

The Ontario Securities Commission

OSC Bulletin

January 23, 2009

Volume 32, Issue 4

(2009), 32 OSCB

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

The Ontario Securities Commission

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Published under the authority of the Commission by:

Carswell, a Thomson Reuters business

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Chapter 1

Notices / News Releases

1.1 Notices

1.1.1 Current Proceedings Before The Ontario Securities Commission

JANUARY 23, 2009

CURRENT PROCEEDINGS

BEFORE

ONTARIO SECURITIES COMMISSION

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

The Harry S. Bray Hearing Room
Ontario Securities Commission
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Carol S. Perry	—	CSP
Suresh Thakrar, FIBC	—	ST
Wendell S. Wigle, Q.C.	—	WSW

SCHEDULED OSC HEARINGS

February 2-20; March 2-13; March 30-April 9, 2009		Biovail Corporation, Eugene N. Melnyk, Brian H. Crombie, John R. Miszuk and Kenneth G. Howling
10:00 a.m.		s. 127(1) and 127.1 J. Superina, A. Clark in attendance for Staff Panel: JEAT/DLK/PLK
February 10, 2009		Gold-Quest International, Health and Harmony, Iain Buchanan and Lisa Buchanan
10:00 a.m.		s. 127 H. Craig in attendance for Staff Panel: TBA
February 12, 2009		Rajeev Thakur
10:00 a.m.		s. 127 M. Britton in attendance for Staff Panel: TBA
February 13, 2009		Lyndz Pharmaceuticals Inc., Lyndz Pharma Ltd., James Marketing Ltd., Michael Eatch and Rickey McKenzie
9:00 a.m.		s. 127(1) & (5) J. Feasby in attendance for Staff Panel: WSW/ST
February 16, 2009		Hollinger Inc., Conrad M. Black, F. David Radler, John A. Boulton and Peter Y. Atkinson
9:30 a.m.		s. 127 J. Superina in attendance for Staff Panel: LER/MCH

February 17, 2009 9:00 a.m.	Goldpoint Resources Corporation, Lino Novielli, Brian Moloney, Evanna Tomeli, Robert Black, Richard Wylie and Jack Anderson s. 127(1) and 127(5) M. Boswell in attendance for Staff Panel: TBA	March 3, 2009 3:30 p.m.	Adrian Samuel Leemhuis, Future Growth Group Inc., Future Growth Fund Limited, Future Growth Global Fund limited, Future Growth Market Neutral Fund Limited, Future Growth World Fund and ASL Direct Inc. s. 127(5) K. Daniels in attendance for Staff Panel: TBA
February 23, 2009 10:00 a.m.	Roger D. Rowan, Watt Carmichael Inc., Harry J. Carmichael and G. Michael McKenney s. 127 J. Superina in attendance for Staff Panel: PJL/ST/DLK	March 5, 2009 10:00 a.m.	FactorCorp Inc., FactorCorp Financial Inc. and Mark Twerdun s. 127 M. Mackewn in attendance for Staff Panel: ST/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 16, 2009 10:00 a.m.	Sextant Capital Management Inc., Sextant Capital GP Inc., Sextant Strategic Opportunities Hedge Fund L.P., Otto Spork, Robert Levack and Natalie Spork s. 127 S. Kushneryk in attendance for Staff Panel: TBA
February 25-27, 2009 10:00 a.m.	James Richard Elliott s. 127 J. Feasby in attendance for Staff Panel: TBA	March 20, 2009 10:00 a.m.	Goldbridge Financial Inc., Wesley Wayne Weber and Shawn C. Lesperance s. 127 J. Feasby in attendance for Staff Panel: LER/PLK
March 3, 2009 2:30 p.m.	Brilliant 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

March 23-27, 2009	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	May 4-29, 2009	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
10:00 a.m.	s. 127 C. Price in attendance for Staff Panel: PJJ/KJK/ST	10:00 a.m.	s. 127 and 127.1 Y. Chisholm in attendance for Staff Panel: TBA
April 6, 2009	Gregory Galanis	May 7-15, 2009	MRS Sciences Inc. (formerly Morningside Capital Corp.), Americo DeRosa, Ronald Sherman, Edward Emmons and Ivan Cavric
10:00 a.m.	s. 127 P. Foy in attendance for Staff Panel: TBA	10:00 a.m.	s. 127 & 127(1) D. Ferris in attendance for Staff Panel: TBA
April 13-17, 2009	Matthew Scott Sinclair	May 12, 2009	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
10:00 a.m.	s. 127 P. Foy in attendance for Staff Panel: TBA	2:30 p.m.	s. 127 M. Britton in attendance for Staff Panel: JEAT/ST
April 20-27, 2009	Al-Tar Energy Corp., Alberta Energy Corp., Drago Gold Corp., David C. Campbell, Abel Da Silva, Eric F. O'Brien and Julian M. Sylvester		
10:00 a.m.	s. 127 S. Horgan in attendance for Staff Panel: TBA		
April 20-May 1, 2009	Shane Suman and Monie Rahman		
10:00 a.m.	s. 127 & 127(1) C. Price in attendance for Staff Panel: JEAT/DLK/MCH		

May 25 – June 2, 2009	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	August 10, 2009	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
10:00 a.m.		10:00 a.m.	
	s. 127		s. 127
	M. Boswell in attendance for Staff		S. Kushneryk in attendance for Staff
	Panel: TBA		Panel: TBA
June 1-3, 2009	Robert Kasner	September 7-11, 2009; and September 30-October 23, 2009	Rene Pardo, Gary Usling, Lewis Taylor Sr., Lewis Taylor Jr., Jared Taylor, Colin Taylor and 1248136 Ontario Limited
10:00 a.m.	s. 127	10:00a.m.	s. 127
	H. Craig in attendance for Staff		M. Britton in attendance for Staff
	Panel: TBA		Panel: TBA
June 4, 2009	Shallow Oil & Gas Inc., Eric O’Brien, Abel Da Silva, Gurdip Singh Gahunia aka Michael Gahunia and Abraham Herbert Grossman aka Allen Grossman	September 21-25, 2009	Swift Trade Inc. and Peter Beck
10:00 a.m.		10:00 a.m.	s. 127
	s. 127(7) and 127(8)		S. Horgan in attendance for Staff
	M. Boswell in attendance for Staff		Panel: TBA
	Panel: DLK/CSP/PLK	November 16-December 11, 2009	Sulja Bros. Building Supplies, Ltd. (Nevada), Sulja Bros. Building Supplies Ltd., Kore International Management Inc., Petar Vucicevich and Andrew DeVries
June 4, 2009	Abel Da Silva	10:00 a.m.	s. 127 & 127.1
11:00 a.m.	s. 127		M. Britton in attendance for Staff
	M. Boswell in attendance for Staff		Panel: TBA
	Panel: TBA	January 11, 2010	Firestar Capital Management Corp., Kamposse Financial Corp., Firestar Investment Management Group, Michael Ciavarella and Michael Mitton
June 10, 2009	Global Energy Group, Ltd. and New Gold Limited Partnerships	10:00 a.m.	
10:00 a.m.			s. 127
	s. 127		H. Craig in attendance for Staff
	H. Craig in attendance for Staff		Panel: TBA
	Panel: TBA		

TBA	<p>Yama Abdullah Yaqeen</p> <p>s. 8(2)</p> <p>J. Superina in attendance for Staff</p> <p>Panel: TBA</p>	TBA	<p>Merax Resource Management Ltd. carrying on business as Crown Capital Partners, Richard Mellon and Alex Elin</p> <p>s. 127</p> <p>H. Craig in attendance for Staff</p> <p>Panel: JEAT/MC/ST</p>
TBA	<p>Microsourceonline Inc., Michael Peter Anzelmo, Vito Curalli, Jaime S. Lobo, Sumit Majumdar and Jeffrey David Mandell</p> <p>s. 127</p> <p>J. Waechter in attendance for Staff</p> <p>Panel: TBA</p>	TBA	<p>Rodney International, Choeun Chhean (also known as Paulette C. Chhean) and Michael A. Gittens (also known as Alexander M. Gittens)</p> <p>s. 127</p> <p>M. Britton in attendance for Staff</p> <p>Panel: WSW/ST</p>
TBA	<p>Frank Dunn, Douglas Beatty, Michael Gollogly</p> <p>s.127</p> <p>K. Daniels in attendance for Staff</p> <p>Panel: TBA</p>	TBA	<p>Norshield Asset Management (Canada) Ltd., Olympus United Group Inc., John Xanthoudakis, Dale Smith and Peter Kefalas</p> <p>s.127</p> <p>P. Foy in attendance for Staff</p> <p>Panel: WSW/DLK/MCH</p>
TBA	<p>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.</p> <p>s. 127 and 127.1</p> <p>Y. Chisholm in attendance for Staff</p> <p>Panel: JEAT/DLK/CSP</p>	TBA	<p>Xi Biofuels Inc., Biomaxx Systems Inc., Xiiva Holdings Inc. carrying on Business as Xiiva Holdings Inc., Xi Energy Company, Xi Energy and Xi Biofuels, Ronald Crowe and Vernon Smith</p> <p>s. 127</p> <p>M. Vaillancourt in attendance for Staff</p> <p>Panel: WSW/DLK</p>
TBA	<p>Juniper Fund Management Corporation, Juniper Income Fund, Juniper Equity Growth Fund and Roy Brown (a.k.a. Roy Brown-Rodrigues)</p> <p>s. 127 and 127.1</p> <p>D. Ferris in attendance for Staff</p> <p>Panel: TBA</p>		

TBA **Global Petroleum Strategies, LLC, Petroleum Unlimited, LLC, Aurora Escrow Services, LLC, John Andrew, Vincent Cataldi, Charlotte Chambers, Carl Dylan, James Eulo, Richard Garcia, Troy Gray, Jim Kaufman, Timothy Kaufman, Chris Harris, Morgan Kimmel, Roger A. Kimmel, Jr., Erik Luna, Mitch Malizio, Adam Mills, Jenna Pelusio, Rosemary Salveggi, Stephen J. Shore and Chris Spinler**

s. 127

E. Cole in attendance for Staff

Panel: LER/MCH

TBA **Hahn Investment Stewards & Co. Inc.**

s. 21.7

Y. Chisholm in attendance for Staff

Panel: TBA

TBA **Irwin Boock, Stanton De Freitas, Jason Wong, Saudia Allie, Alena Dubinsky, Alex Khodjants, 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: TBA

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

1.4 Notices from the Office of the Secretary

1.4.1 Darren Delage

**FOR IMMEDIATE RELEASE
January 15, 2009**

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

AND

**IN THE MATTER OF
DARREN DELAGE**

TORONTO – Following a hearing held today, the Commission issued an Order approving the Settlement Agreement reached between Staff of the Commission and Darren Delage.

A copy of the Order dated January 15, 2009 and Settlement Agreement dated January 13, 2009 are available at www.osc.gov.on.ca.

OFFICE OF THE SECRETARY
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1.4.2 Franklin Danny White et al.

**FOR IMMEDIATE RELEASE
January 15, 2009**

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

AND

**IN THE MATTER OF
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**

TORONTO – Following a hearing held on January 12, 2009 in the above named matter, the Commission issued an Order today which provides that the hearing on the merits shall be adjourned to March 23 to 27, 2009, and be continued on June 22 to 30, 2009, excluding June 23, if necessary.

A copy of the Order dated January 15, 2009 is available at www.osc.gov.on.ca.

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**1.4.3 Global Petroleum Strategies, LLC et al. – ss.
127(1), (7) and (10)**

**FOR IMMEDIATE RELEASE
January 16, 2009**

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

AND

**IN THE MATTER OF
GLOBAL PETROLEUM STRATEGIES, LLC,
PETROLEUM UNLIMITED, LLC,
AURORA ESCROW SERVICES, LLC,
JOHN ANDREW, VINCENT CATALDI,
CHARLOTTE CHAMBERS, CARL DYLAN,
JAMES EULO, RICHARD GARCIA, TROY GRAY,
JIM KAUFMAN, TIMOTHY KAUFMAN,
CHRIS HARRIS, MORGAN KIMMEL,
ROGER A. KIMMEL, JR., ERIK LUNA,
MITCH MALIZIO, ADAM MILLS, JENNA PELUSIO,
ROSEMARY SALVEGGI, STEPHEN J. SHORE AND
CHRIS SPINLER**

TORONTO – Following a hearing held yesterday, the Commission issued an Order in the above matter which provides that the Temporary Order is continued until February 24, 2009 or further order of the Commission and the hearing is adjourned to February 24, 2009 at 9:00 a.m., or such other date as is agreed by Staff and the respondents and is determined by the Office of the Secretary.

A copy of the Order dated January 15, 2009, is available at www.osc.gov.on.ca.

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1.4.4 Imagin Diagnostic Centres Inc. et al.

**FOR IMMEDIATE RELEASE
January 19, 2009**

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

AND

**IN THE MATTER OF
IMAGIN DIAGNOSTIC CENTRES INC.,
PATRICK J. ROONEY, CYNTHIA JORDAN,
ALLAN McCAFFREY, MICHAEL SHUMACHER,
CHRISTOPHER SMITH, MELVYN HARRIS AND
MICHAEL ZELYONY**

TORONTO – Following a hearing held on January 16, 2009, the Commission issued Orders approving the settlement agreements reached between Staff of the Commission and Cynthia Jordan, Allan McCaffrey, Michael Shumacher, Christopher Smith and Michael Zelyony, respectively.

A copy of the Orders dated January 16, 2009 with respect to Cynthia Jordan, Allan McCaffrey, Michael Shumacher, Christopher Smith and Michael Zelyony, respectively and Settlement Agreements dated January 15, 2009 with respect to Cynthia Jordan, Allan McCaffrey, Michael Shumacher, Christopher Smith and Michael Zelyony, respectively are available at www.osc.gov.on.ca.

**OFFICE OF THE SECRETARY
JOHN P. STEVENSON
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Chapter 2

Decisions, Orders and Rulings

2.1 Decisions

DECISION

2.1.1 T.E. Investment Counsel Inc. et al.

Headnote

NP 11-203 – Process for Exemptive Relief Applications in Multiple Jurisdictions – exemption to allow a portfolio manager to provide performance information for the period preceding the date when funds became reporting issuers in a financial report to its private managed account holders who have purchased managed account units of the funds pursuant to a prospectus exemption – portfolio manager exempted from filing financial report to private managed account holders on SEDAR – the financial report will contain standard performance information that includes references to all elements of return and clearly identifies the periods for which the performance information is calculated – portfolio manager will continue to file annual and interim management reports of fund performance and financial statements for all series of securities issued by funds including managed account units.

Applicable Legislative Provisions

National Instrument 81-102 Mutual Funds, ss. 15.3(2), 15.3(4)(c), 15.6, 15.8.

National Instrument 81-106 Investment Fund Continuous Disclosure, s. 16.2.

December 10, 2008

IN THE MATTER OF
THE SECURITIES LEGISLATION OF
ONTARIO

(the Ontario Jurisdiction)

AND

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

AND

IN THE MATTER OF
T.E. INVESTMENT COUNSEL INC.
(the Filer)

AND

IN THE MATTER OF
JOV PROSPERITY CANADIAN FIXED INCOME FUND
JOV PROSPERITY CANADIAN EQUITY FUND
JOV PROSPERITY U.S. EQUITY FUND
JOV PROSPERITY INTERNATIONAL EQUITY FUND
(the Funds)

Background

The principal regulator in the Ontario Jurisdiction has received an application from the Filer, on behalf of the Funds for a decision under the securities legislation of the Jurisdiction of the principal regulator (the **Legislation**) for an exemption from the requirements in subsections 15.3(2), 15.3(4)(c), 15.6, and 15.8 of National Instrument 81-102 *Mutual Funds* (**NI 81-102**) that prohibits the sending of past performance information to managed account clients of the Filer for periods commencing before the Funds were reporting issuers in a Jurisdiction, and from subsection 16.2 of National Instrument 81-106 *Investment Fund Continuous Disclosure* (**NI 81-106**) that requires the filing of all documents that are sent to securityholders of an investment fund on SEDAR (collectively, 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) the Filer has provided notice that section 4.7(1) of Multilateral Instrument 11-102 *Passport System* (**MI 11-102**) is intended to be relied upon in each of the provinces and territories of Canada (together with Ontario, the **Jurisdictions**).

Interpretation

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

Representations

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

1. The Funds are open-end mutual fund trusts created under the laws of Ontario pursuant to a Trust Agreement dated February 12, 2004, as amended, with the Filer, as manager of the Funds and The Royal Trust Company;
2. The Filer is the manager and portfolio manager of the Funds and is the portfolio manager of the accounts of clients that have entered into managed account agreements with the Filer (the **Clients**);

3. Since February 12, 2004, units of the Funds, currently designated as Series O, have been distributed to Clients of the Filer pursuant to managed account agreements each has with the Filer. Since March 1, 2005, units of the Funds currently designated as Series B, have been distributed to Clients of the Filer pursuant to managed account agreements each has with the Filer;
4. The distribution of Series B units and Series O units (the **Managed Account Units**) of the Funds to Clients is done on a private placement basis in accordance with National Instrument 45-106 *Prospectus and Registration Exemptions*, and its predecessors as applicable in each Jurisdiction (the **Private Placement Rule**);
5. All holders of Managed Account Units are Clients who have received Managed Account Units in accordance with the portfolio management agreement between the Filer and that Client;
6. Series A Units, Series F Units, and Series I Units of the Funds (the **Public Units**) are sold and distributed in all of the Jurisdictions pursuant to a prospectus dated January 14, 2008, amended and restated August 19, 2008 (the **Prospectus**);
7. Effective January 18, 2008, the Funds became reporting issuers in each of the Jurisdictions. Any purchaser may purchase Public Units in a Jurisdiction through their registered dealer. Managed Account Units continue to be only sold to Clients on a private placement basis pursuant to the Private Placement Rule;
8. Investment funds that are not reporting issuers are exempt from the requirement to prepare and file a MRFP pursuant to NI 81-106 and are exempt from the application of NI 81-102.
9. Since inception in January of 2004, on an annual and interim basis, Clients who hold Managed Account Units receive annual audited financial statements and interim unaudited financial statements (the **Financial Statements**), respectively, which include a financial report that includes performance data;
10. NI 81-102 does not permit the Funds to include performance data in sales communications for periods occurring before the Funds became reporting issuers, including in respect of the performance of the Managed Account Units;
11. NI 81-102 defines a sales communication as being any document that is sent to securityholders of the Funds, does not distinguish between the different distribution methods the Funds may employ for each class of securities and does not permit the inclusion of performance data in a sales communication that includes information for periods occurring before the Funds became reporting issuers, including in respect of the Managed Account Units;
12. NI 81-106 requires the filing of any disclosure document sent to securityholders of the Funds including communications from the Filer that are intended solely for the use of Clients who hold Managed Account Units;
13. Without the Exemption Sought, the Filer would be unable to continue to communicate with its Clients in respect of the Managed Account Units they hold in the manner that they expect and that the Filer has used since the inception of the Managed Account Units;
14. The Funds will distribute interim and annual Management Reports of Fund Performance and Financial Statements to all securityholders in accordance with Part 5 of NI 81-106 and file each on SEDAR;
15. The Filer will distribute with the annual and interim Financial Statements of the Funds, an annual and interim financial report (the **Financial Report**) to its Clients who hold Managed Account Units, and will not file the Financial Report on SEDAR;
16. The Financial Report will include performance information for the Managed Account Units that dates back to the inception of the Series O units in 2004 and the Series B units in 2005, rather than the date each Fund became a reporting issuer in 2008;
17. The Financial Report will include performance information that has been calculated as if it is "standard performance data" as that term is defined in NI 81-102 based on the Fund's total return during the measurement periods (the **Standard Performance Information**).

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:

- (a) neither the Filer nor the Funds shall distribute the Financial Report to a person that is not, at the time of distribution, a Client of the Filer;
- (b) the Financial Report:
 - (i) contains Standard Performance Information of the Funds that is presented in a type size that is equal to or larger than that used to present the other performance information;

- (ii) discloses Standard Performance Information that reflects or includes references to all elements of return; and
- (iii) clearly identifies the periods for which the performance information is calculated.

The Exemption Sought shall terminate upon the coming into force of any legislation or rule of the principal regulator dealing with the matters referred to in subsections 15.3(2), 15.3(4)(c), 15.6, and 15.8 of NI 81-102, and subsection 16.2 of NI 81-106

“Vera Nunes”
Assistant Manager, Investment Funds
Ontario Securities Commission

2.1.2 Tanganyika Oil Company Ltd. – s. 1(10)

Headnote

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

Ontario Statutes

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

January 14, 2009

Stikeman Elliot

4300 Bankers Hall West,
3rd Street S.W.
Calgary, AB
T2P 5C5

Attention: Charlotte Feasby

Dear Madam:

Re: Tanganyika Oil Company Ltd. (the Applicant) – Application for a decision under the securities legislation of Alberta, Saskatchewan, Manitoba and Ontario (the Jurisdictions) that the Applicant is not a reporting issuer

The Applicant has applied to the local securities regulatory authority or regulator (the Decision Maker) in each of the Jurisdictions for a decision under the securities legislation (the Legislation) of the Jurisdictions to be deemed to have ceased to be a reporting issuer in the Jurisdictions.

As the Applicant has represented to the Decision Makers that:

- (a) the outstanding securities of the Applicant, including debt securities, are beneficially owned, directly or indirectly, by fewer than 15 security holders in each of the jurisdictions in Canada and fewer than 51 security holders in total in Canada;
- (b) no securities of the Applicant are traded on a marketplace as defined in National Instrument 21-101 *Marketplace Operation*;
- (c) the Applicant is applying for a decision that it is not a reporting issuer in all of the jurisdictions in Canada in which it is currently a reporting issuer; and
- (d) the Applicant is not in default of any of its obligations under the Legislation as a reporting issuer,

each of the Decision Makers is satisfied that the test contained in the Legislation that provides the Decision

Maker with the jurisdiction to make the decision has been met and orders that the Applicant is deemed to have ceased to be a reporting issuer and that the Applicant's status as a reporting issuer is revoked.

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

2.1.3 RBC Dominion Securities Inc. et al.

Headnote

Multilateral Instrument 11-102 Passport System and National Policy 11-203 Process for Exemptive Relief Applications in Multiple Jurisdictions – An issuer wants relief from the requirement in the definition of "venture issuer" that a reporting issuer not have any of its securities listed or quoted on any of the Toronto Stock Exchange, a U.S. marketplace, or a marketplace outside of Canada and the United States of America other than the Alternative Investment market of the London Stock Exchange or the PLUS markets operated by PLUS Markets Group plc, in order to list on the Risk Capital Segment of the Lima Stock Exchange in Peru – A venture issuer with common shares listed on the TSXV wants to list on an exchange that does not meet the requirements of the definition of a venture issuer; the relevant exchange is a junior market that has similar requirements as the TSXV; the exchange requires the issuer to comply with TSXV requirements in order to acquire and maintain listing on that exchange; to remain a venture issuer, the issuer must continue to have its common shares listed on the TSXV and the exchange must remain a junior market.

Applicable Legislative Provisions

National Instrument 51-102 Continuous Disclosure Obligations, ss. 1.1, 13.1.

National Instrument 52-109 Certification of Disclosure in Issuer's Annual and Interim Filings, ss. 1.1, 4.5.

National Instrument 52-110 Audit Committees, ss. 1.1, 8.1.

National Instrument 58-101 Disclosure of Corporate Governance Practices, ss. 1.1, 3.1.

January 15, 2009

**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
RBC DOMINION SECURITIES INC.,
BMO NESBITT BURNS INC.,
CIBC WORLD MARKETS INC.,
NATIONAL BANK FINANCIAL INC.,
SCOTIA CAPITAL INC. AND TD SECURITIES INC.
(the Filers)**

AND

**IN THE MATTER OF
THE CARS AND PARS PROGRAMME™
OF THE FILERS**

DECISION

Background

The principal regulator in the Jurisdiction has received an application from the Filers for a decision under the securities legislation of the Jurisdiction of the principal regulator (the **Legislation**) for:

1. an exemption from Section 2.1 of National Instrument 44-102 *Shelf Distributions* and Section 2.1 of National Instrument 44-101 *Short Form Prospectus Distributions* so that a Prospectus can be filed by the Filers to renew the CARS and PARS Programme and offer Strip Securities in the Jurisdictions; and
2. a decision under the securities legislation of the Jurisdictions (the "**Legislation**") that the following requirements shall not apply in respect of any Underlying Issuer whose Underlying Obligations are purchased by any one or more of the Filers on the secondary market, and Strip Securities derived therefrom and sold under the CARS and PARS Programme:
 - a. the requirements of the Legislation that the Prospectus contain a certificate of the Underlying Issuer; and
 - b. the requirements of the Legislation that the Prospectus incorporate by reference documents of an Underlying Issuer (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. 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, Quebec, Newfoundland and Labrador, New Brunswick, Prince Edward Island, Nova Scotia, Newfoundland and Labrador, Yukon Territory Northwest Territories and Nunavut (together with Ontario, the **Jurisdictions**).

Interpretation

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

CARS[™] means strips coupons and strips residuals.

CARS and PARS Programme[™] means the strip bond product programme of the Filers to be offered by Prospectus.

CDS means CDS Clearing and Depository Services Inc.

NI 44-101 means National Instrument 44-101 *Short Form Prospectus Distributions*.

NI 44-102 means National Instrument 44-102 *Shelf Distributions*.

Offering Date means the time of the closing of the discrete offering in respect of the related Strip Securities.

PARS[™] means par adjusted rate strips, comprising an entitlement to receive the principal amount of, and a portion, equal to a market rate (at the time of issuance of thereof) of the interest payable under the Underlying Obligations.

Participants means participants in the depository system of CDS.

Prospectus means a short form prospectus which is a base shelf prospectus together with the appropriate prospectus supplements.

SEDAR means the System for Electronic Document Analysis and Retrieval.

Strip Coupons means separate components of interest derived from an Underlying Obligation.

Strip Packages means packages of Strip Securities, including packages of Strip Coupons and packages of PARS.

Strip Residuals means separate components of principal derived from an Underlying Obligation.

Strip Securities means separate components of interest, principal or combined principal and interest components derived from Underlying Obligations and sold under the CARS and PARS Programme, including Strip Residuals, Strip Coupons and Strip Packages.

Underlying Issuers means Canadian corporate, trust and/or partnership issuers.

Underlying Obligations means publicly-issued debt obligations of Underlying Issuers, which obligations will carry an "approved rating" as such term is defined in NI 44-101 at the Offering Date.

Underlying Obligations Prospectus means a prospectus for which a receipt was issued by the securities regulatory authorities in British Columbia, Alberta, Ontario and Quebec.

Representations

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

1. Each of the Filers is a corporation incorporated under the laws of Canada, and all the Filers,

- except National Bank Financial Inc. have their head offices in Toronto. National Bank Financial Inc.'s head office is in Montreal.
2. None of the Filers are in default of securities legislation in the Jurisdictions;
3. The CARS and PARS Programme has been in effect since November 19, 2002 in reliance on a MRRS decision documents dated October 31, 2002, and has subsequently been renewed and continued in reliance on decision documents dated March 6, 2003, November 19, 2004 and December 18, 2006;
4. The Filers propose to continue to operate the CARS and PARS Programme;
5. The CARS and PARS Programme will continue to be operated by purchasing, on the secondary market, Underlying Obligations of Underlying Issuers, and deriving separate components therefrom, being Strip Residuals, Strip Coupons, and/or Strip Packages;
6. The relevant Underlying Issuer will, to the best of the knowledge of each Filer participating in the relevant offering under the CARS and PARS Programme, be eligible to file a short form prospectus under NI 44-101 (whether such eligibility results from the specific qualification criteria of NI 44-101 or from the granting of an exemption from those criteria) at the Offering Date;
7. The Underlying Obligations will have been distributed under a prospectus for which a receipt was granted by the regulator in British Columbia, Alberta, Ontario, and Quebec;
8. A single short form base shelf prospectus will be established for the renewed CARS and PARS Programme as a whole, with a separate series of Strip Securities being offered under a discrete prospectus supplement for each distinct series or class of Underlying Obligations;
9. It is expected that the Strip Securities will continue to be predominantly sold to retail customers;
10. It is expected that the Filers, or certain of them, will continue to periodically identify, as demand indicates, series of outstanding debt obligations of Canadian corporations or trusts and will purchase and "repackage" individual series of these for sale under the CARS and PARS Programme as discrete series of Strip Securities. In purchasing the Underlying Obligations and creating the Strip Securities, the Filers will not enter into any agreement or other arrangements with the Underlying Issuers;
11. The Prospectus will refer purchasers of the Strip Securities to the SEDAR website maintained by CDS (currently located at www.sedar.com) where they can obtain the continuous disclosure materials of the Underlying Issuer;
12. The Filers, or certain of them, may, from time to time, form and manage a selling group consisting of other registered securities dealers to solicit purchases of, and sell to the public, the Strip Securities;
13. The Strip Securities will be sold in series, each such series relating to separate Underlying Obligations of an Underlying Issuer. The base shelf prospectus for use with the CARS and PARS Programme will describe the CARS and PARS Programme in detail. The shelf prospectus supplement for any series of Strip Securities that are offered will describe the specific terms of the Strip Securities;
14. Each offering of Strip Securities will be derived from one or more Underlying Obligations of a single class or series of an Underlying Issuer. The Filer(s) participating in each offering under the CARS and PARS Programme intend to separate the Underlying Obligations for such series into separate principal and interest components, or strip bonds. These components will, in connection with each series, be re-packaged if and as necessary to create the Strip Securities;
15. The Strip Residuals of a particular series, if any, will consist of the entitlement to receive payments of a portion of the principal amounts payable under the Underlying Obligations, if, as and when paid by the Underlying Issuer on the Underlying Obligations, in accordance with their respective terms;
16. The Strip Coupons of a particular series will consist of the entitlement to receive a payment of a portion of the interest payable under the Underlying Obligations, if, as and when paid by the Underlying Issuer on the Underlying Obligations, in accordance with their respective terms;
17. The Strip Packages will consist of the entitlement to receive (a) in the case of PARS, both payments of a portion of the principal amounts payable and periodic payments of a portion equal to a market rate (at the time of issuance of the PARS) of the interest payable under the Underlying Obligations, and/or (b) in the case of packages consisting of Strip Coupons, periodic payments of portions of the interest payable, or the principal amounts payable, under the Underlying Obligations, in each case, if, as and when paid by the Underlying Issuer on the Underlying Obligations, in accordance with their respective terms;

18. Holders of a series of Strip Securities will be entitled to payments from cash flows from the related Underlying Obligations if, as and when made by the respective Underlying Issuer. The Strip Securities of one series will not be entitled to receive any payments from the cash flows of Underlying Obligations related to any other series. As the Underlying Issuers will be the sole obligors under the respective Underlying Obligations, holders of Strip Securities will be entirely dependent upon the Underlying Issuers' ability to perform their respective obligations under their respective Underlying Obligations;
19. The Strip Securities will be sold at prices determined by the Filers from time to time and, as such, these may vary as between purchasers of the same series and during the offering period of Strip Securities of the same series. In quoting a price for the Strip Securities, the Filers will advise the purchaser of the annual yield to maturity thereof based on such price;
20. The Underlying Issuers will not receive any proceeds, and the Filers will not be entitled to be paid any fee or commission by the Underlying Issuers, in respect of the sale by the Filers or the members of any selling group of the Strip Securities. Each Filer's overall compensation will be increased or decreased by the amount by which the aggregate price paid for a series of the Strip Securities by purchasers exceeds or is less than the aggregate price paid by such Filer for the related Underlying Obligations;
21. The maturity dates of any particular series of Strip Coupons and the interest component of Strip Packages will be coincident with the interest payment dates for the Underlying Obligations for the Series, with terms of up to 30 years or longer. The maturity date of a particular series of Strip Residuals and the principal component of Strip Packages, if any, will be the maturity date of the Underlying Obligations for the series;
22. The Strip Securities will be issuable in Canadian and U.S. dollars and in such minimum denomination(s) and with such maturities as may be described in the applicable shelf prospectus supplement;
23. The Underlying Issuers will be Canadian, corporations, trusts or partnerships. The Underlying Obligations are securities of the Underlying Issuers. The Strip Securities will be derived without regard, except as to ratings and eligibility to file a short form prospectus under NI 44-101, for the value, price, performance, volatility, investment merit or creditworthiness of the Underlying Issuers historically or prospectively;
24. To be eligible for inclusion in the CARS and PARS Programme, the Underlying Obligations must have been qualified for distribution under a prospectus for which a receipt was issued by the regulators in British Columbia, Alberta, Ontario and Quebec, at least four months must have passed from the date of closing of the original issue of the relevant class or series of Underlying Obligations and the distribution of the Underlying Obligations must be complete;
25. The Filers will cause all Underlying Obligations from which the Strip Securities will be derived and which are not already in the CDS system to be delivered to CDS and registered in the name of CDS. The Underlying Obligations from which the Strip Securities will be derived will, except in very limited circumstances, be held by CDS until their maturity and will not otherwise be released or removed from the segregated account used by CDS to maintain the Underlying Obligations. A separate security identification number or ISIN will be assigned by CDS to each series of Strip Securities;
26. Pursuant to the operating rules and procedures of its CDSX Procedures and User Guide, or any successor operating rules and procedures, CDS will maintain book based records of ownership for the Strip Securities, entering in such records only the names of Participants. No purchaser of Strip Securities will be entitled to any certificate or other instrument from the Underlying Issuer, the Filers or CDS evidencing the Strip Securities or the ownership thereof, and no purchaser of Strip Securities will be shown on the records maintained by CDS except through the book entry account of a Participant. Upon the purchase of Strip Securities, the purchaser will receive only the customary confirmation slip that will be sent to such purchaser by one of the Filers or another Participant;
27. Transfers of beneficial ownership in Strip Securities will be effected through records maintained for Strip Securities by CDS or its nominee (with respect to interests of Participants) and on the records of Participants (with respect to interests of persons other than Participants). Beneficial holders who are not Participants, but who desire to purchase, sell or otherwise transfer beneficial ownership of, or any other interest in, such Strip Securities of a series, may do so only through Participants;
28. Payments in respect of a principal component (if any), interest component(s) (if any), or other amounts (if any) owing under a series of Strip Securities will be made from payments received by CDS in respect of the related Underlying Obligations from the relevant Underlying Issuer. Amounts payable on the maturity of the Strip Securities will be payable by the Underlying Issuer to CDS as the registered holder of the Underlying Obligations. Following receipt thereof, CDS will

pay to each of its Participants shown on its records as holding matured Strip Securities the amount to which such Participant is entitled. The Filers will, and the Filers understand that each other Participant, who holds such Strip Securities on behalf of a purchaser thereof will, pay or otherwise account to such purchaser for the amounts received by it in accordance with the instructions of the purchaser to such Participant. Holders of a series of Strip Securities will not have any entitlement to receive payments under any Underlying Obligations acquired in connection with the issue of any other series of Strip Securities;

29. As the registered holder of the Underlying Securities, CDS will receive any voting rights in respect of the Underlying Obligations for the Strip Securities. CDS will allocate these rights to the holders of the Strip Securities in accordance with the operating rules and procedures of its CDSX Procedures and User Guide, or any successor operating rules and procedures, in effect at the time. These procedures currently provide for the distribution of the voting rights based on the "proportionate economic interest", determined as to be described in the base shelf prospectus for use with the CARS and PARS Programme. Such voting rights will be vested on a series by series basis. In order for a holder of Strip Securities to have a legal right to attend a meeting of holders of Underlying Obligations, or to vote in person, such holder of Strip Securities must be appointed as proxyholder for the purposes of the meeting by the CDS Participant through whom he or she holds Strip Securities;
30. In the event that an Underlying Issuer repays a callable Underlying Obligation prior to maturity in accordance with its terms, CDS will allocate the amount of proceeds it receives as the registered holder of the Underlying Obligations to the holders of the Strip Securities in accordance with the operating rules and procedures of its CDSX Procedures and User Guide, or any successor operating rules and procedures, in effect at the time. These procedures currently provide for the distribution of proceeds on the repayment of a callable Underlying Obligation based on the "proportionate economic interest"; and
31. Any other entitlements received by CDS with respect to the Underlying Obligations upon the occurrence of an event other than in respect of maturity, including entitlements on the insolvency or winding-up of an Underlying Issuer, the non-payment of interest or principal when due, or a default of the Underlying Issuer under any trust indenture or other agreement governing the Underlying Obligations, will be processed by CDS in accordance with the operating rules and procedures of its CDSX Procedures and User Guide, or any successor operating rules and

procedures, in effect at the time. These procedures also currently provide for CDS to distribute the resulting cash and/or securities to the holders of the Strip Securities based on "proportionate economic interest". In addition, if the Underlying Issuer offers an option to CDS as the registered holder of the Underlying Obligations in connection with the event, the Filers understand that CDS will attempt to offer the same option to the holders of the Strip Securities, where feasible.

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:

1. The Underlying Obligations were qualified for distribution under the Underlying Obligations Prospectus, at least four months have passed from the date of closing of the original issue of the relevant class or series of Underlying Obligations and the distribution of the Underlying Obligations is complete;
2. If the Underlying Obligations Prospectus is not available through the SEDAR website, the prospectus supplement for the series of Strip Securities derived from the Underlying Obligations for which the prospectus is not available states that a copy of the Underlying Obligations Prospectus may be obtained, upon request, without charge, from each Filer who is participating in the offering of the series of Strip Securities derived from these Underlying Obligations;
3. To the best of the knowledge of the Filer(s) participating in a relevant offering under the CARS and PARS Programme, the relevant Underlying Issuer is eligible to file a short form prospectus under NI 44-101 (whether such eligibility results from the specific qualification criteria of NI 44-101 or from the granting of an exemption from those criteria) at the Offering Date;
4. A receipt issued for the Prospectus issued in reliance on this decision document is not effective after March 17, 2011;
5. The offering and sale of the Strip Securities complies with all the requirements of NI 44-102 and NI 44-101 as varied by NI 44-102, other than those from which an exemption is granted by this decision document or from which an exemption is granted in accordance with Part 11 of NI 44-102 by the securities regulatory authority or regulator in each of the Jurisdictions as evidenced by a receipt for the Prospectus;

6. The Filers issue a press release and file a material change report in respect of:
- a. a material change to the CARS and PARS Programme which affects any of the Strip Securities other than a change which is a material change to an Underlying Issuer; and
 - b. a change in the operating rules and procedures of the CDSX Procedures and User Guide of CDS, or any successor operating rules and procedures in effect at the time, which may have a significant effect on a holder of Strip Securities; and
7. The Filers file the Prospectus, the material change reports referred to above, and all documents related thereto on SEDAR under a SEDAR profile for the Strip Securities and pay all filing fees applicable to such filings.

“Jo-Anne Matear”
Assistant Manager, Corporate Finance

2.1.4 Phillips, Hager & North Investment Management Ltd. – MRRS Decision

Headnote

Mutual Reliance Review System for Exemptive Relief Applications – s. 19.1 of National Instrument 81-102 Mutual Funds – exemption from section 2.7 (1)(a) of NI 81-102 to permit interest rate and credit derivative swaps with a remaining term to maturity of greater than 3 years; exemption from section 2.8(1) of NI 81-102 to the extent that cash cover is required in respect of specified derivatives to permit the Funds to cover specified derivative positions with: any bonds, debentures, notes or other evidences of indebtedness that are liquid; and exemption from sections 2.8(1)(d) and (f)(i) NI 81-102 to permit the Funds when they open or maintain a long position in a standardized future or forward contract or when they enter into or maintain an interest rate swap position and during the periods when the Funds are entitled to receive payments under the swap, to use as cover, an option to sell an equivalent quantity of the underlying interest of the standardized future, forward or swap.

Applicable Legislative Provisions

National Instrument 81-102 Mutual Funds, ss. 2.7(1)(a), 2.8(1)(d), 2.8(1)(f)(i), 19.1.

August 8, 2007

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

AND

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

AND

**IN THE MATTER OF
PHILLIPS, HAGER & NORTH INVESTMENT
MANAGEMENT LTD. (THE FILER)**

AND

THE FUNDS LISTED IN APPENDIX A

MRRS DECISION DOCUMENT

Background

The local securities regulatory authority or regulator (the **Decision Maker**) in each of the Jurisdictions has received an application from the Filer for a decision under the

securities legislation of the Jurisdictions (the **Legislation**) exempting the funds set out in Appendix A, together with all future funds managed by the Filer that invest in, or gain exposure to, fixed income securities or a combination of fixed income securities and equity securities (collectively, the **Funds**), pursuant to Section 19.1 of National Instrument 81-102 Mutual Funds (**NI 81-102**) from:

- (a) the requirement in section 2.7(1)(a) of NI 81-102, to the extent that it requires a swap or forward to have a remaining term to maturity of three years (or five years in certain circumstances), to permit the Funds to enter into an interest rate swap or credit default swap or, if the transaction is for hedging purposes, currency forwards, in all cases with a remaining term to maturity of greater than three years;
- (b) the requirement in section 2.8(1) of NI 81-102, to the extent that cash cover is required in respect of specified derivatives, to permit the Fund to cover specified derivative positions with (i) any bonds, debentures, notes or other evidences of indebtedness that are liquid (**Fixed Income Securities**), or (ii) floating rate evidences of indebtedness; and
- (c) the requirement in sections 2.8(1)(d) and 2.8(1)(f)(i) of NI 81-102 to permit the Funds when
 - (i) they open or maintain a long position in a debt-like security that has a component that is a long position in a forward contract or in a standardized future or forward contract, or
 - (ii) they enter into or maintain a swap position and during the periods when the Funds are entitled to receive payments under the swap,

to use as cover, a right or obligation to sell an equivalent quantity of the underlying interest of the standardized future, forward or swap.

