ontario
Type and Date:
Amendment #1 dated November 18, 2008 to the Simplified Prospectus and Annual Information Form dated January 25, 2008
NP 11-202 Receipt dated November 25, 2008
Offering Price and Description:
Advisor Class Units @ Net Asset Value
Underwriter(s) or Distributor(s):
Scotia Securities Inc.
Promoter(s):
The Bank of Nova Scotia
Project #1198025

Issuer Name:
Oilexco Incorporated
Principal Jurisdiction - Alberta
Type and Date:
Preliminary Prospectus Short Form Prospectus dated November 13, 2008
Amended and Restated Preliminary Short Form Prospectus dated November 19, 2008
Withdrawn on November 20, 2008
Offering Price and Description:
-
Underwriter(s) or Distributor(s):
Canaccord Capital Corporation
FirstEnergy Capital Corp.
Promoter(s):
-
Project #1342902

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Chapter 12

Registrations

12.1.1 Registrants

Type	Company	Category of Registration	Effective Date
Amalgamation	Companies: Scotia Capital Inc./Scotia Capitaux Inc. and Tradefreedom Securities Inc./Valeurs Mobilieres Tradefreedom Inc. To form: Scotia Capital Inc./Scotia Capitaux Inc.	Investment Dealer and Futures Commission Merchant.	November 1, 2008
New Registration	Stable Capital Advisors Inc.	Limited Market Dealer	November 19, 2008
Change of Category	Ariel Investments, LLC	From: Non-Canadian Adviser (Investment Counsel & Portfolio Manager) To: International Adviser (Investment Counsel & Portfolio Manager)	November 24, 2008
New Registration	BBG Equity Management Corporation	Limited Market Dealer	November 24, 2008
New Registration	Artisan Partners Limited Partnership	International Adviser (Investment Counsel & Portfolio Manager)	November 24, 2008

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Chapter 13

SRO Notices and Disciplinary Proceedings

13.1.1 MFDA Announces Change in the Previously Scheduled Date of the First Appearance in the Matter of ASL Direct Inc. and Adrian Samuel Leemhuis

NEWS RELEASE
For immediate release

MFDA ANNOUNCES CHANGE IN THE PREVIOUSLY SCHEDULED DATE OF THE FIRST APPEARANCE IN THE MATTER OF ASL DIRECT INC. AND ADRIAN SAMUEL LEEMHUIS

November 19, 2008 (Toronto, Ontario) – The Mutual Fund Dealers Association of Canada ("MFDA") today announced a change in the scheduled date for the first appearance in the above matter. The First Appearance that was initially scheduled for Monday, November 24, 2008 at 10:00 a.m. (Eastern) will now be taking place on **Thursday, December 4, 2008 at 10:00 a.m. (Eastern)** or as soon thereafter as can be held.

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.

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 154 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 Sets Next Appearance Date for the Hearing Regarding Colin Corner, Heather Darlene Halladay, John Joseph Hanson, Richard Gerald Moore and James Edward Rainbird

NEWS RELEASE
For immediate release

MFDA SETS NEXT APPEARANCE DATE
FOR THE HEARING REGARDING
COLIN CORNER, HEATHER DARLENE HALLADAY,
JOHN JOSEPH HANSON, RICHARD GERALD MOORE
AND JAMES EDWARD RAINBIRD

November 20, 2008 (Toronto, Ontario) – The Mutual Fund Dealers Association of Canada ("MFDA") commenced a disciplinary proceeding in respect of Colin Corner, Heather Darlene Halladay, John Joseph Hanson, Richard Gerald Moore and James Edward Rainbird (the "Respondents") by Notice of Hearing dated October 21, 2008.

As specified in the Notice of Hearing, the first appearance in this proceeding took place today before a three-member Hearing Panel of the MFDA Central Regional Council.

Following submissions by the parties respecting scheduling and procedural matters, the Hearing Panel directed that the next appearance in this proceeding will take place by teleconference on Friday, May 15, 2009 at 10:00 a.m. (Eastern) in the Hearing Room located at the offices of the MFDA at 121 King Street West, Suite 1000, Toronto, Ontario, or as soon thereafter as the hearing can be held.

The Hearing Panel also set aside June 22 - June 26, 2009 for the hearing of the proceeding on it merits. These appearances will also take place in the Hearing Room located at the Toronto offices of the MFDA and will commence at 10:00 a.m. (Eastern) or as soon thereafter as the appearances can be held.

A copy of the Notice of Hearing is available on the MFDA website at www.mfda.ca.

The MFDA is the self-regulatory organization for Canadian mutual fund dealers. The MFDA regulates the operations, standards of practice and business conduct of its 154 Members and their approximately 75,000 Approved Persons with a mandate to protect investors and the public interest.

For further information, please contact:
Yvette MacDougall
Hearings Coordinator
(416) 943-4606 or ymacdougall@mfda.ca

13.1.3 MFDA Issues Notice of Settlement Hearing Regarding Peter Bruno Lamarche

NEWS RELEASE
For immediate release

MFDA ISSUES NOTICE OF SETTLEMENT HEARING
REGARDING PETER BRUNO LAMARCHE

November 20, 2008 (Toronto, Ontario) – The Mutual Fund Dealers Association of Canada ("MFDA") today announced that it has issued a Notice of Settlement Hearing regarding the presentation, review and consideration of a proposed settlement agreement by the Central Regional Council.

The settlement agreement will be between staff of the MFDA and Peter Lamarche and involves matters for which the Respondent may be disciplined by the Regional Council, pursuant to MFDA By-laws.

The subject matter of the proposed settlement agreement concerns allegations that the Respondent permitted sales of certain securities to be processed through the facilities of an insurance brokerage by an individual who was not registered to advise on or trade in securities and by an Approved Person of another Member of the MFDA.