(paragraphs (a), (b) and (c) collectively will be referred to as the **Requested Relief**)

Under the Mutual Reliance Review System for Exemptive Relief Applications:

- (a) British Columbia is the principal regulator for this application, and
- (b) this MRRS decision document evidences the decision of each Decision Maker.

Interpretation

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

Representations

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

The Filer and the Funds

1. The Filer is a company organized under the laws of British Columbia and having its head office in British Columbia.
2. The Filer is or will be the manager of the Funds and is currently the portfolio adviser of the Funds. The portfolio adviser of the Funds may be an affiliate of the Filer or an unrelated third party.
3. Each of the Funds is or will be a mutual fund established as a trust under the laws of British Columbia, the securities of which are or will be offered for sale pursuant to a prospectus filed in the Jurisdictions. The Funds are or will be reporting issuers in each of the Jurisdictions.
4. The investment objectives and strategies of the Funds are disclosed in the prospectus for each Fund. The common element of their investment strategies is investing in, or gaining exposure to fixed income securities, such as bonds and debentures issued by governments and corporations, or a combination of fixed income securities and equity securities.
5. The Funds may use derivative instruments in a manner consistent with their investment objectives as permitted under Canadian securities laws. The Funds may use derivative instruments for hedging purposes, including protection against losses from changes in interest rates and market indices, protection against fluctuations in the value of foreign currency relative to the Canadian dollar or to substitute a risk to one currency for a risk to another currency. The Funds may use derivative instruments for non-hedging purposes, including as a substitute for direct investment.

Interest Rate Swaps, Credit Default Swaps and Currency Forwards for Hedging Purposes

6. Section 2.7(1)(a) of NI 81-102 prohibits mutual funds from entering into certain over-the-counter (**OTC**) derivatives transactions, with terms to maturity of greater than three years, or greater than five years if the contract provides the fund with a right to eliminate its exposure within three years. The Filer seeks the ability for it or others, on behalf of the Funds, to enter into interest rate swaps and credit default swaps or, if the transaction is for hedging purposes, currency forwards without a restriction as to term of the swap or forward.
7. Fixed income investments have risks that include, but are not limited to, interest rate risk, credit risk

- and currency risk. These risks can be controlled or mitigated through the use of OTC derivatives. Interest rate risk may be managed by interest rate swaps, credit risk may be managed by credit default swaps and currency risk may be managed through currency forwards. OTC derivatives can also provide exposure to specific types of fixed income investments in a more efficient and cost-effective manner than investing in the underlying securities directly.
8. The term of a swap equals the maturity of its exposure, in contrast to other OTC transactions, such as options and certain types of forwards, where the contract term and maturity of the underlying security are not related. As a result, there is no restriction under NI 81-102, for example, on a forward referencing an underlying interest having a term of 10 years or more, whereas there is a restriction if the derivative is in the form of a swap.
 9. Credit default swaps (**CDS**) have a similar risk profile to their reference entity (corporate or sovereign bonds), or in the case of an index of credit default swaps (**CDX**), to an average of all the reference entities in the CDX index. The term of a credit default swap imparts credit risk similar to that of a bond of the reference entity with the same term. The Funds may not be able to achieve the same sensitivity to the credit risk of a specific reference entity or their respective benchmarks by using credit default swaps with a maximum term of three years because the reference entity or relevant benchmark may have an average term that is longer. There is no term restriction in NI 81-102 when investing directly in the reference entities (corporate or sovereign bonds).
 10. A currency forward used for hedging purposes may or may not have a contract term and maturity that equals the maturity of the underlying interest. For example, if a 10 year bond is denominated in U.S. dollars, under the current provisions of NI 81-102, the term of the currency forward can be at most five years whereas the term of the underlying interest is 10 years. Ideally to manage the currency risk, a fund must enter into two consecutive five-year currency forwards. However, the pricing for the currency forward in respect of the second five year period is not known at the time the U.S. dollar bond is purchased but only five years hence. Consequently, the inability to enter into a 10 year currency forward transaction indirectly introduces currency risk when a hedged 10 year position was the desired outcome. Accordingly, whenever the term of the bond is longer than five years, strict compliance with the current provisions of NI 81-102 may expose a fund to currency risk. This has become a very relevant issue given that there are no longer foreign investment restrictions under the *Income Tax Act* (Canada). It should also be noted that it is not market convention to have a transaction with a five year term (subject to a right to eliminate the exposure within three years) as required by NI 81-102 and as a result, from time to time, this off-market feature may subject a fund to less efficient pricing.
 11. The interest rate swap market, credit default swap market and currency forward market are very large and liquid.
 12. The interest rate swap market is generally as liquid as government bonds and more liquid than corporate bonds. The Bank for International Settlements reported that the notional amount of interest rate swaps outstanding was U.S.\$229.8 trillion as of December 31, 2006. In Canada, there were over U.S.\$1.9 trillion of interest rate swaps outstanding as of such date, greater than the sum of all outstanding federal and provincial debt.
 13. CDS, on average, are highly liquid instruments. Single name CDS are slightly less liquid than the bonds of their reference entities, while CDS on CDX are generally more liquid than corporate or emerging market bonds. The Bank for International Settlements reported that the notional amount of credit default swaps outstanding was U.S.\$20.3 trillion as of December 31, 2006. The International Swap and Derivatives Association's 2006 mid-year market survey estimated the notional amount outstanding to be U.S.\$26.0 trillion. Using either source, the credit default swap market has surpassed the size of the equity derivatives markets, and is one of the fastest growing financial markets.
 14. With respect to foreign exchange, the Bank for International Settlements reported that the notional amount of outright forwards and foreign exchange swaps outstanding was U.S.\$19.8 trillion as at December 31, 2006. By comparison, the S&P 500 had an estimated market capitalization of U.S.\$13.7 trillion on such date. The Bank for International Settlements also reported that the average daily turnover of OTC foreign exchange was U.S.\$1,292 billion during April 2004. The average daily turnover of outright forwards and foreign exchange swaps totaled U.S.\$1,152 billion during such period. By comparison, the daily trading during July 2006 was in the case of the New York Stock Exchange approximately U.S.\$61.2 billion and in the case of the Toronto Stock Exchange approximately CAD\$5.1 billion. Daily trading is many times larger for currencies and currency forwards than for well-known equity exchanges.
 15. Because swap and forward contracts are private agreements between two counterparties, a secondary market for the agreements would be a cumbersome process whereby one counterparty would have to find a new counterparty willing to

take over its contract at a fair market price, get the original counterparty to approve the new counterparty, and exchange a new set of documents. To avoid that process, market participants can unwind their positions in interest rate swaps and currency forwards by simply entering into an opposing swap with an acceptable counterparty at market value. In this way, the original economic position of the initial swap or forward is offset. In the case of CDS, the Filer would trade with the original counterparty, which has the effect of cancelling the CDS at current prices, or trade with another counterparty by assigning the swap to the other counterparty. Should one of the two remaining parties in the contract default, there is no recourse back to the fund.

16. When entering into swap and forward transactions on behalf of the Funds, the Filer insists on certain conditions in the terms of its agreements. Among other things, these agreements spell out the required credit rating of the counterparty and the process by which the Filer may close out the position, at market price on behalf of the Funds.
17. Credit risk exposure to a counterparty on an interest rate swap transaction is generally a small fraction of the underlying notional exposure, equal to the cumulative price change since the inception of the swap. Even that small risk will be mitigated because the counterparty will be required to have an approved credit rating prescribed by NI 81-102.
18. Potential credit exposure to a counterparty on a credit default swap depends on the role of each counterparty. When the fund is the protection buyer – ie entering in to the CDS in order to reduce its exposure to the underlying debt - its potential credit exposure to the counterparty is equal to the entire notional amount of the underlying debt. If there is a default of the underlying debt, the counterparty would have to make a payment under the swap, which is dependent on its ability to make that payment. However if the fund is a protection seller – ie entering in to the swap in order to gain additional exposure to the debt – the fund would receive periodic payments from the counterparty, and consequently its credit exposure to the counterparty is limited to the value of the payments not received and the cost of re-establishing the position with another counterparty. As is the case with interest rate swaps, this exposure, in either case, is mitigated because the counterparty will be required to have an approved credit rating prescribed by NI 81-102 and exposure to any individual counterparty is limited by NI 81-102.
19. As is the case with interest rate swaps, credit risk exposure to a counterparty is only a small fraction of the underlying notional exposure of a currency

forward. The Bank for International Settlements estimated as at December 31, 2006 that the “gross market value” of outright forwards and foreign exchange swaps was approximately 2.4% of the notional amount.

20. By permitting the Funds to enter into swaps beyond three year terms, it increases the possibility for the Funds to increase returns due to the fact that the opportunity set is expanded and to target exposures that might not otherwise be available in the cash bond markets or could not be achieved as efficiently as in the cash bond markets. Further, the use of swaps and forwards beyond three year terms enables the Funds to effect hedging transactions that help mitigate underlying investment risks.
21. The Filer has the right to terminate the swap or forward early if a counterparty’s credit rating drops below the credit ratings established by NI 81-102. In connection with the Funds, the Filer will do so in accordance with the requirements of section 2.7(4) of NI 81-102 and the definition of “approved credit rating” in NI 81-102.

Using Fixed Incomes Securities and Floating Rate Debt as Cover

22. Section 2.8 of NI 81-102 requires in some cases that mutual funds cover their derivative positions with “cash cover”. The current definition of “cash cover” in NI 81-102 includes:
 - (a) commercial paper that has a term to maturity of 365 days or less and an approved credit rating and that was issued by a person or company other than a government for permitted supranational agency; and
 - (b) cash equivalent that is an evidence of indebtedness with a remaining term to maturity of 365 days or less, and that is issued, or fully and unconditionally guaranteed as to principal and interest, by government entities that are listed in the definition of “cash equivalent” as defined in NI 81-102.
23. The purpose of the cash cover requirement in NI 81-102 is to limit a mutual fund from leveraging its assets when using certain specified derivatives under section 2.8 and to ensure that the mutual fund is in a position to meet its obligations on the settlement date.
24. The Filer proposes to use liquid fixed income securities and floating rate evidences of indebtedness as cover for specified derivative transactions with respect to the Funds.

25. While money market instruments which are required by NI 81-102 as cash cover are highly liquid, the price paid for that liquidity comes in the form of very low yields relative to longer dated instruments and even relative to similar risk alternatives.
26. The definition of "cash cover" addresses regulatory concerns of interest rate risk and credit risk by limiting the term of the instruments and requiring the instruments to have an approved credit rating. The Filer submits that by permitting the use of fixed income securities with a remaining term to maturity of 365 days or less and an approved credit rating as cover for specified derivative transactions with respect to the Funds, the regulatory concerns are met since the term and credit rating will be the same as other instruments currently permitted as use as "cash cover". Further, the longer dated instruments will enhance yields for the Funds.
27. Floating rate evidences of indebtedness, also known as floating rate notes (FRNs), are debt securities issued by the federal or provincial governments, Crown corporations or other corporations and other entities with floating interest rates that reset periodically, usually every 30 to 90 days. However, the term to maturity of FRNs can be more than 365 days.
28. The Filer proposes to meet the cash cover requirement in section 2.8 of NI 81-102 by investing in FRNs that have a remaining term to maturity of more than 365 days and with interest rates that reset no longer than every 185 days.
29. The Filer submits that the use of FRNs as cash cover can enhance the return of the Funds without reducing the quality of "cash cover" for the purposes of specified derivatives.
30. For the purposes of "money market funds" (as defined in NI 81-102) meeting the 90 day dollar-weighted average term to maturity, the term of a floating rate evidence of indebtedness is the period remaining to the date of the next rate setting.
31. The Filer considers there to be minimal interest rate risk associated with FRNs as floating interest rates generally reset on a short term basis, such as every 30 days to 90 days. Credit risk aside, if an FRN resets every 365 days, then the interest rate risk of the FRN is about the same as a fixed rate instrument with a term to maturity of 365 days.
32. Further, financial instruments that meet the current "cash cover" requirement have low credit risk. The current "cash cover" requirements provide that evidences of indebtedness of issuers, other than government agencies, must have approved credit

ratings. As a result, if the issuer of FRNs is an entity other than a government agency, the FRNs will have an approved credit rating as required in NI 81-102.

33. FRNs will have adequate liquidity and will otherwise meet the requirement for derivative transactions carried out in accordance with section 2.8.

Using Put Options or Short Futures Positions as Cover for Long Positions in Futures, Forwards and Swaps

34. Sections 2.8(1)(d) and 2.8(1)(f)(i) of NI 81-102 do not permit covering long positions in futures and forwards and long positions in swaps for a period when a Fund is entitled to receive payments under the swap, in whole or in part with a right or obligation to sell an equivalent quantity of the underlying interest of the future, forward or swap. In other words, these provisions do not permit the use of put options or short future positions to cover long future, forward or swap positions.
35. Strict compliance with the requirements of NI 81-102 effectively imposes the requirement to overcollateralize, since the maximum liability to the Fund under the scenario described is equal to the difference between the market value of the long and the exercise price of the option, while NI 81-102 requires cash collateral to cover both the long position and the offsetting short position. Over-collateralization imposes various costs on a Fund including opportunity costs that arise when a Fund cannot invest assets designated as collateral to earn a return.
36. Section 2.8(1)(c) of NI 81-102 permits a mutual fund to write a put option and cover it with buying a put option on an equivalent quantity of the underlying interest of the written put option. This position has similar risks as a long position in a future, forward or swap and therefore, the Filer submits that the Funds should be permitted to cover a long position in a future, forward or swap with a put option or short future position.

Derivative Policies

37. The Filer has written policies and procedures relating to the use of derivatives for the Funds that implement a risk management system with respect to such activities. These policies and procedures are approved by the Board of Directors of the Filer.
38. The Head of the Fixed Income Department of the Filer or his or her designate is responsible for derivatives activities for this department. The responsibility for oversight of the firm's derivatives program generally rests with the Head of the Fixed Income Department and the Head of the North

- American Equities Department of the Filer (or their designates) and any matters of concern must be brought to the attention of the Board of Directors and the Risk Management Committee of the Filer.
39. The Risk Management Committee of the Filer reviews and approves the specific derivative strategies that have been developed by individual investment analysts and portfolio managers in the Fixed Income Department, and monitors the status of the derivatives positions in the Funds.
40. Comprehensive administrative procedures and controls have been implemented to mitigate the risks associated with derivative investments. These include procedures and controls over (a) the dealers and counterparties with which the Filer and the Funds execute transactions, (b) the employees of the Filer initiating, recording and monitoring derivative transactions, and (c) the documentation of each transaction.
41. Limits and controls on the use of derivatives are part of the Filer's fund risk and compliance regime. Department heads or designated derivative supervisors of the Fixed Income Department are required to sign off on each type of proposed derivative product and strategy used by a Fund and two signatures are required on all derivative trade tickets. An analyst that reports to the Risk Management Committee ensures that the derivative positions of each Fund are within applicable policies. Derivative positions are monitored daily.
42. The derivative contracts entered into by the Filer or sub-advisor on behalf of the Funds must be in accordance with the investment objectives and strategies of each of the Funds. The Filer is also required to adhere to NI 81-102. The Filer sets and reviews the investment policies of the Funds, which also allows the trading in derivatives.
43. The prospectuses and annual information forms of the Funds disclose the internal controls and risk management processes of the Filer regarding the use of derivatives and, upon renewal, will include disclosure of the nature of the relief granted in respect of the Funds.
- (b) the FRNs meet the following requirements:
- (i) the floating interest rates of the FRNs reset no later than every 185 days;
- (ii) the FRNs are floating rate evidences of indebtedness with the principal amounts of the obligations that will continue to have a market value of approximately par at the time of each change in the rate to be paid to the holders of the evidences of indebtedness;
- (iii) if the FRNs are issued by a person or company other than a government or "permitted supranational agency" as defined in NI 81-102, the FRNs must have an "approved credit rating" as defined in NI 81-102;
- (iv) if the FRNs are issued by a government or permitted supranational agency, the FRNs have their principal and interest fully and unconditionally guaranteed by (A) the government of Canada or the government of a jurisdiction in Canada; or (B) the government of the United States of America, the government of one of the states of the United States of America, the government of another sovereign state or a "permitted supranational agency" as defined in NI 81-102, if, in each case, the FRN has an "approved credit rating" as defined in NI 81-102; and
- (v) the FRNs meet the definition of "conventional floating rate debt instrument" in section 1.1 of NI 81-102;

Decision

Each of the Decision Makers is satisfied that the test contained in the Legislation that provides the Decision Maker with the jurisdiction to make the Decision has been met. The decision of the Decision Makers under the Legislation is that the Requested Relief is granted provided that:

- (a) the Fixed Income Securities have a remaining term to maturity of 365 days or less, and have an "approved credit rating" as defined in NI 81-102;

- (c) a Fund does not open or maintain a long position in a debt-like security that has a component that is a long position in a forward contract, or in a standardized future or forward contract unless the Fund holds:
- (i) cash cover in an amount that, together with margin on account for the specified derivative and the market value of the specified derivative, is not less than, on a daily mark-to-market basis, the

- underlying market exposure of the specified derivative;
- (ii) a right or obligation to sell an equivalent quantity of the underlying interest of the future or forward contract, and cash cover that together with margin on account for the position, is not less than the amount, if any, by which the strike price of the future or forward contract exceeds the strike price of the right or obligation to sell the underlying interest; or
- (iii) a combination of the positions referred to in subparagraphs a) and b) that is sufficient, without recourse to other assets of the Fund, to enable the Fund to acquire the underlying interest of the future or forward contract;
- (d) a Fund does not enter into or maintain a swap position unless for periods when the Fund would be entitled to receive payments under the swap, the Fund holds:
- (i) cash cover in an amount that, together with margin on account for the swap and the market value of the swap, is not less than, on a daily mark-to-market basis, the underlying market exposure of the swap;
- (ii) a right or obligation to enter into an offsetting swap on an equivalent quantity and with an equivalent term and cash cover that together with margin on account for the position is not less than the aggregate amount, if any, of the obligations of the Fund under the swap less the obligations of the Fund under such offsetting swap; or
- (iii) a combination of the positions referred to in clauses a) and b) that is sufficient, without recourse to other assets of the Fund, to enable the Fund to satisfy its obligations under the swap; and
- (e) at the time of the next renewal and all subsequent renewals of the prospectus and annual information form of the Funds and/or the Funds, each of the Funds and the Funds shall disclose the nature of this
- relief in each fund's prospectus under the Investment Strategies section and the nature and terms of the relief in the fund's annual information form.

"Allan Lim"
Manager, Corporate Finance

APPENDIX A

List of Funds

Phillips, Hager & North Bond Fund
Phillips, Hager & North Dividend Income Fund
Phillips, Hager & North Balanced Pension Trust
Phillips, Hager & North Balanced Fund
Phillips, Hager & North Short Term Bond & Mortgage Fund
Phillips, Hager & North High Yield Bond Fund
Phillips, Hager & North Total Return Bond Fund
Phillips, Hager & North U.S. Dividend Income Fund
Phillips, Hager & North Community Values Bond Fund
Phillips, Hager & North Community Values Balanced Fund
Phillips, Hager & North Canadian Income Fund
BonaVista Global Balanced Fund

2.1.5 Brean Murray, Carret & Co., LLC – s. 6.1(1) of NI 31-102 National Registration Database and s. 6.1 of OSC Rule 13-502 Fees

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

Rules Cited

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

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

AND

**IN THE MATTER OF
BREAN MURRAY, CARRET & CO., LLC**

DECISION

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

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

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

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

1. The Applicant is a limited liability company formed under the laws of the State of Delaware in the United States of America. The head office of the Applicant is located in New York, New York, United States of America.
2. The Applicant is registered as a broker-dealer with the Securities and Exchange Commission and is a member of the Financial Industry Regulatory Authority in the United States.

3. The Applicant is not registered in any capacity under the Act and is not a reporting issuer in any province or territory of Canada. However, the Applicant is in the process of applying to the Commission for registration under the Act as a dealer in the category of international dealer.
4. NI 31-102 requires that all registrants in Canada enrol with CDS Inc. (**CDS**) and use the national registration database (**NRD**) to complete certain registration filings. As part of the enrolment process, registrants are required to open an account with a member of the Canadian Payments Association from which fees may be paid with respect to NRD by electronic pre-authorized debit (the **electronic funds transfer requirement** or **EFT Requirement**).
5. The Applicant anticipates encountering difficulties in setting up a Canadian based bank account for purposes of fulfilling the EFT Requirement.
6. The Applicant confirms that it is not registered in, and does not intend to register in, another category to which the EFT Requirement applies and that Ontario is the only jurisdiction in which it is seeking registration.
7. Staff of the Canadian Securities Administrators has indicated that, with respect to applications from international dealers and international advisers (or applicants in equivalent categories of registration) for relief from the EFT Requirement, it is prepared to recommend waiving the fee normally required to accompany applications for discretionary relief (the **Application Fee**).
8. For Ontario registrants, the requirement for payment of the Application Fee is set out in section 4.1 of Rule 13-502.

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

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

- A. makes acceptable alternative arrangements with CDS for the payment of NRD fees and makes such payment within ten (10) business days of the date of the NRD filing or payment due date;
- B. pays its participation fee under the Act to the Commission by cheque, draft, money order or other acceptable means at the time of filing its application for annual renewal, which shall be no later than the first day of December in each year;

- C. pays any applicable activity fees, or other fees that the Act requires it to pay to the Commission, by cheque, draft, money order or other acceptable means at the appropriate time; and
- D. is not registered in any other Canadian jurisdiction in another category to which the EFT Requirement applies, or has received an exemption from the EFT Requirement in each jurisdiction to which the EFT Requirement applies;

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

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

January 13, 2009

"Donna Leitch"
Assistant Manager, Registrant Regulation
Ontario Securities Commission

2.1.6 QLT Inc.

Headnote

Multilateral Instrument 11-102 Passport System and National Policy 11-203 Process for Exemptive Relief Applications in Multiple Jurisdictions – Takeover Bids – Exemption from the proportionate take-up requirements in section 97.2(1) and from the extension take-up requirements in section 98.3(4) of the Securities Act (Ontario), subject to conditions – Dutch auction – An issuer conducting an issuer bid under a modified Dutch auction procedure requires relief from the requirement to take up and pay for securities deposited on a pro rata basis and the associated disclosure requirement – The issuer is disclosing the maximum number of shares it will acquire under the bid, and the minimum and maximum amount it will pay for shares tendered; as a result, the potential for confusion is minimal – Conflicting provisions of Canadian and U.S. regimes with respect to take-up requirements – But for jurisdiction of incorporation of the Filer, the Filer would be entitled to conduct the Offer in accordance with requirements of the U.S. regime – Filer will comply with the U.S. regime in connection with respect to the conduct of the Offer.

Applicable Legislative Provisions

Securities Act, R.S.O. 1990, c. S.5, as am., ss. 97.2(1), 98.3(4), 104(2)(c).
OSC Rule 62-504 s. 4.2(2) and Form 62-504F2, Items 2 and 8.

January 13, 2009

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

AND

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

AND

**IN THE MATTER OF
QLT INC.
(the Filer)**

DECISION

Background

1 The securities regulatory authority or regulator in each of the Jurisdictions (collectively, the Decision Makers) has received an application from the Filer for a decision under the securities legislation of the Jurisdictions (the Legislation) that, in connection with the proposed offer to purchase (the Offer) by the Filer of a portion of its issued and outstanding common shares (the Shares) under an issuer bid (the Bid), the Filer be exempt from the requirements in the Legislation:

- (a) to take up and pay for such securities proportionately according to the number of securities deposited by each security holder (the Proportionate Take Up Requirements);
- (b) to provide disclosure in the Bid circular (the Circular) of such proportionate take-up and payment; and
- (c) that the Bid not be extended by the Filer, where all of the terms and conditions of the Bid have been complied with or waived, unless the Filer first takes up all securities deposited under the Bid and not withdrawn (the Extension Take Up Requirements)

(collectively, the Exemption Sought).

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

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

- (b) the Filer has provided notice that section 4.7(1) of Multilateral Instrument 11-102 *Passport System* (MI 11-102) is intended to be relied upon in Alberta, Saskatchewan, Manitoba, Québec, New Brunswick, Nova Scotia, Prince Edward Island and Newfoundland and Labrador; and
- (c) the decision is the decision of the principal regulator and evidences the decision of the securities regulatory authority or regulator in Ontario pursuant to Section 104(2)(c) of the OSA.

Interpretation

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

Representations

- 3 This decision is based on the following facts represented by the Filer:
 - 1. the Filer is incorporated under the *Business Corporations Act* (British Columbia) with its head office in Vancouver, British Columbia;
 - 2. the Filer is authorized to issue 500,000,000 Shares and 5,000,000 first preference shares; as of November 28, 2008, the Filer had 74,620,328 Shares (the Outstanding Shares) and no first preference shares issued and outstanding;
 - 3. the Shares trade on the Toronto Stock Exchange (TSX) under the trading symbol "QLT" and on NASDAQ under the traders symbol "QLTI";
 - 4. the Filer is a reporting issuer in each of the Provinces of Canada and to its knowledge is not in default of any requirement of the securities legislation of any of the jurisdictions where it is a reporting issuer;
 - 5. the Offer is subject to Rule 13e-4 adopted under the *United States Securities Exchange Act of 1934*, as amended (the 1934 Act) and is not exempt from the 1934 Act;
 - 6. to the knowledge of the Filer and based on publicly available information, the only Shareholder that currently holds greater than 10% of the Shares is Mackenzie Financial Corporation, which holds approximately 12.7% of the Outstanding Shares; as of January 12, 2009, Mackenzie Financial Corporation has not advised the Filer whether it intends to tender any Shares under the Offer;
 - 7. the Filer intends to acquire pursuant to the Bid US\$50 million of Shares (the Maximum Number of Shares) and anticipates using cash on hand to acquire Shares tendered pursuant to the Bid; the Filer has specified the price range, which is US\$2.20 to US\$2.50 (the Price Range) per Share, within which it is willing to repurchase such Shares; if the Bid is fully subscribed at the lowest price within the Price Range, 22.7 million Shares will be repurchased, representing approximately 30% of the Outstanding Shares; if the Bid is fully subscribed at the highest price within the Price Range, 20.0 million Shares will be repurchased, representing approximately 27% of the Outstanding Shares;
 - 8. the Offer will be made pursuant to a modified "Dutch Auction" procedure as follows:
 - (a) the Circular specifies that the Filer intends to purchase \$US50 million of Shares;
 - (b) the Circular specifies the Price Range of US\$2.20 to US\$2.50;
 - (c) Shareholders wishing to tender to the Bid are able to specify the lowest price within the Price Range at which they are willing to sell all or a portion of their Shares (an Auction Tender);
 - (d) Shareholders willing to tender to the Bid, but who do not wish to make an Auction Tender may elect to tender such Shares at the Purchase Price (as defined below) determined in accordance with paragraph (e) below (a Purchase Price Tender);
 - (e) the purchase price of the Shares tendered pursuant to the Bid will be the lowest price that will enable the Filer to purchase the Maximum Number of Shares (the Purchase Price), and will be determined based upon the number of Shares tendered pursuant to an Auction Tender at each price within the Price Range and tendered pursuant to a Purchase Price Tender, with each Purchase Price Tender

- being considered a tender at the lowest price in the Price Range for the purposes of calculating the Purchase Price;
- (f) the aggregate amount that the Filer will pay for Shares tendered pursuant to the Bid will not be determined until the Purchase Price is established, provided that the maximum aggregate amount that the Filer will pay for the Shares will not exceed US\$50 million;
 - (g) all Shares tendered at or below the Purchase Price pursuant to an Auction Tender and all Shares tendered pursuant to a Purchase Price Tender will be taken up and paid for at the Purchase Price (calculated to the nearest whole Share, so as to avoid the creation of fractional Shares), subject to prorating in the event that the aggregate number of Shares tendered at or below the Purchase Price pursuant to Auction Tenders and the number of Shares tendered pursuant to Purchase Price Tenders exceeds the maximum number of Shares to be purchased as contemplated in paragraph (l) below;
 - (h) all Shares tendered at prices above the Purchase Price will be returned to the appropriate Shareholders;
 - (i) all Shares tendered by Shareholders who specify a tender price for such Shares that is outside the Price Range, or which are otherwise not properly deposited in accordance with the terms of the Offer, will be considered to have been improperly tendered, will be excluded from the determination of the Purchase Price, will not be purchased by the Filer and will be returned to such Shareholders;
 - (j) Shareholders may also tender Shares subject to the condition that a minimum number of the Shares tendered, as specified by the Shareholder, must be purchased if any of such Shareholder's Shares are purchased (a Conditional Tender);
 - (k) as disclosed by the Filer in the Circular, the Filer made the Conditional Tender alternative available for those Shareholders seeking to take steps to have Shares sold under the Offer treated as a sale of such Shares by the Shareholder, rather than as a payment of a dividend to the Shareholder, for U.S. federal income tax purposes;
 - (l) if more than \$US50 million of Shares are properly tendered at the Purchase Price, it is the intention of the Filer that it will purchase Shares in the following order of priority: (i) Shares of Shareholders who beneficially hold fewer than 100 Shares (Odd Lots) and deposit all such Shares; (ii) all other Shares on a pro rata basis; and (iii) only if necessary to permit the purchase of the Maximum Number of Shares, Shares tendered as a Conditional Tender for which the condition was not initially satisfied; in selecting among such Conditional Tenders, the Filer's depositary will select by random lot the tenders to be accepted and will limit its purchase of such Shares to the minimum number of Shares specified by the Shareholder; and
 - (m) in the event the Shares validly tendered to the Bid and not withdrawn are less than the Maximum Number of Shares, the Filer may extend the Bid;
9. if the Shares validly tendered to the Bid and not withdrawn are less than the Maximum Number of Shares and all of the terms and conditions thereof have been complied with, except those waived by the Filer, and the Filer were to subsequently extend the Bid, the Extension Take Up Requirements would require the Filer to take up and pay for all Shares properly deposited and not withdrawn under the Bid, whereas Rule 13e-4 of the 1934 Act prohibits the Filer from taking up Shares deposited and not withdrawn if the Bid is extended in such circumstances; in an issuer self tender, all shares must be taken up concurrently;
10. prior to the expiry of the Bid, all information regarding the number of Shares tendered and the prices at which such Shares are tendered will be kept confidential, and the Filer's depositary for the Bid will be directed by the Filer to maintain such confidentiality until the Purchase Price has been determined;
11. the Legislation provides an exemption for Auction Tenders and Purchase Price Tenders as the Proportionate Take Up Requirements do not apply to Shares deposited under the Bid by Shareholders who:
- (a) are entitled to elect a minimum price per Share, within a range of prices, at which they are willing to sell their Shares under the Bid; and
 - (b) elect a minimum price which is higher than the Purchase Price;

12. the Legislation does not provide an exemption for Conditional Tenders; under a Conditional Tender a Shareholder could tender its Shares at a price which is lower than the Purchase Price and not have such Shares taken up; under the Offer, Conditional Tenders will only be considered after Auction Tenders and Purchase Price Tenders; given that such Shares would be tendered on the condition that a minimum number of such Shares be taken up, if the Filer has already purchased the Maximum Number of Shares, such Shareholder's Shares would not be taken up, despite being tendered at a price lower than the Purchase Price;
13. the Filer is making the Conditional Tender alternative available primarily for Shareholders in the United States seeking to have Shares sold treated as a sale of such Shares rather than as a payment of a dividend for United States federal income tax purposes;
14. there is a "liquid market" in the Shares, as defined in Multilateral Instrument 61-101 *Protection of Minority Security Holders in Special Transactions* (MI 61-101), because:
 - (a) there is a published market for the Shares, namely the TSX and NASDAQ;
 - (b) during the 12 months before December 1, 2008:
 - (i) the number of outstanding Shares was at all times at least 5,000,000, excluding Shares beneficially owned, or over which control or direction was exercised, by related parties and Shares that were not freely tradeable;
 - (ii) the aggregate trading volume of the Shares on the NASDAQ, being the published market on which the Shares are principally traded, was at least 1,000,000 Shares;
 - (iii) there were at least 1,000 trades in the Shares on the NASDAQ; and
 - (iv) the aggregate value of the trades in the Shares on the NASDAQ was at least \$15,000,000;
15. the market value of the Shares on the NASDAQ, was at least \$75,000,000 for November 2008;
16. the Filer has determined that a liquid market for its Shares exists and it is reasonable to conclude that, following the completion of the Bid, there will be a market for holders of the securities who do not tender to the Offer that is not materially less liquid than the market that existed at the time of the making of the Offer;
17. the Filer intends to rely upon the exemptions from the formal valuation requirements in MI 61-101 in connection with the Bid (the Liquid Market Exemption);
18. the Circular:
 - (a) discloses the mechanics for the take up of and payment for, or the return of, Shares as described in representation 8 above;
 - (b) explains that, by tendering the Shares at the lowest price in the Price Range, a Shareholder can reasonably expect that the Shares so tendered will be purchased at the Purchase Price, subject to proration as described in representation 8 above;
 - (c) discloses the fact that the Filer has applied for an exemption from the Proportionate Take Up Requirements and the Extension Take Up Requirements;
 - (d) discloses the facts supporting the Filer's reliance on the Liquid Market Exemption; and
 - (e) except to the extent exemptive relief is granted by this decision, contains the disclosure prescribed by the Legislation for issuer bids.

Decision

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

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

1. Shares deposited under the Offer and not withdrawn are taken up and paid for, or returned to Shareholders, in a manner described in representation 8 above;
2. the Filer can rely on the Liquid Market Exemption and complies with representation 18, inclusive; and
3. the Filer complies with the requirements of the 1934 Act in respect of the conduct of the Offer.

“Andrew S. Richardson, CA”
Acting Director, Corporate Finance
British Columbia Securities Commission

2.1.7 Canadian Apartment Properties Real Estate Investment Trust

Headnote

MI 11-102 and NP 11-203 – relief from filing business acquisition report – using income from the continuing operations of the filer to determine the significance of certain acquisitions leads to anomalous results – filer permitted to exclude depreciation of income-producing properties from income when calculating significance under Part 8 of National Instrument 51-102 Continuous Disclosure Obligations.

Applicable Legislative Provisions

National Instrument 51-102 Continuous Disclosure Obligations, s. 8.3.

January 19, 2009

**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
CANADIAN APARTMENT PROPERTIES
REAL ESTATE INVESTMENT TRUST
(the FILER)**

DECISION

Background

The principal regulator in the Jurisdiction has received an application from the Filer for a decision under the securities legislation of the Jurisdiction of the principal regulator (the Legislation) granting relief to allow the exclusion of depreciation of income producing properties when applying the Income Test (as defined below) for the Filer's continuous disclosure obligations under Part 8 of National Instrument 51-102 *Continuous Disclosure Obligations* (NI 51-102) in respect of the December 5, 2008 acquisition of a 153 suite apartment building referred to as Grand Allee (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 (the Principal Regulator), and

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

Interpretation

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

Representations

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

1. The Filer is an internally managed unincorporated open-ended real estate investment trust owning interests in multi-unit residential properties including apartment buildings and townhouses located in major urban centres across Canada and two land lease communities.
2. The Filer was established under the laws of the Province of Ontario by a declaration of trust and its head office is located in Toronto, Ontario.
3. The Filer is a reporting issuer under the securities legislation of each of the provinces and territories of Canada.
4. The units of the Filer are listed and posted for trading on the Toronto Stock Exchange under the trading symbol CAR.UN.
5. The Filer completed its initial public offering on May 21, 1997 pursuant to its final long form prospectus dated May 12, 1997.
6. As at December 1, 2008, the Filer had ownership interests in 27,461 residential suites well diversified by geographic location and asset class and 1,278 land lease sites.
7. As at and for the year ended December 31, 2007 the Filer had assets in excess of \$2.2 billion, income from continuing operations of approximately \$531,000 and depreciation of income producing properties of \$66.7 million.
8. As at and for the year ended December 31, 2006 the Filer had assets of approximately \$2 billion, income from continuing operations of approximately \$579,000 and depreciation of income producing properties of \$56.9 million.
9. Under Part 8 of NI 51-102, the Filer is required to file a business acquisition report (BAR) for any completed acquisition that is determined to be significant based on the acquisition satisfying any

of the three significance tests set out in subsection 8.3 (2) of NI 51-102.

10. For the purposes of completing its quantitative analysis of the income test (the Income Test) prescribed under Part 8.3 of NI 51-102, the Filer is required to compare its income from continuing operations against the proportionate share of income from continuing operations of Grand Allee.
11. The application of the Income Test produces an anomalous result for the Filer in comparison to the results of the other tests of significance set out in subsection 8.3 (2) of NI 51-102, which were not triggered by the acquisition.
12. Excluding depreciation of income producing properties when applying the Income Test more accurately reflects the significance of this acquisition from a business and commercial perspective and its results are generally consistent with the other tests of significance set out in subsection 8.3 (2) of NI 51-102.
13. The application of the Income Test with depreciation of income producing properties excluded results in Grand Allee representing approximately 1.07% of the Filer's income from continuing operations for the fiscal year ended December 31, 2007. However, based on the application of the Income Test, pursuant to paragraph (1) of Part 8.2 of NI 51-102, the Filer is required to file a BAR with respect to its acquisition of Grand Allee on or before February 17, 2009.

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.

"Jo-Anne Matear"
Assistant Manager, Corporate Finance

2.2 Orders

2.2.1 Western Canadian Coal Corp. – s. 9.1 of MI 61-101 Protection of Minority Security Holders in Special Transactions

Headnote

MI 11-102 – related party transactions also connected transactions – issuer to acquire 100% of outstanding securities of related party in accordance with UK laws - proposed acquisition conditional upon issuer providing loan to related party to cover related party's credit facility - MI 61-101 requires minority approval for loan - 25% market capital exemption would be available but for the fact that the loan and acquisition are related party transactions that are also connected party transactions - without the loan, the acquisition is unlikely to happen - issuer will obtain valuation and minority approval for the acquisition - related party to repay loan within 90 days of failing to obtain minority approval for the acquisition - issuer granted relief from obtaining minority approval in connection with the loan.

Applicable Legislative Provisions

Multilateral Instrument 61-101 Protection of Minority Security Holders in Special Transactions, s. 5.6.

IN THE MATTER OF MULTILATERAL INSTRUMENT 61-101 PROTECTION OF MINORITY SECURITY HOLDERS IN SPECIAL TRANSACTIONS ("MI 61-101")

AND

IN THE MATTER OF WESTERN CANADIAN COAL CORP. ("Western")

ORDER (Section 9.1 of Multilateral Instrument 61-101)

UPON the application (the "**Application**") of Western to the Director of the Ontario Securities Commission (the "**OSC**") pursuant to Section 9.1 of MI 61-101 for a decision exempting Western from the requirement to obtain minority approval required by section 5.6 of MI 61-101 in connection with a proposed related party transaction with Cambrian Mining plc ("**Cambrian**").

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

AND UPON Western having represented to the Director as follows:

1. Western is a corporation incorporated under the laws of British Columbia. Western is a reporting issuer in each of the provinces of Canada, except Québec, and is not in default of its reporting issuer obligations in any jurisdiction.

2. The authorized share capital of Western consists of an unlimited number of common shares and an unlimited number of preferred shares, of which 209,715,935 common shares (the "**Western Shares**") are issued and outstanding. The Western Shares are listed on the Toronto Stock Exchange and the Alternative Investment Market of the London Stock Exchange under the symbol "WTN". Certain share purchase warrants and convertible debentures of Western are also listed on the Toronto Stock Exchange under the symbol "WTN.WT" and "WTN.DB", respectively.
3. Cambrian is the largest shareholder of Western, holding approximately 34% of the Western Shares as of December 22, 2008. With the exception of Cambrian, only one other shareholder, Audley European Opportunities Fund Limited ("**Audley**"), holds more than 10% of the issued and outstanding Western Shares. Two members of Western's board of directors (John Byrne and John Conlon) are also directors of Cambrian.
4. Cambrian is a corporation incorporated under the laws of the United Kingdom. Cambrian's registered office is located at 27 Albemarle Street, London W1S 4DW United Kingdom.
5. The ordinary shares of Cambrian (the "**Cambrian Shares**") are listed on the Alternative Investment Market of the London Stock Exchange under the symbol "CBM".
6. Audley is the largest shareholder of Cambrian, holding approximately 25% of Cambrian's Shares as of December 22, 2008.
7. Cambrian Investment Holdings Limited, a wholly-owned subsidiary of Cambrian, is currently indebted to Investec Bank (UK) Limited ("**Investec**") in the amount of US\$35,000,000 under the US\$50,000,000 Revolving Credit and Term Loan Facilities Agreement dated July 21, 2006 among Cambrian, Cambrian Investment Holdings Limited, Deepgreen Minerals Corporation Limited, AGD Mining Limited, Investec and certain other lenders (the "**Investec Facility**"). The Investec Facility is secured by, among other things, the Western Shares held by Cambrian.
8. The obligations of Cambrian Investment Holdings Limited under the Investec Facility are due and payable on January 21, 2009. Cambrian has advised Western that it does not currently have the financial resources necessary to repay the Investec Facility and, given current market conditions, it is highly unlikely that Cambrian would be able to refinance the Investec Facility at this time.
9. On December 24, 2009, Western and Cambrian announced they had entered into an agreement in principle with respect to a combination transaction (the "**Combination**") pursuant to which Western would acquire 100% of the Cambrian Shares.
10. The Combination may proceed by way of a scheme of arrangement or takeover offer under the UK Companies Act. Under the terms of the Combination, Western will issue 0.75 Western Share for each Cambrian Share held. Completion of the Combination will remain subject to, among other things, entering into a definitive combination agreement and receipt of all necessary approvals, including regulatory, shareholder and lender approvals and consents.
11. Western's board of directors established a special committee of directors that are independent of Cambrian (the "**Western Committee**") to consider, negotiate and make a recommendation regarding the Combination to Western's board of directors. The Western Committee engaged an independent financial advisor to provide it with a formal valuation of the Combination to Western and its shareholders (the "**Shareholders**").
12. Prior to announcing the Combination, Western had completed an extensive strategic review process to examine and consider opportunities to maximize Shareholder value. The Western Committee concluded that the Combination was the best alternative for Western and should be considered by Shareholders.
13. Western intends to deliver an information circular to its Shareholders in connection with a special meeting to be held for the purposes of considering the Combination. The formal valuation will be included in the information circular delivered to Shareholders.
14. Western is proposing to loan Cambrian US\$36,000,000 (C\$43,302,000 based on Bank of Canada Exchange Rate on November 28, 2008) on arm's length terms (the "**Loan**"). The Loan will be drawn down and deposited in Cambrian Investment Holdings Limited's account at Investec to satisfy its obligations under the Investec Facility. The terms of the Loan will include that: (i) the completion of the Loan transaction will be conditional upon the Applicant receiving the exemption order from the OSC contemplated herein; and (ii) the full amount of the Loan will be repaid within 90 days following termination of the Combination transaction or discussions related thereto.
15. The Loan will be secured by a first ranking security interest over all of Cambrian's assets. These assets include Cambrian's Western Shares, Cambrian's convertible debentures of Western, Cambrian's gold and antimony mines in Australia, Cambrian's coal mines in West Virginia and British Columbia as well as Cambrian's

ownership interests in other energy and mining related entities.

16. Cambrian has advised Western that, if the Combination proceeds, Investec will require that the Investec Facility be repaid as part of the transaction. As a result, Cambrian may not be in a position to proceed with the Combination unless the Loan is provided on or before January 21, 2009.
17. Cambrian is a “related party” of Western as such term is defined in MI 61-101. Each of the Loan and the Combination constitute a “related party transaction” for the purposes of MI 61-101. The Loan and the Combination constitute “connected transactions” as defined in MI 61-101.
18. A formal valuation of the Loan is not required under MI 61-101, as the Loan is not a related party transaction described in any of paragraphs (a) to (g) of the definition of “related party transaction” in MI 61-101.
19. Pursuant to section 5.6 of MI 61-101, approval of a majority of Western’s minority shareholders is required in respect of the Loan, being the approval of the Loan by a majority of Shareholders, excluding Cambrian, Audley and their respective associates and affiliates.
20. Western’s market capitalization for the purposes of the Loan transaction calculated in accordance with MI 61-101 is C\$213,910,253.70. Accordingly, the amount of the Loan, standing alone, would be less than 25% of Western’s market capitalization.
21. Western is required to obtain a formal valuation and minority approval in respect of the Combination in accordance with MI 61-101.
22. Western’s board believes that the Combination is the best alternative for Western and that requiring minority approval of the Loan would result in Cambrian having to consider other alternatives for dealing with the Investec Facility, all of which would preclude the Combination and as a result deprive the holders of Western Shares the opportunity to vote on the Combination.

AND UPON the Director being satisfied that to do so would no be prejudicial to the public interest;

IT IS DECIDED by the Director pursuant to section 9.1 of MI 61-101 that, in connection with the Loan, Western shall be exempt from the minority approval requirement in section 5.6 of MI 61-101 provided that if Western does not obtain minority approval for the Combination, the Loan will be repaid within 90 days thereafter.

January 14, 2009.

“Naizam Kanji”
Manager, Mergers & Acquisitions

2.2.2 Darren Delage

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

AND

IN THE MATTER OF
DARREN DELAGE

ORDER

WHEREAS on March 31, 2008 the Commission issued a Notice of Hearing pursuant to section 127 of the *Securities Act* (the "Act") in respect of Darren Delage's trading in the shares of Environmental Applied Research Technology House-Earth (Canada) Corporation;

AND WHEREAS on March 31, 2008, Staff of the Commission filed a Statement of Allegations;

AND WHEREAS Darren Delage entered into a settlement agreement dated January 13, 2009 (the "Settlement Agreement") in relation to the matters set out in the Statement of Allegations;

AND WHEREAS the Commission issued a Notice of Hearing dated January 13, 2009 setting out that it proposed to consider the Settlement Agreement;

UPON reviewing the Settlement Agreement, the Notice of Hearing, the Statement of Allegations, and upon considering submissions from counsel for Darren Delage and from Staff of the Commission;

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

IT IS HEREBY ORDERED, PURSUANT TO SECTIONS 127 AND 127.1 OF THE ACT, THAT:

- (a) the Settlement Agreement is hereby approved;
- (b) The registration granted to the Respondent under Ontario securities law is suspended for a period of 4 months commencing on the date of this order, and the following term and condition be imposed on the Respondent's registration thereafter: the Respondent shall be subject to supervision by a registered officer (advising and trading) in the category of investment counsel and portfolio manager for a period of 2 years.
- (c) Trading in any securities by the Respondent shall cease for a period of 4 months commencing on the date of the Commission's order, except that the Respondent may trade in securities in one RRSP account wholly beneficially owned by the Respondent and held at a full service registered dealer (which account the Respondent will identify in writing to the Staff of the Ontario Securities Commission), if the securities are
 - (i) securities referred to in clause 1 of subsection 35(2) of the Act;
 - (ii) in the case of securities other than those referred to in paragraph (i) above:
 - 1. the securities are listed and posted for trading on The Toronto Stock Exchange or the New York Stock Exchange; and
 - 2. the Respondent does not own directly or indirectly through another person or company or through any person or company acting on his behalf, more than one (1) percent of the outstanding securities of the class or series of the class in question;
- (d) The Respondent is reprimanded;
- (e) The Respondent shall complete the Conduct and Practices course of the Canadian Securities Institute within one year of the date of the Commission's order;
- (f) The Respondent shall pay the costs of the Commission's investigation, in the amount of \$7,000.00.

Dated at Toronto, Ontario this 15th day of January, 2009

"Suresh Thakrar"

"Kevin Kelly"

2.2.3 Franklin Danny White et al. – ss. 127(10, (5), (7)

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

AND

**IN THE MATTER OF
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**

ORDER

(Pursuant to ss. 127(1), (5) and (7))

WHEREAS on February 7, 2008, the Ontario Securities Commission (the “Commission”) issued a Notice of Hearing and Statement of Allegations pursuant to sections 127 and 127.1 of the *Securities Act*, R.S.O. 1990, c. S.5, as amended (the “Act”);

AND WHEREAS the first appearance for this matter was scheduled for Thursday, February 28, 2008 at 11:00 a.m.;

AND WHEREAS Staff of the Commission (“Staff”) appeared at the hearing held on Thursday February 28, 2008;

AND WHEREAS counsel for Naveed Ahmad Qureshi (“Qureshi”), Capital Reserve Financial Group (“Capital Reserve”) and Capital Investments of America (“Capital Investments”), and Franklin Danny White (“White”), on behalf of himself and WNBC The World Network Business Club Ltd. (“WNBC”) and Mind Management Consulting (“MMCL”), did not appear on February 28, 2008 but advised Staff in writing that they consented to an adjournment to a pre-hearing conference;

AND WHEREAS having heard submissions from Staff as to the proposed adjournment agreed to by Staff and the respondents, the Commission expressed reservations about scheduling a pre-hearing conference without also setting a date for the hearing on the merits;

AND WHEREAS the Commission advised Staff that it would be willing to grant a brief adjournment of this matter to allow Staff to canvass potential hearing dates with the respondents;

AND WHEREAS the Commission ordered that this matter be adjourned to March 18, 2008 at 3:00 p.m. for the purpose of scheduling hearing dates for the hearing on the merits and a pre-hearing conference;

AND WHEREAS on Tuesday March 18, 2008 Staff and White (for himself, WNBC, and MMCL) appeared at the hearing held and made submissions to the

Commission as to proposed dates for the hearing on the merits;

AND WHEREAS Staff and White advised the Commission that they were content with hearing dates to begin January 12, 2009 and ending on January 23, 2009;

AND WHEREAS White advised the Commission that he has spoken to Qureshi, who is no longer represented by counsel, and who is representing himself, Capital Reserve and Capital Investments, and Qureshi indicated to White that he agreed to the proposed dates for the hearing on the merits;

AND WHEREAS on January 12, 2009 Staff, White and his counsel attended before the Commission for the hearing on the merits as scheduled;

AND WHEREAS on January 12, 2009 Qureshi did not attend at the hearing although given due notice;

AND WHEREAS on January 12, 2009 White moved for a six-month adjournment of the hearing on the merits on the grounds of mental illness and late disclosure;

AND WHEREAS on January 12, 2009, Staff opposed the request for a six-month adjournment but agreed that, in light of the medical evidence presented, a short adjournment be given on terms;

AND WHEREAS the Commission was of the view that the hearing on the merits should proceed at the earliest opportunity;

AND WHEREAS on January 12, 2009, White and Staff agreed to an adjournment of the hearing on the merits to March 23 to 27, 2009 on the following terms: that White seek immediate treatment and further professional assessment; that White provide to Staff any further reports of any treatment and professional assessment by January 30, 2009; that Staff be entitled to cross-examine the professionals on their reports on February 13, 2009 at 11:00; that White consent to submitting to an independent assessment by a professional chosen by Staff at a time to be agreed upon but in any event prior to February 20, 2009; that any further motion for adjournment sought by White be returnable on March 13, 2009 at 10:00 a.m.; that dates for the continuation, if necessary, of the hearing on the merits be reserved for June 22 to 30, 2009 excluding June 23; and that White consent to the making of a temporary order against him pursuant to s. 127(5);

AND WHEREAS the Commission approved of the terms outlined above;

AND HAVING CONSIDERED oral submissions from Staff, and counsel for White, the proposed terms of the adjournment, and White’s consent to the making of a temporary order to expire at the conclusion of the hearing on the merits;

IT IS HEREBY ORDERED that:

1. the hearing on the merits shall be adjourned to March 23 to 27, 2009, and be continued on June 22 to 30, 2009, excluding June 23, if necessary;
2. pursuant to clause 1 of section 127(1) and section 127(5) and (7) of the Act, White, WNBC, MMCL, and any company controlled by White, are restricted from being registered under the Act until the conclusion of the hearing on the merits;
3. pursuant to clause 2 of section 127(1) and section 127(5) and (7) of the Act, trading in securities of and by White, WNBC, MMCL, and any company controlled by White, shall cease until the conclusion of the hearing on the merits;
4. pursuant to clause 3 of section 127(1) and section 127(5) and (7) of the Act, any exemptions contained in Ontario securities law do not apply to any of White, WNBC, MMCL, or any company controlled by White until the conclusion of the hearing on the merits; and
5. White, to the extent he is deemed a Market Participant as defined in the Act, shall not provide any release, report, preliminary prospectus, prospectus, return, financial statement, information circular, take-over bid circular, issuer bid circular, offering memorandum, proxy solicitation to any person or company until the conclusion of the hearing on the merits.

DATED at Toronto this 15th day of January 2009

"Patrick J. LeSage"

"Suresh Thakrar"

"Kevin J. Kelly"

2.2.4 Global Petroleum Strategies, LLC et al. – ss. 127(1), (7) and (10)

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

AND

**IN THE MATTER OF
GLOBAL PETROLEUM STRATEGIES, LLC,
PETROLEUM UNLIMITED, LLC,
AURORA ESCROW SERVICES, LLC,
JOHN ANDREW, VINCENT CATALDI,
CHARLOTTE CHAMBERS, CARL DYLAN,
JAMES EULO, RICHARD GARCIA, TROY GRAY,
JIM KAUFMAN, TIMOTHY KAUFMAN,
CHRIS HARRIS, MORGAN KIMMEL,
ROGER A. KIMMEL, JR., ERIK LUNA,
MITCH MALIZIO, ADAM MILLS, JENNA PELUSIO,
ROSEMARY SALVEGGI, STEPHEN J. SHORE AND
CHRIS SPINLER**

**ORDER
(Section 127(1), (7) and (10))**

WHEREAS the Ontario Securities Commission (the Commission) issued a temporary order on January 6, 2009 (the Temporary Order) against Global Petroleum Strategies, LLC, Petroleum Unlimited, LLC, Aurora Escrow Services, LLC, John Andrew, Vincent Cataldi, Charlotte Chambers, Carl Dylan, James Eulo, Richard Garcia, Troy Gray, Jim Kaufman, Timothy Kaufman, Chris Harris, Morgan Kimmel, Roger A. Kimmel, Jr., Erik Luna, Mitch Malizio, Adam Mills, Jenna Pelusio, Rosemary Salveggi, Stephen J. Shore and Chris Spinler;

AND WHEREAS the Temporary Order ordered that: (1) trading in any securities by the respondents cease pursuant to subsection 127(5), paragraph 2 of subsection 127(1) and paragraph 4 of subsection 127(10) of the Act; and (2) any exemptions contained in Ontario securities law not do not apply to the respondents pursuant to subsection 127(5), paragraph 3 of subsection 127(1) and paragraph 4 of subsection 127(10) of the Act;

AND WHEREAS the Commission further ordered that the Temporary Order is continued until the 15th day after its making unless extended by the Commission;

AND WHEREAS Petroleum Unlimited, LLC, Aurora Escrow Services, LLC, Morgan Kimmel and Roger A. Kimmel, Jr. are represented by counsel and have been served with the Temporary Order, the Notice of Hearing dated January 6, 2009, the Statement of Allegations dated January 5, 2009 and the Affidavit of George Gutierrez sworn January 12, 2009 (the Gutierrez affidavit);

AND WHEREAS Staff attempted, but were unable, to serve the Temporary Order, the Notice of Hearing dated January 6, 2009, the Statement of Allegations dated January 5, 2009 on Global Petroleum Strategies, LLC, John Andrew, Vincent Cataldi, Charlotte

Chambers, Carl Dylan, James Eulo, Richard Garcia, Troy Gray, Jim Kaufman, Timothy Kaufman, Chris Harris, Erik Luna, Mitch Malizio, Adam Mills, Jenna Pelusio, Rosemary Salveggi, Stephen J. Shore and Chris Spinler (the Other Respondents);

AND WHEREAS Staff have agreed to make its best efforts to locate and serve the Other Respondents on five days notice;

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

AND WHEREAS on January 15, 2009, Staff appeared before the Commission, counsel for Petroleum Unlimited, LLC, Aurora Escrow Services, LLC, Morgan Kimmel and Roger A. Kimmel, Jr. having provided their consent to extend the Temporary Order and adjourn the hearing to February 24, 2009 in writing;

AND WHEREAS Staff and Petroleum Unlimited, LLC, Aurora Escrow Services, LLC, Morgan Kimmel and Roger A. Kimmel, Jr. consent to an extension of the Temporary Order until February 24, 2009 and the Other Respondents did not appear;

IT IS ORDERED that the Temporary Order is continued until February 24, 2009 or further order of the Commission and the hearing is adjourned to February 24, 2009 at 9:00 a.m., or such other date as is agreed by Staff and the respondents and is determined by the Office of the Secretary.

DATED at Toronto this 15th day of January, 2009.

"Lawrence E. Ritchie"
Vice Chair

"Margot C. Howard"
Commissioner

2.2.5 Cynthia Jordan

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

AND

IN THE MATTER OF CYNTHIA JORDAN

ORDER

WHEREAS on September 28, 2007, the Commission issued a Notice of Hearing pursuant to section 127 of the Securities Act (the "Act") in respect of the trading of securities in Imagin Diagnostic Centres Inc. ("Imagin") by Cynthia Jordan;

AND WHEREAS on September 27, 2007 Staff of the Commission filed a Statement of Allegations;

AND WHEREAS Cynthia Jordan entered into a Settlement Agreement dated January 15, 2009 (the "Settlement Agreement") in relation to the matters set out in the Statement of Allegations;

AND WHEREAS the Commission issued a Notice of Hearing dated January 15, 2009, setting out that it proposed to consider the Settlement Agreement;

UPON reviewing the Settlement Agreement, the Notice of Hearing, the Statement of Allegations, and upon considering submissions from Cynthia Jordan through her agent and from Staff of the Commission;

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

IT IS HEREBY ORDERED, PURSUANT TO SECTION 127 OF THE ACT, THAT:

1. The Settlement Agreement dated January 15, 2009, between Staff of the Commission and Cynthia Jordan is approved;
2. The Respondent is prohibited for five years from becoming or acting as a director or officer of any issuer, registrant or investment fund manager commencing on the date of this order; and,
3. The Respondent is prohibited for five years from becoming or acting as a registrant commencing on the date of this order.

Dated at Toronto, Ontario this 16th day of January, 2009.

"Suresh Thakrar"

"Kevin J. Kelly"

2.2.6 Allan McCaffrey

Dated at Toronto, Ontario this 16th day of January, 2009.

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

"Suresh Thakrar"

"Kevin J. Kelly"

AND

**IN THE MATTER OF
ALLAN MCCAFFREY**

ORDER

WHEREAS on September 28, 2007, the Commission issued a Notice of Hearing pursuant to section 127 of the *Securities Act* (the "Act") in respect of the trading of securities in Imagin Diagnostic Centres Inc. ("Imagin") by Allan McCaffrey;

AND WHEREAS on September 27, 2007 Staff of the Commission filed a Statement of Allegations;

AND WHEREAS Allan McCaffrey entered into a Settlement Agreement dated January 15, 2009 (the "Settlement Agreement") in relation to the matters set out in the Statement of Allegations;

AND WHEREAS the Commission issued a Notice of Hearing dated January 15, 2009, setting out that it proposed to consider the Settlement Agreement;

UPON reviewing the Settlement Agreement, the Notice of Hearing, the Statement of Allegations, and upon considering submissions from Allan McCaffrey through his agent and from Staff of the Commission;

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

**IT IS HEREBY ORDERED, PURSUANT TO
SECTION 127 OF THE ACT, THAT :**

1. The Settlement Agreement dated January 15, 2009, between Staff of the Commission and Allan McCaffrey is approved;
2. The Respondent is prohibited for ten years from becoming or acting as a director or officer of any issuer, registrant or investment fund manager commencing on the date of this order;
3. The Respondent is prohibited for ten years from becoming or acting as a registrant commencing on the date of this order; and,
4. The Respondent is to pay an administrative penalty of \$15,000 to be allocated under s. 3.4(2)(b) of the Act to or for the benefit of third parties.

2.2.7 Michael Shumacher

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

AND

**IN THE MATTER OF
MICHAEL SHUMACHER**

ORDER

WHEREAS on September 28, 2007, the Commission issued a Notice of Hearing pursuant to section 127 of the *Securities Act* (the "Act") in respect of the trading of securities in Imagin Diagnostic Centres Inc. ("Imagin") by Michael Shumacher;

AND WHEREAS on September 27, 2007 Staff of the Commission filed a Statement of Allegations;

AND WHEREAS Michael Shumacher entered into a Settlement Agreement dated January 15, 2009 (the "Settlement Agreement") in relation to the matters set out in the Statement of Allegations;

AND WHEREAS the Commission issued a Notice of Hearing dated January 15, 2009, setting out that it proposed to consider the Settlement Agreement;

UPON reviewing the Settlement Agreement, the Notice of Hearing, the Statement of Allegations, and upon considering submissions from Michael Shumacher through his agent and from Staff of the Commission;

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

**IT IS HEREBY ORDERED, PURSUANT TO
SECTION 127 OF THE ACT, THAT :**

1. The Settlement Agreement dated January 15, 2009, between Staff of the Commission and Michael Shumacher is approved;
2. The Respondent is prohibited for five years from becoming or acting as a director or officer of any issuer, registrant or investment fund manager commencing on the date of this order; and,
3. The Respondent is prohibited for five years from becoming or acting as a registrant commencing on the date of this order.

Dated at Toronto, Ontario this 16th day of January, 2009.

"Suresh Thakrar"

"Kevin J. Kelly"

2.2.8 Christopher Smith

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

AND

**IN THE MATTER OF
CHRISTOPHER SMITH**

ORDER

WHEREAS on September 28, 2007, the Commission issued a Notice of Hearing pursuant to section 127 of the *Securities Act* (the "Act") in respect of the trading of securities in Imagin Diagnostic Centres Inc. ("Imagin") by Christopher Smith;

AND WHEREAS on September 27, 2007 Staff of the Commission filed a Statement of Allegations;

AND WHEREAS Christopher Smith entered into a Settlement Agreement dated January 15, 2009 (the "Settlement Agreement") in relation to the matters set out in the Statement of Allegations;

AND WHEREAS the Commission issued a Notice of Hearing dated January 15, 2009, setting out that it proposed to consider the Settlement Agreement;

UPON reviewing the Settlement Agreement, the Notice of Hearing, the Statement of Allegations, and upon considering submissions from Christopher Smith through his agent and from Staff of the Commission;

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

**IT IS HEREBY ORDERED, PURSUANT TO
SECTION 127 OF THE ACT, THAT :**

1. The Settlement Agreement dated January 15, 2009, between Staff of the Commission and Christopher Smith is approved;
2. The Respondent is prohibited for five years from becoming or acting as a director or officer of any issuer, registrant or investment fund manager commencing on the date of this order; and,
3. The Respondent is prohibited for five years from becoming or acting as a registrant commencing on the date of this order.

Dated at Toronto, Ontario this 16th day of January, 2009.

"Suresh Thakrar"

"Kevin J. Kelly"

2.2.9 Michael Zelyony

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

AND

**IN THE MATTER OF
MICHAEL ZELYONY**

ORDER

WHEREAS on September 28, 2007, the Commission issued a Notice of Hearing pursuant to section 127 of the *Securities Act* (the "Act") in respect of the trading of securities in Imagin Diagnostic Centres Inc. ("Imagin") by Michael Zelyony;

AND WHEREAS on September 27, 2007 Staff of the Commission filed a Statement of Allegations;

AND WHEREAS Michael Zelyony entered into a Settlement Agreement dated January 15, 2009 (the "Settlement Agreement") in relation to the matters set out in the Statement of Allegations;

AND WHEREAS the Commission issued a Notice of Hearing dated January 15, 2009, setting out that it proposed to consider the Settlement Agreement;

UPON reviewing the Settlement Agreement, the Notice of Hearing, the Statement of Allegations, and upon considering submissions from Michael Zelyony through his agent and from Staff of the Commission;

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

**IT IS HEREBY ORDERED, PURSUANT TO
SECTION 127 OF THE ACT, THAT :**

1. The Settlement Agreement dated January 15, 2009, between Staff of the Commission and Michael Zelyony is approved;
2. The Respondent is prohibited for five years from becoming or acting as a director or officer of any issuer, registrant or investment fund manager commencing on the date of this order; and,
3. The Respondent is prohibited for five years from becoming or acting as a registrant commencing on the date of this order.

Dated at Toronto, Ontario this 16th day of January, 2009.

"Suresh Thakrar"

"Kevin J. Kelly"

2.3 Rulings

2.3.1 Davis-Rea Ltd. and Davis-Rea Balanced Pooled Fund

Headnote

Relief from the prospectus requirements of the Act to permit the distribution of pooled fund units to certain fully managed accounts on an exempt basis.

Applicable Legislative Provisions

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

Rules Cited

National Instrument 81-102 Mutual Funds.

National Instrument 45-106 Prospectus and Registration Exemptions.

January 16, 2009

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

AND

IN THE MATTER OF
DAVIS-REA LTD.
(the Filer)

AND

DAVIS-REA BALANCED POOLED FUND
(the Balanced Fund)

RULING

Background

The Ontario Securities Commission (the **Commission**) has received an application from the Filer, on its own behalf, and on behalf of the Balanced Fund and any pooled fund established and managed by the Filer in the future (a **Future Davis-Rea Fund** and, together with the Balanced Fund, the **Funds**, individually, a **Fund**) for a ruling pursuant to subsection 74(1) of the Act that trades in units of the Funds to Secondary Managed Accounts (as defined below) will not be subject to the prospectus requirements under section 53 of the Act (the **Prospectus Requirements**).

Interpretation

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

Representations

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

1. The Filer is a corporation organized under the *Business Corporations Act* (Ontario) with its head office in Toronto, Ontario. The Filer is registered with the Commission as an adviser in the categories of Investment Counsel and Portfolio Manager and as a dealer in the category of Limited Market Dealer. It is registered in the appropriate categories to provide discretionary investment management in British Columbia, Alberta, Saskatchewan, Manitoba, Quebec, Nova Scotia and Prince Edward Island.

2. Each of the Funds is, or will be, an open-end mutual fund trust established under the laws of the Province of Ontario. Each of the Funds is, or will each be, a "mutual fund" under the Act. The Balanced Fund is not, and the Future Davis-Rea Funds will each not be, a reporting issuer under the Act.
3. The Filer is or will be the manager, portfolio advisor, and principal distributor of the Funds.
4. The Funds will be sold in Ontario under applicable exemptions from the Prospectus Requirements with the Filer acting as the dealer on the trades in units of the Funds.
5. All of the investors in the Funds will be clients of the Filer who have entered into a discretionary investment management agreement (**Managed Account Agreements**) with the Filer.
6. The Filer provides discretionary investment management services (**Managed Services**) to clients pursuant to the Managed Account Agreements between the clients and the Filer. Pursuant to the Managed Account Agreement with a client, the client authorizes the Filer to supervise, manage and direct purchases and sales, at the Filer's full discretion, on a continuing basis. Based on the size of the assets of the clients and depending on the allocation of a client's assets to a particular asset class, the Filer either manages the client's assets on a segregated account basis or on a pooled basis by investing in the Balanced Fund and may in future invest in a Future Davis-Rea Fund.
7. Pursuant to the Managed Account Agreements, the Filer has full authority to provide its investment management services, including investing clients in mutual funds for which the Filer is the portfolio advisor and changing those funds as the Filer determines in accordance with the mandate of the clients.
8. The Managed Services are provided by employees of the Filer who are registered under the Ontario securities law to advise with respect to securities.
9. The Managed Services consist of the following:
 - (a) each client who accepts Managed Services executes a Managed Account Agreement whereby the client authorizes the Filer to supervise, manage and direct purchases and sales, at the Filer's full discretion on a continuing basis;
 - (b) the Filer's qualified employees perform investment research, securities selection and management functions with respect to all securities, investments, cash equivalents or other assets in the managed account;
 - (c) each managed account holds securities as selected by the Filer, including where appropriate units of the Balanced Fund; and
 - (d) the Filer retains overall responsibility for the Managed Services provided to its clients and has designated a senior officer to oversee and supervise the Managed Services.
10. The Filer's minimum aggregate balance for all the managed accounts of a client is \$500,000. From time to time, the Filer will accept a client who does not meet this minimum threshold if there are exceptional factors that have persuaded the Filer for business reasons to accept such persons as clients and waive the minimum aggregate balance. Managed accounts of a client which in aggregate satisfy the minimum balance requirement are hereinafter referred to as **Primary Managed Accounts**.
11. Most of the holders of the Primary Managed Accounts investing in the Balanced Fund qualify, and those who will invest in a Future Davis-Rea Fund will qualify, as accredited investors under National Instrument 45-106 *Prospectus and Registration Exemptions* (**NI 45-106**).
12. From time to time, the Filer may provide Managed Services to clients with less than \$500,000 under management. Such clients would consist primarily of family members of Primary Managed Account clients. Assets managed by the Filer for the family members are incidental to the assets it manages for holders of Primary Managed Accounts. Managed accounts where the minimum aggregate balance has been waived for the reasons given above are referred to as **Secondary Managed Accounts**. Together, the Primary Managed Accounts and the Secondary Managed Accounts are referred to as the **Managed Accounts**.
13. The holders of Secondary Managed Accounts do not always themselves qualify as accredited investors under NI 45-106. The Filer typically services the Secondary Managed Account clients as a courtesy to its Primary Managed Account clients.

14. Investments in individual securities may not be ideal for the Secondary Managed Account clients since they may not receive the same asset diversification benefits and may incur disproportionately higher brokerage commissions relative to the Primary Managed Account clients due to minimum commission charges.
15. NI 45-106 currently does not recognize a portfolio manager acting on behalf of a managed account in Ontario as being an accredited investor if that account is acquiring a security of an investment fund. In the absence of relief from the Prospectus Requirements, the Funds will be available only to clients that are accredited investors in their own right or are able to invest a minimum of \$150,000 in a Fund in accordance with the requirements of NI 45-106. These requirements either act as a barrier to Secondary Managed Account clients investing in a Fund, or may cause the Filer to invest more of a Secondary Managed Account client's portfolio in such a Fund than it might otherwise prefer to allocate.
16. To improve the diversification and cost benefits to Secondary Managed Account clients, the Filer wishes to distribute units of the Funds to Secondary Managed Accounts without a minimum investment. The Secondary Managed Account client would thereby be able to receive the benefit of the Filer's investment management expertise, regarding both asset allocation and individual stock selection, as well as receive the benefits of lower costs and broader asset diversification associated with pooled investments relative to direct holdings of individual securities.
17. Managed Services provided by the Filer under a Managed Account Agreement are covered by a base management fee calculated as a fixed percentage of the assets under management in the Managed Account (the **Base Management Fee**). The Base Management Fee includes investment research, portfolio selection and management with respect to all securities or other assets in the Managed Account. The Base Management Fee is not intended to cover brokerage commissions and other transaction charges in respect of each transaction which occurs in a Managed Account, nor does it cover interest charges on funds borrowed or charges for standard administrative services provided in connection with the operation of the Managed Account, such as account transfers, withdrawals, safekeeping charges, service charges, wire transfer requests and recordkeeping. The terms of the Base Management Fee are detailed in the Managed Account Agreement.
18. Where the Filer invests on behalf of a Managed Account in Funds which would otherwise pay a management fee to the Filer as manager, the Managed Account will purchase units of a series without such fees. Accordingly, there will be no duplication of fees between a Managed Account and the Funds. The only management fees that are paid by a Managed Account that holds units of a Fund are paid directly to the Filer, pursuant to the Managed Account Agreements.
19. There will be no commission payable by a client on the sale of units of the Funds to a Secondary Managed Account, nor will referral fees be paid by the Filer to a person or company in connection with the referral to the Filer of Secondary Managed Account clients that invest in units of a Fund.

Ruling

The Commission being satisfied that the relevant test contained in subsection 74(1) of the Act has been met, the Commission rules pursuant to subsection 74(1) of the Act that relief from the Prospectus Requirements is granted in connection with the distribution of units of the Funds to Secondary Managed Accounts, provided that:

- (a) this Ruling will terminate upon the coming into force of any legislation or rule of the Commission exempting a trade in a security of a mutual fund to a fully managed account from the Prospectus Requirements;
- (b) this Ruling will only apply with respect to a Secondary Managed Account, where the holder of the Secondary Managed Account is, and in the case of clauses (iii) to (vi) remains,
 - (i) an individual (of the opposite sex or same sex) who is or has been married to the holder of a Primary Managed Account, or is living or has lived with the holder of a Primary Managed Account in a conjugal relationship outside of marriage;
 - (ii) a parent, grandparent, child, or sibling of either the holder of a Primary Managed Account or the individual referred to in clause (i) above;
 - (iii) a personal holding company controlled by an individual referred to in clause (i) or (ii) above;
 - (iv) a trust, other than a commercial trust, of which an individual referred to in clause (i) or (ii) above is a beneficiary;
 - (v) a private foundation controlled by an individual referred to in clause (i) or (ii) above; or

- (vi) a close business associate, employee or professional adviser to a holder of a Primary Managed Account provided that:
 - (A) there are exceptional factors that have persuaded the Filer for business reasons to accept such close business associate, employee or professional adviser as a Secondary Managed Account client, and a record is kept and maintained of the exceptional factors considered; and
 - (B) the Secondary Managed Account clients acquired through such relationships to holder of a Primary Managed Account shall not at any time represent more than five percent of the Filer's total Managed Account assets under management; and
- (c) the Filer does not receive any compensation in respect of the sale or redemption of units of the Funds (other than redemption fees disclosed in an offering memorandum of a Fund) and the Filer does not pay a referral fee to any person or company who refers Secondary Managed Account clients who invest in units of the Funds.

"Wendell S. Wigle"
Commissioner
Ontario Securities Commission

"Carol S. Perry"
Commissioner
Ontario Securities Commission

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Chapter 3

Reasons: Decisions, Orders and Rulings

3.1 OSC Decisions, Orders and Rulings

3.1.1 Darren Delage

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

AND

**IN THE MATTER OF
DARREN DELAGE**

SETTLEMENT AGREEMENT

PART I – INTRODUCTION

1. The Ontario Securities Commission (the “Commission”) will issue a Notice of Hearing to announce that it will hold a hearing to consider whether, pursuant to section 127 of the *Securities Act*, R.S.O. 1990, c. S-5, as amended (the “Act”), it is in the public interest for the Commission to make certain orders in respect of Darren Delage [the “Respondent”].

PART II – JOINT SETTLEMENT RECOMMENDATION

2. Staff of the Commission (“Staff”) agree to recommend settlement of the proceeding commenced by Notice of Hearing dated March 31, 2008 (the “Proceeding”) against the Respondent according to the terms and conditions set out in Part VI of this Settlement Agreement. The Respondent agrees to the making of an order in the form attached as Schedule “A”, based on the facts set out below.

PART III – AGREED FACTS

3. For this proceeding, and any other regulatory proceeding commenced by a securities regulatory authority, the Respondent agrees with the facts as set out in Part III of this Settlement Agreement.

(a) Background

4. Polar Securities Inc. (“Polar Securities”) was established in 1991 and is a registered Investment Dealer and Futures Commission Merchant, whose business included the management of hedge funds.

5. Polaris Energy Offshore Master Fund (the “Polaris Fund”) was established in 2003 and was a \$25 million offshore, non-prospectus qualified hedge fund managed by Polar Securities. The Polaris Fund described itself as a broadly diversified, market neutral, long/short energy equity hedge fund. The investors in the Polaris Fund included North Pole Capital, another hedge fund managed by Polar Securities, and external investors.

6. Delage is a resident of Oakville, Ontario. Delage was employed by Polar Securities from April 2004 to July 15, 2005 to advise and trade on behalf of the Polaris Fund. Delage was not registered with the Commission in any capacity. During his employment, Delage executed the majority of the trades for the Polaris Fund. Delage is currently registered with the Commission as an Associate Advising Officer and Trading Officer with another registered firm.

7. Environmental Applied Research Technology House-Earth (Canada) Corporation (“EAR”) was a stock that traded on the Canadian Venture Exchange (“CDNX”) under the stock symbol “EAR”. On November 4, 2005, EAR was renamed TORR Canada Inc. Trading on the CDNX closes at 4:00 each weekday. After hours trading is permitted until 5:00 at the closing price of the shares.

8. On June 23, 2005, the Polaris Fund participated in a private placement of EAR units. The Polaris Fund purchased approximately 2.75 million units at a cost of \$0.10 per unit. Each unit consisted of one common share and one share purchase warrant of the corporation, with each share purchase warrant exercisable for one common share at a price of \$0.13 (the “Private

Placement”). Pursuant to Ontario securities law, there was a four month restriction on the resale of these shares. This private placement was recommended for the Polaris Fund by an employee of Polar Securities.

(b) Delage’s trading activity in EAR shares

9. Between June 27, 2005 and July 12, 2005, Delage entered into numerous purchases of freely-tradable EAR shares, which were reported on the public market via CDNX, when he knew or ought to have known that the trading could contribute to a misleading price in EAR shares.

10. On June 27, 2005, EAR opened at \$0.18 per share and closed at \$0.24 per share. Delage entered eleven purchase orders for a total of 210,000 EAR shares starting at approximately 3:32 p.m. The buy orders were limit orders, with the exception of the final 5,000 shares that were at market (or \$0.245), at prices of \$0.190 for 40,000 shares, \$0.195 for 25,000 shares, \$0.210 for 60,000 shares, \$0.230 for 50,000 shares and \$0.240 for 30,000 shares. The fills resulted in ten upticks (share purchases at a price higher than the last reported trade) and a new high for 2005 (a share price higher than EAR had previously traded for in 2005). During the time of Delage’s trading, based on the last board lot traded prior to Delage’s first trade, the share price increased from \$0.15 to \$0.24 per share. The volume weighted average price (the average price of Delage’s trades based on the amount traded at each price) for Delage’s trades was \$0.1979 per share.

11. On June 28, 2005, EAR opened at \$0.24 per share and closed at \$0.215 per share. Delage entered two purchase orders for a total of 125,000 EAR shares starting at approximately 3:54 p.m. The buy orders were limit orders to buy 125,000 shares at a price limit of \$0.250. The fills resulted in five upticks. During the time of Delage’s trading, the share price increased from \$0.18 to \$0.215 per share. The volume weighted average price for Delage’s trades was \$0.2092 per share.

12. On June 29, 2005, EAR opened at \$0.20 per share and closed at \$0.20 per share. Delage entered four purchase orders for a total of 100,000 EAR shares starting at approximately 3:53 p.m. The purchase orders were limit orders to buy 100,000 shares at a price limit of \$0.210 for 50,000 shares and \$0.200 for 50,000 shares (of which a total of 95,000 EAR shares were acquired). The fills resulted in one uptick. On this day, there was no net effect on the price of EAR shares. The volume weighted average price for Delage’s trades was \$0.2018 per share.

13. On June 30, 2005, EAR opened at \$0.175 per share and closed at \$0.20 per share. Delage entered purchase orders for EAR shares starting at approximately 2:50 p.m., of which 20,000 EAR shares were filled. The fills resulted in two upticks. During the time of Delage’s trading, the share price increased from \$0.175 to \$0.20 per share. The volume weighted average price for Delage’s trades was \$0.195 per share.

14. On July 11, 2005, EAR opened at \$0.22 per share and closed at \$0.21 per share. Delage entered two purchase orders for 5,000 EAR shares starting at approximately 3:34 p.m. The buy order was a limit order to buy 10,000 shares at a price limit of \$0.22. One order of 5,000 shares was filled at a price of \$0.21 just prior to the market closing at the same price as the previous trade, while the other order was not filled.

15. On July 12, 2005, EAR opened at \$0.20 per share and closed at \$0.22 per share. Delage entered his first purchase order for 5,000 EAR shares at 9:42 a.m. Later that same day, Delage entered four more purchase orders for a total of 25,000 EAR shares starting at approximately 3:46 p.m. The fills resulted in two upticks. During the time of Delage’s trading, the share price increased from \$0.20 to \$0.22 per share.

16. On June 27 and 28, 2005, Delage’s trading dominated the volume of trading in EAR shares in the last 30 minutes of trading. On June 29 and 30, 2005 and July 12, 2005, Delage’s trading represented 100 per cent of the volume of trading in EAR shares in the last 30 minutes of trading.

(c) Effect of trading on Polaris Fund

17. The Polaris Fund was valued monthly in part on the basis of the closing price of the securities held in the Polaris Fund on the last trading day of the month.

(d) Termination of Delage

18. On July 6, 2005, as a result of inquiries initiated by an employee of Polar Securities, Polar Securities commenced an investigation into Delage’s trading activity in EAR shares at the end of June, 2005. Delage’s employment was terminated, effective July 15, 2005.

PART IV – THE RESPONDENT’S POSITION

19. The Respondent requests that the settlement hearing panel consider the following mitigating circumstances:
20. The Respondent is 35 years of age. Prior to commencing employment with Polar in April 2004, Delage did not have any prior experience working in the securities industry in Canada, except for a summer job during his undergraduate studies in 1994.
21. Prior to Delage’s first purchase of EAR, EAR was a relatively thinly traded security.
22. The average daily volume of trading in EAR during the month of June 2005, prior to Delage’s first day of trading on June 27, 2005, was 43,800 shares per day.
23. The price of EAR was generally increasing prior to Delage’s first purchase of EAR. Between Monday, June 13, 2005 to Friday, June 24, 2005, EAR’s closing prices increased from \$0.12 to \$0.18.
24. The Respondent is currently registered as an Associate Advising Officer and Trading Officer of a registered investment counsel and portfolio manager and limited market dealer.
25. The Respondent has never been the subject of any prior disciplinary proceeding.

PART V – CONDUCT CONTRARY TO THE PUBLIC INTEREST

26. Delage engaged in an intentional pattern of trading in EAR shares, described in paragraphs 10-17, in circumstances where he knew or ought to have known that the trading could contribute to a misleading price for EAR shares.
27. The Respondent’s conduct was contrary to the public interest.

PART VI – TERMS OF SETTLEMENT

28. The Respondent agrees to the terms of settlement listed below.
29. The Commission will make an order pursuant to section 127(1) and section 127.1 of the Act that:
 - (a) The settlement agreement is approved;
 - (b) The registration granted to the Respondent under Ontario securities law be suspended for a period of 4 months commencing on the date of the Commission’s order, and that the following term and condition be imposed on the Respondent’s registration thereafter: the Respondent shall be subject to supervision by a registered officer (advising and trading) in the category of investment counsel and portfolio manager for a period of 2 years;
 - (c) Trading in any securities by the Respondent cease for a period of 4 months commencing on the date of the Commission’s order, except that the Respondent may trade in securities in one RRSP account wholly beneficially owned by the Respondent and held at a full service registered dealer (which account the Respondent will identify in writing to the Staff of the Ontario Securities Commission), if the securities are
 - (i) securities referred to in clause 1 of subsection 35(2) of the Act;
 - (ii) in the case of securities other than those referred to in paragraph (i) above:
 1. the securities are listed and posted for trading on The Toronto Stock Exchange or the New York Stock Exchange; and
 2. the Respondent does not own directly or indirectly through another person or company or through any person or company acting on his behalf, more than one (1) percent of the outstanding securities of the class or series of the class in question;
 - (d) The Respondent be reprimanded;
 - (e) The Respondent complete the Conduct and Practices course of the Canadian Securities Institute within one year of the date of the Commission’s order;

- (f) The Respondent pay the costs of the Commission's investigation, in the amount of \$7,000.00.