The settlement hearing is scheduled to commence at 10:00 a.m. (Eastern) on Tuesday, December 16, 2008 in the Hearing Room located at 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 Settlement 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 154 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 TSX Notice of Approval – Housekeeping Amendments to the TSX Company Manual

TORONTO STOCK EXCHANGE

NOTICE OF APPROVAL

HOUSEKEEPING AMENDMENTS TO THE TORONTO STOCK EXCHANGE COMPANY MANUAL

Introduction

In accordance with the Protocol for Commission Oversight of Toronto Stock Exchange Rule Proposals between the Ontario Securities Commission (the "OSC") and Toronto Stock Exchange ("TSX"), TSX has adopted and the OSC has approved, various amendments (the "Amendments") to the TSX Company Manual (the "Manual"). The Amendments are housekeeping in nature and therefore, are considered non-public interest amendments.

Reasons for the Amendments

A change is being made to Appendix H to introduce Form 11A – Request for Price Protection. New Form 11A is being introduced to formalize and streamline the process for requesting price protection, in order to make the existing process more transparent and readily accessible to all listed issuers. Consequential housekeeping amendments are being made in Part I and Part VI to introduce the use of the form into the Manual.

Changes are also being made to the French form of Appendix H: Form 12 - Notice of Intention to Make a Normal Course Issuer Bid to correct a translation error.

Summary of the Amendments

The non-public interest changes represent a number of housekeeping amendments, including:

1. The introduction of Form 11A-Request for Price Protection. TSX currently permits listed issuers to request price protection while negotiating the principal terms of a private placement. TSX will generally grant price protection based on the five-day volume weighted average trading price of the securities prior to receiving such request. Price protection allows issuers to have greater certainty that the price at which they will issue securities will be consistent with TSX rules and policies. Currently, TSX staff advises issuers of the information required in order for TSX to grant price protection (size of the private placement, participation level of insiders, etc.). This form will instead outline the required information and formalize and streamline the existing practice. Please see Form 11A at Appendix "A".

2. Consequential housekeeping amendments are required to introduce Form 11A. Please see the amendments to Section 607(e) and to the definition of "market price" at Appendix "B".

3. Amendments to the French version of Form 12 Notice of Intention to Make a Normal Course Issuer Bid are being made to correct a translation error. The amended form is available at www.tsx.com.

Text of Amendments

The Amendments are attached as **Appendix A and B**.

Effective Date

The Amendments become effective on **December 1, 2008**.

APPENDIX A

NON-PUBLIC INTEREST AMENDMENTS TO THE TSX COMPANY MANUAL

TORONTO STOCK EXCHANGE COMPANY MANUAL

Form 11A – Price Protection Form

Issuer Name: _____

Date: _____ Stock Symbol: _____

1. Indicate the market price of the issuer's securities (5-day VWAP) as of the date hereof.

2. Will the issuer's securities be issued or made issuable to insiders pursuant to the private placement? If so, indicate the maximum number of securities issued or made issuable to insiders or the maximum amount that insiders will subscribe for in dollar terms (in absolute terms or as a percentage of the private placement). Failure to provide details regarding insider participation in a private placement may result in the withdrawal of price protection granted by TSX for any insiders participating in the relevant private placement.

3. As of the day hereof, is there material undisclosed information regarding the issuer? If so, indicate the nature of the information and the anticipated date on which such information is expected to be disclosed to the public. TSX may refuse to grant price protection based on a market price which does not reflect material undisclosed information.

4. If known, indicate the price at which the securities are proposed to be issued or made issuable. In the case of warrants or other convertible securities, indicate the proposed exercise or conversion price.

5. If known, provide details as to the anticipated size and structure of the private placement.

APPENDIX B

PART I – INTERPRETATION

"**market price**" means the VWAP on TSX, or another stock exchange where the majority of the trading volume and value of the listed securities occurs, for the five trading days immediately preceding the relevant date. In certain exceptional circumstances, the five day VWAP may not accurately reflect the securities' current market price, and TSX may adjust the VWAP based on relevant factors including liquidity, trading activity immediately before, during or immediately after the relevant period or any material events, changes or announcements occurring immediately before, during or immediately after the relevant period. Market price is as at the date: (a) provided for in the binding agreement obligating the issuer to issue the securities (either the date of the binding agreement or some future date); or (b) the date the Section 607(e) Form 11A notice is received by TSX, requesting price protection. TSX will accept a signed term sheet, engagement letter, letter of intent, agency agreement, underwriting agreement or other similar agreement as the binding agreement. If the listed securities are suspended from trading or have not traded on TSX or another stock exchange for an extended period of time, the market price will be the fair market value of the listed securities as determined by the listed issuer's board of directors;

PART VI – SECTION 607

(e) The price per listed security for any private placement must not be lower than the market price less the applicable discount as follows:

Market Price	*Maximum Discount*
$0.50 or less	25%
$0.51 to $2.00	20%
Above $2.00	15%

TSX will allow the price per listed security for a particular transaction to be less than as provided for in this Subsection 607(e) provided that the listed issuer has received security holder approval (other than by security holders participating directly or indirectly in the transaction and such security holders' associates and affiliates).

Anti-dilution provisions providing adjustments for events for which not all security holders are compensated and which may result in securities being issued at a price lower than market price less the applicable discount will be permitted, provided they have been approved by security holders (excluding the votes attached to the securities held by insiders benefiting from these anti-dilution provisions).

TSX will discount the price per security by the amount of any fees or other amounts payable by the listed issuer to the subscriber, or its associates and affiliates, if the listed issuer cannot demonstrate that such amounts are commercially reasonable in the circumstances.