30. The Respondent agrees to personally make any payments ordered above by certified cheque when the Commission approves this Settlement Agreement. The Respondent will not be reimbursed for, or receive a contribution toward, this payment from any other person or company.

31. The Respondent undertakes to consent to a regulatory Order made by any provincial or territorial securities regulatory authority in Canada containing any or all of the prohibitions set out in sub-paragraphs 29(b) and (c) above. These prohibitions may be modified to reflect the provisions of the relevant provincial or territorial securities law.

PART VII – STAFF COMMITMENT

32. If the Commission approves this Settlement Agreement, Staff will not commence any proceeding under Ontario securities law in relation to the facts set out in Part III of this Settlement Agreement, subject to the provisions of paragraph 33 below.

33. If the Commission approves this Settlement Agreement and the Respondent fails to comply with any of the terms of the Settlement Agreement, Staff may bring proceedings under Ontario securities law against the Respondent. These proceedings may be based on, but are not limited to, the facts set out in Part III of this Settlement Agreement as well as the breach of the Settlement Agreement.

PART VIII – PROCEDURE FOR APPROVAL OF SETTLEMENT

34. The parties will seek approval of this Settlement Agreement at a public hearing before the Commission according to the procedures set out in this Settlement Agreement and the Commission's Rules of Practice.

35. Staff and the Respondent agree that this Settlement Agreement will form all of the agreed facts that will be submitted at the settlement hearing on the Respondent's conduct, unless the parties agree that additional facts should be submitted at the settlement hearing.

36. If the Commission approves this Settlement Agreement, the Respondent agrees to waive all rights to a full hearing, judicial review or appeal of this matter under the Act.

37. If the Commission approves this Settlement Agreement, neither party will make any public statement that is inconsistent with this Settlement Agreement or with any additional agreed facts submitted at the settlement hearing.

38. Whether or not the Commission approves this Settlement Agreement, the Respondent will not use, in any proceeding, this Settlement Agreement or the negotiation or process of approval of this agreement as the basis for any attack on the Commission's jurisdiction, alleged bias, alleged unfairness, or any other remedies or challenges that may otherwise be available.

PART IX – DISCLOSURE OF SETTLEMENT AGREEMENT

39. If the Commission does not approve this Settlement Agreement or does not make the order attached as Schedule "A" to this Settlement Agreement:

- (a) this Settlement Agreement and all discussions and negotiations between Staff and the Respondent before the settlement hearing takes place will be without prejudice to Staff and the Respondent; and
- (b) Staff and the Respondent will each be entitled to all available proceedings, remedies and challenges, including proceeding to a hearing of the allegations contained in the Statement of Allegations. Any proceedings, remedies and challenges will not be affected by this Settlement Agreement, or by any discussions or negotiations relating to this agreement.

40. Both parties will keep the terms of the Settlement Agreement confidential until the Commission approves the Settlement Agreement. At that time, the parties will no longer have to maintain confidentiality. If the Commission does not approve the Settlement Agreement, both parties must continue to keep the terms of the Settlement Agreement confidential, unless they agree in writing not to do so or if required by law.

PART X – EXECUTION OF SETTLEMENT AGREEMENT

41. The parties may sign separate copies of this agreement. Together, these signed copies will form a binding agreement.

42. A fax copy of any signature will be treated as an original signature.

Dated this 13th day of January, 2009

“M.Scott”

Witness

“Darren Delage”

Darren Delage

Dated this 13th day of January, 2009

STAFF OF THE ONTARIO SECURITIES COMMISSION

“Peggy Dowdall-Logie”

Per: “K. Daniels”

Schedule A

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

AND

**IN THE MATTER OF
DARREN DELAGE**

WHEREAS on March 31, 2008 the Commission issued a Notice of Hearing pursuant to section 127 of the *Securities Act* (the "Act") in respect of Darren Delage's trading in the shares of Environmental Applied Research Technology House-Earth (Canada) Corporation;

AND WHEREAS on March 31, 2008, Staff of the Commission filed a Statement of Allegations;

AND WHEREAS Darren Delage entered into a settlement agreement dated January , 2009 (the "Settlement Agreement") in relation to the matters set out in the Statement of Allegations;

AND WHEREAS the Commission issued a Notice of Hearing dated January , 2009 setting out that it proposed to consider the Settlement Agreement;

UPON reviewing the Settlement Agreement, the Notice of Hearing, the Statement of Allegations, and upon considering submissions from counsel for Darren Delage and from Staff of the Commission;

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

IT IS HEREBY ORDERED, PURSUANT TO SECTIONS 127 AND 127.1 OF THE ACT, THAT:

- (a) the Settlement Agreement is hereby approved;
- (b) The registration granted to the Respondent under Ontario securities law is suspended for a period of 4 months commencing on the date of this order, and the following term and condition be imposed on the Respondent's registration thereafter: the Respondent shall be subject to supervision by a registered officer (advising and trading) in the category of investment counsel and portfolio manager for a period of 2 years.
- (c) Trading in any securities by the Respondent shall cease for a period of 4 months commencing on the date of the Commission's order, except that the Respondent may trade in securities in one RRSP account wholly beneficially owned by the Respondent and held at a full service registered dealer (which account the Respondent will identify in writing to the Staff of the Ontario Securities Commission), if the securities are
 - (i) securities referred to in clause 1 of subsection 35(2) of the Act;
 - (ii) in the case of securities other than those referred to in paragraph (i) above:
 - 1. the securities are listed and posted for trading on The Toronto Stock Exchange or the New York Stock Exchange; and
 - 2. the Respondent does not own directly or indirectly through another person or company or through any person or company acting on his behalf, more than one (1) percent of the outstanding securities of the class or series of the class in question;
- (d) The Respondent is reprimanded;
- (e) The Respondent shall complete the Conduct and Practices course of the Canadian Securities Institute within one year of the date of the Commission's order;
- (f) The Respondent shall pay the costs of the Commission's investigation, in the amount of \$7,000.00.

Dated at Toronto, Ontario this day of January, 2009

3.1.2 Michael Shumacher

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

AND

IN THE MATTER OF
MICHAEL SHUMACHER

SETTLEMENT AGREEMENT BETWEEN
MICHAEL SHUMACHER AND
STAFF OF THE ONTARIO SECURITIES COMMISSION

PART I – INTRODUCTION

1. By Notice of Hearing dated January 15, 2009, the Ontario Securities Commission (the “Commission”) announced that it proposed to hold a hearing to consider whether, pursuant to section 127 of the *Securities Act*, R.S.O. 1990, c. S.5 (the “Act”), it is in the public interest for the Commission to make certain orders in respect of Michael Shumacher (the “Respondent”).

PART II – JOINT SETTLEMENT RECOMMENDATION

2. Staff of the Commission (“Staff”) recommend settlement with the Respondent of the proceeding commenced by Notice of Hearing dated September 27, 2007 (the “Proceeding”) according to the terms and conditions set out in Part VI of this Settlement Agreement. The Respondent agrees to the making of an order in the form attached as Schedule “A”, based on the facts set out below.

PART III – AGREED FACTS

3. For this proceeding, and any other regulatory proceeding commenced by a securities regulatory authority in Canada, the Respondent agrees with the facts as set out in Part III of this Settlement Agreement.
4. Staff and the Respondent agree that this Settlement Agreement is without prejudice to the Respondent in any past, present or future civil proceeding which may be brought by any person. Nothing in this Settlement Agreement is intended to be an admission of civil liability by the Respondent to any person or company; such liability is expressly denied.

(a) Background

5. The Respondent is an individual residing in Ontario and is not currently registered with the Ontario Securities Commission (“Commission”) in any capacity.
6. Imagin Diagnostic Centres Inc. (“Imagin”) is a corporation incorporated pursuant to the laws of Canada with its head office previously located in Toronto, Ontario.
7. Imagin is not registered in any capacity with this Commission nor is it a reporting issuer in Ontario.
8. Imagin started selling its securities in 2003 and as of July 13, 2006, Imagin had raised \$14 million of which approximately \$3.5 million was from Ontario investors. These securities have not been qualified by a prospectus filed with the Commission.

(b) Sale of Imagin Securities by Employees of Imagin including the Respondent

9. Prior to February of 2006, a significant percentage of its staff in Toronto was primarily employed by Imagin to assist in the sales of its securities to investors both inside and outside of Ontario.
10. After February of 2006, Imagin continued to employ persons in Toronto to contact or “qualify” potential investors and any sales leads gathered were then forwarded to Vancouver, British Columbia for further sales action by Imagin. The head office of Imagin also relocated to Vancouver in February of 2006.

11. During the material time, the Respondent was employed by Imagin and was engaged in the sale of securities of members of the public from March 2003 to January 2006.
12. Some of these sales made by the Respondent were from Imagin's offices in Toronto to investors including residents of Ontario.

PART IV – CONDUCT CONTRARY TO ONTARIO SECURITIES LAW AND THE PUBLIC INTEREST

13. Through these acts, the Respondent has been engaging in the business of trading in securities in Ontario. Accordingly, he has been acting as a market intermediary and was required to be registered pursuant to section 25 of the Act.
14. The Respondent's conduct constituted trading in securities without being registered as required by subsection 25(1) of the Act.
15. The Respondent's conduct was contrary to the public interest.

PART V – RESPONDENT'S POSITION

16. The Respondent requests that the settlement hearing panel consider the following mitigating circumstances.
17. The Respondent cooperated with Staff's investigation and provided a voluntary statement.
18. During his conduct set out above, the Respondent states that he unknowingly breached the Act.
19. Further, after the Respondent became aware of Staff's inquiries about the sale of Imagin securities, the Respondent asserts that he was provided a legal opinion that had been previously provided to Imagin stating that the conduct above did not breach the Act.

PART VI – TERMS OF SETTLEMENT

20. The Respondent agrees to the following terms of settlement listed below.
21. The Commission will make an order pursuant to section 127(1) of the Act that:
 - (a) The settlement agreement is approved.
 - (b) The Respondent is prohibited for five years from becoming or acting as a director or officer of any issuer, registrant or investment fund manager.
 - (c) The Respondent is prohibited for five years from becoming or acting as a registrant.

PART VII – STAFF COMMITMENT

22. If the Commission approves this Settlement Agreement, Staff will not commence any proceeding under Ontario securities law in relation to the facts set out in Part III of this Settlement Agreement, subject to the provisions of paragraph 22 below.
23. If the Commission approves this Settlement Agreement and the Respondent fails to comply with any of the terms of the Settlement Agreement, Staff may bring proceedings under Ontario securities law against the Respondent. These proceedings may be based on, but are not limited to, the facts set out in Part III of this Settlement Agreement as well as the breach of the Settlement Agreement.

PART VIII – PROCEDURE FOR APPROVAL OF SETTLEMENT

22. The parties will seek approval of this Settlement Agreement at a public hearing before the Commission scheduled for January 16, 2009, or on another date agreed to by Staff and the Respondent, according to the procedures set out in this Settlement Agreement and the Commission's Rules of Practice.
23. Staff and the Respondent agree that this Settlement Agreement will form all of the agreed facts that will be submitted at the settlement hearing on the Respondent's conduct, unless the parties agree that additional facts should be submitted at the settlement hearing.

24. If the Commission approves this Settlement Agreement, the Respondent agrees to waive all rights to a full hearing, judicial review or appeal of this matter under the Act.
25. If the Commission approves this Settlement Agreement, neither party will make any public statement that is inconsistent with this Settlement Agreement or with any additional agreed facts submitted at the settlement hearing.
26. Whether or not the Commission approves this Settlement Agreement, the Respondent will not use, in any proceeding, this Settlement Agreement or the negotiation or process of approval of this agreement as the basis for any attack on the Commission's jurisdiction, alleged bias, alleged unfairness, or any other remedies or challenges that may otherwise be available.

PART IX – DISCLOSURE OF SETTLEMENT AGREEMENT

27. If the Commission does not approve this Settlement Agreement or does not make the order attached as Schedule "A" to this Settlement Agreement:
- (a) this Settlement Agreement and all discussions and negotiations between Staff and the Respondent before the settlement hearing takes place will be without prejudice to Staff and the Respondent; and
 - (b) Staff and the Respondent will each be entitled to all available proceedings, remedies and challenges, including proceeding to a hearing of the allegations contained in the Statement of Allegations. Any proceedings, remedies and challenges will not be affected by this Settlement Agreement, or by any discussions or negotiations relating to this agreement.
28. Both parties will keep the terms of the Settlement Agreement confidential until the Commission approves the Settlement Agreement. At that time, the parties will no longer have to maintain confidentiality. If the Commission does not approve the Settlement Agreement, both parties must continue to keep the terms of the Settlement Agreement confidential, unless they agree in writing not to do so or if required by law.

PART X – EXECUTION OF SETTLEMENT AGREEMENT

29. The parties may sign separate copies of this agreement. Together, these signed copies will form a binding agreement.
30. A fax copy of any signature will be treated as an original signature.

Dated this 15th day of January, 2009.

ONTARIO SECURITIES COMMISSION

"Peggy Dowdall-Logie"
Executive Director, Ontario Securities Commission

MICHAEL SHUMACHER

"Michael Shumacher"
Michael Shumacher

"Shabbir Evershine"
Witness

Schedule A

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

AND

IN THE MATTER OF
MICHAEL SHUMACHER

ORDER

WHEREAS on September 28, 2007, the Commission issued a Notice of Hearing pursuant to section 127 of the *Securities Act* (the "Act") in respect of the trading of securities in Imagin Diagnostic Centres Inc. ("Imagin") by Michael Shumacher;

AND WHEREAS on September 27, 2007 Staff of the Commission filed a Statement of Allegations;

AND WHEREAS Michael Shumacher entered into a Settlement Agreement dated January 15, 2009 (the "Settlement Agreement") in relation to the matters set out in the Statement of Allegations;

AND WHEREAS the Commission issued a Notice of Hearing dated January 15, 2009, setting out that it proposed to consider the Settlement Agreement;

UPON reviewing the Settlement Agreement, the Notice of Hearing, the Statement of Allegations, and upon considering submissions from Michael Shumacher through his agent and from Staff of the Commission;

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

IT IS HEREBY ORDERED, PURSUANT TO SECTION 127 OF THE ACT, THAT :

1. The Settlement Agreement dated January 15, 2009, between Staff of the Commission and Michael Shumacher is approved;
2. The Respondent is prohibited for ten years from becoming or acting as a director or officer of any issuer, registrant or investment fund manager;
3. The Respondent is prohibited for ten years from becoming or acting as a registrant; and,
4. The Respondent is to pay an administrative penalty of \$15,000 to be allocated under s.3.4(2)(b) of the Act to or for the benefit of third parties.

Dated at Toronto, Ontario this day of January, 2009.

3.1.3 Christopher Smith

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

AND

CHRISTOPHER SMITH

**SETTLEMENT AGREEMENT BETWEEN
CHRISTOPHER SMITH AND
STAFF OF THE ONTARIO SECURITIES COMMISSION**

PART I – INTRODUCTION

1. By Notice of Hearing dated January 15, 2009, the Ontario Securities Commission (the “Commission”) announced that it proposed to hold a hearing to consider whether, pursuant to section 127 of the *Securities Act*, R.S.O. 1990, c. S.5 (the “Act”), it is in the public interest for the Commission to make certain orders in respect of Christopher Smith (the “Respondent”).

PART II – JOINT SETTLEMENT RECOMMENDATION

2. Staff of the Commission (“Staff”) recommend settlement with the Respondent of the proceeding commenced by Notice of Hearing dated September 27, 2007 (the “Proceeding”) according to the terms and conditions set out in Part VI of this Settlement Agreement. The Respondent agrees to the making of an order in the form attached as Schedule “A”, based on the facts set out below.

PART III – AGREED FACTS

3. For this proceeding, and any other regulatory proceeding commenced by a securities regulatory authority in Canada, the Respondent agrees with the facts as set out in Part III of this Settlement Agreement.
4. Staff and the Respondent agree that this Settlement Agreement is without prejudice to the Respondent in any past, present or future civil proceeding which may be brought by any person. Nothing in this Settlement Agreement is intended to be an admission of civil liability by the Respondent to any person or company; such liability is expressly denied.

(a) Background

5. The Respondent is an individual residing in Ontario and is not currently registered with the Ontario Securities Commission (“Commission”) in any capacity.
6. Imagin Diagnostic Centres Inc. (“Imagin”) is a corporation incorporated pursuant to the laws of Canada with its head office previously located in Toronto, Ontario.
7. Imagin is not registered in any capacity with this Commission nor is it a reporting issuer in Ontario.
8. Imagin started selling its securities in 2003 and as of July 13, 2006, Imagin had raised \$14 million of which approximately \$3.5 million was from Ontario investors. These securities have not been qualified by a prospectus filed with the Commission.

(b) Sale of Imagin Securities by Employees of Imagin including the Respondent

9. Prior to February of 2006, a significant percentage of its staff in Toronto was primarily employed by Imagin to assist in the sales of its securities to investors both inside and outside of Ontario.
10. After February of 2006, Imagin continued to employ persons in Toronto to contact or “qualify” potential investors and any sales leads gathered were then forwarded to Vancouver, British Columbia for further sales action by Imagin. The head office of Imagin also relocated to Vancouver in February of 2006.
11. During the material time, the Respondent was employed by Imagin and was engaged in the sale of securities of members of the public from September 2003 to June 2006.

12. Some of these sales made by the Respondent were from Imagin's offices in Toronto to investors including residents of Ontario.

PART IV – CONDUCT CONTRARY TO ONTARIO SECURITIES LAW AND THE PUBLIC INTEREST

13. Through these acts, the Respondent has been engaging in the business of trading in securities in Ontario. Accordingly, he has been acting as a market intermediary and was required to be registered pursuant to section 25 of the Act.
14. The Respondent's conduct constituted trading in securities without being registered as required by subsection 25(1) of the Act.
15. The Respondent's conduct was contrary to the public interest.

PART V – RESPONDENT'S POSITION

16. The Respondent requests that the settlement hearing panel consider the following mitigating circumstances.
17. The Respondent cooperated with Staff's investigation and provided a voluntary statement.
18. During his conduct set out above, the Respondent states that he unknowingly breached the Act.
19. Further, after the Respondent became aware of Staff's inquiries about the sale of Imagin securities, the Respondent asserts that he was provided a legal opinion that had been previously provided to Imagin stating that the conduct above did not breach the Act.

PART VI – TERMS OF SETTLEMENT

20. The Respondent agrees to the following terms of settlement listed below.
21. The Commission will make an order pursuant to section 127(1) of the Act that:
- (a) The settlement agreement is approved.
 - (b) The Respondent is prohibited for five years from becoming or acting as a director or officer of any issuer, registrant or investment fund manager.
 - (c) The Respondent is prohibited for five years from becoming or acting as a registrant.

PART VII – STAFF COMMITMENT

22. If the Commission approves this Settlement Agreement, Staff will not commence any proceeding under Ontario securities law in relation to the facts set out in Part III of this Settlement Agreement, subject to the provisions of paragraph 22 below.
23. If the Commission approves this Settlement Agreement and the Respondent fails to comply with any of the terms of the Settlement Agreement, Staff may bring proceedings under Ontario securities law against the Respondent. These proceedings may be based on, but are not limited to, the facts set out in Part III of this Settlement Agreement as well as the breach of the Settlement Agreement.

PART VIII – PROCEDURE FOR APPROVAL OF SETTLEMENT

22. The parties will seek approval of this Settlement Agreement at a public hearing before the Commission scheduled for January 16, 2009, or on another date agreed to by Staff and the Respondent, according to the procedures set out in this Settlement Agreement and the Commission's Rules of Practice.
23. Staff and the Respondent agree that this Settlement Agreement will form all of the agreed facts that will be submitted at the settlement hearing on the Respondent's conduct, unless the parties agree that additional facts should be submitted at the settlement hearing.
24. If the Commission approves this Settlement Agreement, the Respondent agrees to waive all rights to a full hearing, judicial review or appeal of this matter under the Act.

25. If the Commission approves this Settlement Agreement, neither party will make any public statement that is inconsistent with this Settlement Agreement or with any additional agreed facts submitted at the settlement hearing.
26. Whether or not the Commission approves this Settlement Agreement, the Respondent will not use, in any proceeding, this Settlement Agreement or the negotiation or process of approval of this agreement as the basis for any attack on the Commission's jurisdiction, alleged bias, alleged unfairness, or any other remedies or challenges that may otherwise be available.

PART IX – DISCLOSURE OF SETTLEMENT AGREEMENT

27. If the Commission does not approve this Settlement Agreement or does not make the order attached as Schedule "A" to this Settlement Agreement:
- (a) this Settlement Agreement and all discussions and negotiations between Staff and the Respondent before the settlement hearing takes place will be without prejudice to Staff and the Respondent; and
 - (b) Staff and the Respondent will each be entitled to all available proceedings, remedies and challenges, including proceeding to a hearing of the allegations contained in the Statement of Allegations. Any proceedings, remedies and challenges will not be affected by this Settlement Agreement, or by any discussions or negotiations relating to this agreement.
28. Both parties will keep the terms of the Settlement Agreement confidential until the Commission approves the Settlement Agreement. At that time, the parties will no longer have to maintain confidentiality. If the Commission does not approve the Settlement Agreement, both parties must continue to keep the terms of the Settlement Agreement confidential, unless they agree in writing not to do so or if required by law.

PART X – EXECUTION OF SETTLEMENT AGREEMENT

29. The parties may sign separate copies of this agreement. Together, these signed copies will form a binding agreement.
30. A fax copy of any signature will be treated as an original signature.

Dated this 15th day of January, 2009.

ONTARIO SECURITIES COMMISSION

"Peggy Dowdall-Logie"
Executive Director, Ontario Securities Commission

CHRISTOPHER SMITH

"Christopher Smith"
Christopher Smith

"Syed Haque"
Witness

Schedule A

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

AND

CHRISTOPHER SMITH

ORDER

WHEREAS on September 28, 2007, the Commission issued a Notice of Hearing pursuant to section 127 of the *Securities Act* (the "Act") in respect of the trading of securities in Imagin Diagnostic Centres Inc. ("Imagin") by Christopher Smith;

AND WHEREAS on September 27, 2007 Staff of the Commission filed a Statement of Allegations;

AND WHEREAS Christopher Smith entered into a Settlement Agreement dated January 15, 2009 (the "Settlement Agreement") in relation to the matters set out in the Statement of Allegations;

AND WHEREAS the Commission issued a Notice of Hearing dated January 15, 2009, setting out that it proposed to consider the Settlement Agreement;

UPON reviewing the Settlement Agreement, the Notice of Hearing, the Statement of Allegations, and upon considering submissions from Christopher Smith through his agent and from Staff of the Commission;

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

IT IS HEREBY ORDERED, PURSUANT TO SECTION 127 OF THE ACT, THAT :

1. The Settlement Agreement dated January 15, 2009, between Staff of the Commission and Christopher Smith is approved;
2. The Respondent is prohibited for ten years from becoming or acting as a director or officer of any issuer, registrant or investment fund manager;
3. The Respondent is prohibited for ten years from becoming or acting as a registrant; and,
4. The Respondent is to pay an administrative penalty of \$15,000 to be allocated under s. 3.4(2)(b) of the Act to or for the benefit of third parties.

Dated at Toronto, Ontario this day of January, 2009.

3.1.4 Michael Zelyony

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

AND

**IN THE MATTER OF
MICHAEL ZELYONY**

**SETTLEMENT AGREEMENT BETWEEN
MICHAEL ZELYONY AND
STAFF OF THE ONTARIO SECURITIES COMMISSION**

PART I – INTRODUCTION

1. By Notice of Hearing dated January 15, 2009, the Ontario Securities Commission (the “Commission”) announced that it proposed to hold a hearing to consider whether, pursuant to section 127 of the *Securities Act*, R.S.O. 1990, c. S.5 (the “Act”), it is in the public interest for the Commission to make certain orders in respect of Michael Zelyony (the “Respondent”).

PART II – JOINT SETTLEMENT RECOMMENDATION

2. Staff of the Commission (“Staff”) recommend settlement with the Respondent of the proceeding commenced by Notice of Hearing dated September 27, 2007 (the “Proceeding”) according to the terms and conditions set out in Part VI of this Settlement Agreement. The Respondent agrees to the making of an order in the form attached as Schedule “A”, based on the facts set out below.

PART III – AGREED FACTS

3. For the Proceeding, and any other regulatory proceeding commenced by a securities regulatory authority in Canada, the Respondent agrees with the facts as set out in Part III of this Settlement Agreement.

4. Staff and the Respondent agree that this Settlement Agreement is without prejudice to the Respondent in any past, present or future civil proceeding which may be brought by any person. Nothing in this Settlement Agreement is intended to be an admission of civil liability by the Respondent to any person or company; such liability is expressly denied.

(a) Background

5. The Respondent is an individual residing in Ontario and is not currently registered with the Ontario Securities Commission (“Commission”) in any capacity.
6. Imagin Diagnostic Centres Inc. (“Imagin”) is a corporation incorporated pursuant to the laws of Canada with its head office previously located in Toronto, Ontario.
7. Imagin is not registered in any capacity with this Commission nor is it a reporting issuer in Ontario.
8. Imagin started selling its securities in 2003 and as of July 13, 2006, Imagin had raised \$14 million of which approximately \$3.5 million was from Ontario investors. These securities have not been qualified by a prospectus filed with the Commission.

(b) Sale of Imagin Securities by Employees of Imagin including the Respondent

9. Prior to February of 2006, a significant percentage of its staff in Toronto was primarily employed by Imagin to assist in the sales of its securities to investors both inside and outside of Ontario.
10. After February of 2006, Imagin continued to employ persons in Toronto to contact or “qualify” potential investors and any sales leads gathered were then forwarded to Vancouver, British Columbia for further sales action by Imagin. The head office of Imagin also relocated to Vancouver in February of 2006.

11. During the material time, the Respondent was employed by Imagin and was engaged in the sale of securities of members of the public from November 2005 to October 2006.
12. Some of these sales made by the Respondent were from Imagin's offices in Toronto to investors including residents of Ontario.

PART IV – CONDUCT CONTRARY TO ONTARIO SECURITIES LAW AND THE PUBLIC INTEREST

13. Through these acts, the Respondent has been engaging in the business of trading in securities in Ontario. Accordingly, he has been acting as a market intermediary and was required to be registered pursuant to section 25 of the Act.
14. The Respondent's conduct constituted trading in securities without being registered as required by subsection 25(1) of the Act.
15. The Respondent's conduct was contrary to the public interest.

PART V – RESPONDENT'S POSITION

16. The Respondent requests that the settlement hearing panel consider the following mitigating circumstances.
17. The Respondent cooperated with Staff's investigation and provided a voluntary statement.
18. During his conduct set out above, the Respondent states that he unknowingly breached the Act.
19. Further, after the Respondent became aware of Staff's inquiries about the sale of Imagin securities, the Respondent asserts that he was provided a legal opinion that had been previously provided to Imagin stating that the conduct above did not breach the Act.

PART VI – TERMS OF SETTLEMENT

20. The Respondent agrees to the following terms of settlement listed below.
21. The Commission will make an order pursuant to section 127(1) of the Act that:
 - (a) The settlement agreement is approved.
 - (b) The Respondent is prohibited for five years from becoming or acting as a director or officer of any issuer, registrant or investment fund manager.
 - (c) The Respondent is prohibited for five years from becoming or acting as a registrant.

PART VII – STAFF COMMITMENT

22. If the Commission approves this Settlement Agreement, Staff will not commence any proceeding under Ontario securities law in relation to the facts set out in Part III of this Settlement Agreement, subject to the provisions of paragraph 22 below.
23. If the Commission approves this Settlement Agreement and the Respondent fails to comply with any of the terms of the Settlement Agreement, Staff may bring proceedings under Ontario securities law against the Respondent. These proceedings may be based on, but are not limited to, the facts set out in Part III of this Settlement Agreement as well as the breach of the Settlement Agreement.

PART VIII – PROCEDURE FOR APPROVAL OF SETTLEMENT

22. The parties will seek approval of this Settlement Agreement at a public hearing before the Commission scheduled for January 16, 2009, or on another date agreed to by Staff and the Respondent, according to the procedures set out in this Settlement Agreement and the Commission's Rules of Practice.
23. Staff and the Respondent agree that this Settlement Agreement will form all of the agreed facts that will be submitted at the settlement hearing on the Respondent's conduct, unless the parties agree that additional facts should be submitted at the settlement hearing.

24. If the Commission approves this Settlement Agreement, the Respondent agrees to waive all rights to a full hearing, judicial review or appeal of this matter under the Act.
25. If the Commission approves this Settlement Agreement, neither party will make any public statement that is inconsistent with this Settlement Agreement or with any additional agreed facts submitted at the settlement hearing.
26. Whether or not the Commission approves this Settlement Agreement, the Respondent will not use, in any proceeding, this Settlement Agreement or the negotiation or process of approval of this agreement as the basis for any attack on the Commission's jurisdiction, alleged bias, alleged unfairness, or any other remedies or challenges that may otherwise be available.

PART IX – DISCLOSURE OF SETTLEMENT AGREEMENT

27. If the Commission does not approve this Settlement Agreement or does not make the order attached as Schedule "A" to this Settlement Agreement:
- (a) this Settlement Agreement and all discussions and negotiations between Staff and the Respondent before the settlement hearing takes place will be without prejudice to Staff and the Respondent; and
 - (b) Staff and the Respondent will each be entitled to all available proceedings, remedies and challenges, including proceeding to a hearing of the allegations contained in the Statement of Allegations. Any proceedings, remedies and challenges will not be affected by this Settlement Agreement, or by any discussions or negotiations relating to this agreement.
28. Both parties will keep the terms of the Settlement Agreement confidential until the Commission approves the Settlement Agreement. At that time, the parties will no longer have to maintain confidentiality. If the Commission does not approve the Settlement Agreement, both parties must continue to keep the terms of the Settlement Agreement confidential, unless they agree in writing not to do so or if required by law.

PART X – EXECUTION OF SETTLEMENT AGREEMENT

29. The parties may sign separate copies of this agreement. Together, these signed copies will form a binding agreement.
30. A fax copy of any signature will be treated as an original signature.

Dated this 15th day of January, 2009.

ONTARIO SECURITIES COMMISSION

"Peggy Dowdall-Logie"
Executive Director, Ontario Securities Commission

MICHAEL ZELYONY

"Michael Zelyony"
Michael Zelyony

"Richard Chua"
Witness

Schedule A

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

AND

**IN THE MATTER OF
MICHAEL ZELYONY**

ORDER

WHEREAS on September 28, 2007, the Commission issued a Notice of Hearing pursuant to section 127 of the Securities Act (the "Act") in respect of the trading of securities in Imagin Diagnostic Centres Inc. ("Imagin") by Michael Zelyony;

AND WHEREAS on September 27, 2007 Staff of the Commission filed a Statement of Allegations;

AND WHEREAS Michael Zelyony entered into a Settlement Agreement dated January 15, 2009 (the "Settlement Agreement") in relation to the matters set out in the Statement of Allegations;

AND WHEREAS the Commission issued a Notice of Hearing dated January 15, 2009, setting out that it proposed to consider the Settlement Agreement;

UPON reviewing the Settlement Agreement, the Notice of Hearing, the Statement of Allegations, and upon considering submissions from Michael Zelyony through his agent and from Staff of the Commission;

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

IT IS HEREBY ORDERED, PURSUANT TO SECTION 127 OF THE ACT, THAT :

1. The Settlement Agreement dated January 15, 2009, between Staff of the Commission and Michael Zelyony is approved;
2. The Respondent is prohibited for ten years from becoming or acting as a director or officer of any issuer, registrant or investment fund manager;
3. The Respondent is prohibited for ten years from becoming or acting as a registrant; and,
4. The Respondent is to pay an administrative penalty of \$15,000 to be allocated under s. 4(2)(b) of the Act to or for the benefit of third parties.

Dated at Toronto, Ontario this day of January, 2009.

3.1.5 Cynthia Jordan

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

AND

IN THE MATTER OF
CYNTHIA JORDAN

SETTLEMENT AGREEMENT BETWEEN
CYNTHIA JORDAN AND
STAFF OF THE ONTARIO SECURITIES COMMISSION

PART I – INTRODUCTION

1. By Notice of Hearing dated January 15, 2009, the Ontario Securities Commission (the “Commission”) announced that it proposed to hold a hearing to consider whether, pursuant to section 127 of the *Securities Act*, R.S.O. 1990, c. S.5 (the “Act”), it is in the public interest for the Commission to make certain orders in respect of Cynthia Jordan (the “Respondent”).

PART II – JOINT SETTLEMENT RECOMMENDATION

2. Staff of the Commission (“Staff”) recommend settlement with the Respondent of the proceeding commenced by Notice of Hearing dated September 27, 2007 (the “Proceeding”) according to the terms and conditions set out in Part VI of this Settlement Agreement. The Respondent agrees to the making of an order in the form attached as Schedule “A”, based on the facts set out below.

PART III – AGREED FACTS

3. For the Proceeding, and any other regulatory proceeding commenced by a securities regulatory authority in Canada, the Respondent agrees with the facts as set out in Part III of this Settlement Agreement.
4. Staff and the Respondent agree that this Settlement Agreement is without prejudice to the Respondent in any past, present or future civil proceeding which may be brought by any person. Nothing in this Settlement Agreement is intended to be an admission of civil liability by the Respondent to any person or company; such liability is expressly denied.

(a) Background

5. The Respondent is an individual residing in Ontario and is not currently registered with the Commission in any capacity.
6. Imagin Diagnostic Centres Inc. (“Imagin”) is a corporation incorporated pursuant to the laws of Canada with its head office previously located in Toronto, Ontario.
7. Imagin is not registered in any capacity with this Commission nor is it a reporting issuer in Ontario.
8. Imagin started selling its securities in 2003 and as of July 13, 2006, Imagin had raised \$14 million of which approximately \$3.5 million was from Ontario investors. These securities have not been qualified by a prospectus filed with the Commission.
9. From December 3, 2002 to January 23, 2003, the Respondent was President of Imagin. Thereafter, she remained as an officer and director of Imagin during the material time.

(b) Sale of Imagin Securities by Employees of Imagin including the Respondent

10. Prior to February of 2006, a significant percentage of its staff in Toronto was primarily employed by Imagin to assist in the sales of its securities to investors both inside and outside of Ontario.
11. After February of 2006, Imagin continued to employ persons in Toronto to contact or “qualify” potential investors and any sales leads gathered were then forwarded to Vancouver, British Columbia for further sales action by Imagin. The head office of Imagin also relocated to Vancouver in February of 2006.

12. As an officer and director of Imagin during the material time, the Respondent authorized, permitted or acquiesced to the sale of Imagin securities by employees of Imagin to members of the public from December of 2002 until October 2006.

13. Some of these sales of securities were from Imagin's offices in Toronto to investors including residents of Ontario.

PART IV – CONDUCT CONTRARY TO ONTARIO SECURITIES LAW AND THE PUBLIC INTEREST

14. Through these acts, the Respondent has been engaging in the business of trading in securities in Ontario. Accordingly, she has been acting as a market intermediary and was required to be registered pursuant to section 25 of the Act.

15. The Respondent's conduct is in breach of subsection 25(1) of the Act.

16. The Respondent's conduct was contrary to the public interest.

PART V – RESPONDENT'S POSITION

17. The Respondent requests that the settlement hearing panel consider the following mitigating circumstance that the Respondent cooperated with Staff's investigation and provided a voluntary statement.

PART VI – TERMS OF SETTLEMENT

18. The Respondent agrees to the following terms of settlement listed below.

19. The Commission will make an order pursuant to section 127(1) of the Act that:

- (a) The settlement agreement is approved.
- (b) The Respondent is prohibited for five years from becoming or acting as a director or officer of any issuer, registrant or investment fund manager.
- (c) The Respondent is prohibited for five years from becoming or acting as a registrant.

PART VII – STAFF COMMITMENT

20. If the Commission approves this Settlement Agreement, Staff will not commence any proceeding under Ontario securities law in relation to the facts set out in Part III of this Settlement Agreement, subject to the provisions of paragraph 21 below.

21. If the Commission approves this Settlement Agreement and the Respondent fails to comply with any of the terms of the Settlement Agreement, Staff may bring proceedings under Ontario securities law against the Respondent. These proceedings may be based on, but are not limited to, the facts set out in Part III of this Settlement Agreement as well as the breach of the Settlement Agreement.

PART VIII – PROCEDURE FOR APPROVAL OF SETTLEMENT

22. The parties will seek approval of this Settlement Agreement at a public hearing before the Commission scheduled for January 16, 2009, or on another date agreed to by Staff and the Respondent, according to the procedures set out in this Settlement Agreement and the Commission's Rules of Practice.

23. Staff and the Respondent agree that this Settlement Agreement will form all of the agreed facts that will be submitted at the settlement hearing on the Respondent's conduct, unless the parties agree that additional facts should be submitted at the settlement hearing.

24. If the Commission approves this Settlement Agreement, the Respondent agrees to waive all rights to a full hearing, judicial review or appeal of this matter under the Act.

25. If the Commission approves this Settlement Agreement, neither party will make any public statement that is inconsistent with this Settlement Agreement or with any additional agreed facts submitted at the settlement hearing.

26. Whether or not the Commission approves this Settlement Agreement, the Respondent will not use, in any proceeding, this Settlement Agreement or the negotiation or process of approval of this agreement as the basis for any attack on

the Commission's jurisdiction, alleged bias, alleged unfairness, or any other remedies or challenges that may otherwise be available.

PART IX – DISCLOSURE OF SETTLEMENT AGREEMENT

27. If the Commission does not approve this Settlement Agreement or does not make the order attached as Schedule "A" to this Settlement Agreement:
- (a) this Settlement Agreement and all discussions and negotiations between Staff and the Respondent before the settlement hearing takes place will be without prejudice to Staff and the Respondent; and
 - (b) Staff and the Respondent will each be entitled to all available proceedings, remedies and challenges, including proceeding to a hearing of the allegations contained in the Statement of Allegations. Any proceedings, remedies and challenges will not be affected by this Settlement Agreement, or by any discussions or negotiations relating to this agreement.
28. Both parties will keep the terms of the Settlement Agreement confidential until the Commission approves the Settlement Agreement. At that time, the parties will no longer have to maintain confidentiality. If the Commission does not approve the Settlement Agreement, both parties must continue to keep the terms of the Settlement Agreement confidential, unless they agree in writing not to do so or if required by law.

PART X – EXECUTION OF SETTLEMENT AGREEMENT

29. The parties may sign separate copies of this agreement. Together, these signed copies will form a binding agreement.
30. A fax copy of any signature will be treated as an original signature.

Dated this 15th day of January, 2009.

ONTARIO SECURITIES COMMISSION

"Peggy Dowdall-Logie"

Executive Director, Ontario Securities Commission

CYNTHIA JORDAN

"Cynthia Jordan"

Cynthia Jordan

"Shawna Fattal"

Witness

Schedule A

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

AND

IN THE MATTER OF
CYNTHIA JORDAN

ORDER

WHEREAS on September 28, 2007, the Commission issued a Notice of Hearing pursuant to section 127 of the *Securities Act* (the "Act") in respect of the trading of securities in Imagin Diagnostic Centres Inc. ("Imagin") by Cynthia Jordan;

AND WHEREAS on September 27, 2007 Staff of the Commission filed a Statement of Allegations;

AND WHEREAS Cynthia Jordan entered into a Settlement Agreement dated January 15, 2009 (the "Settlement Agreement") in relation to the matters set out in the Statement of Allegations;

AND WHEREAS the Commission issued a Notice of Hearing dated January 15, 2009, setting out that it proposed to consider the Settlement Agreement;

UPON reviewing the Settlement Agreement, the Notice of Hearing, the Statement of Allegations, and upon considering submissions from Cynthia Jordan through his agent and from Staff of the Commission;

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

IT IS HEREBY ORDERED, PURSUANT TO SECTION 127 OF THE ACT, THAT:

1. The Settlement Agreement dated January 15, 2009, between Staff of the Commission and Cynthia Jordan is approved;
2. The Respondent is prohibited for ten years from becoming or acting as a director or officer of any issuer, registrant or investment fund manager;
3. The Respondent is prohibited for ten years from becoming or acting as a registrant; and,
4. The Respondent is to pay an administrative penalty of \$15,000 to be allocated under s.3.4(2)(b) of the Act to or for the benefit of third parties.

Dated at Toronto, Ontario this day of January, 2009.

3.1.6 Allan McCaffrey

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

AND

IN THE MATTER OF
ALLAN MCCAFFREY

SETTLEMENT AGREEMENT BETWEEN
ALLAN MCCAFFREY AND
STAFF OF THE ONTARIO SECURITIES COMMISSION

PART I – INTRODUCTION

1. By Notice of Hearing dated January 15, 2009, the Ontario Securities Commission (the “Commission”) announced that it proposed to hold a hearing to consider whether, pursuant to section 127 of the *Securities Act*, R.S.O. 1990, c. S.5 (the “Act”), it is in the public interest for the Commission to make certain orders in respect of Allan McCaffrey (the “Respondent”).

PART II – JOINT SETTLEMENT RECOMMENDATION

2. Staff of the Commission (“Staff”) recommend settlement with the Respondent of the proceeding commenced by Notice of Hearing dated September 27, 2007 (the “Proceeding”) according to the terms and conditions set out in Part VI of this Settlement Agreement. The Respondent agrees to the making of an order in the form attached as Schedule “A”, based on the facts set out below.