Listed Issuers may request price protection in advance of filing Form 11 – Notice of Private Placement by submitting Form 11A – Request for Price Protection.

13.1.5 MFDA – Summary of Public Comments and Responses Respecting Proposed Amendments to MFDA Recognition Order and MFDA By-law No. 1

MUTUAL FUND DEALERS ASSOCIATION OF CANADA

Summary of Public Comments Respecting Proposed Amendments to MFDA Recognition Order and MFDA by-law No.1 (Definition of "Public Director")

On May 23, 2008, the British Columbia Securities Commission published proposed amendments to the MFDA's Recognition Orders in British Columbia, Alberta, Saskatchewan, Manitoba, Ontario, New Brunswick and Nova Scotia and to the definition of "Public Director" in MFDA By-law No. 1. (the "**Proposed Amendments**") for a 30-day public comment period.

The public comment period expired on June 23, 2008.

Two submissions were received during the public comment period from:

1. Portfolio Strategies Corporation
2. Kenmar Associates

Copies of comment submissions may be viewed at the offices of the MFDA, 121 King Street West, Suite 1000, Toronto, Ontario by contacting Ken Woodard, Director, Communications and Membership Services Manager, (416) 943-4602.

The following is a summary of the comments received, together with the MFDA's responses.

Amendment of Recognition Orders

Kenmar noted that there was no benefit to investor protection in removing the definition of "Public Director" from the MFDA's Recognition Orders on the basis that it duplicates the MFDA's By-laws which can be changed without prior approval from securities commissions.

MFDA Response

The MFDA is not able to change its By-laws without the prior approval of the relevant members of the Canadian Securities Administrators.

Broadening Definition of "Public Director"

Kenmar questioned whether the amendments to the definition of Public Director designed to permit individuals currently ineligible to act as Public Directors to qualify would enhance investor protection or degrade it. It questioned whether as an example it would be wise to have a registered lobbyist or organization as a Public (or Industry) Director.

MFDA Response

The purpose of the proposed amendments to the definition of MFDA Public Director is, among other things, to permit a broader range of persons to be considered as Public Directors . This provides the MFDA governance process with a wider choice of potential candidates. At the same time, however, the MFDA governance and nominating procedures are robust and judgment can be brought to decisions on whether any particular individual is appropriate or not to serve as a Public Director. With respect to the particular example of a registered lobbyist qualifying as a Public Director, if the candidate lobbied on behalf of the mutual fund industry and derived a material part of his or her income from such activities, it is doubtful that the candidate would be appropriate as a Public Director. On the other hand, a person who was registered as a lobbyist in respect of an entirely unrelated industry may or may not be appropriate according to his or her circumstances.

Aggregate Term of Office Extended to Eight Years

Kenmar observed that Boards get stale and that six years is about the maximum period for a director as long as there is a plan for rotation.

MFDA Response

The MFDA believes that a maximum term of eight years for Industry and Public Directors is appropriate. In the case of Public Directors, in particular, eligible persons with appropriate experience are not always readily available and ensuring that they will be available to serve the industry for a period of eight years is not viewed as being unreasonable.

Experience in Selecting Directors

Kenmar notes that no rationale was provided for the experience of MFDA's Governance Committee being that the current definition of Public Director may be too rigid and inappropriate.

MFDA Response

It is not possible to discuss in a public forum particular candidates but, as an example, the MFDA has in the past identified potential candidates who were entirely appropriate and could act without any real or perceived conflict of interest but who were disqualified as a result of being technically a crown employee or having a remote family relationship with other ineligible persons.

Representative Public Directors

Kenmar observed that representative seniors groups, retired regulator commission personnel, retail investors and investor advocates ought to be considered for MFDA Public Directors.

MFDA Response

The MFDA believes that representatives of any such groups, as well as any other groups, ought to be eligible as Public Directors. In fact, such representatives are, unless otherwise disqualified, eligible and a number of former securities commissioners are MFDA Public Directors.

Chair of the Board to be a Public Director

Kenmar stated that it should be mandatory that the Chair of the MFDA Board be a Public Director.

MFDA Response

The MFDA is a self-regulatory organization which conducts its activities in the public interest. As a self-regulatory organization, members of the mutual fund dealer industry must be represented on the Board as well as Public Directors. In fact, to date the Chair of the MFDA Board has been a Public Director.

Definition of Public Director and Roles and Responsibilities

Kenmar indicates that the roles and responsibilities of Public Directors in the different committees and their composition should be clearly defined.

MFDA Response

The governance structure of the MFDA is reflected in its By-laws as well as the various committee mandates, procedures and directors' handbooks and manuals which together are a complete statement of Board member and committee roles and responsibilities as measured against comparable governance benchmarks. Such materials are under ongoing review by the appropriate committees to ensure they are current and responsive to the requirements of the MFDA, its Members and the public.

Nomination Versus Recommendation of Directors

Portfolio Strategies commented on the proposed amendment to the MFDA By-law to clarify that members have the opportunity to recommend rather than nominate individuals for election to the MFDA Board of Directors. In support of their position that the change is of concern to many members, Portfolio Strategies attached its paper previously circulated to the CSA relating to the MFDA Board selection process.

MFDA Response

The proposed change of wording in the MFDA By-law reflects the result of the debate previously engaged in by Portfolio Strategies, other Members, the MFDA and members of the CSA relating to the MFDA Board selection process and the issues raised in the position paper of Portfolio Strategies. At that time the procedures of the MFDA were confirmed and the result – for

the reasons summarized below - was that the MFDA nomination process, i.e. the act of putting a candidate before the annual meeting of Members for election as a director was confirmed. It was widely regarded (including support by Members in approving the By-laws and the lack of objection by all but a few Members in responding to a Members' survey) that this approach was the most reliable one for ensuring that a Board representative of the wide diversity of MFDA Members as well as the public would be elected. However, it is part of the process that Members should have the opportunity to recommend to the Governance Committee appropriate candidates although they would not be able to make nominations directly to the membership at the annual meetings. The latter approach, it was widely felt, would be simply unworkable in view of the many constituencies that should be represented and the size of the MFDA Board.

The basic governance structure for constituting the MFDA Board reflects the objectives and principles of the Corporate Governance Committee Report of February 2003. That Report was the result of the requirements of the Recognition Orders of various CSA members to the effect that MFDA's governance structure should properly and fairly represent the diversity of its Members. The Report was commented on by CSA staff and the MFDA By-laws implementing the principles of the Report were all approved by the MFDA Board, its Members, the CSA members and Industry Canada. Notwithstanding the foregoing and as indicated above, the basis on which the MFDA Board of Directors was to be constituted was the subject of considerable discussion and review following the Annual General Meeting of Members held in December 2003. In summary, at that time the MFDA took the following steps

- Review and Assessment – the process for constituting the MFDA Board was reviewed and assessed including a careful analysis of the criticisms and comments raised as well as the views expressed by staff of the CSA

- Alternatives – several possible alternatives and/or amended processes for the MFDA were identified and reviewed

- Legal Status – the legal status and compliance of the existing and proposed process as well as the By-laws of the MFDA were reviewed and confirmed

- Member Views – a detailed notice by the MFDA containing a survey was sent to all of its Members explaining the background of the issues under review and soliciting comments

- Responses to Survey – the response to the notice and survey referred to above was very limited and, apart from a few specific continuing criticisms of the process, MFDA Members did not express concern with respect to the adopted processes.

The conclusion of the foregoing review was that there was no reliable basis on which the diversity of MFDA Members could be fairly represented upon the MFDA Board without the nominating process of the kind provided for. A 13 person board is a relatively small group in which the diversity of members in terms of region, industry or public, small and independent, large institutional interests etc. can be represented. Although a nominating process was generally agreed to be necessary to effect the desired result, the process did not preclude wide solicitation of Members and interested parties for recommendations as to nominees and the MFDA has solicited Member participation in that regard. The MFDA has also recognized the importance of continuing and complete communication to its Members so that they have confidence in the Board of Directors that serves the MFDA and its Members.

Approved Amendments to MFDA By-law No. 1 – Definition of "Public Director", blacklined to version published on May 23, 2008 at (2008) 31 OSCB 5348

MUTUAL FUND DEALERS ASSOCIATION OF CANADA

AMENDMENTS TO SECTION 1 (DEFINITIONS) AND SECTION 3 (DIRECTORS)

The Board of Directors of the Mutual Fund Dealers Association of Canada has made the following amendments:

By-law No. 1 of the Corporation is hereby amended as follows:

1. AMENDMENTS TO SECTION 1 OF MFDA BY-LAW NO. 1

1.1 Amend the definition of "associate" as follows (changes are marked):

1. **DEFINITIONS**

"~~a~~**A**ssociate", where used to indicate a relationship with any person, means:

(a) any corporation of which such person beneficially owns, directly or indirectly, voting securities carrying more than 10 per cent of the voting rights attached to all voting securities of the corporation for the time being outstanding;

(b) a partner of that person ~~acting on behalf of the partnership of which they are partners~~;

(c) any trust or estate in which such person has a substantial beneficial interest or as to which such person serves as trustee or in a similar capacity;

(d) any relative of such person **who resides in the same home as that person** ~~including his/her spouse, or his/her spouse who has the same home as such person~~;

(e) any person who resides in the same home as the person and to whom that person is married, or with whom that person is living in a conjugal relationship outside of marriage; or

(f) any relative of a person mentioned in clause (e) above who has the same home as such person;

~~but where the Board of Directors orders that two persons shall, or shall not, be deemed to be associates, then such order shall be determinative of their relationships in the application of By-laws, Rules and Forms, with respect to that Member;~~

1.2 Amend the definition of "Public Director" as follows (changes are marked):

"Public Director" means a ~~d~~**D**irector **who is not**:

(a) an officer (other than the Chair or a Vice-Chair) or an employee of the Corporation;

(b) a current partner, director, officer, employee or person acting in a similar capacity of, or the holder of a Significant Interest in:

(i) a Member;

(ii) an Associate of a Member; or

(iii) an affiliate of a Member; or

(c) an Associate of a partner, director, officer, employee or person acting in a similar capacity of, or the holder of a Significant Interest in, a Member.

For all purposes of this By-law, a Public Director as at the date this definition of Public Director became effective and who does not qualify as a Public Director under such definition shall be deemed to qualify as a Public Director and to continue so qualified as long as and until he or she ceases to be qualified as a Public Director according to the definition of that term in force immediately before the date this definition becomes effective.

"Significant Interest" means in respect of any person the holding, directly or indirectly, of the securities of such person carrying in aggregate 10% or more of the voting rights attached to all of the person's outstanding voting securities.