PART III – AGREED FACTS

3. For this proceeding, and any other regulatory proceeding commenced by a securities regulatory authority in Canada, the Respondent agrees with the facts as set out in Part III of this Settlement Agreement

(a) Background

4. The Respondent is an individual residing in Ontario and is not currently registered with the Ontario Securities Commission (“Commission”) in any capacity.
5. Imagin Diagnostic Centres Inc. (“Imagin”) is a corporation incorporated pursuant to the laws of Canada with its head office previously located in Toronto, Ontario.
6. Imagin is not registered in any capacity with this Commission nor is it a reporting issuer in Ontario.
7. Imagin started selling its securities in 2003 and as of July 13, 2006, Imagin had raised \$14 million of which approximately \$3.5 million was from Ontario investors. These securities have not been qualified by a prospectus filed with the Commission.

(b) Sale of Imagin Securities by Employees of Imagin including the Respondent

8. Prior to February of 2006, a significant percentage of its staff in Toronto was primarily employed by Imagin to assist in the sales of its securities to investors both inside and outside of Ontario.
9. After February of 2006, Imagin continued to employ persons in Toronto to contact or “qualify” potential investors and any sales leads gathered were then forwarded to Vancouver, British Columbia for further sales action by Imagin. The head office of Imagin also relocated to Vancouver in February of 2006.
10. During the material time, the Respondent was employed by Imagin from March 2003 until February 2007 and during almost all of this time period he was in charge of those employees of Imagin engaged in the sale of securities of Imagin to members of the public.
11. Some of these sales made by the Respondent were from Imagin’s offices in Toronto to investors including residents of Ontario.

PART IV – CONDUCT CONTRARY TO ONTARIO SECURITIES LAW AND THE PUBLIC INTEREST

12. Through these acts, the Respondent has been engaging in the business of trading in securities in Ontario. Accordingly, he has been acting as a market intermediary and was required to be registered pursuant to section 25 of the Act.
13. The Respondent's conduct constituted trading in securities without being registered as required by subsection 25(1) of the Act.
14. The Respondent's conduct was contrary to the public interest.

PART V – RESPONDENT'S POSITION

15. The Respondent requests that the settlement hearing panel consider the following mitigating circumstances.
16. The Respondent cooperated with Staff's investigation and provided a voluntary statement.
17. During his conduct set out above, the Respondent states that he unknowingly breached the Act.
18. Further, after the Respondent became aware of Staff's inquiries about the sale of Imagin securities, the Respondent asserts that he was provided a legal opinion that had been previously provided to Imagin stating that the conduct above did not breach the Act.

PART VI – TERMS OF SETTLEMENT

19. The Respondent agrees to the following terms of settlement listed below.
20. The Commission will make an order pursuant to section 127(1) of the Act that:
 - (a) The settlement agreement is approved.
 - (b) The Respondent is prohibited for ten years from becoming or acting as a director or officer of any issuer, registrant or investment fund manager.
 - (c) The Respondent is prohibited for ten years from becoming or acting as a registrant.
 - (d) The Respondent is to pay an administrative penalty of \$15,000 to be allocated under s.3.4(2)(b) of the Act to or for the benefit of third parties.

PART VII – STAFF COMMITMENT

21. If the Commission approves this Settlement Agreement, Staff will not commence any proceeding under Ontario securities law in relation to the facts set out in Part III of this Settlement Agreement, subject to the provisions of paragraph 22 below.
22. If the Commission approves this Settlement Agreement and the Respondent fails to comply with any of the terms of the Settlement Agreement, Staff may bring proceedings under Ontario securities law against the Respondent. These proceedings may be based on, but are not limited to, the facts set out in Part III of this Settlement Agreement as well as the breach of the Settlement Agreement.

PART VIII – PROCEDURE FOR APPROVAL OF SETTLEMENT

22. The parties will seek approval of this Settlement Agreement at a public hearing before the Commission scheduled for January 16, 2009, or on another date agreed to by Staff and the Respondent, according to the procedures set out in this Settlement Agreement and the Commission's Rules of Practice.
23. Staff and the Respondent agree that this Settlement Agreement will form all of the agreed facts that will be submitted at the settlement hearing on the Respondent's conduct, unless the parties agree that additional facts should be submitted at the settlement hearing.
24. If the Commission approves this Settlement Agreement, the Respondent agrees to waive all rights to a full hearing, judicial review or appeal of this matter under the Act.

25. If the Commission approves this Settlement Agreement, neither party will make any public statement that is inconsistent with this Settlement Agreement or with any additional agreed facts submitted at the settlement hearing.
26. Whether or not the Commission approves this Settlement Agreement, the Respondent will not use, in any proceeding, this Settlement Agreement or the negotiation or process of approval of this agreement as the basis for any attack on the Commission's jurisdiction, alleged bias, alleged unfairness, or any other remedies or challenges that may otherwise be available.

PART IX – DISCLOSURE OF SETTLEMENT AGREEMENT

27. If the Commission does not approve this Settlement Agreement or does not make the order attached as Schedule "A" to this Settlement Agreement:
- (a) this Settlement Agreement and all discussions and negotiations between Staff and the Respondent before the settlement hearing takes place will be without prejudice to Staff and the Respondent; and
 - (b) Staff and the Respondent will each be entitled to all available proceedings, remedies and challenges, including proceeding to a hearing of the allegations contained in the Statement of Allegations. Any proceedings, remedies and challenges will not be affected by this Settlement Agreement, or by any discussions or negotiations relating to this agreement.
28. Both parties will keep the terms of the Settlement Agreement confidential until the Commission approves the Settlement Agreement. At that time, the parties will no longer have to maintain confidentiality. If the Commission does not approve the Settlement Agreement, both parties must continue to keep the terms of the Settlement Agreement confidential, unless they agree in writing not to do so or if required by law.

PART X – EXECUTION OF SETTLEMENT AGREEMENT

29. The parties may sign separate copies of this agreement. Together, these signed copies will form a binding agreement.
30. A fax copy of any signature will be treated as an original signature.

Dated this 15th day of January, 2009.

STAFF OF THE ONTARIO SECURITIES COMMISSION

"Peggy Dowdall-Logie"
Executive Director, Ontario Securities Commission

ALLAN MCCAFFREY

"Allan McCaffrey"
Allan McCaffrey

"Dorothy Jane Patterson"
Witness

Schedule A

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

AND

**IN THE MATTER OF
ALLAN MCCAFFREY**

ORDER

WHEREAS on September 28, 2007, the Commission issued a Notice of Hearing pursuant to section 127 of the *Securities Act* (the "Act") in respect of the trading of securities in Imagin Diagnostic Centres Inc. ("Imagin") by Allan McCaffrey;

AND WHEREAS on September 27, 2007 Staff of the Commission filed a Statement of Allegations;

AND WHEREAS Allan McCaffrey entered into a Settlement Agreement dated January 15, 2009 (the "Settlement Agreement") in relation to the matters set out in the Statement of Allegations;

AND WHEREAS the Commission issued a Notice of Hearing dated January 15, 2009, setting out that it proposed to consider the Settlement Agreement;

UPON reviewing the Settlement Agreement, the Notice of Hearing, the Statement of Allegations, and upon considering submissions from Allan McCaffrey through his agent and from Staff of the Commission;

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

IT IS HEREBY ORDERED, PURSUANT TO SECTION 127 OF THE ACT, THAT :

1. The Settlement Agreement dated January 15, 2009, between Staff of the Commission and Allan McCaffrey is approved;
2. he Respondent is prohibited for ten years from becoming or acting as a director or officer of any issuer, registrant or investment fund manager;
3. The Respondent is prohibited for ten years from becoming or acting as a registrant; and,
4. The Respondent is to pay an administrative penalty of \$15,000 to be allocated under s. 3.4(2)(b) of the Act to or for the benefit of third parties.

Dated at Toronto, Ontario this day of January, 2009.

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
Constellation Copper Corporation	06 Jan 09	16 Jan 09	16 Jan 09	
Cybersurf Corp.	05 Jan 09	16 Jan 09	16 Jan 09	
Hip Interactive Corp.	20 Jan 09	30 Jan 09		

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
Hip Interactive Corp.	04 July 05	15 July 05	15 July 05	20 Jan 09	20 Jan 09

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	20 Jan 09	20 Jan 09
Toxin Alert Inc.	30 Oct 08	12 Nov 08	12 Nov 08	20 Jan 09	
CV Technologies Inc.	05 Jan 09	16 Jan 09		19 Jan 09	

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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 SecuritiesSource (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
12/18/2008 to 12/30/2008	108	49 North 2008-II Resource Flow-Through Limited Partnership - Units	2,191,100.00	219,110.00
12/30/2008	6	AmeraCan Energy Holdings (2008) Bond Corporation - Bonds	199,900.00	100,000.00
12/30/2008	3	AmeraCan Energy Holdings (2008) Limited Partnership - Limited Partnership Units	303,000.00	303.00
12/30/2008	6	AmeraCan (2008) Registered Investments Limited - Common Shares	199.90	100,000.00
01/13/2009	1	Atlanta Gold Inc. - Units	100,000.00	1,000,000.00
12/31/2008	1	BC Ferries - Bonds	71,684.51	70.00
12/29/2008	13	CareVest Blended Mortgage Investment Corporation - Preferred Shares	592,629.00	592,629.00
12/29/2008	9	CareVest First Mortgage Investment Corporation - Preferred Shares	9,393,713.00	9,393,713.00
11/28/2008	1	CEO Capital LP No. 1 - Limited Partnership Units	50,000.00	50.00
12/23/2008	3	CIT Group Inc. - Common Shares	11,201,000.00	75,000,000.00
12/24/2008	2	CIT Group Inc. - Notes	589,275.00	1,149,007,000.00
12/29/2008	1	Citadel Gold Mines Inc. - Debentures	300,000.00	6,000,000.00
12/30/2008 to 01/09/2009	16	CMC Markets UK plc - Contracts for Differences	131,591.00	17.00
03/01/2008 to 08/01/2008	11	Creststreet Energy Hedge Fund L.P. - Limited Partnership Units	3,639,500.00	163,983.95
12/30/2008	3	Cypress Development Corp. - Common Share Purchase Warrant	500,000.00	2,857,142.00
12/31/2008	3	Ells River Resources Inc. - Common Shares	40,000.00	40,000.00
05/09/2008 to 05/21/2008	3	Energy Select Sector SPDR Fund - Common Shares	19,074,079.45	210,722.00
12/31/2008	60	EnergyFields 2008 Special Flow-Through Limited Partnership - Limited Partnership Units	770,000.00	7,700.00
12/31/2008	1	Explor Resources inc. - Flow-Through Units	25,000.00	125,000.00
12/30/2008	7	Exploration Orex Inc. - Common Shares	547,500.00	7,300,000.00

Notice of Exempt Financings

Transaction Date	No of Purchasers	Issuer/Security	Total Purchase Price (\$)	No of Securities Distributed
05/07/2008 to 05/30/2008	7	Financial Select Sector SPDR Fund - Common Shares	4,788,940.48	304,766.00
12/24/2008 to 12/31/2008	12	First Leaside Elite Limited Partnership - Limited Partnership Interest	1,348,940.69	1,102,218.00
12/24/2008	1	First Leaside Expansion Limited Partnership - Limited Partnership Interest	40,000.00	40,000.00
12/29/2008	2	First Leaside Fund - Trust Units	10,000.00	10,000.00
12/29/2008	2	First Leaside Fund - Trust Units	61,515.00	61,515.00
12/24/2008 to 12/31/2008	18	First Leaside Investors Limited Partnership - Limited Partnership Interest	1,686,165.00	1,686,165.00
12/24/2008 to 12/30/2008	3	First Leaside Visions I Limited Partnership - Limited Partnership Interest	75,000.00	75,000.00
12/30/2008	1	First Leaside Wealth Management Inc. - Preferred Shares	200,000.00	200,000.00
07/01/2007 to 06/30/2008	2	GWLIM Canadian Growth Fund - Units	15,648,748.91	1,546,653.40
07/01/2007 to 06/30/2008	3	GWLIM Corporate Bond Fund - Units	9,351,770.41	936,851.66
07/01/2007 to 06/30/2008	1	GWLIM North American Mid Cap Fund - Units	1,479,704.48	164,843.00
12/24/2008	49	HFG Holdings Inc. - Common Shares	15,221,475.00	60,885,900.00
12/22/2008 to 12/30/2008	23	IGW Real Estate Investment Trust - Units	563,163.01	504,625.49
12/29/2008	1	Imperial Capital Equity Partners Ltd. - Capital Commitment	500,000.00	500,000.00
05/22/2008	2	Industrial Select Sector SPDR Fund - Common Shares	2,304,099.38	58,925.00
12/10/2008 to 12/18/2008	6	Innovative Composites Incorporated - Units	534,915.00	2,674,575.00
12/23/2008	1	Inter-Rock Minerals Inc. - Preferred Shares	3,416,986.65	17,136,980.00
12/30/2008	2	Intertainment Media Inc. - Units	200,000.00	10,500,000.00
05/05/2008 to 05/27/2008	5	iShares CDN S&P/TSX 60 Index Fund - Common Shares	1,922,139.00	34,700.00
05/19/2008	2	iShares Dow Jones US Real Estate Index Fund - Common Shares	84,276.00	1,200.00
05/08/2008	1	iShares Lehman Aggregate Bond Fund - Common Shares	202,703.20	1,960.00
05/28/2008	1	iShares MSCI Australia Index Fund - Common Shares	176,460.00	6,000.00
05/07/2008 to 05/28/2008	4	iShares MSCI Brazil Index Fund - Common Shares	6,872,148.78	72,170.00

Transaction Date	No of Purchasers	Issuer/Security	Total Purchase Price (\$)	No of Securities Distributed
05/14/2008	1	iShares MSCI BRIC Index Fund - Common Shares	15,284.70	270.00
05/19/2008	1	iShares MSCI Canada Index Fund - Common Shares	19,316.00	400.00
05/07/2008 to 05/30/2008	7	iShares MSCI EAFE Index Fund - Common Shares	10,707,254.35	140,035.00
05/07/2008 to 05/30/2008	4	iShares MSCI Emerging Markets Index Fund - Common Shares	60,460,290.00	416,000.00
05/07/2008 to 05/29/2008	2	iShares MSCI Hong Kong Index Fund - Common Shares	1,376,814.00	73,100.00
05/06/2008 to 05/30/2008	4	iShares MSCI South Korea Index Fund - Common Shares	3,092,129.00	53,100.00
05/06/2008 to 05/30/2008	3	iShares Russell 2000 Index Fund - Common Shares	103,395,644.00	1,427,300.00
05/21/2008	2	iShares S&P 500 Index Fund/US - Common Shares	77,269.50	550.00
05/19/2008 to 05/29/2008	3	iShares S&P Latin America 40 Index Fund - Common Shares	2,745,550.00	9,400.00
01/02/2009	11	KBP Capital Corp. - Bonds	437,000.00	4,370.00
12/30/2008	1	Kensington Private Equity Fund IV, L.P. - Limited Partnership Interest	130,000.00	130.00
11/20/2007	1	Keystone AGF Equity Fund - Units	56,687.97	5,844.00
07/01/2007 to 06/30/2008	3	Keystone AIM Trimark Global Equity Fund - Units	374,394.07	40,425.00
07/01/2007 to 06/30/2008	2	Keystone Beutel Goodman Bond Fund - Units	218,831.68	21,270.00
07/01/2007 to 06/30/2008	2	Keystone Bissett Canadian Equity Fund - Units	819,218.20	90,421.00
01/02/2009	10	Keystone Business Park Inc. - Common Shares	437.00	4,370.00
07/01/2007 to 06/30/2008	1	Keystone Manulife High Income Fund - Units	77,070.00	7,826.00
07/01/2007 to 06/30/2008	4	Keystone Manulife U.S. Value Fund - Units	2,608,105.32	302,201.00
07/01/2007 to 06/30/2008	4	Keystone Templeton International Stock Class - Units	3,736,076.67	247,440.60
12/31/2008	3	Largo Resources Ltd. - Flow-Through Units	500,000.00	6,250,000.00
01/06/2009	2	LivClean Corp. - Debenture	2,500,000.00	1.00
07/01/2007 to 06/30/2008	2	London Capital Canadian Bond Fund - Units	6,604,951.75	654,786.27
07/01/2007 to 06/30/2008	4	London Capital Canadian Diversified Equity Fund - Units	12,359,230.33	1,287,363.75

Transaction Date	No of Purchasers	Issuer/Security	Total Purchase Price (\$)	No of Securities Distributed
07/01/2007 to 06/30/2008	1	London Capital Canadian Dividend Fund - Units	1,995,340.55	200,735.00
07/01/2007 to 06/30/2008	2	London Capital Income Plus Fund - Units	6,599,013.59	657,901.85
07/01/2007 to 06/30/2008	2	London Capital U.S. Value Fund - Units	5,184,540.76	583,989.00
07/01/2007 to 06/30/2008	35	Mackenzie Alternative Strategies Fund - Units	5,902,733.76	661,292.70
07/01/2007 to 06/30/2008	1	Mackenzie Cundill Canadian Secuity Class - Units	1,971,000.00	210,149.07
11/13/2007 to 01/21/2008	1	Mackenzie Cundill Global Dividend Fund - Units	447,878.87	45,135.84
07/01/2007 to 06/30/2008	1	Mackenzie Cundill Recovery Fund - Units	3,634,100.00	432,714.35
01/02/2008	1	Mackenzie Cundill Value Class - Units	30,742.49	2,204.00
07/01/2007 to 06/30/2008	3	Mackenzie Cundill Value Fund - Units	40,259,020.57	4,476,439.40
07/01/2007 to 06/30/2008	3	Mackenzie Focus Far East Class - Units	44,397,369.64	2,362,264.80
07/01/2007 to 06/30/2008	2	Mackenzie Focus Japan Class - Units	3,663,065.01	366,682.05
07/01/2007 to 06/30/2008	4	Mackenzie Ivy Enterprise Class - Units	1,977,554.84	167,024.57
07/01/2007 to 06/30/2008	1	Mackenzie Ivy Foreign Equity Class - Units	755,000.00	66,052.47
07/01/2007 to 06/30/2008	2	Mackenzie Ivy Foreign Equity Fund - Units	49,267,087.60	4,259,532.11
07/01/2007 to 06/30/2008	3	Mackenzie Maxxum Canadian Balanced Fund - Units	6,943,380.87	700,718.95
07/01/2007 to 06/30/2008	2	Mackenzie Maxxum Canadian Equity Growth Fund - Units	3,050,907.11	326,879.00
07/01/2007 to 06/30/2008	1	Mackenzie Maxxum Dividend Class - Units	5,250,000.00	432,112.02
07/01/2007 to 06/30/2008	7	Mackenzie Maxxum Dividend Fund - Units	56,061,457.96	6,057,802.01
07/01/2007 to 06/30/2008	2	Mackenzie Maxxum Dividend Growth Fund - Units	597,677.18	67,636.00
07/01/2007 to 06/30/2008	19	Mackenzie Select Managers Canada Fund - Units	203,307,100.00	20,327,109.53
07/01/2007 to 06/30/2008	4	Mackenzie Sentinel Bond Fund - Units	10,458,531.87	1,021,038.90
07/01/2007 to 06/30/2008	1	Mackenzie Sentinel Corporate Bond Fund - Units	2,043,000.00	219,983.20

Transaction Date	No of Purchasers	Issuer/Security	Total Purchase Price (\$)	No of Securities Distributed
07/06/2007 to 12/12/2007	1	Mackenzie Sentinel Income Trust Fund - Units	903,535.47	9,415.00
07/06/2007 to 12/12/2007	1	Mackenzie Sentinel Income Trust Fund - Units	90,353.47	9,415.00
07/01/2007 to 06/30/2008	2	Mackenzie Sentinel Real Return Bond Fund - Units	174,745.26	17,181.00
07/01/2007 to 06/30/2008	7	Mackenzie Sentinel U.S. Managed Yield Class - Units	82,786,509.36	8,285,259.58
03/27/2008	1	Mackenzie Universal Canadian Resource Class - Units	12,657,096.14	1,265,709.61
07/01/2007 to 06/30/2008	5	Mackenzie Universal Canadian Resource Fund - Units	176,865,849.21	7,125,972.51
07/01/2007 to 06/30/2008	1	Mackenzie Universal Emerging Markets Class - Units	455,000.00	46,552.06
07/01/2007 to 06/30/2008	4	Mackenzie Universal Global Future Fund - Units	11,064,897.14	1,133,324.78
07/01/2007 to 06/30/2008	5	Mackenzie Universal Global Growth Class - Units	47,216,415.91	3,715,684.73
07/01/2007 to 06/30/2008	1	Mackenzie Universal Global Property Income Fund - Units	1,005,747.60	103,959.30
07/25/2007	1	Mackenzie Universal Growth Trends Class - Units	51,019.45	3,884.00
07/01/2007 to 06/30/2008	3	Mackenzie Universal Precious Metals Fund - Units	56,725,577.40	2,407,234.94
07/01/2007 to 06/30/2008	1	Mackenzie Universal U.S. Dividend Income Fund - Units	12,036.23	1,252.00
12/05/2007 to 01/02/2008	2	Mackenzie Universal U.S. Emerging Growth Class - Units	167,013.38	14,619.00
07/01/2007 to 06/30/2008	9	Mackenzie Universal U.S. Growth Leaders Fund - Units	9,490,136.56	9.00
07/01/2007 to 06/30/2008	6	Mackenzie Universal World Real Estate Class - Units	5,579,027.52	643,386.67
05/06/2008	1	Market Vectors Agribusiness ETF - Common Shares	267,720.00	4,600.00
05/23/2008	10	Market Vectors Gold Miners ETF - Common Shares	2,384,000.00	50,000.00
12/23/2008	1	Metabacus Inc. - Preferred Shares	750,000.00	214,285.00
12/31/2008	50	MineralFields 2008-II Super Flow-Through Limited Partnership - Limited Partnership Units	1,695,000.00	16,950.00
12/31/2008	23	MineralFields 2008-III Super Flow-Through Limited Partnership - Limited Partnership Interest	1,755,000.00	17,550.00

Notice of Exempt Financings

Transaction Date	No of Purchasers	Issuer/Security	Total Purchase Price (\$)	No of Securities Distributed
12/31/2008	65	MineralFields 2008-IV Super Flow-Through Limited Partnership - Limited Partnership Units	3,095,000.00	30,950.00
12/31/2008	469	MineralFields 2008 Super Flow-Through Limited Partnership - Limited Partnership Units	14,122,000.00	141,220.00
01/02/2009	19	New World Lenders Corp. - Bonds	840,100.00	315.00
12/09/2008 to 12/19/2008	3	NewStep Networks Inc. - Notes	222.25	3.00
01/01/2009	4	North American Financial Group Inc. - Debt	140,000.00	3.00
12/30/2008	8	Northern Star Mining Corp. - Common Shares	5,451,854.80	7,788,364.00
12/30/2008	2	Ophira Vencap inc. - Common Shares	334,950.00	478,500.00
12/15/2008	10	Pavilion Resource Fund Flow-Through Limited Partnership 2008 2 - Limited Partnership Units	300,000.00	30,000.00
01/06/2009	2	Planet Energy Corp. - Warrants	NA	80,000.00
01/13/2009	4	Portage Minerals Inc. - Common Shares	45,776.80	572,210.00
05/14/2008	1	PowerShares DB Agriculture Fund - Common Shares	748,076.20	19,970.00
05/19/2008	20	PowerShares DB Commodity Index Tracking Fund - Common Shares	7,870.00	200.00
05/07/2008 to 05/30/2008	5	Powershares QQQ - Common Shares	40,594,474.60	842,012.00
12/24/2008	7	PVELOCITY INC. - Common Shares	420,000.38	1,421,321.00
07/01/2007 to 06/30/2008	3	Quadrus AIM Canadian Equity Growth Fund - Units	42,757,353.16	2,004,361.17
07/01/2007 to 06/30/2008	2	Quadrus Eaton Vance U.S. Value Corporate Class - Units	20,381,889.88	2,009,937.56
07/01/2007 to 06/30/2008	4	Quadrus Laketon Fixed Income Fund - Units	20,142,920.80	2,009,937.56
07/01/2007 to 06/30/2008	1	Quadrus Setanta Global Dividend Corporate Class - Units	6,667,321.57	690,131.82
07/01/2007 to 06/30/2008	2	Quadrus Sionna Canadian Value Corporate Class - Units	19,015,954.42	1,911,558.00
07/01/2007 to 06/30/2008	5	Quadrus Templeton International Equity Fund - Units	16,355,455.17	1,859,972.04
07/01/2007 to 06/30/2008	1	Quadrus Trimark Balanced Fund - Units	10,530,027.67	949,511.92
07/01/2007 to 06/30/2008	2	Quadrus Trimark Global Equity Fund - Units	365,000.00	29,834.14

Transaction Date	No of Purchasers	Issuer/Security	Total Purchase Price (\$)	No of Securities Distributed
12/19/2008 to 12/29/2008	22	Redux Duncan City Centre Limited Partnership - Limited Partnership Units	1,424,000.00	1,424,000.00
12/30/2008	105	Ressources Appalaches Inc. - Units	928,000.00	1,856.00
12/30/2008	2	Royal Nickel Corporation - Common Shares	500,000.00	200,000.00
12/15/2008	3	Ruperstris Mines Inc. - Common Shares	50,000.00	200,000.00
12/15/2008	2	Ruperstris Mines Inc. - Flow-Through Shares	45,000.00	150,000.00
12/29/2008 to 12/30/2008	8	Rykala Resources Inc. - Common Shares	186,800.00	1,820,000.00
12/29/2008 to 12/30/2008	3	Rykala Resources Inc. - Flow-Through Shares	848,750.00	4,850,000.00
09/30/2008 to 12/05/2008	49	Seventh Avenue Property Corporation - Mortgage	3,125,000.00	3,125.00
12/30/2008	15	Skyharbour Resources Ltd. - Units	214,950.00	4,299,000.00
12/23/2008 to 12/24/2008	3	Skyline Apartment Real Estate Investment Trust - Units	308,987.00	28,089.73
01/03/2009 to 01/09/2009	13	Skyline Apartment Real Estate Investment Trust - Units	1,044,515.00	94,955.91
12/30/2008	7	Skyline Gold Corporation - Units	210,000.00	4,200,000.00
05/13/2008 to 05/27/2008	4	SPDR Gold Trust - Common Shares	13,662,042.50	157,116.00
05/08/2008 to 05/29/2008	4	SPDR S&P Retail ETF - Common Shares	10,450,098.00	373,800.00
05/06/2008 to 05/30/2008	15	SPDR Trust Series 1 - Common Shares	312,710,706.35	2,234,503.00
12/24/2008 to 12/29/2008	2	Special Notes Limited Partnership - Limited Partnership Interest	1,100,000.00	1,100,000.00
12/30/2008	26	Terra Ventures Inc. - Flow-Through Shares	2,062,372.50	2,749,830.00
12/23/2008	1	UBS Kick In Certificate On U.S. Oil Fund Maturing 30 December 2009 - Units	3,649,050.00	30,000.00
01/24/2008 to 09/23/2008	8	UBS (CH) Global Alpha Strategies - Units	1,126,150.90	NA
05/07/2008	1	Ultra Financials ProShares - Common Shares	365,100.00	10,000.00
05/27/2008	1	UltraShort MidCap400 ProShares - Common Shares	604,680.00	12,000.00
05/06/2008 to 05/29/2008	2	Ultrashort Oil & Gas Proshares - Common Shares	1,711,294.00	60,600.00
05/08/2008 to 05/30/2008	6	United States Oil Fund LP - Common Shares	6,119,901.48	59,969.00
05/02/2008 to 05/30/2008	1	Vanguard European ETF - Common Shares	833,068.00	11,500.00

Notice of Exempt Financings

Transaction Date	No of Purchasers	Issuer/Security	Total Purchase Price (\$)	No of Securities Distributed
05/16/2008 to 05/28/2008	2	Vanguard Total Bond Market EFT - Common Shares	2,587,705.06	33,753.00
12/24/2008	3	Vulcan Minerals Inc. - Flow-Through Shares	80,000.00	320,000.00
12/31/2008	20	West Central Oil & Gas Ltd. - Units	805,000.00	161.00
12/30/2008	1	Wimberly Apartments Limited Partnership - Limited Partnership Interest	50,000.00	57,720.00
12/29/2008	6	Yucaipa American Alliance (Parallel) Fund II, L.P. - Limited Partnership Interest	149,000,000.00	149,000,000.00

Chapter 11

IPOs, New Issues and Secondary Financings

Issuer Name:

Flaherty & Crumrine Investment Grade Fixed Income Fund
Principal Regulator - Ontario

Type and Date:

Preliminary Short Form Prospectus dated January 15, 2009
NP 11-202 Receipt dated January 16, 2009

Offering Price and Description:

Warrants to Subscribe for up to * Units at a Subscription
Price of \$ *

Underwriter(s) or Distributor(s):

-

Promoter(s):

-

Project #1366164

Issuer Name:

Mercator Minerals Ltd.
Principal Regulator - British Columbia

Type and Date:

Preliminary Short Form Prospectus dated January 15, 2009
NP 11-202 Receipt dated January 15, 2009

Offering Price and Description:

\$20,299,650.00 - 28,99,500 Units Price: \$0.70 per Unit

Underwriter(s) or Distributor(s):

Blackmont Capital Inc.
Acumen Capital Finance Partners Limited
Jennings Capital Inc.
Scotia Capital Inc.

Promoter(s):

-

Project #1366117

Issuer Name:

NAV CANADA
Principal Regulator - Ontario

Type and Date:

Preliminary Base Shelf Prospectus dated January 15, 2009
NP 11-202 Receipt dated January 15, 2009

Offering Price and Description:

MTN Program
\$1,000,000,000.00 - General Obligation Notes

Underwriter(s) or Distributor(s):

-

Promoter(s):

-

Project #1366093

Issuer Name:

Agnico-Eagle Mines Limited
Principal Regulator - Ontario

Type and Date:

Final Base Shelf Prospectus dated January 20, 2009
NP 11-202 Receipt dated January 20, 2009

Offering Price and Description:

Debt Securities
Common Shares
Warrants
US\$500,000,000.00.00

Underwriter(s) or Distributor(s):

-

Promoter(s):

-

Project #1365332

Issuer Name:

Ark Aston Hill Energy Class
Ark Aston Hill Monthly Income Class
Ark Aston Hill Opportunities Class
Principal Regulator - Ontario

Type and Date:

Final Simplified Prospectuses dated January 14, 2009
NP 11-202 Receipt dated January 20, 2009

Offering Price and Description:

Series A, F and I Shares @ Net Asset Value
Underwriter(s) or Distributor(s):
Ark Fund Management Ltd.

Promoter(s):

Ark Fund Management Ltd.
Project #1358300

Issuer Name:

BMO LifeStage Plus 2022 Fund
(BMO Guardian LifeStage Plus 2022 Fund Advisor Series)
BMO LifeStage Plus 2026 Fund
(BMO Guardian LifeStage Plus 2026 Fund Advisor Series)
Principal Regulator - Ontario

Type and Date:

Final Simplified Prospectuses dated January 12, 2009
NP 11-202 Receipt dated January 15, 2009

Offering Price and Description:

Series A and Series I Units @ Net Asset Value
Underwriter(s) or Distributor(s):
BMO Investments Inc.

Promoter(s):

BMO Investments Inc.
Project #1358257

Issuer Name:

BMO LifeStage Plus 2022 Fund
BMO LifeStage Plus 2026 Fund
Principal Regulator - Ontario

Type and Date:

Final Simplified Prospectuses dated January 12, 2009
NP 11-202 Receipt dated January 15, 2009

Offering Price and Description:

Series A and Series I Units @ Net Asset Value

Underwriter(s) or Distributor(s):

BMO Investments Inc.

Promoter(s):

BMO Investments Inc.

Project #1358235

Issuer Name:

Denison Mines Corp.
Principal Regulator - Ontario

Type and Date:

Final Short Form Prospectus dated January 16, 2009
NP 11-202 Receipt dated January 16, 2009

Offering Price and Description:

\$41,250,000.00 - 25,000,000 Common Shares Price: \$1.65
Per Common Share

Underwriter(s) or Distributor(s):

Cormark Securities Inc.
GMP Securities L.P.
CIBC World Markets Inc.
Raymond James Ltd.
Scotia Capital Inc.
Dundee Securities Corporation

Promoter(s):

-

Project #1364626

Issuer Name:

Dynamic Aurion Canadian Equity Class
Principal Regulator - Ontario

Type and Date:

Final Simplified Prospectus dated January 15, 2009
NP 11-202 Receipt dated January 16, 2009

Offering Price and Description:

Series A, F, I, O and T Shares

Underwriter(s) or Distributor(s):

Goodman & Company, Investment Counsel Ltd.

Promoter(s):

Goodman & Company, Investment Counsel Ltd.

Project #1355878

Issuer Name:

Dynamic Aurion Tactical Balanced Class
Principal Regulator - Ontario

Type and Date:

Final Simplified Prospectus dated January 15, 2009
NP 11-202 Receipt dated January 16, 2009

Offering Price and Description:

Series A, F, I, O and T Shares

Underwriter(s) or Distributor(s):

Goodman & Company, Investment Counsel Ltd.

Promoter(s):

Goodman & Company, Investment Counsel Ltd.

Project #1355880

Issuer Name:

FNSSC-Multi Manager Fund
Principal Regulator - Ontario

Type and Date:

Final Simplified Prospectus dated January 16, 2009
NP 11-202 Receipt dated January 19, 2009

Offering Price and Description:

Series A Units @ Net Asset Value

Underwriter(s) or Distributor(s):

-

Promoter(s):

Sprott Asset Management Inc.

Project #1336255

Issuer Name:

Hartford Balanced Portfolio
Hartford Balanced Growth Portfolio
Hartford Growth Portfolio
Hartford Conservative Portfolio
Principal Regulator - Ontario

Type and Date:

Final Simplified Prospectuses dated January 13, 2009
NP 11-202 Receipt dated January 15, 2009

Offering Price and Description:

Class A Units, Class B Units, Class F Units, Class T (A)
Units and Class T (B) Units @ Net Asset Value

Underwriter(s) or Distributor(s):

-

Promoter(s):

Robert Arena
Sandra West
Hartford Investments Canada Corp.

Project #1344960

Issuer Name:

Pan American Silver Corp.
Principal Regulator - British Columbia

Type and Date:

Final Short Form Base Shelf Prospectus dated January 20, 2009

NP 11-202 Receipt dated January 20, 2009

Offering Price and Description:

US\$200,000,000.00:

Common Shares

Debt Securities

Warrants

Subscription Receipts

Underwriter(s) or Distributor(s):

-

Promoter(s):

-

Project #1365386

Issuer Name:

Scotia Innova Balanced Growth Portfolio

Scotia Innova Balanced Income Portfolio

Scotia Innova Growth Portfolio

Scotia Innova Income Portfolio

Scotia Innova Maximum Growth Portfolio

Principal Regulator - Ontario

Type and Date:

Final Simplified Prospectuses dated January 14, 2009

NP 11-202 Receipt dated January 15, 2009

Offering Price and Description:

Class A Units

Underwriter(s) or Distributor(s):

Scotia Securities Inc.

Promoter(s):

The Bank of Nova Scotia

Project #1349913

Issuer Name:

Tajiri Ventures Corp.

Principal Regulator - British Columbia

Type and Date:

Final CPC Prospectus dated January 9, 2009

NP 11-202 Receipt dated January 15, 2009

Offering Price and Description:

\$200,000.00 - 2,000,000 Common Shares Price: \$0.10 per Common Share

Underwriter(s) or Distributor(s):

Bolder Investment Partners, Ltd.

Promoter(s):

Zachery Dingsdale

Project #1284368

Issuer Name:

TD Canadian Quantitative Research Portfolio

Principal Regulator - Ontario

Type and Date:

Final Simplified Prospectus dated January 16, 2009

NP 11-202 Receipt dated January 16, 2009

Offering Price and Description:

Series A and Series F Units

Underwriter(s) or Distributor(s):

-

Promoter(s):

-

Project #1359748

Issuer Name:

TD Capital Trust IV

The Toronto-Dominion Bank

Principal Regulator - Ontario

Type and Date:

Final Short Form Prospectus dated January 15, 2009

NP 11-202 Receipt dated January 16, 2009

Offering Price and Description:

\$550,000,000.00 - 9.523% TD Capital Trust IV Notes—Series 1 Due June 30, 2108

(TD CaTS IV – Series 1) and \$450,000,000.00 - 10.00%

TD Capital Trust IV Notes—Series 2 Due June 30, 2108 (TD

CaTS IV – Series 2)

Underwriter(s) or Distributor(s):

TD Securities Inc.

Promoter(s):

-

Project #1363975/1363977

Issuer Name:

TD Opportunities Pool

Principal Regulator - Ontario

Type and Date:

Final Simplified Prospectus dated January 14, 2009

NP 11-202 Receipt dated January 15, 2009

Offering Price and Description:

O-Series Units @ Net Asset Value

Underwriter(s) or Distributor(s):

-

Promoter(s):

TD Asset Management Inc.

Project #1348428

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Chapter 12

Registrations

12.1.1 Registrants

Type	Company	Category of Registration	Effective Date
Name Change	From: Five Continents Investments Limited To: Soutterham Investments Limited	Limited Market Dealer, Investment Counsel & Portfolio Manager	December 22, 2008
Name Change	From: SBVM Securities Inc. To: PKF Hill Securities Inc.	Limited Market Dealer	January 14, 2009
New Registration	Right Side Capital Corp.	Limited Market Dealer	January 20, 2009

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Chapter 13

SRO Notices and Disciplinary Proceedings

13.1.1 MFDA Reschedules Next Appearance in the Matter of ASL Direct Inc. and Adrian Samuel Leemhuis

NEWS RELEASE
For immediate release

MFDA RESCHEDULES NEXT APPEARANCE IN THE MATTER OF ASL DIRECT INC. AND ADRIAN SAMUEL LEEMHUIS

January 15, 2009 (Toronto, Ontario) – The Mutual Fund Dealers Association of Canada (“MFDA”) commenced a disciplinary proceeding in respect of ASL Direct Inc. and Adrian Samuel Leemhuis by Notice of Hearing dated October 17, 2008.

A first appearance in this proceeding took place on December 4, 2008 before a three-member Hearing Panel of the MFDA Central Regional Council. The next appearance in this proceeding, originally scheduled to take place on March 3, 2009, has been rescheduled to April 7, 2009. The purpose of this appearance will be to consider a pre-hearing motion to be brought by the Respondent, Adrian Leemhuis.

The April 7, 2009 appearance will be open to the public, except as may be required for the protection of confidential matters, and will take place in the Hearing Room located at the offices of the MFDA at 121 King Street West, Suite 1000, Toronto, Ontario, commencing at 10:00 a.m. (Eastern) or as soon thereafter as the appearance can be held.

A copy of the Hearing Panel's Order dated January 14, 2009 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 153 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

13.1.2 Notice and Request for Comment – Application for Exemption from Recognition and Registration as an Exchange from Natural Gas Exchange Inc.

NOTICE AND REQUEST FOR COMMENT

**APPLICATION FOR EXEMPTION FROM RECOGNITION AND REGISTRATION AS AN EXCHANGE
FROM NATURAL GAS EXCHANGE INC.**

A. Background

Natural Gas Exchange Inc. (NGX) has applied to the Commission for an exemption from the requirement to be registered as an exchange pursuant to section 15 of the *Commodity Futures Act* (Ontario) (CFA) and the requirement to be recognized as an exchange pursuant to section 21 of the *Securities Act* (Ontario) (OSA).

NGX offers electronic trading on a principal-to-principal basis of a variety of energy commodity derivatives contracts including commodity futures contracts and futures contract options (collectively, Contracts). NGX proposes to offer direct electronic access to trading in its Contracts to qualifying market participants in Ontario (Ontario Participants). NGX is recognized as an exchange and clearing agency by the Alberta Securities Commission (ASC).

As NGX is carrying on business in Ontario, it is required to be recognized as an exchange under the OSA and registered as an exchange under the CFA or apply for exemptions from both requirements. NGX is currently operating in Ontario pursuant to an interim exemption order granted by the Commission on November 17, 2006 and extended on November 16, 2007 and May 13, 2008. NGX has applied for a permanent exemption from the registration and recognition requirements on the basis that it is already subject to regulatory oversight by the ASC.

B. Exemption Request

NGX seeks to provide trading access to sophisticated participants that meet specific financial thresholds. Therefore, NGX is requesting exemptive relief from the registration requirements under section 22 of the CFA for trades in Contracts by Ontario Participants.

NGX is also seeking relief from the requirements in section 33 of the CFA for trades in Contracts by Ontario Participants. By virtue of being an exempted exchange, NGX would not be registered or recognized by the Commission and its Contracts would not be approved by the Director, and therefore trading by Ontario Participants would be prohibited without a further exemption.

C. Draft Recognition Order

In its application, NGX has addressed each of the criteria for exemption from recognition and from registration as an exchange. Subject to comments received, staff will recommend that the Commission grant an exemption order with terms and conditions based on the proposed draft order attached.

The draft exemption order requires that NGX notify Commission staff of any material changes to the business or operations of NGX as set out in its application and establishes terms and conditions in the following areas:

1. Regulation of NGX
2. Access
3. Products
4. Submission to Jurisdiction
5. Regulation of Participants
6. Filing Requirements
7. Information Sharing

D. Comment Process

The Commission is publishing for public comment the application of NGX and the proposed draft exemption order. We are seeking comment on all aspects of NGX's application for an exemption, as well as the draft exemption order.

You are asked to provide your comments in writing, via e-mail and delivered on or before **February 23, 2009** addressed to the attention of the Secretary of the Commission, Ontario Securities Commission, 20 Queen Street West, Toronto, Ontario, M5H 3S8, e-mail: jstevenson@osc.gov.on.ca.