~~(a) who is not a current director (other than a Public Director), officer or employee of, or of an associate or affiliate of:~~

~~(i) the MFDA;~~

~~(ii) any protection or contingency fund in which Members (at the time the director holds the relevant office) are required to participate; or~~

~~(iii) the Investment Funds Institute of Canada or the Investment Dealers Association of Canada;~~

~~(b) who is not a current director, partner, significant shareholder, officer, employee or agent of a Member, or of an associate or affiliate of a Member, of:~~

~~(i) the MFDA;~~

~~(ii) any protection or contingency fund in which Members (at the time the director holds the relevant office) are required to participate; or~~

~~(iii) the Investment Funds Institute of Canada or the Investment Dealers Association of Canada;~~

~~(c) who is not a current employee of a federal, provincial or territorial government or a current employee of an agency of the Crown in respect of such government;~~

~~(d) who is not a current member of the federal House of Commons or member of a provincial or territorial legislative assembly;~~

~~(e) who has not, in the two years prior to election as a Public Director, held a position described in (a)-(d) above;~~

~~(f) who is not:~~

~~(i) an individual who provides goods or services to and receives direct significant compensation from, or~~

~~(ii) an individual who is a director, partner, significant shareholder, officer or employee of an entity that receives significant revenue from services the entity provides to, if such individual's compensation from that entity is significantly affected by the services such individual provides to,~~

~~the MFDA or any protection or contingency fund in which Members are required to participate, or a Member of the MFDA; and~~

~~(g) who is not a member of the immediate family of the persons listed in (a)-(f) above.~~

~~For the purposes of this definition:~~

~~(i) "significant compensation" and "significant revenue" means compensation or revenue the loss of which would have, or appear to have, a material impact on the individual or entity;~~

~~(ii) "significant shareholder" means an individual who has an ownership interest in the voting securities of an entity, or who is a director, partner, officer, employee or agent of an entity that has an ownership interest in the voting securities of another entity, which voting securities in either case carry more than 10% of the voting rights attached to all voting securities for the time being outstanding.~~

2. AMENDMENTS TO SECTION 3 OF MFDA BY-LAW NO. 1

2.1 Amend Section 3 of the By-law as follows (changes are marked):

3. **DIRECTORS**

3.1 **Duties and Number**

The affairs of the Corporation shall be managed by a Board of Directors. The number of persons comprising the Board of Directors shall be 13.

3.2 **Composition of the Board of Directors**

The Board of Directors shall be composed of 6 Public Directors, 6 Industry Directors and the President and Chief Executive Officer. The members of the Board of Directors (other than the President and Chief Executive Officer) shall collectively and over time be nominated and elected on the basis that there will be timely and appropriate regional representation on the Board of Directors of Members of the Corporation across Canada, provided that at any time (subject to the occurrence of vacancies) not less than 4 of the directors shall represent regions other than the Provinces of Ontario and Quebec. In addition, at any time (subject to the occurrence of vacancies) five of the Industry Directors shall be officers or employees of a Member of the Corporation or of an affiliate or ~~associated~~ corporation **which is an Associate** of a Member. No Member, affiliate or ~~associated~~ corporation **which is an Associate** of a Member shall have more than 1 director, officer, employee or other representative on the Board of Directors and, if such event should occur, the Board of Directors in its discretion may request the resignation of or remove as a director, any director or directors in order that the requirements of this section are satisfied. Each director shall be at least 18 years of age.

3.3 **Election and Term**

~~3.3.1 *Initial Election*~~

~~At the Annual Meeting of the Corporation when this Section 3 of By-law No. 1 is sanctioned and becomes effective, 12 directors shall be elected from persons nominated and recommended to the Board of Directors by an ad hoc nominating committee established by the Board of Directors according to the requirements of Section 3.6.1 as if that Section were in force and a Governance Committee had been established in accordance with its provisions. Of the 6 Public Directors to be so elected, the terms of 3 Public Directors to be designated by the Board of Directors shall each expire at the second and third successive Annual Meetings. Of the 6 Industry Directors to be so elected, the terms of 3 such Industry Directors to be designated by the Board of Directors shall each expire at the first and second successive Annual Meetings on the election of their successors.~~

3.3.~~2~~**1** *Public Directors*

At each Annual Meeting, ~~commencing in the year 2005~~ 3 Public Directors shall be elected to fill the vacancies created by the expiry of the terms of office of the 3 Public Directors whose terms have expired at such meeting. The term for each Public Director to be elected at an Annual Meeting shall expire at the ~~third~~ **second** Annual Meeting next following such election on the election of his or her successors, unless expired earlier in accordance with this By-law. The Board of Directors shall be authorized to fix the term of any Public Director to be elected for a period of less than ~~3~~ **2** years in order to maintain the intended staggered terms of all Public Directors, but no such term shall be shortened if the Public Director has commenced his or her term of office. A Public Director shall be eligible to serve for only ~~2~~ **4** successive terms of ~~3~~ **2** years which shall include any shorter term as may have been fixed by the Board of Directors in accordance with this By-law, but shall exclude any portion of a term of office in respect of a vacancy filled pursuant to Section 3.5. Each Public Director to be elected at an Annual Meeting shall have been recommended by the Governance Committee to the Board of Directors for nomination for election by the Members according to the requirements of the By-laws and the terms of reference of the Governance Committee adopted by the Board of Directors. Any Member shall be entitled to submit to the Governance Committee ~~nominations~~ **recommendations** for Public Directors provided that such ~~nominations~~ **recommendations** shall have been received by the Corporation not less than 60 days prior to the relevant Annual Meeting.

3.3.~~3~~**2** *Industry Directors*

At each Annual Meeting, ~~commencing in the year 2004~~ 3 Industry Directors shall be elected to fill the vacancies created by the expiry of the terms of office of the 3 Industry Directors whose terms have expired at such meeting. The term for each Industry Director to be elected at an Annual Meeting shall expire at the second Annual Meeting next following such election on the election of his or her successors, unless expired earlier in accordance with this By-law. The Board of Directors shall be authorized to fix the term of any Industry Director to be elected for a period of less than 2 years in order to maintain the intended staggered terms of all Industry Directors, but no such term shall be shortened if the Industry Director has commenced his or her term of office. An Industry Director shall be eligible to serve only ~~3~~**4** successive terms of 2 years which shall include any shorter term as may have been fixed by the Board of Directors in accordance with this By-law, but shall exclude any portion of a term of office in respect of a vacancy filled pursuant to Section 3.5. Each Industry Director to be elected at an Annual Meeting shall have been recommended by the Governance Committee to the Board of Directors for nomination for election by the Members according to the requirements of the By-laws and the terms of reference of the Governance Committee adopted by the Board of

Directors. Any Member shall be entitled to submit to the Governance Committee ~~nominations~~ **recommendations** for Industry Directors provided that such ~~nominations~~ **recommendations** shall have been received by the Corporation not less than 60 days prior to the relevant Annual Meeting.