The confidentiality of submissions cannot be maintained as a summary of written comments received during the comment period will be published.

Questions may be referred to:

Winfield Liu
Senior Legal Counsel, Market Regulation
(416) 593-8250
e-mail: wliu@osc.gov.on.ca

Sonali GuptaBhaya
Legal Counsel, Market Regulation
(416) 593-2331
e-mail: sguptabhaya@osc.gov.on.ca

January 9, 2009

DELIVERED BY EMAIL AND COURIER

Attention: Winfield Liu

Ontario Securities Commission
20 Queen Street West, Suite 1903
Toronto, Ontario M5H 3S8

Dear Winfield:

Re: Natural Gas Exchange Inc. - Application for exemptive relief under the Ontario Commodity Futures Act and Ontario Securities Act

1. Introduction

Natural Gas Exchange Inc. ("**NGX**"), a Canadian corporation with its head office located in Calgary, Alberta, hereby applies to the Ontario Securities Commission (the "**OSC**" or "**Commission**") for exemptive relief as further described herein pursuant to sections 38 and 80 of the Commodity Futures Act (the "**CFA**") and section 147 of the Ontario Securities Act (the "**OSA**").

2. Business Overview

NGX is a leading trading and clearing system for sophisticated entities transacting in energy products in the North American market. During calendar year 2007, NGX cleared 238,373 transactions with a total quantity of 11,000 Petajoules of natural gas (an aggregate notional value of approximately \$C67 billion¹) (approximately US\$69.8 billion) and approximately 18 Terawatt-hours of electricity (an aggregate notional value of approximately \$C1.3 billion (approximately US\$1.32 billion)). NGX was incorporated in 1993 and has operated continuously since 1994.

Corporate Structure

NGX is currently a wholly owned subsidiary of TMX Group Inc. ("**TMX Group**"), which is also the parent company of TSX Inc., which owns and operates the Toronto Stock Exchange. Historically, NGX was comprised of two related legal entities, Natural Gas Exchange Inc. ("**Market**") and its wholly owned subsidiary NGX Financial Inc. ("**Financial**"). Market and Financial were amalgamated on November 1, 2002 to form Natural Gas Exchange Inc. ("**NGX 2002**"). On March 1, 2004, TMX Group acquired 100% of the shares of NGX Canada Inc. from OMHEX AB (the "**Acquisition**"). Immediately following the Acquisition, 6182224 Canada Inc. (a wholly owned subsidiary of TMX Group) and its then wholly owned subsidiary, NGX Canada Inc., as well as its wholly owned subsidiary, NGX 2002, amalgamated under the Canada Business Corporations Act to form NGX. This amalgamation had the effect of consolidating all of the operations relating to NGX trading and clearing businesses into NGX.

TMX Group is a corporation incorporated under the Business Corporation Act (Ontario) and has its head office in Toronto, Ontario. Its shares have been listed for trading on the Toronto Stock Exchange since November 2002. TMX Group is a reporting issuer in every province and territory of Canada and its financial information is available on Canada's SEDAR system for public company filings, located at www.sedar.ca. As of December 31, 2007, TMX Group's market capitalization was approximately \$C3.5 billion. TMX Group operates Canada's two national stock exchanges serving the senior equity and public venture equity markets (Toronto Stock Exchange and TMX Venture Exchange) as well as other core equity operations. On May 1, 2008, the company completed its acquisition of the Montreal Exchange to become a combined equity and derivatives exchange. The combined entity was then rebranded from TSX Group under the name TMX Group Inc.

In November 2005, NGX incorporated a Delaware company, NGX US Inc. ("**NGX US**"), as a wholly owned subsidiary of NGX, to facilitate a planned expansion of its business into the United States. NGX may in the future conduct clearing operations for certain products, such as those with U.S. delivery points, through NGX US.

In September 2006, NGX acquired Alberta Watt Exchange, Ltd. ("**Watt-ex**"). Watt-ex provides an automated procurement mechanism through which the local system operator procures electricity on a standby commitment basis to support the grid. This entity operates as a separate subsidiary and has not been integrated into NGX's trading or clearing business.

¹ Conversions of Canadian dollars to US dollars in this application have been made using the exchange rate for December 31, 2007 of \$C0.9881/US\$.

Summary of Trading and Clearing Activities

Marketplace

NGX operates an electronic marketplace (the “**Marketplace**”) based in Calgary, through which NGX contracting parties (“**Participants**”) may enter into the following types of transactions.²

- spot and forward physically settled natural gas (and, in the future, oil) contracts for delivery at various Canadian and U.S. pipeline hubs (“**Physicals**”); and
- swap and option contracts relating to natural gas, electricity (and, in the future, oil) and referencing various Canadian and U.S. pricing points (“**Financials**”).

We refer to such Physicals and Financials as “**Current Contracts**.” NGX plans to add additional contracts to the Marketplace from time to time, including Physicals and Financials relating to different pricing points or delivery hubs, auction matched contracts, contracts that may settle on a different schedule, and contracts for other physical energy commodities and their derivatives. NGX may expand into other non-energy physical commodities and their derivatives in the future.³

NGX currently operates the Marketplace pursuant to orders from applicable Canadian provincial regulatory authorities, as described below, and as an exempt commercial market (“**ECM**”) under Section 2(h)(3) of the U.S. Commodity Exchange Act (“**CEA**”). Further information is described below under the heading “Existing and Pending Orders”.

Clearing Services

NGX also provides clearing services (the “**Clearing Services**”) through which it acts as central counterparty for transactions in Current Contracts entered into on the Marketplace (“**Marketplace Transactions**”), certain transactions in Current Contracts executed in the OTC market (“**OTC Transactions**”) and, in the future, transactions entered into on a third party marketplace (“**Third Party Marketplace Transactions**”) and, together with the Marketplace Transactions and OTC Transactions, the “**Transactions**”).⁴

- *Clearing of Marketplace Transactions.* Transactions may be automatically cleared through NGX. Individuals authorized to transact on behalf of Participants (“**Traders**”) enter anonymous bids and offers for Current Contracts on the Marketplace. On matching with another party, each Trader/Participant is notified that it has bought or sold the relevant contract from or to NGX, which immediately becomes the counterparty to both sides of the trade. The identity of the other Participant is not disclosed. Concurrently with the launch of the NGX/IntercontinentalExchange Inc. alliance on February 9, 2008, Contracting Parties, if authorized by NGX, are also permitted to trade in an NGX product that is cleared by the Contracting Parties themselves as opposed to NGX. Such trades are referred to in the CPA as “**Bilateral Transactions**”.⁵
- *Clearing of OTC Transactions.* Participants that have arranged trades in Current Contracts outside of the Marketplace on a bilateral OTC basis, including through an OTC broker, may submit these trades to NGX for clearing in accordance with NGX’s rules.
- *Clearing of Third-Party Marketplace Transactions.* NGX currently clears transactions executed on the ICE electronic trading platform and expects it may sometime in the future, clear transactions on other regulated or exempt marketplaces.

NGX acts as a central counterparty for all NGX-cleared Transactions. NGX’s clearing model does not provide for mutualization of credit risk among Participants, however. Performance is backed by Participants’ margin and a clearing guarantee fund, as described below. All Participants are required to self-clear; Participants are currently not permitted to clear positions on behalf of other Participants.

² As discussed below, all Participants must enter into a Contracting Party’s Agreement with NGX.

³ On September 6, 2007, NGX’s parent company, TMX Group Inc., purchased an option in March 2009 to acquire NetThruPut Inc. (“**NTP**”), a Calgary, Alberta-based electronic exchange and clearing house for physically and financially settled crude oil commodity contracts. If the option is exercised, current plans are for NGX to build NTP’s operations into its current business. NTP has exemptive relief in Alberta as an exchange and is recognized as a clearing agency by the ASC. NTP has cross-border status in the U.S. as a Multilateral Clearing Organization (MCO), relying upon the ASC recognition. Orders are attached as Appendix “N”.

⁴ NGX announced an alliance with IntercontinentalExchange Inc. (“**ICE**”) on March 28, 2007, which involves an outsourcing by NGX of certain trading services from ICE, and the provision of clearing services by NGX for U.S. physically-settled natural gas contracts traded on the ICE platform. Operations officially commenced under the alliance on February 9, 2008. The operation of the trading platform has been fully outsourced to ICE on the terms and conditions described in the Services Agreement (provided to OSC staff on August 9, 2007). NGX products are not currently available on any other platforms.

⁵ Bilateral Transactions do not constitute “commodity futures contracts” as defined in the CFA.

All Current Contracts are currently modelled after and are similar to those utilized by market participants for OTC energy derivatives, such as the forms of NAESB and ISDA documentation. The principal difference results from the fact that NGX acts as the central counterparty to all NGX-cleared Transactions, which requires the addition of certain provisions, such as NGX's standard collateral requirements and liquidation rights described below.

NGX provides for several types of settlement procedures depending on the type of contract. For Financials, final settlement takes place between NGX and each Participant. For all Physicals cleared by NGX, as the central counterparty, NGX guarantees the performance obligations of the parties, including physical and financial settlement. The delivery/receipt mechanisms vary at each hub depending on the rules established by the hub operator. At certain hubs, NGX will handle the required delivery/receipt arrangements directly with buyers and sellers. At other hubs, NGX will randomly pair buyers and sellers, who will handle the delivery/receipt arrangements between them as required by the hub operator.

The relationship between NGX and Participants is set forth in a standard form contract (the Contracting Party's Agreement (the "CPA")) entered into between NGX and each Participant, the current form of which is attached as Appendix A. The CPA governs access to the Marketplace and Clearing Services and specifies the terms and conditions of all traded and cleared contracts. The CPA also provides for a detailed framework of rules, including, without limitation, rules regarding Participant eligibility, risk management and default procedures. NGX also has documented policies and procedures pursuant to which the business operates.

3. Existing Orders

Alberta, Saskatchewan and Manitoba

The Alberta Securities Commission (the "ASC"), as principal regulator, issued MRRS Order No. 1662761 on its own behalf and on behalf of the securities and commodities regulatory authorities in the provinces of Saskatchewan and Manitoba on December 1, 2004 (the "MRRS Order"). The MRRS Order granted NGX exemptive relief from applicable laws in Alberta, Saskatchewan and Manitoba regarding:

- (a) the prohibition against carrying on business as an exchange unless recognized as an exchange;
- (b) the prohibition against trading in exchange contracts and/or commodity futures contracts unless the form of contract has been approved and unless such contracts are traded through a recognized exchange; and
- (c) prospectus and/or registration requirements that may apply to trades in these contracts.

NGX applied to the ASC for a change in status with respect to the Marketplace and its clearing operations most recently in 2008. NGX applications to the ASC sought: i) recognition as an exchange pursuant to Section 62 of the Alberta Securities Act (the "ASA") and as a clearing agency pursuant to Section 67 of the ASA; ii) approval of the form of NGX exchange contracts pursuant to Section 107 of the ASA; and iii) relief from the requirement that Contracting Parties must be registered prior to trading Exchange Contracts.

In its Alberta applications, NGX emphasized that it was already subject to a level of regulation substantially similar to the level of regulation applied to an entity recognized as an exchange and clearing agency in Alberta since NGX must abide by the terms of the MRRS Order and NGX's nine operating principles (the "Operating Principles"), which principles were derived from a combination of U.S. regulations applicable to certain commodity futures exchanges and derivative clearing organizations under U.S. laws. This regime strikes an appropriate balance between substantive requirements for exchanges and clearing agencies in the commodity markets while recognizing the necessary pace at which such entities must evolve with these sophisticated markets that are unique in fundamental respects from equity markets. The ASC also conducts periodic oversight compliance audits of NGX.

The ASC granted recognition orders to NGX as an exchange and clearing agency on October 9, 2008 (attached hereto as Appendix M).⁶ The ASC's recognition of NGX as an exchange and as a clearing agency facilitates a more accurate understanding of NGX's regulatory structure in the marketplace and, if exemptive relief is granted in other applicable jurisdictions based on such recognition, NGX hopes to be better positioned to efficiently manage its multi-jurisdictional regulatory structure.⁷ ASC oversight is generally comprised of extensive reporting requirements and periodic oversight audits assessing NGX compliance with the operating principles and terms and conditions of NGX's exchange and clearing recognition orders.

⁶ NGX has informed the ASC and other provincial regulators of its intention to add crude oil Physicals and Financials and anticipates revising the applicable orders accordingly prior to the launch of crude oil in Q2-2009.

⁷ Note in Canada, the Autorité des Marchés Financiers ("AMF") in its recent Working Paper and Derivatives Proposal, proposes the adoption of a principles-based approach to derivatives (equities and commodities) regulation in Quebec, as did the Ontario Commodity Futures Reformulation Committee in its 2006 Report to the Ontario Government regarding the regulation of exchanges, clearing agencies and participants in the commodities markets. The ASC has also historically endorsed a principles-based approach through the incorporation of core principle terms and conditions in the exemptive relief orders applicable to NGX, NetThruPut Inc. ("NTP") and Alberta Watt Exchange, as well as NTP's current recognition order as a clearing agency.

It is on the basis of NGX having become a recognized exchange in Alberta that NGX is submitting this application for exemptive relief from applicable legislation in Ontario.

British Columbia and Quebec

NGX also has exemptive orders in both British Columbia and Quebec. The British Columbia Securities Commission (the “**BSCS**”) issued Exemption Order COR #01102 on September 18, 2001, attached hereto as Appendix B, Schedule B, pursuant to Sections 48 and 60 of the Securities Act (British Columbia) (the “**B.C. Act**”). This order provides that trades in physical (natural gas) or financial (natural gas or electricity) contracts conducted through NGX are exempt from the requirements under Section 34(1)(a) of the B.C. Act (relating to the registration requirement) and Section 59(1) of the B.C. Act (relating to trading contracts on an exchange located outside of British Columbia which has not been recognized by the BCSC).

The Autorité des marchés financiers in Québec (the “**AMF**”) issued Decision No. 2002-C-0439 on November 29, 2002 (as revised on July 27, 2004 to include trades relating to swap agreements based on notional amounts of electricity and to electricity futures contracts), attached hereto as Appendix B, Schedule C, pursuant to Section 263 of the Securities Act (Québec) (the “**Quebec Act**”). This order provides exemptions from: (i) the registration requirements under Sections 148 and 149 of the Quebec Act; (ii) the obligations in Section 1.3 of the Regulation to the Quebec Act to deliver the disclosure document defined in the schedule to Policy Statement No. Q-22; and (iii) the application of Section 1.4 of the Regulation to allow trading in futures contracts that do not appear on the list established by the AMF.

U.S.

NGX operates the Marketplace pursuant to the exemption under CEA section 2(h)(3) in the U.S., attached hereto as Appendix B, Schedule D. NGX became a registered derivatives clearing organization (“**DCO**”) with the Commodity Futures Trading Commission pursuant to the CEA. NGX constitutes a DCO as defined in Section 1a(9) of the CEA and is eligible for voluntary registration under CEA Section 5b(b). Specifically, NGX acts as a central counterparty for cleared Transactions and in that capacity enables each Participant that is a party to a Transaction to substitute the credit of NGX for the credit of the parties.

4. OSC Orders Sought

NGX is seeking an order under (a) section 80 of the CFA: (i) exempting NGX from the prohibition in section 15 of the CFA on carrying on the business of a commodity futures exchange in Ontario unless registered by the Commission under the CFA; (ii) exempting current and future Participants from the registration requirements of section 22 of the CFA in respect of entering into CFA Contracts and all acts, advertisements, solicitations, conduct or negotiations made directly or indirectly in furtherance thereof; and (iii) exempting current and future Participants from the prohibition in section 33 of the CFA on trading in CFA Contracts other than on a commodity futures exchange that is registered or recognized by the Commission under the CFA and where the form of such contracts has been approved by the Director under the CFA; and (b) section 147 of the OSA exempting NGX from the prohibition in section 21 of the OSA on carrying on business as a stock exchange in Ontario unless recognized by the Commission under the OSA.

We note that although the CFA provides for the recognition of clearing houses or clearing agencies by the Commission, there is currently no requirement in the CFA that such clearing houses or clearing agencies obtain this recognition. Therefore, NGX is not pursuing relief with respect to its clearing operations at this time.

5. Background and Compliance with ASC Recognition Order Core Principles

NGX operates its business as an exchange in accordance with, and as described under, the operating principles set out in the ASC order granting NGX recognition as an exchange and as set out below.

Financial Resources

The Exchange shall maintain adequate financial, operational and managerial resources to operate the Trading System and support its trade execution functions.

Financial

The primary financial resources that NGX uses to support its activities consist of (a) the collateral NGX collects from Participants in accordance with its risk management policy, as described below (the “**Risk Management Policy**”),⁸ and in accordance with applicable procedures described in Section 3.2 of the CPA, (b) a credit facility maintained by NGX, and (c) a guarantee fund maintained by NGX.

⁸ The Risk Management Policy is set forth as a Schedule to the CPA as amended from time to time.

Collateral

Participants are required to post and maintain with NGX an aggregate amount of collateral sufficient to cover the margin requirement applicable to their NGX positions. The margin requirement is calculated as the sum of initial margin, variation margin and accounts receivable margin, which represents the net potential exposure of the Participant to NGX at any given time. The margin methodology utilized by NGX continues to evolve as market conditions change, new risk measurement techniques are developed and new products become eligible for the Clearing Services. Pursuant to the CPA, NGX has the right to amend its margin methodology as it determines necessary by providing notice to the Participants. This section describes the margin methodology currently applicable to the Transactions cleared through NGX.

Because Participants often utilize NGX for Physicals that have a long underlying settlement cycle, the accounts receivable margin is typically the largest factor in setting collateral requirements at NGX. Initial margin, which acts as security coverage to protect NGX against adverse market movements that would affect open positions in a portfolio through a liquidation period, is typically the second largest factor in setting collateral requirements. As discussed in more detail below, NGX calculates initial margin requirements for each contract based on its Risk Management Policy, taking into account different liquidation periods and historical price volatility. Initial margins are established to cover commodity price movements during a liquidation event and are currently calculated using 2.7 standard deviations (a 99.5% confidence interval) from the last mark-to-market price (calculated using historical volatility data) over a minimum of a two-day hold (liquidation) period. Variation margin reflects the daily mark-to-market value of the relevant positions.

Acceptable forms of collateral include cash and letters of credit from an A-rated bank in Canadian or U.S. currency.⁹ Accounts payable from NGX to the relevant Participant and variation margin reflecting mark-to-market values in favor of the Participant are used as margin offsets and therefore reduce a Participant's overall collateral requirement. To use the Clearing Services, a Participant must post collateral or sell and deliver sufficient quantities of natural gas (or oil) to generate a receivable from NGX that covers margin requirements. The minimum amount of collateral required is \$C500,000 (approximately US\$506,000), although lower amounts are acceptable under certain conditions (Risk Management Policy, Section 6.0). As of December 31, 2007, NGX held approximately \$C2.5 billion (approximately US\$2.53 billion) of collateral. In the case of Financials, the amount of posted collateral must cover initial and variation margins until the day of settlement price or index publication and determination of accounts payable/receivable. Financials generally settle on the sixth business day of the month of delivery. In the case of Physicals, the amount of posted collateral must cover initial and variation margin until released on each day during the delivery month with respect to the portion of the contract settled on that day. Margin is thereafter required to the extent of any amounts payable to NGX. NGX believes, based on its calculations and operating experience, that it has ready access to the required amounts of collateral to close out any Participant's positions in the event of a default by such Participant.

In an effort to collect collateral in advance of an increase in margin requirements, NGX has instituted a series of margin triggers based on a Participant's margin requirement as compared to its collateral on deposit. When the margin requirement reaches a threshold percentage of such Participant's collateral on deposit, NGX will advise the Participant and will typically request additional collateral. If such collateral is not forthcoming in a form or time frame acceptable to NGX, NGX may restrict that Participant's ability to enter into Transactions on the Marketplace or to use the Clearing Services. In certain circumstances, if the Participant is unable or unwilling to provide additional collateral as determined by NGX, NGX will provide notice of "Failure to Provide Collateral" and may invoke liquidation procedures pursuant to Section 5.6 of the CPA.

NGX's Clearing Department monitors the status of each Participant's margin requirements, collateral posted and available margin in real time and provides a daily report to NGX's Clearing Committee (which consists of the Vice-President of Clearing & Compliance and the President) identifying Participants that have reached any margin trigger. NGX's Clearing Department documents and secures daily approval from NGX's Clearing Committee for any exceptions to these general requirements. In determining whether to grant an exception, the Clearing Committee examines a number of factors, including the total amount of collateral posted by the Participant, upcoming delivery or settlement responsibilities and the time of the month in relation to those responsibilities, the level of diversification of the Participant's portfolio and the Participant's creditworthiness and track record with NGX.

Credit Facility

NGX maintains a daylight overdraft credit facility (the "Credit Facility") with a clearing and settlement bank to facilitate movements of funds on settlement days, and a line of credit from the bank to cover overnight imbalances. A copy of the Credit Facility is attached as Appendix C. The collateral arrangements and monitoring mechanisms set forth in the Risk Management Policy have been reviewed by NGX's principal lender and found to provide an acceptable level of security against a material adverse break in clearing operations due to Participant default.¹⁰

⁹ See "Additional Information Regarding Treatment of Funds" (Appendix L).

¹⁰ See "Additional Information Regarding Credit Facilities" (Appendix I).

Guarantee Fund

NGX maintains a \$U.S. 100 million fund (the “**Guarantee Fund**”) which only Participants (not NGX or its non-Participant creditors) may access in the event that NGX defaults on its obligations under the CPA. The Guarantee Fund is in the form of a letter of credit issued by TD Bank under the Credit Facility and deposited with an independent trustee (currently CIBC Mellon Trust) pursuant to a deposit agreement, a copy of which is attached as Appendix D (the “**Deposit Agreement**”). NGX’s reimbursement obligation to TD Bank with respect to the letter of credit is supported by an unsecured guarantee from TMX Group in the amount of \$U.S. 100 million. The Guarantee Fund is held for the benefit of all Participants.¹¹

Based on its operating experience since 1994, NGX believes that these financial resources are adequate to support its operations under an appropriate range of reasonably foreseeable market conditions and Participant default scenarios. NGX has to date experienced no defaults in performance by any Participant that were beyond its capacity to remedy within its financial resources. As discussed below, NGX engages in regular stress testing to monitor its ability to handle Participant defaults under adverse market conditions.

We note that unlike some clearing organizations, NGX does not provide for mutualization of risk among Participants. Under no circumstance would a Participant become liable for, or have to make additional contributions to NGX to cover, the loss or default of another Participant. The ASA does not require mutualization of risk as a form of credit or financial support for recognized clearing agencies (indeed, the definition of clearing agency clearly contemplates organizations that do not provide for mutualization of risk). NGX believes that its non-mutualized, self-clearing model is sufficient to support its activities consistent with the business requirements and objectives of its Participants, which are largely commercial market participants rather than the futures commission merchants or other financial intermediaries that serve as clearing members in more traditional mutualized clearinghouses.

Managerial Resources

NGX employs an executive management team with specialized expertise in energy markets and energy trading, clearing and system operations. The management team is located in Calgary. The current management team consists of a President, a Vice-President for Clearing & Compliance, a Vice-President of Finance & Administration, a Vice-President of Marketing, a Vice-President of U.S. Business Development, a Vice-President of Corporate Development, a Vice-President of IT, and Chief Legal Counsel. Reporting to the Vice-President for Clearing & Compliance are an Operations Manager, who oversees daily physical settlement operations, and a Credit Manager, who oversees real-time risk monitoring. A list of the names and contact information for the current members of the senior management team is provided in Appendix E. The management team is subject to the supervision of the Board of Directors, which has the authority to change management structure and personnel from time to time. At present, NGX has 44 employees, of which 38 are based in Calgary, one in Ontario and five in Texas.

Operational Resources

NGX maintains office space in Calgary where all clearing-related staff works. NGX’s U.S. subsidiary has acquired office space in the United States.

NGX routinely retains the services of independent consultants in support of certain areas of its business, such as IT development, risk management, legal advice, business development and marketing. NGX has historically engaged Towers Perrin Risk Capital and has currently engaged Deloitte Touche LLP as a consultant to support the quantitative analysis involved in NGX’s margin model. Deloitte has extensive experience in modeling value-at-risk and portfolio management and provides quantitative support to NGX in the development and ongoing assessment of the initial margin model, backtesting of initial margin rates, reviews of margin methodology change proposals and various related quantitative tasks. NGX uses the services of an established bank (currently TD Bank) as clearing bank for maintaining segregated accounts for Participants and fund transfer arrangements for all margin and settlement payments.

NGX’s communications and IT systems, including the servers, switches and routers on which the Marketplace operates, are located at its office in Calgary. As a safeguard against hardware malfunctions and failures, a secondary set of hardware is hosted by a third party at a second site in Calgary. The two systems operate such that failure of any hardware at one site would result in a rapid switch to the other site, as described in more detail below.

In addition, NGX maintains and periodically tests a Business Continuity Plan (the “**BCP**”), which is designed to ensure that the Marketplace and the Clearing Services will not be significantly affected in the event of operational problems at our primary data site, inability to access the office space, and/or significant staffing problems. These arrangements involve a combination of alternate computer and office sites, the ability to operate systems remotely and extensive cross-training of employees.

¹¹ See “Additional Information Regarding Guarantee Fund (Appendix J).”

Operational Information Relating to Trading System and Contracts

The Exchange shall provide disclosure to its participants of information about contract terms and conditions, trading conventions, mechanisms and practices, trading volume and other information relevant to participants.

As a general matter, the rules and procedures governing trading, clearing and settlement through NGX (including default procedures and rights and remedies upon a default) are set forth in the CPA, which is a standard form document. Each Participant must sign the CPA in order to access the Marketplace and Clearing Services. Although the CPA is not distributed publicly, it is made available to prospective Participants.

NGX may amend the CPA upon notice to the Participants (CPA, Section 1.1). All amendments or updates are distributed to Participants and posted on NGX's website. If amendments are made, each Participant may, for a period of ten business days following the effective date of the amendment, terminate its participation in NGX (CPA, Section 9.1(d)).

Although NGX does not provide formal training to Participants, NGX staff members are available to provide assistance on accessing and trading on the Marketplace and using the Clearing Services. NGX also provides prospective Participants with information relating to the structure, rules and procedures of the Marketplace and the Clearing Services throughout the application process.

NGX's website also provides Participants with confidential access to certain other information, such as copies of material agreements, information regarding system upgrades, collateral and transaction reports for Participants, invoices with respect to settlements and information concerning new products. NGX currently maintains a help desk that allows Participants to obtain information or contact the appropriate NGX employees.

Financial information in respect of NGX is not given to Participants as a matter of course but is available upon request, subject to confidentiality provisions.

Market Oversight

The Exchange shall establish appropriate minimum standards for participants and programs for ongoing monitoring of the financial status or creditworthiness of participants; monitor trading to ensure an orderly market; maintain authority to collect or capture and retrieve all necessary information; and to intervene as necessary to ensure an orderly market.

The CPA is the core document for legal and disclosure purposes. Key terms of the CPA relating to Participants, monitoring, and authority to intervene are as follows.

Participant Eligibility

As of December 31, 2007, NGX had approximately 163 Participants, the majority of which are Alberta-based and approximately one-third of which are organized in the United States. While the majority of Participants are commercial energy market participants, there has been a gradual increase in the participation of financial institutions and hedge funds and similar investment vehicles. Each Participant is required to execute the CPA.

Admission Requirements

The CPA requires Participants to meet certain initial admission requirements designed to evidence their institutional status and sophistication in energy markets. Participation is not open to the "retail" market. NGX believes that these limitations are consistent with the requirements for an ECM and help ensure the soundness and integrity of the Clearing Services.

A Participant must be a corporate or other business entity that has total tangible assets exceeding \$C25 million (approximately US\$25.3 million) or a net worth exceeding \$C5 million (approximately US\$ 5.1 million), or have a majority of its voting shares owned by an entity (or entities) meeting such requirements (CPA, Section 2.3) or have a credit support provider (CPA, Section 2.3 and Risk Management Policy). Natural persons may not be Participants. If the Participant satisfies this requirement only as a subsidiary of an entity (or with a credit support provider) meeting the asset/net worth test, the parent entity (or credit support provider) may be required to provide a guarantee as determined in NGX's discretion in an amount at least equal to \$C5 million (CPA, Risk Management Policy, Section 5). Each Participant must represent that it meets this requirement when it enters into the CPA (CPA, Section 2.5). In addition, a Participant must post collateral as required in the CPA and described above. These financial requirements are designed to limit participation to sophisticated commercial entities. NGX reviews the admission requirements periodically and, if appropriate, may modify them or adopt additional or alternative requirements.¹²

¹² NGX conducts an annual review of participants by reviewing their financial statements to confirm compliance with our 5/25 test.

As part of the application process, NGX provides prospective Participants with a copy of the CPA, a copy of the Deposit Agreement, and the required trader application form. NGX also requests all required financial information from the applicant and responds to any queries regarding these documents. Applications are reviewed by the NGX Clearing & Compliance staff and legal staff. NGX maintains the right to request all additional information it reasonably requires in order to assess sophistication and risk regarding an applicant (CPA, Section 2.3 and Risk Management Policy, Section 5). Absent significant countervailing reasons, NGX typically approves any applicant that satisfies the eligibility requirements to become a Participant. Participants are able to access and view the NGX system after they have signed the CPA. In order to be authorized for trading on the Marketplace and/or for using the Clearing Services, Participants must also complete the required trader application form, which designates which individuals are authorized to trade on behalf of the Participant, for which products and to what order size limits, and must post sufficient collateral.

A Participant may only trade or clear Transactions through NGX as principal, and not as agent or in a fiduciary or similar capacity. To the extent required by law, each U.S. Participant must also be an “eligible swap participant”, an “eligible contract participant”, and an “eligible commercial entity” as defined in the CEA. Participants that wish to engage in Physicals must at all times have the capacity to satisfy their obligations to deliver or receive the relevant commodity through the relevant pipeline or hub operator (CPA, Section 2.6). Ontario participants must also be “accredited investors” as defined in National Instrument 45-106.

Continuing Eligibility Requirements

Each Participant is deemed to reaffirm that it meets the initial admission requirements described above each time it completes a Transaction on NGX (CPA, Section 2.5). NGX currently conducts a rolling annual review of all Participants to ensure ongoing compliance with the eligibility requirements. Upon NGX’s request, each Participant is required to file (a) audited consolidated financial statements for its fiscal year within 140 days of the end of such fiscal year (or substitute statements acceptable to NGX), (b) additional financial information reasonably necessary for the administration by NGX of the Risk Management Policy, and (c) reasonable confirmation with respect to the representations and warranties made by the Participant. Each Participant is obligated to notify NGX of any material adverse change in its financial condition or the financial condition of its credit support provider and agrees to NGX’s conducting investigations, inquiries and credit checks (CPA, Section 3.1). In addition, NGX maintains broad contractual rights to restrict a Contracting Party’s ability to transact or take any other reasonable actions with respect to a Contracting Party where its actions increase the credit exposure or pose additional risks to NGX’s business (CPA, Risk Management Policy, Section 9).

Product Eligibility

NGX lists and clears products that have been authorized in accordance with its procedures and incorporated into the CPA through an amendment. In addition to the Current Contracts, NGX contemplates that it may from time to time add new Physicals, Financials or other products relating to natural gas, electricity (or oil) at different delivery or price points in the United States and Canada. In addition, it may elect to begin clearing other physical energy commodities and derivatives thereof.

Prospective new products must be approved by NGX’s senior management in consultation with risk management, legal and other relevant personnel. Prior to adding a new product, NGX must determine that a reliable source of daily settlement information is available and must establish initial margin requirements and market pricing information to allow the calculation of variation margin for the new product. For Physicals, NGX must also determine that appropriate delivery procedures are in place, including nomination arrangements as required by the hub operator. New products must also be approved by its clearing and settlement bank under the Credit Facility and by its insurer under an insurance policy.

Once approved, the terms and conditions of the new product are added to the CPA by means of an amendment and posted on NGX’s website. Any amendments to the CPA are provided to the ASC promptly upon becoming effective.

A list of the Current Contracts may be found in the CPA.

Defaults

The electronic trading system itself has a number of monitoring programs which are directly linked to actions required to be taken by NGX under the Risk Management Policy. There are specific persons designated by NGX who oversee the market created through the Trading System to ensure adherence to the Risk Management Policy and also to monitor any unusual market activity. The Trading System collects and archives all trading information. The Contracting Party’s Agreement contains provisions which give NGX the right to intervene as necessary to ensure an orderly market.

Rule Enforcement

The Exchange shall maintain adequate arrangements and resources for the effective monitoring and enforcement of its rules and for resolution of disputes and shall have the capacity to detect, investigate and enforce those rules (including the authority and ability to discipline, limit, suspend or terminate a participant’s activities for violation of system rules).

NGX maintains adequate arrangements and resources for the effective monitoring and compliance with NGX's rules by Participants and for the resolution of disputes that arise from Transactions traded or cleared through NGX. NGX has the authority and ability to discipline, limit, suspend or terminate a Participant's use of the Clearing Services for violations of NGX's rules.¹³

Code of Conduct

Section 6 of the CPA establishes a code of conduct applicable to Participants, which prohibits fraud, dishonest conduct, manipulation or attempted manipulation of prices (including by spreading inaccurate information or reporting false transactions) and other activities detrimental to the market. In the case of a violation, NGX may suspend the breaching Participant and exercise the default remedies described above.

In addition, NGX may exercise its right to suspend a Participant if it determines, in its sole discretion, that (a) an adverse change in the Participant's financial condition has occurred, (b) marketing irregularities have been caused by the Participant, including manipulation and false reporting, or (c) an event or circumstance has occurred which may detrimentally affect a Participant's regulatory approvals in respect of its performance under the CPA. If a Participant is suspended, NGX may prevent it from clearing any transactions (or specified transactions) and exercise the default remedies described above.

Monitoring

NGX monitors both the Marketplace and the Clearing Services. Marketplace monitoring is conducted by NGX marketing and operations staff largely by tracking current market prices, both in other marketplaces and the OTC markets, for actively traded Current Contracts in real time. Such market price information is used to resolve trades in error and to assist with end-of-day settlement prices in Current Contracts. Clearing Services monitoring is conducted by NGX's clearing staff to ensure compliance with the Risk Management Policy and with delivery and settlement responsibilities. The clearing staff is aided by detailed reports and information provided by TD Bank and various hub operators.

Section 6.8 of the CPA provides staff members designated by NGX with broad authority to investigate, examine documents and take such other actions as are reasonably necessary or advisable to verify compliance by all Participants with the CPA or to review any matter that has resulted in a suspension. Each Participant is required to provide copies of any documents and records directly related to its activities upon request and to make a person knowledgeable of the matter under investigation available.

Dispute Resolution

NGX has established mediation and arbitration procedures with respect to disputes involving the CPA or any Transaction executed or cleared on NGX. Participants agree that all disputes in respect of a material amount or with a material consequence to the initiating party and which arise in respect of the CPA or any transaction executed or cleared on NGX will be referred to mediation. If the dispute is not resolved by mediation within 20 days, it will be referred to binding arbitration (CPA, Schedule B).

System Safeguards

The Exchange shall established and maintain a program of oversight and risk analysis to ensure systems function properly and have adequate capacity and security, including emergency procedures and a plan for disaster recovery to ensure daily processing of transactions; and a program of periodic objective system testing and risk review to assess the adequacy and effectiveness of the Trading System's internal control systems, including a risk review of every new service and significant enhancement to existing services.

NGX has established an oversight and risk analysis program for its electronic systems, for both the Marketplace and Clearing Services, to ensure that they function properly and have adequate capacity and security. NGX has developed emergency procedures and a disaster recovery plan and conducts periodic testing of key system functions.

Oversight/Risk Analysis Program

NGX has designed its computer systems with target availability in excess of 99% during trading hours. During 2007, system availability was approximately 99.88%.

¹³ NGX has comprehensive rules contained in the CPA for managing its business. NGX staff have sufficient knowledge of the rules applicable to the respective business units and are trained to identify compliance issues or monitor unusual activity that could be contrary to our rules and escalate potential issues to senior management, including legal. Management, including legal, then determine whether further investigation is required or whether disciplinary action needs to be taken. Regarding dispute resolution, NGX rules have a clear process for resolving disputes raised by participants either through mediation and ultimately arbitration.

NGX has developed and maintains its automated systems in a manner consistent with the principles set forth in the Commodity Futures Trading Commission's Policy Statement Concerning the Oversight of Screen-Based Trading Systems.¹⁴ NGX notes in particular, as these principles relate to the Clearing Services, that:

- (a) The system meets all applicable legal standards, regulatory policies and/or market custom.
- (b) The system is designed to operate in a manner that is equitable for all Participants. As noted above, there is only one class of Participants, and all Participants have equal access to the system.
- (c) NGX has analyzed, and continues to analyze, the system to address vulnerabilities (including risks of unauthorized access, internal failures, attacks and natural catastrophes).
- (d) Applicable procedures under the CPA have been established to ensure the competence, integrity and authority of system users and to ensure that access is not arbitrarily denied. In particular, NGX has established procedures for Participants to designate persons entitled to access the system (CPA, Section 3.1).
- (e) The CPA contains detailed statements and disclaimers concerning the status of the electronic systems and the limitations on NGX's liability to Participants for system failures.

Under the CPA, NGX undertakes to use commercially reasonable efforts to implement and maintain security systems and procedures designed to prevent unauthorized access to its electronic systems through any network connections between the Participant and NGX. NGX monitors the system and has agreed to take commercially reasonable steps to prevent fraud and breaches of security. Upon discovering any fraud or breach of security, NGX has agreed to notify the affected Participant and take all commercially reasonable measures to remedy the situation, including halting the Participant's access to the system. (CPA, Section 3.3(j)). In accordance with this undertaking, NGX has implemented a number of security measures. Electronic communications between client software and NGX host software are protected by an encryption protocol. Virtual and direct remote access to NGX's system is permitted only through NGX's password-protected business network and requires an additional level of authentication. Network devices such as firewalls and routers are strictly controlled through secure protocols and can only be accessed from within the network or over a secure VPN (Virtual Private Network) connection. In addition, NGX performs regular vulnerability threat assessments.

NGX's primary data center is located in a controlled-access computer room facility at NGX's office in Calgary, while the secondary site is located in a secure "card access only" building maintained by Telus, the largest telecommunications company in Western Canada and the second largest in the country. The methods and processes employed by NGX with respect to security have been reviewed by TMX Group and have been determined to meet TMX Group's standards. In addition, NGX uses the COBIT (Control Objectives for Information and Related Technology) standards as a guide in the maintenance of its security environment.

Emergency Procedures and Disaster Recovery

NGX operates a parallel, duplicate network in a separate physical location that is updated on a real-time basis. As a result, in the event of a malfunction in one network, NGX can continue to operate its Marketplace and Clearing Services with a minimum of interruption and loss of data. As a general matter, the system is designed so that in the event of a network failure, the system can be switched to an alternate network in a reasonable period of time. The primary server and the duplicate network are connected through a direct fiberlink. Each site has an independent internet connection, supplied by different internet providers. Either site can fully support the NGX trading and clearing system.

NGX also performs regular back ups of data in the automated systems. A complete back up is produced once a week, with incremental back ups being carried out on a daily basis. The back ups are removed and stored off-site on a weekly basis.

As noted above, NGX has developed a BCP and Disaster Recovery Plan designed to ensure the continued functioning of the Trading System and the Clearing Services in the event of certain disasters and emergencies, such as inaccessibility to the NGX premises or office, power outages, illness or evacuation. NGX has a "BCP Team" designed to handle all crucial business functions for the immediate period following a disaster. Employees have been issued company laptops, that are updated regularly, to use during disaster scenarios, and an alternative work site has been established to accommodate employees if NGX is not accessible. NGX employees can also access the NGX network over either one of two VPN connections; one being located at the primary NGX office site and the other being located at the off-site data centre location, each running on connections supplied by different internet providers. TMX Group provides independent oversight of NGX's BCP and conducts an annual internal audit. Pursuant to the BCP and in conjunction with NGX's ongoing reporting obligations to TMX Group relating to internal controls, NGX engages in regular testing of its BCP and reviews and updates the BCP each quarter.

¹⁴ 55 Fed. Reg. 48670 (adopting the "Principles for the Oversight of Screen-Based Trading Systems for Derivative Products" formulated by eight jurisdictions which comprised Working Party 7 of the Technical Committee of IOSCO), as supplemented by IOSCO in October 2000.

Testing

NGX has established procedures for quality assurance and system testing that relate to system connectivity, order volumes, trade volumes and the overall integrity of the automated aspects of the Marketplace and Clearing Services. NGX conducts quality assurance and system testing for both the Marketplace and the Clearing Services. Testing of the Marketplace focuses on client software performance and testing for the Clearing Services focuses on the reports generated by NGX's electronic systems in connection with those services.

Record Keeping

The Exchange shall maintain records of all activities related to the Trading System's business in a form and manner acceptable to the Commission for a period of five years and provide an undertaking to make books and records available for inspection by Commission representatives on request.

NGX will maintain records of all activities related to its business as a clearing agency for a minimum period of five years. NGX maintains an archive of information regarding all trading and clearing activities that is intended to permit reconstruction of each contract entered into and/or cleared through NGX. Specifically, NGX's electronic system maintains a record of end-of-day margin requirements for all Participants for the two most recent years (and paper copies of these records are maintained for seven years). NGX also keeps for seven years paper copies of the daily margin reports provided to management addressing Participants whose margin requirement exceeds 80% of collateral posted. In addition, paper copies of daily reports of collateral held by NGX are retained for seven years.

NGX confirms that records required to be maintained will be open to inspection by a representative of the Commission.

Risk Management

The Exchange shall identify and manage the risks associated with exchange operations through the use of appropriate tools and procedures such as risk analysis tools and procedures.

NGX has the ability to manage the risks that arise in connection with its operations as a clearing agency through the use of a variety of tools and procedures, including (a) risk analysis with respect to margin levels and potential exposure to open positions, (b) use of margin, (c) valuation procedures for positions and collateral, and (d) credit and position limits. The basic principles of risk management used by NGX are set forth in the Risk Management Policy.

Risk Analysis

NGX evaluates its credit and liquidity exposures on an ongoing basis. Initial margin rates for Current Contracts are updated at least monthly and more often as needed.

NGX performs periodic stress testing by increasing and decreasing market prices to locate stress points at which exceptions occur in large open positions, i.e., prices at which the potential loss exceeds the total collateral held. The stress points and number of exceptions are recorded and reviewed by management. This periodic stress testing is designed to enable NGX to identify stress points in a simulated market environment of extreme price movement, adjust initial margin rates, if deemed necessary, and address any potential credit and liquidity exposures before they arise. In conducting the stress testing, NGX assumes adverse price movements of the relevant Current Contracts and then calculates the required variation margin for the positions in each Participant's portfolio using the real-time risk monitoring system described below. An exception will be noted when NGX's uncollateralized exposure to a Participant under the assumptions (the amount of any required margin over the amount posted as collateral) would exceed the Participant's initial margin. The results of the stress testing will be used to determine if the initial margin rates should be increased or decreased to ensure that NGX holds adequate collateral amounts in the context of changing market conditions. NGX continues to develop and enhance its stress testing program on an ongoing basis.

Individual margin rates for a subset of key products, such as those for which large positions are held, are backtested on a regular basis to validate the adequacy of the underlying data used to determine the volatility history of each relevant product and time period. Daily price changes through the quarter are compared to those assumed for purposes of determining initial margin to determine the number of cases in which market movements exceeded those assumed and to ensure that the number of exceptions in a dataset (a) does not pose a material risk that would jeopardize the collateral coverage of a portfolio and (b) does not fall outside of the expectation for exceptions.

Use of Margin

NGX's principal credit risk management tool is its use of collateral. NGX engages in real-time risk monitoring through an electronic system that compares the amount of required collateral for each Participant's positions with the amount of collateral actually on deposit for that Participant.

NGX calculates an aggregate margin requirement for each Participant, which is composed of (a) initial margin for all positions, (b) variation margin for all positions, (c) net amounts payable to NGX in respect of Physicals in the delivery phase and (d) net amounts payable to NGX in respect of the settlement of Financials. Participants must post sufficient collateral to cover their margin requirement, utilizing any combination of the acceptable forms of collateral and offsets.¹⁵

An example of a margin calculation for a Physical is set forth in Appendix F.

NGX believes that these margin requirements and related procedures provide sufficient protection against the risk of default or insolvency of a Participant even under adverse market conditions.

Valuation of Positions and Collateral

NGX values open positions for margin purposes on the basis of the relevant settlement price or current market prices for each Current Contract, as set forth in the Risk Management Policy. Due to the liquid nature of the collateral (letter of credit from an A-rated bank or better, or cash), NGX values all collateral at full face value without any haircut or other reduction.

Credit and Position Limits

NGX sets an aggregate margin limit, or credit limit, for each Participant in accordance with the Risk Management Policy based on each Participant's collateral on deposit. NGX also has the right under the CPA to impose limits on open positions held by Participants (CPA, Section 3.5) but currently does not impose limits other than the margin limit. In addition to open positions with NGX, each Participant may have multiple positions in OTC Transactions for which NGX does not have information and therefore is unable to determine such Participant's net aggregate open positions. Hence NGX does not currently apply position limits based on open positions with NGX held by a Participant. NGX has the right to restrict further trading if it determines that a Participant is unable to provide additional collateral as required, or if it believes a position would be too large to liquidate in an orderly fashion in the event of Participant default.

NGX currently maintains a credit watch list for certain Participants based on NGX's assessment of the possibility that a Participant's financial condition could result in a future default. The watch list is confidential, is used for internal monitoring purposes only and does not directly affect any Participant's margin limit. NGX typically conducts a review of the financial status of any Participant placed on the watch list.

Settlement procedures are described in Appendix H attached hereto.

Governance and Conflicts of Interest

Establish and enforce rules to minimize conflict of interest in the exchange's decision-making process and appropriate limitations on the use or disclosure of significant non-public information gained through the performance of official duties by board members, committee members or exchange employees or gained through an ownership interest in the exchange.

NGX avoids adopting any rule or taking any action that results in any unreasonable restraint of trade in the relevant markets for cleared contracts or imposing any material anticompetitive burden on trading in the relevant markets. NGX believes that the Marketplace and Clearing Services as operated by NGX and described in this application have not created and will not create any anticompetitive burden or restraint on trading in the electricity and natural gas markets. Furthermore, NGX believes that by reducing counterparty credit risks in those markets, its Clearing Services enhance the competitiveness of these markets, consistent with the policies of the ASA.

6. OSC Criteria for Exemption from Recognition of an Exchange Recognized in another CSA Jurisdiction

In response to the criteria above provided by OSC staff, NGX's responses are as follows.

Regulation of the Exchange (1.1 of Criteria)

NGX is regulated in an appropriate manner by the ASC. See "Existing Orders" in the Application for a description of ASC regulation, as well as the description of how NGX meets the core principle requirements set out in the ASC exchange recognition order (section 5 of the Application).

Governance (2.1 of Criteria)

NGX is not a publicly traded company and has a single shareholder, TMX Group. NGX's board of directors is currently comprised of 9 members which constitute the senior management team of TMX Group. NGX holds quarterly board meetings.

¹⁵ See "Additional Information Regarding Use of Margin" (Appendix K)

NGX strategy and certain other material matters are subject to the oversight of the board of directors of its parent company, TMX Group Inc., which includes a majority of independent directors, including board members with experience in energy and derivative markets.

NGX holds management meetings on a regular basis where senior management participate in the major business and regulatory decisions relating to the company. NGX's business and regulatory decisions are in keeping with its public interest mandate as a commodity futures exchange and clearing agency.

As a private company, NGX does not currently have any independent directors and does not believe it is necessary based on its current private company structure and the size of its business.

NGX does not believe it is necessarily appropriate to have representatives of its participants on the board on the company. Interests of the different companies accessing the services of the exchange are represented in the daily management of NGX's business as a going concern. NGX operates in a highly competitive environment and must ensure it is always taking into account a broad spectrum of market participant interests.

NGX follows TMX Group policies regarding conflicts of interest. There are written policies in place governing the identification and management of such conflicts for directors, officers and employees.

NGX follows TMX Group policies regarding the fit and proper person tests for its directors and officers. TMX Group takes reasonable steps to ensure that each officer and director of NGX is a fit and proper person.

There are appropriate qualification, remuneration, and insurance provisions in place for directors and officers of NGX.

The governance structure and arrangements of NGX ensure effective oversight of this type of sophisticated-participant commodity exchange business.

Fees (3.1 of Criteria)

All fees imposed by NGX are equitably allocated and do not have the effect of creating unreasonable barriers to access. The process for setting fees is fair and appropriate for the commodity markets. This is a highly competitive environment and NGX must carefully consider the impact to the market and its business of any fee changes. NGX rules as well as market forces ensure there are no fee barriers to market participants and that the relevant considerations are balanced appropriately.

Regulation of Products

Approval of Products

The products traded on NGX have been approved by the ASC as part of NGX's recognition as an exchange. Based on the nature of the commodity markets and the need to respond quickly to changing market conditions in order to remain competitive, it is essential that NGX be able to add new products promptly and that such process not be subject to prior regulatory approval. It is imperative that NGX have the benefit of a level regulatory playing field with its competitors in the U.S. as the commodity markets in which it operates are North American in scope. The regime established under ASC oversight is effectively in alignment with the self-certification regime applicable to U.S. commodity exchanges. Failure to have this alignment with U.S. laws would be a significant impairment to NGX's ability to continue to conduct business. NGX is required to file product additions with the ASC within 2 business days of their addition to the NGX CPA. NGX products must conform to the terms of the NGX recognition order and the ASC has an opportunity to audit NGX's product additions at any time. See also "Product Eligibility" in this Application.

Product Specifications

The terms and conditions of trading the products conform with the usual commercial customs and practices for the trading of such products in a combination of the North American regulated and unregulated OTC commodity markets. In order for sufficient liquidity to exist, alignment with these customs and practices is essential.

Risks Associated with Trading Products

NGX maintains adequate provisions to measure, manage and mitigate the risks associated with trading products on the exchange. See the description of margin requirements under "Collateral" in this Application. Participants often have daily trading limits attached to their account. NGX has the right under the CPA to impose position limits where appropriate (CPA, Section 3.5). NGX has certain employees who are monitoring the market in real time and can respond quickly to unanticipated events. NGX has a procedures manual that is followed by employees in terms of managing any issues associated with trading NGX products. Material issues escalated to appropriate management in accordance with NGX's procedures manual.

Access (5.1 of Criteria)

NGX has established appropriate qualification criteria and terms and conditions regarding access to NGX services in the CPA. These standards are transparent to potential participants. Such standards address the obligation for participants to be “sophisticated”, transacting as principal and have adequate pipeline arrangements in place to accommodate delivery of the commodity. Compliance by participants with the local securities and other laws of the jurisdiction in which they are based are also addressed. See the description under “Participant Eligibility” and “Access to the Public” in this Application. See also sections 2.3, 2.6 and 3.1 of the CPA in terms of qualifications and access rights by participants. Access standards and the process for obtaining, or denying access are fair and applied reasonably, and have been reviewed by the ASC.

Regulation of Participants on the Exchange (6.1 of the Criteria)

NGX has the authority, capacity, systems and processes to undertake its regulation functions by having appropriate terms and conditions governing the conduct of its participants in the CPA, as well as broad rights to monitor participant conduct and appropriately discipline them for violations of requirements. See “Financial Resources”, “Operational Information Relating to Trading System and Contracts”, “Market Oversight”, “Rule Enforcement” and “Risk Management” sections of this Application.

Rulemaking (7.1 of Criteria)

NGX maintains rules, policies and procedures as are necessary or appropriate to govern and regulate all aspects of its business, and such rules are designed to:

- (a) ensure compliance with securities legislation;
- (b) prevent fraudulent and manipulative acts and practices;
- (c) promote just and equitable principles of trade;
- (d) foster cooperation and coordination with persons or companies engaged in regulating, clearing, settling, processing information with respect to, and facilitating transactions in securities;
- (e) provide a framework for disciplinary and enforcement actions; and
- (f) ensure a fair and orderly market.

NGX rules do not permit unreasonable discrimination among participants or impose any burden on competition that is not reasonably necessary and appropriate. See also “Governance and Conflicts of Interest” in this Application.

Due Process (8.1 of Criteria)

NGX ensures that for any decision made that materially affects a participant, NGX ensures that parties are given a fair opportunity to be heard and/or to make representations or submissions, and that NGX keeps a record of, gives reasons for, and provides for a fair resolution mechanism regarding any disputes of its decisions, in accordance with its rules. See CPA Schedule B and “Dispute Resolution” in this Application.

Systems and Technology (9 of Criteria)***Systems and Technology***

NGX’s trading, clearing and financial reporting systems have appropriate internal controls to ensure accuracy, integrity and security of information, and has sufficient capacity and business continuity plans to enable NGX to properly carry on its business. See under “System Safeguards” section “Oversight/Risk Analysis”, “Emergency Procedures and Disaster Recovery” and “Testing”.

Information Technology Risk Management Procedures

NGX has procedures that handle trading errors, halts and breakers, and that ensure the company can respond quickly to the types of trading events during trading weekdays and on weekends.

Financial Viability and Reporting (10.1 of Criteria)

NGX has sufficient financial resources for the proper performance of its functions and to meet its responsibilities. See “Financial Resources” in this Application.

Clearing and Settlement (11 of Criteria)

Clearing Arrangements

Transactions in Contracts traded through NGX are cleared and settled through NGX's clearing house. Appropriate arrangements exist for the clearing and settlement as described throughout this Application.

Regulation of the Clearing House

NGX is a recognized clearing agency under the ASA. See "Existing Orders" in this Application.

Access to the Clearing House

The same qualification criteria and access standards for the exchange are applied to the clearing house. See "Access (5.1 of Criteria) above.

Sophistication of Technology of Clearing House

NGX operates as both an exchange and clearing house. The information technology used by the clearing house is reviewed, tested and updated regularly and provides at least the same level of safeguards as required of the exchange. See "Systems and Technology (9 of Criteria)" above.

Risk Management of Clearing House

NGX has appropriate risk management policies and procedures, contingency plans, default procedures and internal controls, as described above under "Regulation of Products (4 of Criteria)", "Regulation (6.1 of Criteria)" and "Rulemaking (7 of Criteria)".

Transparency (12.1 of Criteria)

NGX rules and procedures ensure the recording and disclosure of accurate and timely trade and order information to participants. This information is provided to all participants on an equitable basis through postings on the password protected members section of the NGX website. See also "Operational Information Relating to Trading System and Contracts" in the Application.

Record Keeping (13.1 of Criteria)

NGX has and maintains adequate systems in place for the keeping of books and records, including, but not limited to, those concerning the operations of the exchange, audit trail information on all trades, and compliance with, and/or violations of, NGX rules. See "Record Keeping" in the Application.

Outsourcing (14.1 of Criteria)

NGX has appropriate and formal arrangements and processes in place that permit it to meet its obligations under any of its outsourcing relationships. Such arrangements and processes are in accordance with industry best practices.

Information Sharing and Regulatory Cooperation (15.1 of Criteria)

NGX has mechanisms in place to ensure that it is able to cooperate, by sharing information or otherwise, with the Commission and its staff, and other appropriate regulatory bodies. NGX has a specific requirement in this respect in the ASC clearing agency recognition order (see Appendix I – core principle 12).

7. Provisions of the CFA

Definition of "Commodity Futures Exchange" Under the CFA

The CFA defines a "commodity futures exchange" as an association or organization, whether incorporated or unincorporated, operated for the purpose of providing the facilities necessary for the trading of commodity futures contracts or commodity futures options.

Definition of "Commodity Futures Contract" and "Commodity Futures Option" Under the CFA

The CFA defines a "commodity" as, whether in the original or a processed state, any agricultural product, forest product, product of the sea, mineral, metal, hydrocarbon fuel, currency or precious stone or other gem, and any goods, article, service, right or interest, or class thereof, designated as a commodity under the regulations.

On May 16, 2005 OSC Rule 14-502 came into force. In addition to commodities listed in the CFA, Rule 14-502 also designated as a commodity, among other things, “energy and fuel, including gas, oil, electricity and energy-related products whether in their original or processed states, and any by-products thereof” and “any interest that is a value determined with reference to any commodity”.

The CFA defines “commodity futures contract” as a contract to make or take delivery of a specified quantity and quality, grade or size of a commodity during a designated future month at a price agreed upon when the contract is entered into on a commodity futures exchange pursuant to standardized terms and conditions set forth in such exchange’s by-laws, rules or regulations. A “commodity futures option” is “a right, acquired for a consideration, to assume a long or short position in relation to a commodity futures contract at a specified price and within a specified period of time and any other option of which the subject is a commodity futures contract”.

In our view, the definitions of “commodity futures contract” and “commodity futures option”, in conjunction with the definition of “commodity” in the CFA (as expanded by Rule 14-502), encompasses those Current Contracts with physical or cash settlement to take place in a designated future month (the CFA Contracts).

Definition of “trading” under the CFA.

The CFA defines “trading” as including:

- (a) entering into commodity futures contracts or commodity futures options, whether as principal or agent;
- (b) acting as a floor trader;
- (c) any receipt by a registrant of an order to effect a transaction in a contract;
- (d) any assignment or other disposition of rights under a contract except a disposition arising from the death of an individual enjoying rights under a contract; and
- (e) any act, advertisement, solicitation, conduct or negotiation directly or indirectly in furtherance of the foregoing.

In our view, the activities of NGX, as described above, as it relates to the trading of CFA Contracts, falls within the definition of a “commodity futures exchange” under the CFA.

8. Submissions Pursuant to the CFA

The Contracting Parties

The business of the Exchange is to facilitate contractual arrangements among Participants who, as a result of the eligibility criteria, including the NGX Sophistication Thresholds, in the CPA (the “**Eligibility Requirements**”), have a sufficiently high degree of sophistication in business matters and access to sufficient resources to carefully evaluate the risks of entering into CFA Contracts.

Access to the Public

NGX’s electronic platform is not made available for the execution of CFA Contracts to any party other than Participants that contract as principals with NGX who are able to meet and maintain the Eligibility Requirements. Trades in Current Contracts are not entered into as a result of intermediation, but are rather transacted by the Participants themselves through an authorized representative. The interactions are therefore restricted to the Participants and do not involve the public generally. While NGX advertises its services and discusses those services with current and potential clients, it does not act as an adviser or dealer for Participants.

Purposes of the CFA

The CFA provides that its purposes are: i) to provide protection to investors from unfair, improper or fraudulent practices; and ii) to foster fair and efficient commodity futures markets and confidence in those markets. The CFA further provides that in pursuing the purposes of the CFA, the Commission shall have regard to certain fundamental principles. One such principle states that the primary means for achieving the purposes of the CFA are: i) requirements for timely, accurate and efficient disclosure of information; ii) restrictions on fraudulent and unfair market practices and procedures; and iii) requirements for the maintenance of high standards of fitness and business conduct to ensure for honest and responsible conduct by market participants. Additional principles reference that: i) the integration of commodity futures markets be supported and promoted by the sound and responsible harmonization and co-ordination of commodity futures regulation regimes; and ii) business and regulatory costs and other restrictions on the business and investment activities of market participants be proportionate to the

significance of the regulatory objectives sought to be realized. In our view, the requirement for registration in section 15 is aimed at ensuring that these purposes are achieved.

In our submission these aims will be achieved if, as is currently anticipated, NGX becomes recognized as an exchange in the Province of Alberta. Considering the terms and conditions of recognition and the oversight by the ASC of NGX's operations, it is submitted that adequate safeguards are in place to ensure the protection of the public interest. Therefore, it is submitted that it would not be contrary to the public interest for the Commission to exempt NGX from the requirement to register as a commodity futures exchange under section 15 of the CFA.

9. Provisions of the Securities Act (Ontario) (the "OSA") and Submissions

Relating to the Definition of "Stock Exchange" Under the OSA

Section 21 of the OSA provides that no person or company shall carry on business as a stock exchange in Ontario unless recognized by the Commission under section 21. The OSA does not define "stock exchange".

It is our submission that NGX does not trade "stocks" as commonly understood. To the extent "stock" encompasses "security" as defined in the OSA, we are aware that the definition includes in paragraph (p) any commodity futures contract or any commodity futures option that is not traded on a commodity futures exchange registered with or recognized by the Commission under the CFA or the form of which is not accepted under the CFA.

However, it is our submission that paragraph (p) was intended to apply to commodity futures contracts and commodity futures options traded on commodity futures exchanges that are not subject to regulatory oversight, as the CFA and OSA are meant to be complementary and not duplicative regimes. The CFA constitutes a complete regime for the regulation of commodity futures exchanges and trading in commodity futures contracts. It is our submission that paragraph (p) of the definition of "security" in the OSA was not intended to apply to commodity futures contracts and commodity futures options traded on a commodity futures exchange whose operations meet the criteria for exemptive relief under the CFA, in particular where such an exchange has been recognized under comparable laws of another jurisdiction, such as Alberta. Provided that the Commission has had the opportunity to assess the merits of an application for exemption from the registration and recognition requirements of the CFA, and exemptive relief is granted on the basis of that assessment, we submit that it would be unnecessary to characterize CFA Contracts as securities under the OSA since exemptions under both the CFA and the OSA are granted on the basis of the lack of prejudice to the public interest and any assessment under the OSA would presumably duplicate the assessment already made under the CFA. In addition, NGX is viewed as a commodities exchange and not a stock exchange by market participants. Creating a structure whereby it is implied that participants of NGX are transacting through a stock exchange is confusing to Participants. For these reasons, we are of the view that NGX is not a "stock exchange" within the meaning of section 21 of the OSA.

The Application of National Instrument 21-101 and Rule 91-503 to the Business of the Exchange

National Instrument 21-101 provides in section 1.4(2) that in Ontario the term "security", when used in the Instrument, does not include a commodity futures contract or a commodity futures option that is not traded on a commodity futures exchange registered with or recognized by the Commission under the CFA. The effect of this provision is to remove paragraph (p) from the definition of "security" for purposes of National Instrument 21-101. The result is that CFA Contracts, whether or not they are considered to fall within paragraph (p), are technically not subject to the provisions of National Instrument 21-101 if NGX is granted exemptive relief by the OSC.

We submit that OSC Rule 91-503 (the "**Rule**") applies to NGX as an exchange "situate outside Ontario" regardless of whether it is carrying on business in Ontario as it qualifies under the definition of "exempt exchange" in the Rule. Therefore, separate exemptive relief is not required from registration and prospectus requirement under the OSA (sections 25 and 53, respectively).

Relating to Clearing Houses

We note that although the Act provides for the recognition of clearing houses or clearing agencies by the Commission, there is currently no requirement in the Act that clearing houses or clearing agencies obtain recognition. We are aware of proposed legislation that would prohibit a person or company from carrying on business in Ontario as a clearing agency unless recognized by the Commission as such. However, the legislation is not yet in force and it is premature to formulate a view on whether NGX carries on business in Ontario as a clearing agency.

10. Specific Relief Requested

Exemptions

Based on this Application, recognition by the ASC of NGX as an exchange and the materials attached hereto, NGX submits that it would not be contrary to the public interest for the Commission to grant an order:

- (i) pursuant to section 80 of the CFA, exempting NGX from the prohibition in section 15 of the CFA on carrying on business as a commodity futures exchange in Ontario unless registered by the Commission under the CFA;
- (ii) pursuant to section 38 of the CFA, exempting current and future Contracting Parties from the registration requirements of section 22 of the CFA in respect of entering into CFA Contracts through the Trading System and all acts, advertisements, solicitations, conduct or negotiations made directly or indirectly in furtherance thereof;
- (iii) pursuant to section 38 of the CFA, exempting current and future Contracting Parties from the prohibition in section 33 of the CFA on trading of CFA Contracts other than on a commodity futures exchange that is registered or recognized by the Commission under the CFA and where the form of such contracts has been approved by the Director under the CFA; and
- (iv) pursuant to section 147 of the OSA, exempting NGX from the requirement to be recognized as a stock exchange unless recognized by the Commission under section 21 of the OSA.

11. Enclosures

Attached are the following:

A. Supporting documents

- 1. Form of Contracting Party's Agreement, last amended effective January 1, 2009 (Appendix A);
- 2. Current Exemptive Orders granted by Canadian regulatory authorities and Notification of Exempt Commercial Market Status to the Commodity Futures Trading Commission (Appendix B);
- 3. Credit Agreement, amended and restated as of November 1, 2007, between Natural Gas Exchange Inc. and The Toronto-Dominion Bank (Appendix C);
- 4. Deposit Agreement, amended and restated as of December 11, 2008, between CIBC Mellon Trust Company and Natural Gas Exchange Inc. (Appendix D);
- 5. List of current NGX management and organization chart (Appendix E);
- 6. NGX Margin Calculation Example (Appendix F);
- 7. Amended and Restated Bank Collateral Agreement, dated June 22, 2006, between Natural Gas Exchange Inc. and The Toronto-Dominion Bank (Appendix G); and
- 8. Settlement Procedures (Appendix H)
- 9. Additional Information Regarding Credit Facilities (Appendix I)
- 10. Additional Information Regarding Guarantee Fund (Appendix J)
- 11. Additional Information Regarding Use of Margin (Appendix K)
- 12. Additional Information Regarding Treatment of Funds (Appendix L);

B. ASC exchange and clearing recognition orders dated October 9, 2008 (Appendix M);

C. NTP regulatory orders (Appendix N);

D. Draft exemptive relief order (Appendix O); and

E. a cheque payable to the Ontario Securities Commission in the amount of \$5,000.00 representing the filing fees for this Application.

Please do not hesitate to contact the undersigned or Peter Krenkel (403-974-1705) for any further information the Commission or its staff might require in connection with this Application. Thank you for your consideration of this matter. We would be happy to provide further explanation or elaboration of any of the above points.

Respectfully submitted,

Cheryl Graden, Chief Legal Counsel
Natural Gas Exchange Inc.

Enclosures

cc. Peter Krenkel, President, Natural Gas Exchange

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

AND

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

AND IN THE MATTER OF
NATURAL GAS EXCHANGE INC. (NGX)

ORDER

(Sections 38 and 80 of the CFA and Section 147 of the OSA)

WHEREAS NGX has filed an application dated January 9, 2009 (Application) with the Ontario Securities Commission (Commission) requesting:

- (a) an order pursuant to section 80 of the CFA exempting NGX from the requirement to be registered as a commodity futures exchange under section 15 of the CFA;
- (b) an order pursuant to section 38 of the CFA exempting trades by NGX participants (Participants) in Ontario (Ontario Participants) in contracts on NGX (Contracts) from the registration requirement under section 22 of the CFA;
- (c) an order pursuant to section 38 of the CFA exempting trades by Ontario Participants in Contracts from the requirements under section 33 of the CFA; and
- (d) an order pursuant to section 147 of the OSA exempting NGX from the requirement to be recognized as a stock exchange under section 21 of the OSA.

AND WHEREAS Rule 91-503 *Trades in Commodity Futures Contracts and Commodity Futures Options Entered into on Commodity Futures Exchanges Situate Outside of Ontario* exempts trades of commodity futures contracts or commodity futures options made on a commodity futures exchange not registered with or recognized by the Commission under the CFA from sections 25 and 53 of the OSA;

AND WHEREAS NGX has represented to the Commission as follows:

1. NGX is a private company and is a wholly-owned subsidiary of TMX Group Inc., a public company governed by the laws of Ontario and listed on the Toronto Stock Exchange.
2. NGX operates an electronic trading system (Trading System) based in Calgary, Alberta, for the trading of Contracts in natural gas, electricity and heat rate products related to the gas and electricity markets, and proposes to introduce Contracts in oil and renewable energy certificates.
3. NGX developed the Trading System to provide an electronic platform for trading of energy related commodities by sophisticated parties in a principal to principal market, and as such the timing of settlement for Contracts align with standard over-the-counter market conventions for settlement.
4. NGX is recognized by the Alberta Securities Commission (ASC) under the Alberta Securities Act (ASA) as an exchange and a clearing agency by orders dated October 9, 2008 (Exchange Recognition Order and Clearing Agency Recognition Order, set out in Schedules "A" and "B", respectively) and is subject to regulatory oversight by the ASC pursuant to the ASA.
5. NGX is registered as a Derivatives Clearing Organization by the Commodity Futures Trading Commission (CFTC) under the Commodity Exchange Act (CEA) and is subject to oversight by the CFTC pursuant to the CEA.
6. NGX operates the Trading System as an exempt commercial market under the CEA.
7. Access to the Trading System for the purpose of trading in Contracts is restricted to Participants, each of which:
 - a. has entered into a Contracting Party's Agreement; and

- b. has, or has a majority of its voting shares owned by one or more entities each of which has a net worth exceeding \$5,000,000 or total assets exceeding \$25,000,000 (NGX Sophistication Thresholds); and
 - c. uses the Trading System only as principal.
- 8. NGX applies its qualification criteria by subjecting each applicant to a due diligence process, which includes: review of constituent documentation and financial statements, conducting searches of relevant financial services information databases and conducting other know-your-client procedures.
 - 9. NGX is required under its regulations to provide to the ASC, on request, access to all records and to cooperate with any other regulatory authority, including making arrangements for information-sharing.
 - 10. Contracts traded on the Trading System are either cleared and settled through NGX's central counterparty clearing house or by the Participants themselves, independent of NGX.
 - 11. The ASC discharges its regulatory oversight over NGX as an exchange and clearing agency through ongoing reporting requirements and by conducting periodic oversight assessments of NGX's operations to confirm that NGX is in compliance with the operating and clearing principles set out in the Exchange Recognition Order and Clearing Agency Recognition Order, respectively.
 - 12. Contracts fall under the definitions of "commodity futures contract" or "commodity futures option" set out in section 1 of the CFA. NGX is therefore considered a "commodity futures exchange" as defined in section 1 of the CFA and is prohibited from carrying on business in Ontario unless it is registered or exempt from registration as an exchange under section 15 of the CFA.
 - 13. NGX has been, and seeks to continue, providing Ontario market participants with access to trading in Contracts and as a result, is considered to be "carrying on business as a commodity futures exchange" in Ontario.
 - 14. NGX is not registered with or recognized by the Commission as a commodity futures exchange under the CFA and no Contracts have been accepted by the Director as contemplated under clause 33(a) the CFA, therefore, Contracts are considered "securities" under paragraph (p) of the definition of "security" in subsection 1(1) of the OSA and NGX is considered a "stock exchange" under the OSA and is prohibited from carrying on business in Ontario unless it is recognized or exempt from recognition under section 21 of the OSA.
 - 15. NGX has been operating in Ontario pursuant to interim exemptive relief orders granted by the Commission on November 17, 2006, as extended on November 16, 2007 and May 13, 2008.
 - 16. Ontario Participants may be (i) utilities and other commercial enterprises that are exposed to risks attendant upon fluctuations in the price of a commodity and, to the extent applicable, (ii) investment banking arms of banks and (iii) hedge funds and other proprietary trading firms.

AND WHEREAS based on the Application and the representations NGX has made to the Commission, the Commission has determined that NGX satisfies the criteria set out in Schedule "C" and that the granting of exemptions from recognition and registration to NGX would not be prejudicial to the public interest;

IT IS HEREBY ORDERED by the Commission that:

- (a) pursuant to section 80 of the CFA, NGX is exempt from registration as a commodity futures exchange under section 15 of the CFA;
- (b) pursuant to section 38 of the CFA, trades in Contracts by Ontario Participants are exempt from the registration requirement under section 22 of the CFA;
- (c) pursuant to section 38 of the CFA, trades in Contracts by Ontario Participants are exempt from the requirements under section 33 of the CFA; and
- (d) pursuant to section 147 of the OSA, NGX is exempt from recognition as a stock exchange under section 21 of the OSA;

PROVIDED THAT NGX complies with the terms and conditions attached hereto as Schedule "D".

SCHEDULE "A"

ALBERTA SECURITIES COMMISSION

**RECOGNITION ORDER
EXCHANGE**

Natural Gas Exchange Inc.

Background

1. Natural Gas Exchange Inc. (**NGX**) has applied to the Alberta Securities Commission (the **Commission**), pursuant to the *Securities Act* (Alberta), R.S.A. 2000, c. S-4 (the **Act**), for the following:
 - (a) recognition as an exchange for the trading of Contracts (as defined below);
 - (b) an exemption of NGX's form of exchange contracts;
 - (c) a registration exemption for the contracting parties (the **Contracting Parties**) who enter into NGX's standard form trading agreement with NGX (the **Contracting Party's Agreement**) (the **Registration Relief**); and
 - (d) revocation of the Current Decision (as defined below) in Alberta.
2. NGX has concurrently applied to the Commission for recognition as a clearing agency as it also provides clearing and settlement services to Contracting Parties.

Interpretation

3. Unless otherwise defined, terms used in this order have the same meaning as in the Act or in National Instrument 14-101 *Definitions*.

Representations

4. NGX represents as follows:
 - (a) NGX operates an electronic trading system (the **Trading System**) based in Calgary, Alberta, for the trading of natural gas, electricity and related contracts (the **Contracts**).
 - (b) NGX has operated the Trading System since 1993 in accordance with the terms and conditions of a series of exemptive relief orders granted by the Commission and other Canadian securities regulatory authorities, the most recent of which is MRRS decision #1662761 dated December 1, 2004 (the **Current Decision**).
 - (c) Access to the Trading System in respect of exchange contracts is restricted to Contracting Parties, each of which:
 - (i) has entered into a Contracting Party's Agreement; and
 - (ii) has, or has a majority of its voting shares owned by one or more entities each of which has, a net worth exceeding \$5 000 000 or total assets exceeding \$25 000 000 (the **NGX Sophistication Thresholds**).
 - (d) The Contracting Parties use the Trading System only as principals.

Undertakings

5. NGX undertakes:
 - (a) to comply with applicable securities legislation;
 - (b) to operate the Trading System in accordance with the operating principles set out in Appendix A to this order (the **Operating Principles**);

- (c) to report to the Commission in accordance with the reporting requirements set out in Appendix B to this order (the **Reporting Requirements**);
- (d) not to enter into any contract, agreement or arrangement that may limit its ability to comply with applicable securities legislation or this order;
- (e) to take reasonable steps to ensure that each officer or director of NGX is a fit and proper person for that role and that the past conduct of each officer or director affords reasonable grounds for belief that the officer or director will perform his or her duties with integrity;
- (f) to have appropriate conflict of interest provisions for all directors, officers and employees;
- (g) to notify the Commission at least 10 business days in advance of entering into any agreement to outsource key Trading System functions;
- (h) to notify the Commission at least 10 business days in advance of any significant change in the operation of the Trading System;
- (i) to notify the Commission at least 10 business days in advance of any change in the beneficial ownership of NGX;
- (j) to use its best efforts to provide the information required in paragraphs 5(g) to (i) above earlier than specified, when possible;
- (k) to seek the Commission's prior approval of any significant changes to the NGX Sophistication Thresholds;
- (l) to seek the Commission's acceptance of, or an exemption for, any new or revised Contract that differs significantly from the exchange contracts that have already been exempted by the Commission;
- (m) to notify the Commission immediately upon NGX becoming aware that any of its representations in this order are no longer true and accurate or that it becomes unable to fulfil any of its undertakings set out in this order; and
- (n) to comply with any request from the Executive Director of the Commission for electronic or any other form of access to the Trading System to assist the Commission in its oversight of NGX as an exchange.

Decision

6. Based on the above representations and undertakings the Commission, being satisfied that it would not be prejudicial to the public interest, recognizes NGX as an exchange pursuant to section 62 of the Act, exempts NGX from section 106(b), which requires the Commission's acceptance of the form of NGX's Current Contracts as exchange contracts, pursuant to section 213 and grants the Registration Relief pursuant to section 144(1) of the Act, provided that:
- (a) subject to paragraph 5(m) above, the representations made by NGX remain true and accurate; and
 - (b) NGX fulfils the undertakings given above.
7. Pursuant to section 214 of the Act, the Current Decision is revoked in Alberta.

"original signed by"
Glenda A. Campbell, QC
Alberta Securities Commission

"original signed by"
Stephen R. Murison
Alberta Securities Commission

APPENDIX A

Operating Principles

1. **Financial Resources** - The exchange shall maintain adequate financial, operational and managerial resources to operate the Trading System and support its trade execution functions.
2. **Operational Information Relating to Trading System and Contracts** - The exchange shall provide disclosure to its participants of information about contract terms and conditions, trading conventions, mechanisms and practices, trading volume and other information relevant to participants.
3. **Market Oversight** - The exchange shall establish appropriate minimum standards for participants and programs for on-going monitoring of the financial status or credit-worthiness of participants; monitor trading to ensure an orderly market; maintain authority to collect or capture and retrieve all necessary information; and to intervene as necessary to ensure an orderly market.
4. **Rule Enforcement** - The exchange shall maintain adequate arrangements and resources for the effective monitoring and enforcement of its rules and for resolution of disputes and shall have the capacity to detect, investigate and enforce those rules (including the authority and ability to discipline, limit, suspend or terminate a participant's activities for violations of system rules).
5. **System Safeguards** - The exchange shall establish and maintain a program of oversight and risk analysis to ensure systems function properly and have adequate capacity and security, including emergency procedures and a plan for disaster recovery to ensure daily processing of transactions; and a program of periodic objective system testing and risk review to assess the adequacy and effectiveness of the Trading System's internal control systems, including a risk review of every new service and significant enhancement to existing services.
6. **Record keeping** - The exchange shall maintain records of all activities related to the Trading System's business in a form and manner acceptable to the Commission for a period of five years and provide an undertaking to make books and records available for inspection by Commission representatives on request.
7. **Risk management** - The exchange shall identify and manage the risks associated with exchange operations through the use of appropriate tools and procedures such as risk analysis tools and procedures.
8. **Governance and Conflicts of Interest** - Establish and enforce rules to minimize conflict of interest in the exchange's decision-making process and appropriate limitations on the use or disclosure of significant non-public information gained through the performance of official duties by board members, committee members or exchange employees or gained through an ownership interest in the exchange.

APPENDIX B

Reporting Requirements

In addition to fulfilling any reporting requirements in applicable securities legislation, the exchange will report as follows to the Commission:

Immediate Reporting

1. NGX will report immediately upon occurrence or upon becoming aware of the existence of:
 - (a) any event or circumstance or situation that renders, or is likely to render, NGX unable to comply with applicable securities legislation or this order;
 - (b) any default by NGX that affects its financial resources or its ability to meet its obligations as an exchange, including the particulars of the default and the resolution proposed. NGX shall also provide the Commission with information regarding the impact of the default on the adequacy of NGX's financial resources;
 - (c) any order, sanction or directive received from, or imposed by, a regulatory or government body;
 - (d) any investigations of NGX by a regulatory or government body;
 - (e) any criminal or quasi-criminal charges brought against NGX, any of its subsidiaries, or any of the officers or directors of NGX or its subsidiaries; and
 - (f) any civil suits brought against NGX, any of its subsidiaries, or any of the officers or directors of NGX or its subsidiaries, that would likely have a significant impact on NGX's business.

Key Event Reporting

2. NGX will report no later than 2 business days of the date of occurrence:
 - (a) the appointment or resignation of one or more directors of NGX's board of directors,
 - (b) a change to the senior management team;
 - (c) any significant changes to the Contracting Party's Agreement.

In the event that a default by a Contracting Party under the Contracting Party's Agreement is not resolved within 2 business days, NGX will report:

- (a) such default including particulars of the default, the parties involved in the default, and the method of resolution proposed.

Quarterly Reporting

3. NGX will provide, within 60 days of the end of each fiscal quarter:
 - (a) an up-to-date list of Contracting Parties; and
 - (b) interim financial statements.

Annual Reporting

4. NGX will provide, within 90 days of the end of each fiscal year:
 - (a) audited financial statements; and
 - (b) a self-assessment of the accomplishments and the challenges faced during the year which will include, but is not limited to:
 - (i) a summary of NGX's business activity for the year;

- (ii) a report of NGX's market share throughout the year;
- (iii) a summary of new products introduced and expansion plans that were implemented during the year;
- (iv) a report detailing the testing undertaken to ensure the adequacy of system safeguards, including, but not limited to, risk management methodologies, emergency procedures and disaster recovery plans, business continuity and proper functionality of backup facilities;
- (v) a summary of staffing changes at NGX during the year; and
- (vi) any additional information that NGX considers important.

Other

5. The Executive Director may direct the form of the reporting required and may, pursuant to applicable securities legislation, require further information from NGX.

SCHEDULE "B"

**RECOGNITION ORDER
CLEARING AGENCY**

Natural Gas Exchange Inc.

Background

1. Natural Gas Exchange Inc. (**NGX**) has applied to the Alberta Securities Commission (the **Commission**) for recognition under the *Securities Act* (Alberta), R.S.A. 2000, c. S-4 (the **Act**) as a clearing agency.
2. NGX has concurrently applied to the Commission for recognition under the Act as an exchange because it also operates an electronic trading system.
3. The definition of "clearing agency" in the Act does not contemplate an entity that is also an exchange (the **Definition Limitation**).

Interpretation

4. Unless otherwise defined, terms used in this order have the same meaning as in the Act or in National Instrument 14-101 *Definitions*.

Representations

5. NGX represents as follows:
 - (a) NGX operates an electronic clearing system (the **Clearing System**) based in Calgary, Alberta, for clearing and settlement of natural gas, electricity and related commodity contracts, certain of which constitute exchange contracts, futures contracts or options under the Act (the **Contracts**).
 - (b) NGX has operated an electronic trading system (the **Trading System**) since 1993 in accordance with the terms and conditions of exemptive relief granted by the Commission and other Canadian securities regulatory authorities.
 - (c) NGX provides clearing and settlement services for Contracts traded through the Trading System and on third party marketplaces.
 - (d) NGX also provides clearing services for certain over-the-counter transactions that are entered into the Clearing System.
 - (e) Access to the Clearing System is restricted to entities (**Contracting Parties**) each of which:
 - (i) has entered into a contractual agreement (the **Contracting Party's Agreement**) with NGX; and
 - (ii) has, or has a majority of its voting shares owned by one or more entities each of which has, a net worth exceeding \$5 000 000 or total assets exceeding \$25 000 000 (the **NGX Sophistication Thresholds**).
 - (f) The Contracting Parties use the Clearing System only as principals.

Undertakings

6. NGX undertakes:
 - (a) to comply with applicable securities legislation;
 - (b) to operate the Clearing System in accordance with the clearing principles set out in Appendix A to this order (the **Clearing Principles**);
 - (c) to report to the Commission in accordance with the reporting requirements set out in Appendix B to this order (the **Reporting Requirements**);

- (d) not to enter into any contract, agreement or arrangement that may limit its ability to comply with applicable securities legislation or this order;
- (e) to take reasonable steps to ensure that each officer or director of NGX is a fit and proper person for that role and that the past conduct of each officer or director affords reasonable grounds for belief that the officer or director will perform his or her duties with integrity;
- (f) to notify the Commission at least 10 business days in advance of entering into any agreement to outsource key Clearing System functions;
- (g) to notify the Commission at least 10 business days in advance of any significant change in the operation of the Clearing System;
- (h) to notify the Commission at least 10 business days in advance of any change in the beneficial ownership of NGX;
- (i) to use its best efforts to provide the information required in paragraphs 6(f) to (h) above earlier than specified, when possible;
- (j) to seek the Commission's prior approval of any significant changes to the NGX Sophistication Thresholds;
- (k) to notify the Commission immediately upon NGX becoming aware that any of its representations in this order are no longer true and accurate or that it becomes unable to fulfil any of its undertakings set out in this order; and
- (l) to comply with any request from the Executive Director of the Commission for electronic or any other form of access to the NGX Clearing System to assist the Commission in its oversight of NGX as a clearing agency.