3.3.3 ***Transition***

At the Annual Meeting in 2008 when this Section 3.3.3 is sanctioned and becomes effective,

(i) Public Directors whose terms expire at such time (having then served 2 consecutive 2 or 3 year terms) shall be eligible to be nominated and elected for 1 further 2 year term;

(ii) Public Directors whose terms do not expire at such time (having served less than 2 consecutive 2 or 3 year terms) shall remain eligible to be nominated and elected as Public Directors at subsequent Annual Meetings for further consecutive 2 year terms provided that no such Public Director shall be eligible to serve in aggregate for more than 8 consecutive years as a Public Director;

(iii) Industry Directors whose terms expire at such time (having then served 3 consecutive 2 year terms) shall be eligible to be nominated and elected for 1 further 2 year term; and

(iv) Industry Directors whose terms do not expire at such time (having served less than 3 consecutive 2 year terms) shall remain eligible to be nominated and elected as Industry Directors at subsequent Annual Meetings for further consecutive 2 year terms provided that no such Industry Director shall be eligible to serve in aggregate for more than 8 consecutive years as an Industry Director.

3.4 **Vacancies**

The office of a director shall be automatically vacated:

3.4.1 if the director by notice in writing to the Corporation resigns his or her office, which resignation shall be effective at the time it is received by the Secretary of the Corporation or at the time specified in the notice, whichever is later;

3.4.2 if the director is found to be a mentally incompetent person or becomes of unsound mind;

3.4.3 if the director dies;

3.4.4 if the director becomes bankrupt or suspends payment of debts generally or makes an arrangement with creditors or makes an assignment or is declared insolvent;

3.4.5 in the case of a Public Director, if the director ceases to be qualified as a Public Director;

3.4.6 if the director is requested to resign pursuant to Section 3.2 and does not do so in a reasonable time;

3.4.7 if the Public or Industry Director is removed by a resolution passed by either three-quarters of the votes cast at a meeting of the Board of Directors or two-thirds of the votes cast at a meeting of Members;

3.4.8 in the case of the President and Chief Executive Officer, the director ceases to hold such office.

3.5 **Filling Vacancies**

If a vacancy in the Board of Directors shall occur for any reason, the vacancy shall be filled by a resolution electing or appointing a director passed by either a majority of the votes cast at a meeting of the Members or the Board of Directors, provided that in either case the director has been identified and recommended by the Governance Committee to the Board of Directors for nomination for election and the nominee is otherwise qualified as a director. In recommending any such nominee as a director, the Governance Committee shall ensure the requirements for the composition of the Board of Directors set out in Section 3.3.2 are satisfied and that the nomination process followed by the Governance Committee shall be in accordance with the requirements for nominees to be recommended to the Board of Directors for the election of directors at Annual Meetings except that no notice of the vacancy or request for nominations need be given to Members.

3.6 **Committees**

3.6.1 *Governance Committee*

The Board of Directors shall establish a Governance Committee composed of 2 Public Directors and 2 Industry Directors. The 2 Industry Director members of the Governance Committee shall be officers or employees of a Member of the Corporation or of an affiliate or ~~associated~~ corporation **which is an Associate** of a Member. The Chair of the Governance Committee shall be 1 of the 2 Public Directors as selected by the Board of Directors. The Governance Committee shall be responsible for identifying and recommending to the Board of Directors Public and Industry Directors for election to the Board of Directors in accordance with the By-laws and the terms of reference adopted for the Governance Committee by the Board of Directors. In addition, the Governance Committee shall perform such other duties as the Board of Directors may delegate or direct from time to time. 1 Public Director and 1 Industry Director shall constitute a quorum of the Governance Committee.

3.6.2 *Audit Committee*

The Board of Directors shall establish an Audit Committee composed of 2 Public Directors and 1 Industry Director. The Chair of the Audit Committee shall be 1 of the 2 Public Directors as selected by the Board of Directors. The Audit Committee shall review and report to the Board of Directors on the annual financial statements of the Corporation and shall perform such other duties as the Board of Directors may delegate or direct from time to time. 1 Public Director and 1 Industry Director shall constitute a quorum of the Audit Committee.

3.6.3 *Executive Committee*

The Board of Directors may in its discretion establish an executive committee (which may be otherwise named) composed of an equal number of Public Directors and Industry Directors. The Chair of the Executive Committee, if any, may be either a Public Director or Industry Director and shall be selected by the Board of Directors. The Executive Committee shall exercise such powers and such duties as are delegated or directed by the Board of Directors including, without limitation, the authority to exercise any of the powers of the Board of Directors. 1 Public Director and 1 Industry Director shall constitute a quorum of the Executive Committee.

3.6.4 *Other Board Committees*

The Board of Directors may from time to time in its discretion appoint any other committee or committees as it considers necessary or appropriate for such purposes and with such powers as the Board of Directors may determine including, without limitation, the authority to exercise any of the powers of the Board of Directors and to act in all matters for and in the name of the Board of Directors under the By-laws. Subject to any provisions of the By-laws otherwise, any such committee may be composed of Public Directors or Industry Directors, or both. A majority of the members of a committee established under this Section 3.6.4 shall constitute a quorum, provided that if the committee is composed of 1 or more Public Directors, a quorum shall include 1 Public Director.

3.6.5 *Committee Membership and Procedures*

Members of any committee of the Board of Directors including, without limitation, the Governance Committee, Audit Committee, Executive Committee (if any) or any other committee established pursuant to Section 3.6.4 and shall be appointed and subject to removal by the Board. The Board of Directors may prescribe rules and procedures not inconsistent with the Act and the By-laws relating to the calling of meetings of, and conduct of business by, committees of the Board. Subject to the By-laws and any resolution of the Board of Directors, meetings of any such committee shall be held at any time and place to be determined by the Chair of the committee or its members provided that 48 hours' prior written notice of such meetings shall be given, other than by mail, to each member of the committee. Notice by mail shall be sent at least 14 days prior to the meeting. No error or accidental omission in giving notice of any meeting of a committee shall invalidate such meeting or make void any proceedings taken at such meeting.

3.7 **Remuneration of Directors**

The Board of Directors may determine from time to time such reasonable remuneration, if any, to be paid to the directors of the Corporation for serving as such and the Board may determine that such remuneration need not be the same for all directors including, without limitation, as between Public and Industry Directors. Public and Industry Directors may be reimbursed for reasonable expenses incurred by the director in the performance of the director's duties. Subject to Sections 6 and 7.1, nothing herein contained shall be construed to preclude any director from serving the Corporation as an officer or in any other capacity and receiving compensation therefor.

13.1.6 MFDA Hearing Panel issues Reasons for Decision respecting Dylan Brown

NEWS RELEASE
For immediate release

MFDA HEARING PANEL ISSUES REASONS
FOR DECISION RESPECTING DYLAN BROWN

November 25, 2008 (Toronto, Ontario) – A Hearing Panel of the Central Regional Council of the Mutual Fund Dealers Association of Canada ("MFDA") has issued its Reasons for Decision in connection with the settlement hearing held in Toronto, Ontario on November 18, 2008 in respect of Dylan Brown.

A copy of the Reasons for Decision is available on the MFDA website at www.mfda.ca.

The MFDA is the self-regulatory organization for Canadian mutual fund dealers. The MFDA regulates the operations, standards of practice and business conduct of its 154 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

13.1.7 IIROC Rule 100.4E – Offsets Between Strip Coupon Positions and / or Residual Debt Positions

INVESTMENT INDUSTRY REGULATORY ORGANIZATION OF CANADA (IIROC)

RULE 100.4E - OFFSETS BETWEEN STRIP COUPON POSITIONS AND / OR RESIDUAL DEBT POSITIONS

BLACK LINE COPY OF AMENDMENTS

The following is a black-lined version of the approved amendments to IIROC Rule 100.4E, which is different from the version proposed and published on January 4, 2008, at (2008) 31 OSCB 349.

100.4E. Strip ~~Coupons or Residuals~~coupon and / or residual debt positions

Government ~~Debt~~debt

Where a Dealer Member or a customer holds ~~a short (or long) position in bonds or debentures~~the following offset positions and:

(i) the offset positions mature within the same time period;

(ii) the time periods are the time periods referred to in Rule 100.2(a);

(iii) the offset positions are denominated in Canadian dollars~~ issued or guaranteed by either the Government of Canada or by a province of Canada and also holds a long (or short) position in the stripped coupon or residual portion of such debt instruments, ~~; and

(iv) the market value of the short position is equal to the market value of the long position;

the margin required is as follows:

(a) Bond or debenture and strip coupon or residual debt positions

(i) for a short (or long) position in bonds or debentures issued or guaranteed by the Government of Canada and a long or (short) position in the strip coupon or residual portion of such debt instruments; or

(ii) for a short (or long) position in bonds or debentures issued or guaranteed by a province of Canada and a long (or short) position in the strip coupon or residual portion of such debt instruments;

the margin required shall be the excess of the margin required on the long (or short) position over the margin required on the short (or long position), respectively.

(iii) for a short (or long) position in bonds or debentures issued or guaranteed by the Government of Canada and a long or (short) position in a strip coupon or residual portion of a debt instrument issued or guaranteed by a province of Canada; or

(iv) for a short (or long) position in bonds or debentures issued or guaranteed by a province of Canada and a long (or short) position in a strip coupon or residual portion of a debt instrument issued or guaranteed by the Government of Canada;

the margin required shall be 50% of the total margin required for both positions otherwise determined in the Rules.

(b) Strip coupon positions

(i) for a short (or long) position in a strip coupon and a long (or short) position in a strip coupon, and the strip coupons are from bonds or debentures issued or guaranteed by the Government of Canada; or

(ii) for a short (or long) position in a strip coupon and a long (or short) position in a strip coupon, and the strip coupons are from bonds or debentures issued or guaranteed by any province of Canada;

the margin required shall be the excess of the margin required on the long (or short) position over the margin required on the short (or long) position, ~~provided that the net margin may only be determined as aforesaid on the basis that:~~respectively.

~~(a) Margin required in respect of a short (or long) position in bonds or debentures may only be netted against margin required in respect of a long (or short) position in stripped coupons or residuals to the extent that the market value of the two positions is equal, and no such netting or offset shall be permitted in respect of the market value of a short (or long) position which is in excess of the market value of the long (or short) position;~~

~~(b) Margin required in respect of bonds or debentures issued or guaranteed by the Government of Canada may only be netted against the margin required for the stripped coupon or residual coupon of other Government of Canada instruments which mature within the same periods referred to in Rule 100.2(a) for the purpose of determining margin rates; and~~

~~(c) Margin required in respect of bonds or debentures issued or guaranteed by a province of Canada may only be netted against the margin required for the stripped coupon or residual portion of other province of Canada instruments which mature within the same periods referred to in Rule 100.2(a) for the purpose of determining margin rates.~~

~~Notwithstanding the foregoing provisions of this Rule 100.4E, where a Dealer Member or a customer holds:~~

~~(i) A short (or long) position in bonds or debentures issued or guaranteed by the Government of Canada and a long (or short) position in the stripped or residual portion of bonds or debentures issued or guaranteed by a province of Canada, or~~

~~(ii) A short (or long) position in bonds or debentures issued or guaranteed by a province of Canada and a long (or short) position in the stripped or residual portion of bonds or debentures issued or guaranteed by the Government of Canada,~~

(iii) for a short (or long) position in a strip coupon of a bond or debenture issued or guaranteed by the Government of Canada and a long (or short) position in a strip coupon of a bond or debenture issued or guaranteed by a province of Canada;

the margin required shall be 50% of the total margin required for both positions otherwise determined in the Rules.

(c) Residual debt positions

(i) for a short (or long) position in a residual and a long (or short) position in a residual, and the residual portions are from bonds or debentures issued or guaranteed by the Government of Canada; or

(ii) for a short (or long) position in a residual and a long (or short) position in a residual, and the residual portions are from bonds or debentures issued or guaranteed by any province of Canada;

the margin required shall be the excess of the margin required on the long (or short) position over the margin required on the short (or long) position, respectively.

(iii) for a short (or long) position in a residual portion of a bond or debenture issued or guaranteed by the Government of Canada and a long (or short) position of a residual portion of a bond or debenture issued or guaranteed by a province of Canada;

~~The~~the margin required shall be 50% of the total margin required for both positions otherwise determined ~~under~~in the Rules~~, provided that such margin may only be determined as aforesaid on the basis that:~~.

~~(iii) Margin required in respect of a short (or long) position in bonds or debentures may only be netted against margin required in respect of a long (or short) position in stripped coupons or residuals to the extent that the market value of the two positions is equal, and no such netting or offset shall be permitted in respect of the market value of a short (or long) position which is in excess of the market value of the long (or short) position;~~

~~(iv) Margin required in respect of bonds or debentures may only be netted against the margin required for the stripped coupon or residual coupon of instruments which mature within the same periods referred to in Rule 100.2(a) for the purpose of determining margin rates.~~

~~(v) The bonds and debentures and the stripped coupon or residual coupon of such debt instruments are both denominated in Canadian dollars.~~

(d) Strip coupon and residual debt positions

(i) for a short (or long) position in a strip coupon and a long (or short) position in a residual, and the residual portions are from bonds or debentures issued or guaranteed by the Government of Canada; or

(ii) for a short (or long) position in a strip coupon and a long (or short) position in a residual, and the residual portions are from bonds or debentures issued or guaranteed by any province of Canada;

the margin required shall be the excess of the margin required on the long (or short) position over the margin required on the short (or long) position, respectively.

(iii) for a short (or long) position in a strip coupon of a bond or debenture issued or guaranteed by the Government of Canada and a long (or short) position of a residual portion of a bond or debenture issued or guaranteed by a province of Canada; or

(iv) for a short (or long) position in a residual portion of a bond or debenture issued or guaranteed by the Government of Canada and a long (or short) position of a strip coupon of a bond or debenture issued or guaranteed by a province of Canada;

the margin required shall be 50% of the total margin required for both positions otherwise determined in the Rules.

Foreign ~~Currency Debt~~currency debt

(e) Bond or debenture and strip coupon or residual debt positions

Where a Dealer Member or a customer holds a short (or long) position in bonds or debentures referred to in Rule 100.2(a)(i) denominated in a currency other than Canadian dollars, and also holds a long (or short) position in the stripped or residual portion of such debt instruments denominated in the same currency, the margin shall be the excess of the margin required on the short (or long) position, over the margin required on the short (or long) position provided that the net margin may only be determined as aforesaid on the basis that:

(~~d~~i) Margin required in respect of a short (or long) position in bonds or debentures may only be netted against margin required in respect of a long (or short) position in stripped coupons or residuals to the extent that the market value of the two positions is equal, and no such netting or offset shall be permitted in respect of the market value of a short (or long) position which is in excess of the market value of the long (or short) position; and

(~~e~~ii) Margin in respect of bonds or debentures issued or guaranteed by a particular government may only be netted against the margin required for the stripped coupon or residual portion of debt instruments of the same government, which mature within the same periods referred to in Rule 100.2(a)(i) for the purpose of determining margin rates.

Corporate ~~Debt~~debt

(f) Bond or debenture and strip coupon or residual debt positions

Where a Dealer Member or a customer holds a short (or long) position in bonds or debentures issued by a corporation with a single A or higher rating by any of Canadian Bond Rating Service, Dominion Bond Rating Service, Moody's Investors Service or Standard and Poor's Bond Record, and also holds a long (or short) position in the stripped coupon or residual portion of such debt instruments, the margin required shall be the greater of the margin required on the long (or short) position and the margin required on the short (or long) position, to a maximum 20% margin rate, provided that the margin may only be determined as aforesaid on the basis that:

(~~f~~i) The offset is permitted only to the extent that the market value of the two positions is equal, and no offset shall be permitted in respect of the market value of a short (or long) position which is in excess of the market value of the long (or short) position; and

(~~g~~ii) Margin required in respect of bonds or debentures issued by a corporation may only be offset against the margin required for the stripped coupon or residual portion of debt instruments of the same issuer, which mature within the same periods referred to in Rule 100.2(a)(xi) for the purpose of determining margin rates.

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