Decision

7. Based on the above representations and undertakings and notwithstanding the Definition Limitation, the Commission, being satisfied that it would not be prejudicial to the public interest, recognizes NGX as a clearing agency pursuant to sections 67 and 213 of the Act, provided that:
- (a) subject to paragraph 6(k) above, the representations made by NGX remain true and accurate; and
 - (b) NGX fulfils the undertakings given above.

"original signed by"
Glenda A. Campbell, QC
Alberta Securities Commission

"original signed by"
Stephen R. Murison
Alberta Securities Commission

APPENDIX A

Clearing Principles

1. **Core Principle 1: Financial Resources** - The clearing agency shall demonstrate on an ongoing basis that it has adequate financial, operational, and managerial resources to discharge the responsibilities of a clearing agency.
2. **Core Principle 2: Participant and Product Eligibility** - The clearing agency shall maintain: (i) appropriate admission and continuing eligibility standards (including appropriate minimum financial requirements) for its members or participants; and (ii) appropriate standards for determining eligibility of products, agreements, contracts or transactions submitted to the clearing agency.
3. **Core Principle 3: Risk Management** - The clearing agency shall maintain the ability to manage the risks associated with discharging the responsibilities of a clearing agency through the use of appropriate tools and procedures.
4. **Core Principle 4: Settlement Procedures** - The clearing agency shall maintain the ability to: (i) complete settlements on a timely basis under varying circumstances; (ii) maintain an adequate record of the flow of funds associated with each transaction cleared; and (iii) comply with the terms and conditions of any permitted netting or offset arrangements with other clearing organizations.
5. **Core Principle 5: Treatment of Funds** - The clearing agency shall maintain standards and procedures designed to protect and ensure the safety of member or participant funds.
6. **Core Principle 6: Default Rules and Procedures** - The clearing agency shall maintain rules and procedures designed to allow for the efficient, fair, and safe management of events of member or participant insolvency or default by the member or participant with respect to its obligations to the clearing agency.
7. **Core Principle 7: Rule Enforcement** - The clearing agency shall: (i) maintain adequate arrangements and resources for the effective monitoring and enforcement of compliance with the rules of the clearing agency and for resolution of disputes; and (ii) maintain the authority and ability to discipline, limit, suspend, or terminate a member's or participant's activities for violations of rules of the clearing agency.
8. **Core Principle 8: System Safeguards** - The clearing agency shall: (i) maintain a program of oversight and risk analysis to ensure that the automated systems of the clearing agency function properly and have adequate capacity and security; (ii) maintain emergency procedures and a plan for disaster recovery; and (iii) ensure that its systems, including back-up facilities, are annually tested by a qualified professional, sufficient to ensure timely processing, clearing and settlement of transactions.
9. **Core Principle 9: Reporting** - The clearing agency shall provide to the Commission all information necessary for the Commission to conduct its oversight function of the clearing agency with respect to the activities of the clearing agency.
10. **Core Principle 10: Recordkeeping** - The clearing agency shall maintain records of all activities related to its business as a clearing agency, in a form and manner acceptable to the Commission, for a period of 5 years. The clearing agency shall also maintain a record of allegations or complaints it receives concerning instances of suspected fraud or manipulation in clearing activity.
11. **Core Principle 11: Public Information** - The clearing agency shall make information concerning the rules and operating procedures governing the clearing and settlement systems (including default procedures) available to its market participants.
12. **Core Principle 12: Information Sharing** - The clearing agency shall: (i) enter into and abide by the terms of all appropriate and applicable domestic and international information-sharing agreements; and (ii) use relevant information obtained from the agreements in carrying out the clearing agency's risk management program.
13. **Core Principle 13: Restraint of Trade** - The clearing agency shall avoid: (i) adopting any rule or taking any action that results in any unreasonable restraint of trade; or (ii) imposing any material anticompetitive burden on trading in the regulated markets.

APPENDIX B

Reporting Requirements

In addition to fulfilling any reporting requirements in applicable securities legislation, the clearing agency will report as follows to the Commission:

Immediate Reporting

1. NGX will report immediately upon occurrence or upon becoming aware of the existence of:
 - (a) any event or circumstance or situation that renders, or is likely to render, NGX unable to comply with applicable securities legislation or this order;
 - (b) any default by NGX that affects its financial resources or its ability to meet its obligations as a clearing agency, including the particulars of the default and the resolution proposed. NGX shall also provide the Commission with information regarding the impact of the default on the adequacy of NGX's financial resources;
 - (c) any order, sanction or directive received from, or imposed by, a regulatory or government body;
 - (d) any investigations of NGX by a regulatory or government body;
 - (e) any criminal or quasi-criminal charges brought against NGX, any of its subsidiaries, or any of the officers or directors of NGX or its subsidiaries; and
 - (f) any civil suits brought against NGX, any of its subsidiaries, or any of the officers or directors of NGX or its subsidiaries, that would likely have a significant impact on NGX's business.

Key Event Reporting

2. NGX will report no later than 2 business days of the date of occurrence:
 - (a) the appointment or resignation of one or more directors of NGX's board of directors;
 - (b) a change to the senior management team;
 - (c) any significant changes to the Contracting Party's Agreement.

In the event that a default by a Contracting Party under the Contracting Party's Agreement is not resolved within 2 business days, NGX will report:

- (a) such default including particulars of the default, the parties involved in the default, and the method of resolution proposed.

Quarterly Reporting

3. NGX will provide, within 60 days of the end of each fiscal quarter:
 - (a) a description of any significant margin requirement exceptions that NGX allowed during that quarter;
 - (b) an up-to-date list of Contracting Parties; and
 - (c) interim financial statements.

Annual Reporting

4. NGX will provide, within 90 days of the end of each fiscal year:
 - (a) audited financial statements; and
 - (b) a self-assessment of the accomplishments and the challenges faced during the year, which will include, but is not limited to:

- (i) a summary of NGX's business activity for the year;
- (ii) a summary of new products introduced and expansion plans that were implemented during the year;
- (iii) a report detailing the testing undertaken to ensure the adequacy of system safeguards including, but not limited to, risk management methodologies, emergency procedures and disaster recovery plans, business continuity and proper functionality of backup facilities;
- (iv) a summary of staffing changes at NGX during the year; and
- (v) any additional information that NGX considers important.

Triennial Reporting

- 5. Every three years NGX will provide a report of a review conducted by an independent party, assessing NGX's clearing operations risk and controls.

Other

- 6. The Executive Director may direct the form of the reporting required and may, pursuant to applicable securities legislation, require further information from NGX.

SCHEDULE “C”

Criteria for Exemption from Recognition of a Derivatives Exchange Recognized in Another CSA Jurisdiction

PART 1 REGULATION OF THE EXCHANGE

1.1 Regulation of the Exchange

The Exchange is recognized or authorized by another securities commission or similar regulatory authority in Canada and, where applicable, is in compliance with National Instrument 21-101 – *Marketplace Operation* and National Instrument 23-101 – *Trading Rules*, each as amended from time to time.

PART 2 GOVERNANCE

2.1 Governance

The governance structure and governance arrangements of the Exchange ensure:

- (a) effective oversight of the Exchange,
- (b) the Exchange’s business and regulatory decisions are in keeping with its public interest mandate,
- (c) fair, meaningful and diverse representation on the governing body (Board) and any committees of the Board, including a reasonable proportion of independent directors,
- (d) a proper balance among the interests of the different persons or companies accessing the facilities and/or services of the Exchange,
- (e) the Exchange has policies and procedures to appropriately identify and manage conflicts of interest,
- (f) each director or officer of the Exchange, and each person or company that owns or controls, directly or indirectly, more than 10 percent of the Exchange is a fit and proper person, and
- (g) there are appropriate qualifications, remuneration, limitation of liability and indemnity provisions for directors and officers.

PART 3 FEES

3.1 Fees

- (a) All fees imposed by the Exchange are equitably allocated and do not have the effect of creating unreasonable barriers to access.
- (b) The process for setting fees is fair and appropriate, and the fee model is transparent.

PART 4 REGULATION OF PRODUCTS

4.1 Approval of Products

The products traded on the Exchange are approved by the appropriate authority.

4.2 Product Specifications

The terms and conditions of trading the products are in conformity with the usual commercial customs and practices for the trading of such products.

4.3 Risks Associated with Trading Products

The Exchange maintains adequate provisions to measure, manage and mitigate the risks associated with trading products on the Exchange including, but not limited to, margin requirements, intra-day margin calls, daily trading limits, price limits, position limits, and internal controls.

PART 5 ACCESS

5.1 Fair Access

- (a) The Exchange has established appropriate written standards for access to its services including requirements to ensure
 - (i) participants are appropriately registered as applicable under Ontario securities laws or Ontario commodity futures laws, or exempted from these requirements,
 - (ii) the competence, integrity and authority of systems users, and
 - (iii) systems users are adequately supervised.
- (b) The access standards and the process for obtaining, limiting and denying access are fair, transparent and applied reasonably.

PART 6 REGULATION OF PARTICIPANTS ON THE EXCHANGE

6.1 Regulation

The Exchange has the authority, capacity, systems and processes to undertake its regulation functions by setting requirements governing the conduct of its participants, monitoring their conduct, and appropriately disciplining them for violations of Exchange requirements.

PART 7 RULEMAKING

7.1 Purpose of Rules

- (a) The Exchange's rules, policies and other similar instruments (Rules) are designed to govern the operations and activities of participants.
- (b) The Rules are not contrary to the public interest and are designed to
 - (i) ensure compliance with securities legislation,
 - (ii) prevent fraudulent and manipulative acts and practices,
 - (iii) promote just and equitable principles of trade,
 - (iv) foster co-operation and co-ordination with persons or companies engaged in regulating, clearing, settling, processing information with respect to, and facilitating transactions in securities,
 - (v) provide a framework for disciplinary and enforcement actions, and
 - (vi) ensure a fair and orderly market.
- (c) The Exchange shall not
 - (i) permit unreasonable discrimination among participants, or
 - (ii) impose any burden on competition that is not reasonably necessary and appropriate.

PART 8 DUE PROCESS

8.1 Due Process

For any decision made by the Exchange that affects a participant, including a decision in relation to access, exemptions, or discipline, the Exchange ensures that:

- (a) parties are given an opportunity to be heard or make representations, and
- (b) the Exchange keeps a record of, gives reasons for, and provides for appeals or reviews of its decisions.

PART 9 SYSTEMS AND TECHNOLOGY

9.1 Systems and Technology

Each of the Exchange's critical systems has appropriate internal controls to ensure completeness, accuracy, integrity and security of information, and, in addition, has sufficient capacity and business continuity plans to enable the Exchange to properly carry on its business. Critical systems are those that support the following functions:

- (a) order entry,
- (b) order routing,
- (c) execution,
- (d) trade reporting,
- (e) trade comparison,
- (f) data feeds,
- (g) market surveillance,
- (h) trade clearing, and
- (i) financial reporting.

9.2 Information Technology Risk Management Procedures

The Exchange has appropriate risk management procedures in place including those that handle trading errors, trading halts and circuit breakers.

PART 10 FINANCIAL VIABILITY AND REPORTING

10.1 Financial Viability

The Exchange has sufficient financial resources for the proper performance of its functions and to meet its responsibilities.

PART 11 CLEARING AND SETTLEMENT

11.1 Clearing Arrangements

The Exchange has appropriate arrangements for the clearing and settlement of transactions through a clearing house.

11.2 Regulation of the Clearing House

The clearing house is subject to acceptable regulation.

11.3 Access to the Clearing House

- (a) The clearing house has established appropriate written standards for access to its services.
- (b) The access standards for clearing members and the process for obtaining, limiting and denying access are fair, transparent and applied reasonably.

11.4 Sophistication of Technology of Clearing House

The Exchange has assured itself that the information technology used by the clearing house has been adequately reviewed and tested and provides at least the same level of safeguards as required of the Exchange.

11.5 Risk Management of Clearing House

The Exchange has assured itself that the clearing house has established appropriate risk management policies and procedures, contingency plans, default procedures and internal controls.

PART 12 TRANSPARENCY

12.1 Transparency

The Exchange has adequate arrangements to record and publish accurate and timely trade and order information. This information is provided to all participants on an equitable basis.

PART 13 RECORD KEEPING

13.1 Record Keeping

The Exchange has and maintains adequate systems in place for the keeping of books and records, including, but not limited to, those concerning the operations of the Exchange, audit trail information on all trades, and compliance with, and/or violations of Exchange requirements.

PART 14 OUTSOURCING

14.1 Outsourcing

Where the Exchange has outsourced any of its key functions, it has appropriate and formal arrangements and processes in place that permit it to meet its obligations and that are in accordance with industry best practices.

PART 15 INFORMATION SHARING AND REGULATORY COOPERATION

15.1 Information Sharing and Regulatory Cooperation

The Exchange has mechanisms in place to ensure that it is able to cooperate, by sharing information or otherwise, with the Commission and its staff, self-regulatory organizations, other exchanges, investor protection funds, and other appropriate regulatory bodies.

SCHEDULE "D"

Terms and Conditions

REGULATION OF NGX

1. NGX will maintain its recognition as an exchange and a clearing agency with the ASC and will continue to be subject to the regulatory oversight of the ASC.
2. NGX will continue to comply with its ongoing requirements set out in the ASC Exchange Recognition Order and Clearing Agency Recognition Order.
3. NGX will continue to meet the criteria for exemption from registration as an exchange, as set out in Schedule "C".

ACCESS

4. Each Participant is a sophisticated party that meets the NGX Sophistication Thresholds.
5. All orders for Contracts transmitted to the Trading System by an Ontario Participant pursuant to the relief herein will be solely as principal.

PRODUCTS

6. Contracts traded on the Trading System are only for natural gas, electricity, oil, heat rate products related to the gas and electricity markets, and renewable energy certificates.

SUBMISSION TO JURISDICTION AND AGENT FOR SERVICE

7. For greater certainty, NGX submits to the non-exclusive jurisdiction of (i) the courts and administrative tribunals of Ontario and (ii) an administrative proceeding in Ontario, in a proceeding arising out of, related to or concerning or in any other manner connected with the activities of NGX in Ontario.
8. For greater certainty, NGX will file with the Commission a valid and binding appointment of an agent for service in Ontario upon whom may be served a notice, pleading, subpoena, summons or other process in any action, investigation or administrative, criminal, quasi-criminal, penal or other proceeding arising out of or relating to or concerning the activities of NGX in Ontario.

REGULATION OF PARTICIPANTS

9. NGX will provide for adequate arrangements and resources to effectively monitor trading by Participants on the Trading System to ensure an orderly market and to enforce its rules.

FILING REQUIREMENTS

ASC Filings

10. NGX will provide to staff of the Commission, concurrently, all notices and reports it is required to provide to or file with the ASC pursuant to the undertakings given by NGX in the Exchange Recognition Order and Clearing Agency Recognition Order, except:
 - (a) reports on defaults by a contracting party not resolved within 2 days;
 - (b) with respect to the self-assessment to be provided on an annual basis;
 - i. the summary of NGX's business activities,
 - ii. the report on NGX's market share;
 - iii. the summary of new products and expansion plans implemented during the year;
 - iv. the summary of staffing changes; and
 - (c) the description of significant margin exceptions.

Prompt Notice

11. NGX will promptly notify staff of the Commission of any of the following:
- (a) any material change to the business or operations of NGX as provided in the Application.
 - (b) any change in the NGX Sophistication Thresholds,
 - (c) any change or proposed change to the Exchange Recognition Order or the Clearing Agency Recognition Order, and
 - (d) any change to the regulatory oversight of NGX by the ASC,

Quarterly Reporting

12. NGX will maintain the following updated information and submit such information to the Commission on at least a quarterly basis, and at any time promptly upon the request of staff of the Commission:
- (a) a current list of all Ontario Participants;
 - (b) a list of all Ontario Participants against whom disciplinary action has been taken in the last quarter by NGX or the ASC with respect to activities on NGX;
 - (c) a list of all investigations by NGX relating to Ontario Participants; and
 - (d) a list of all Ontario applicants who have been denied membership to NGX;

INFORMATION SHARING

13. Upon request from staff of the Commission to the ASC, NGX will provide to staff of the Commission through the ASC, subject to applicable laws, any information within the possession or control of NGX and otherwise co-operate wherever reasonable with the Commission or its staff.

13.1.3 MFDA Sets Date for Purisima Dy Hearing in Toronto, Ontario

NEWS RELEASE
For immediate release

**MFDA SETS DATE FOR PURISIMA DY HEARING
IN TORONTO, ONTARIO**

January 19, 2009 (Toronto, Ontario) – The Mutual Fund Dealers Association of Canada ("MFDA") commenced a disciplinary proceeding in respect of Purisima Dy 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.

The hearing of this matter on its merits has been scheduled to take place before the Hearing Panel on April 21-22, 2009 commencing 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 will be open to the public, except as may be required for the protection of confidential matters.

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

The MFDA is the self-regulatory organization for Canadian mutual fund dealers. The MFDA regulates the operations, standards of practice and business conduct of its 153 Members and their approximately 75,000 Approved Persons with a mandate to protect investors and the public interest.

For further information, please contact:

Yvette MacDougall
Hearings Coordinator
416-943-4606 or ymacdougall@mfda.ca

13.1.4 MFDA Amended Notice of Hearing in the Matter of Gary Alan Price

IN THE MATTER OF A DISCIPLINARY HEARING
PURSUANT TO SECTIONS 20 AND 24 OF BY-LAW NO. 1
OF THE MUTUAL FUND DEALERS ASSOCIATION OF CANADA

Re: Gary Alan Price

AMENDED NOTICE OF HEARING

NOTICE is hereby given that a first appearance will take place by teleconference before a Hearing Panel (the "Hearing Panel") of the Regional Council of the Central Region of the Mutual Fund Dealers Association of Canada (the "MFDA"), in the hearing room located at 121 King Street West, Suite 1000, Toronto, Ontario on Monday, September 15, 2008, at 9:00 a.m. (EST) or as soon thereafter as the hearing can be held, concerning a disciplinary proceeding commenced by the MFDA against Gary Alan Price (the "Respondent").

DATED at Toronto this 23rd day of June, 2008.

"Gregory J. Ljubic"

Gregory J. Ljubic
Corporate Secretary

Mutual Fund Dealers Association of Canada
121 King St. West
Suite 1000
Toronto, Ontario
M5H 3T9
Telephone: (416) 943-5836
Fax: (416) 361-9781
E-mail: corporatesecretary@mfd.ca

NOTICE is further given that the MFDA alleges the following violations of the By-laws, Rules or Policies of the MFDA:

Allegation #1: Between April 2003 and May 2007, the Respondent failed to observe high standards of ethics and engaged in business conduct or practice that was unbecoming by obtaining and possessing pre-signed forms, contrary to MFDA Rules 2.1.1(b) and 2.1.1(c).

Allegation #2: Between April 2003 and May 2007, the Respondent failed to observe high standards of ethics and conduct in the transaction of business by using pre-signed forms to execute trades, contrary to MFDA Rule 2.1.1(b).

Allegation #3: Between April 2003 and May 2007, the Respondent engaged in discretionary trading by selecting mutual funds for purchase without the necessary instructions from clients RH and LH and completing sections of pre-signed forms to process such trades for clients RH and LH, contrary to MFDA Rule 2.3.4 and the terms of his registration as a mutual fund salesperson.

Allegation #4: Between ~~April 2003~~ January 2004 and May 2007, the Respondent failed to ~~observe high standards of ethics by failing twice to~~ comply with the Member's directives to destroy all pre-signed blank investment forms, contrary to MFDA Rules 2.1.1(b), 1.1.2 and 2.5.1.

PARTICULARS

NOTICE is further given that the following is a summary of the facts alleged and intended to be relied upon by the MFDA at the hearing:

Registration History

1. The Respondent has been registered in Ontario as a mutual fund salesperson since February 6, 1991 and as a Branch Manager since December 31, 2004 with Select Financial Services Inc. ("Select"), a Member of the MFDA.
2. Select is registered as a mutual fund dealer, a limited market dealer and a scholarship plan dealer in Ontario. Select has been a Member of the MFDA since July 11, 2002.

Pre-Signed Forms Found During Compliance Examinations

3. Commencing April 2003, the MFDA conducted a compliance examination of Select (the "First Examination"), the results of which were summarized and delivered to Select in a report dated December 10, 2003. In the First Examination, the MFDA found that the Respondent was in possession of blank investment instruction forms on which the signatures of clients LA and RW had been completed, hereinafter referred to generically as pre-signed forms. Select was asked to state what action it proposed to take to address this contravention and to confirm that all pre-signed forms had been destroyed.
4. On January 13, 2004, Select distributed an email to all of its Approved Persons, which stated that "NO pre-signed, blank investment instruction forms are to be held in client files. All such forms are to be destroyed immediately." All Approved Persons were required to confirm that they were going to abide with this rule by returning a signed copy of the email to Select.
5. The Respondent signed and returned the email to Select on January 14, 2004.
6. Commencing September 2006, the MFDA conducted a second compliance examination of Select (the "Second Examination"), the results of which were summarized and delivered to Select in a report dated January 3, 2007. In the Second Examination, the MFDA found that the Respondent was in possession of several photocopies of a blank investment instruction form on which the signature of client JS had been completed.
7. On ~~April 30~~ May 4, 2007, Select distributed a memorandum to all of its Approved Persons, which stated that "ALL pre-signed client forms are to be destroyed immediately."
8. During an unscheduled inspection by the MFDA on May 3, 2007, the Respondent was found to have in his possession 81 blank investment instruction forms on which the signatures of the clients had been completed (the "Pre-signed Forms"):

	Client(s)	Form(s)	Date
1	JH & MM	Letter from the Respondent instructing clients to simply sign at each 'X'. (2) Pre-signed Select Redemption Forms	Not Dated
2	JH	(1) Pre-signed Select Redemption Form	Not Dated
3	JA	(2) Pre-signed Select Exchange Forms (1) Pre-signed MRS Trade Ticket	Not Dated
4	SA	(1) Pre-signed Select Redemption Form (1) Pre-signed Select Redemption Form	Feb. 6, 1998 Not Dated
5	LA	(1) Pre-signed Select Redemption Form	Not Dated
6	MB	(1) Pre-signed Select Order Form	Not Dated
7	SB	(5) Pre-signed Select Redemption Forms	Not Dated
8	NB	(1) Pre-signed Select Redemption Form	Not Dated
9	JB	(1) Pre-signed Select Redemption Form	Not Dated
11	WC	(2) Pre-signed MRS Trade Tickets	Not Dated
12	HD	Email from HD instructing the Respondent to use the pre-signed redemption forms being held by the Respondent to redeem money. (1) Pre-signed Select Redemption Form (1) Pre-signed Select Redemption Form (2) Pre-signed Select Exchange Forms	Feb. 3, 2006 Feb. 6, 2006 Not Dated
13	KD	(1) Pre-signed Select Exchange Form	Not Dated
14	JE	(1) Pre-signed MRS Trade Ticket	Not Dated

	Client(s)	Form(s)	Date
15	SE	(2) Pre-signed Select Redemption Forms	Not Dated
16	SE	(4) Pre-signed Select Redemption Forms	Not Dated
17	RE	(3) Pre-signed Select Financial Redemption Forms	Not Dated
18	EE	(3) Pre-signed Select Order Form (1) Pre-signed Fidelity Application (1) Pre-signed Fidelity Transfer Document	Not Dated
19	JF	(1) Pre-signed Select Exchange Form	Not Dated
20	PG	(1) Pre-signed MRS Trade Ticket	Not Dated
21	MG	(2) Pre-signed Select Order Forms (2) Pre-signed MRS Trade Tickets	Not Dated
22	MG	(2) Pre-signed Select Redemption Forms (2) Pre-signed Select Exchange Forms	Not Dated
23	WH	(3) Pre-signed Select Redemption Forms	Not Dated
24	LH	(1) Pre-signed Select Redemption Form	Not Dated
25	RH	(1) Pre-signed MRS Trade Ticket	Jan. 18, 2006
26	SB	(2) Pre-signed Select Order Forms (2) Pre-signed Select Redemption Forms	Not Dated
27	JB	(1) Pre-signed Select Redemption Form	Not Dated
28	NLB	Note from the Respondent instructing NLB to sign each form at the 'X' and return with a void cheque. (2) Pre-signed Select Redemption Forms	Mar. 30, 2004 Not Dated
29	RC	(1) Pre-signed Select Order Form (3) Pre-signed Select Exchange Forms	Not Dated
30	GC	(1) Pre-signed Select Redemption Form	Not Dated
31	BC	(1) Pre-signed Select Redemption Form	Not Dated
32	LC	(1) Pre-signed Select Redemption Form	Not Dated
36	BJC	(1) Pre-signed MRS Systematic Instruction Form	Not Dated
37	SC	(2) Pre-signed Select Redemption Forms	Not Dated
38	DM	(1) Pre-signed Select Order Form (1) Pre-signed BPI Application	Not Dated
39	MM	(2) Pre-signed Select Exchange Forms	Not Dated
40	LC	(1) Pre-signed Select Exchange Form	Not Dated
41	DC	(3) Pre-signed Select Redemption Forms (2) Pre-signed Select Exchange Forms	Not Dated

9. By obtaining and possessing the Pre-signed Forms, the Respondent failed to observe high standards of ethics and engaged in business conduct or practice that was unbecoming, contrary to MFDA Rules 2.1.1(b) and 2.1.1(c).
10. By failing ~~twice~~ to comply with his Member's directives to destroy all pre-signed blank investment forms, the Respondent ~~failed to observe high standards of ethics, engaged in conduct~~ contrary to MFDA Rules 2.1.1(b), 1.1.2 and 2.5.1.

11. The Respondent used the Pre-signed Forms to process trades for clients. To effect these trades, the Respondent generally received verbal instructions by telephone from the client and then proceeded to:
 - (a) enter all necessary elements of the trade on a Pre-signed Form;
 - (b) execute and date the form as the signature guarantee; and
 - (c) submit the form for trade execution.
12. By using the Pre-signed Forms to execute trades, the Respondent failed to observe high standards of ethics and conduct in the transaction of business, contrary to MFDA Rule 2.1.1(b).
13. On multiple occasions, the Respondent received cheques from clients RH and LH by mail for the purpose of purchasing mutual funds for their accounts. RH and LH provided the Respondent with instructions as to the accounts in which the investments were to be held but the Respondent determined which mutual funds were to be purchased. RH and LH were not informed of the mutual funds that the Respondent purchased on their behalf until they received their trade confirmation forms.
14. By completing the section of the Pre-signed Form concerning which mutual funds were to be purchased for the accounts of RH and LH without their instructions, the Respondent engaged in discretionary trading, contrary to MFDA Rule 2.3.4 and the terms of his registration as a mutual fund salesperson.

NOTICE is further given that the Respondent shall be entitled to appear and be heard and be represented by counsel or agent at the hearing and to make submissions, present evidence and call, examine and cross-examine witnesses.

NOTICE is further given that MFDA By-laws provide that if, in the opinion of the Hearing Panel, the Respondent:

- has failed to carry out any agreement with the MFDA;
- has failed to comply with or carry out the provisions of any federal or provincial statute relating to the business of the Member or of any regulation or policy made pursuant thereto;
- has failed to comply with the provisions of any By-law, Rule or Policy of the MFDA;
- has engaged in any business conduct or practice which such Regional Council in its discretion considers unbecoming or not in the public interest; or
- is otherwise not qualified whether by integrity, solvency, training or experience,

the Hearing Panel has the power to impose any one or more of the following penalties:

- (a) a reprimand;
- (b) a fine not exceeding the greater of:
 - (i) \$5,000,000.00 per offence; and
 - (ii) an amount equal to three times the profit obtained or loss avoided by such person as a result of committing the violation;
- (c) suspension of the authority of the person to conduct securities related business for such specified period and upon such terms as the Hearing Panel may determine;
- (d) revocation of the authority of such person to conduct securities related business;
- (e) prohibition of the authority of the person to conduct securities related business in any capacity for any period of time;
- (f) such conditions of authority to conduct securities related business as may be considered appropriate by the Hearing Panel;

NOTICE is further given that the Hearing Panel may, in its discretion, require that the Respondent pay the whole or any portion of the costs of the proceedings before the Hearing Panel and any investigation relating thereto.

NOTICE is further given that the Respondent must **serve** a **Reply** on Enforcement Counsel and **file** a **Reply** with the Corporate Secretary within twenty (20) days from the date of service of this Notice of Hearing.

A **Reply** shall be **served** upon Enforcement Counsel at:

Mutual Fund Dealers Association of Canada
121 King Street West
Suite 1000
Toronto, ON M5H 3T9
Attention: Michelle Pong
Fax: (416) 361-9073
Email: mpong@mfd.ca

A **Reply** shall be **filed** by:

- (a) providing 4 copies of the Reply to the Corporate Secretary by personal delivery, mail or courier to:

The Mutual Fund Dealers Association of Canada
121 King Street West
Suite 1000
Toronto, ON M5H 3T9
Attention: Office of the Corporate Secretary; or
- (b) transmitting 1 copy of the **Reply** to the Corporate Secretary by fax to fax number (416) 361-9781, provided that the Reply does not exceed 16 pages, inclusive of the covering page, unless the Corporate Secretary permits otherwise; or
- (c) transmitting 1 electronic copy of the **Reply** to the Corporate Secretary by e-mail at Corporate Secretary@mfd.ca.

A **Reply** may either:

- (i) specifically deny (with a summary of the facts alleged and intended to be relied upon by the Respondent, and the conclusions drawn by the Respondent based on the alleged facts) any or all of the facts alleged or the conclusions drawn by the MFDA in the Notice of Hearing; or
- (ii) admit the facts alleged and conclusions drawn by the MFDA in the Notice of Hearing and plead circumstances in mitigation of any penalty to be assessed.

NOTICE is further given that the Hearing Panel may accept as having been proven any facts alleged or conclusions drawn by the MFDA in the Notice of Hearing that are not specifically denied in the **Reply**.

NOTICE is further given that if the Respondent fails:

- (a) to **serve** and **file** a **Reply**; or
- (b) attend at the hearing specified in the Notice of Hearing, notwithstanding that a **Reply** may have been served,

the Hearing Panel may proceed with the hearing of the matter on the date and the time and place set out in the Notice of Hearing (or on any subsequent date, at any time and place), without any further notice to and in the absence of the Respondent, and the Hearing Panel may accept the facts alleged or the conclusions drawn by the MFDA in the Notice of Hearing as having been proven and may impose any of the penalties described in the By-Laws.

13.1.5 MFDA Adjourns Fanelli and Torchia Hearing to a Date to be Determined

NEWS RELEASE
For immediate release

**MFDA ADJOURNS FANELLI AND TORCHIA HEARING
TO A DATE TO BE DETERMINED**

January 19, 2009 (Toronto, Ontario) – The Mutual Fund Dealers Association of Canada ("MFDA") commenced a disciplinary proceeding in respect of Domenic Fanelli and Michele Torchia by Notice of Hearing dated June 13, 2008.

The first appearance in this proceeding took place on August 12, 2008 at which time the Hearing Panel directed, among other things, that the next appearance would take place on December 17, 2008. The December 17, 2008 appearance was subsequently rescheduled to January 28, 2009.

Following consideration of submissions from counsel for the MFDA and counsel for Mr. Fanelli on January 14, 2009, the Hearing Panel adjourned the proceeding to a date to be determined. Notice will be given when the proceeding has been scheduled to recommence.

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 153 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

13.1.6 MFDA Issues Notice of Hearing Regarding Barry J. Raymer

NEWS RELEASE
For immediate release

**MFDA ISSUES NOTICE OF HEARING
REGARDING BARRY J. RAYMER**

January 20, 2009 (Toronto, Ontario) – The Mutual Fund Dealers Association of Canada (“MFDA”) today announced that it has commenced disciplinary proceedings against Barry James Raymer (the “Respondent”).

MFDA staff alleges in its Notice of Hearing that the Respondent engaged in the following conduct contrary to the By-laws, Rules or Policies of the MFDA:

Allegation #1: Between April 2004 and September 12, 2006, the Respondent failed to disclose to the Member a conflict or potential conflict between his interests and those of clients of the Member and failed to ensure that such conflicts were addressed by the exercise of responsible business judgment influenced only by the best interests of the clients, contrary to MFDA Rule 2.1.4.

Allegation #2: Between October 5, 2004 and February 14, 2006, the Respondent engaged in securities related business that was not carried on for the account of the Member or through the facilities of the Member by recommending and facilitating investments by clients in Jewal International Inc. (“Jewel”) and Permanent Power Solutions (“PPS”), contrary to MFDA Rules 1.1.1 and 2.1.1.

Allegation #3: Between October 5, 2004 and February 14, 2006, the Respondent referred clients to his spouse, ER, who was not registered to advise or trade securities in Ontario (or in any other jurisdiction), to carry out trades or acts in furtherance of trades in the securities of Jewel and PPS, thereby facilitating trading in securities by an unregistered person, contrary to Ontario securities law and MFDA Rule 2.1.1.

Allegation #4: Between October 5, 2004 and February 14, 2006, the Respondent had and continued in another gainful occupation that was not disclosed to or approved by the Member by recommending and facilitating loans by clients to Jewel and PPS through ER, contrary to MFDA Rules 1.2.1(d) and 2.1.1.

Allegation #5: Between April 2004 and September 12, 2006, the Respondent failed to comply with the policies and procedures of the Member regarding conflicts of interest, personal financial dealings with clients and outside business activity, contrary to MFDA Rules 2.5.1 and 1.1.2.

The first appearance in this matter will take place by teleconference before a Hearing Panel of the MFDA Central Regional Council in the Hearing Room located at the offices of the MFDA, 121 King Street West, Suite 1000, Toronto, Ontario on Friday, February 20, 2009 at 11:00 a.m. (Eastern) or as soon thereafter as the appearance can be held.

The purpose of the first appearance is to schedule the date for the commencement of the hearing on its merits and to address any other procedural matters.

The first appearance is open to the public, except as may be required for the protection of confidential matters. Members of the public attending the first appearance will be able to listen to the proceeding by teleconference.

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

The MFDA is the self-regulatory organization for Canadian mutual fund dealers. The MFDA regulates the operations, standards of practice and business conduct of its 153 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 Request for Comments – Material Amendments to CDS Procedures – Transfer and Automation of the ISIN Issuance Service

CDS CLEARING AND DEPOSITORY SERVICES INC. (CDS®)

MATERIAL AMENDMENTS TO CDS PROCEDURES

TRANSFER AND AUTOMATION OF THE ISIN ISSUANCE SERVICE

REQUEST FOR COMMENTS

A. DESCRIPTION OF THE PROPOSED CDS PROCEDURE AMENDMENTS

In order to reduce risks from the provision of non-participant-related services, a new legal entity has been incorporated for the purpose of offering services to issuers. This new company, a subsidiary of CDS Clearing and Depository Services Inc. ("CDS"), was incorporated under the *Canada Business Corporations Act* on November 26, 2008, under the name of CDS Securities Management Solutions Inc. / Solutions de Gestion de Valeurs CDS Inc. ("CDS SMS").

The following services will be transferred from CDS to CDS SMS:

- Registrar and Paying Agent ("RPA")
- ISIN Issuance
- Holders of Record Reports
- Confirmation of Registered Holdings

The procedure amendments proposed herein reflect the transfer of the ISIN Issuance service from CDS to CDS SMS and the automation of its related processes. In addition, the following forms will be either amended or eliminated as a consequence of that automation/transfer and of the transfer of the other services listed above:

- Company Issuer Profile (amended)
- CUSIP / ISIN Request Form (eliminated)
- ISIN Request for Strip Components – Bonds (eliminated)
- ISIN Request for Book-Entry Strip Package (eliminated)
- ISIN Request for Strip Components - Asset-Backed Securities (eliminated)
- Issuer Profile Declaration Form (eliminated)
- Book Entry Strip Package Component Listing (eliminated)
- Notice of Record & Meeting Dates (eliminated)
- Request for Participant Holders of Record (eliminated)

There are no other procedure amendments associated with the transfer of the services listed above.

B. NATURE AND PURPOSE OF THE PROPOSED CDS PROCEDURE AMENDMENTS

Issuers who wish to have their securities listed on any Canadian stock exchange or have them made eligible for deposit in CDSX®, are required to have a valid ISIN issued for such securities. CDS is the National Numbering Agent ("NNA") for the issuance of ISIN numbers in Canada, and while the ISIN request process has been a largely paper based and manual one, CDS is currently developing automated processes to facilitate the issuance of ISIN numbers under the new subsidiary. The new ISIN Issuance service will provide the ability for issuers to request and pay for an ISIN through new on-line facilities and by credit card.

C. IMPACT OF THE PROPOSED CDS PROCEDURE AMENDMENTS

The impact to CDS, its participants and other market participants is minimal. The proposed procedure amendments are being made mainly to reflect the transfer of the ISIN Issuance service from CDS to CDS SMS, and the automation of its related processes.

C.1 Competition

The proposed procedure amendments will have no impact on the ability of market participants to access the listed services. The ISIN Issuance service will be offered by CDS SMS as the NNA, to all market participants.

C.2 Risks and Compliance Costs

The new subsidiary has been established to mitigate any risk to CDS that may result from the services being offered.

C.3 Comparison to International Standards – (a) Committee on Payment and Settlement Systems of the Bank for International Settlements, (b) Technical Committee of the International Organization of Securities Commissions, and (c) the Group of Thirty

A comparison to international standards was not completed for the proposed amendments because the ISIN Issuance service will continue to be available to issuers through CDS SMS.

D. DESCRIPTION OF THE PROCEDURE DRAFTING PROCESS

D.1 Development Context

The incorporation of a new legal entity and the transfer of services from CDS to the new company came about as part of CDS management's strategic planning, with the main objective of mitigating the risk of providing non-participant-related services. Several risk-proofing factors were considered and applied, such as the legal nature and structure of the new company, its contractual relationships with issuers and the management and development of its services and business. In terms of the new company's contractual relationships with issuers for example, it was proposed that such would be direct, depending upon the services they sign up for, through either signed agreements or legal terms and conditions on the new company's web site.

D.2 Procedure Drafting Process

CDS Procedure Amendments are reviewed and approved by CDS's Strategic Development Review Committee ("SDRC"). The SDRC determines or reviews, prioritizes and oversees CDS-related systems development and other changes proposed by participants and CDS. The SDRC's membership includes representatives from the CDS Participant community and it meets on a monthly basis.

Proposed CDS procedure amendments are reviewed and approved by the SDRC. These proposed amendments were provided to the SDRC members via email on December 23, 2008 with a review and deemed approval deadline of December 30, 2008.

D.3 Issues Considered

As previously stated, the incorporation of a new legal entity and the transfer of services from CDS to the new company came about as part of CDS management's strategic planning, with the main objective of mitigating the risk of providing non-participant-related services. Another issue considered was the provision of these services in a more efficient, customer-focused manner, which gave rise to the automation component of this initiative.

D.4 Consultation

Since this initiative came about as part of CDS management's strategic planning, there was extensive internal consultation of various groups such as the CDS Strategy Group. This initiative was also presented to the CDS Board of Directors. CDS did not consult with external parties on this initiative.

D.5 Alternatives Considered

The creation of a new subsidiary was proposed with the objective of reducing CDS's risks from the provision of non-participant-related services, and the improvement of services to CDS customers. The proposed procedure amendments are needed to inform all interested parties of the developments impacting the provision of the ISIN Issuance service. No other alternatives were considered since the proposed initiative fully addressed the risk mitigation objective.

D.6 Implementation Plan

CDS is recognized as a clearing agency by the Ontario Securities Commission pursuant to section 21.2 of the *Ontario Securities Act*. The Autorité des marchés financiers has authorized CDS to carry on clearing activities in Québec pursuant to sections 169 and 170 of the *Québec Securities Act*. In addition CDS is deemed to be the clearing house for CDSX[®], a clearing and settlement system designated by the Bank of Canada pursuant to section 4 of the *Payment Clearing and Settlement Act*. The Ontario Securities Commission, the Autorité des marchés financiers and the Bank of Canada will hereafter be collectively referred to as the "Recognizing Regulators".

The amendments to Participant Procedures may become effective upon approval of the amendments by the Recognizing Regulators following public notice and comment.

E. TECHNOLOGICAL SYSTEMS CHANGES

The automation of the processes related to the ISIN Issuance service required system changes in order to modify the method used to request an ISIN as well as the fee collection process. No other development was required for any of the other services being transferred to CDS SMS. This initiative does not require any development by the users. The automated processes being proposed for users to request and receive ISINs are the following: the user will go to the web site of CDS SMS, click on "Create New Request", complete a form online, submit payment by credit card online, the form will be submitted, CDS will process the application and then send a confirmation back to the user.

E.1 CDS

See comment above.

E.2 CDS Participants

CDS participants will request and receive ISINs from CDS SMS and will be required to pay for the service using credit cards.

E.3 Other Market Participants

Issuers, their agents or any other entities that request ISINs must do so through CDS SMS.

F. COMPARISON TO OTHER CLEARING AGENCIES

Other Central Securities Depositories ("CSDs") provide various services to their issuer community depending on the market structure and the business models they follow.

G. PUBLIC INTEREST ASSESSMENT

CDS has determined that the proposed amendments are not contrary to the public interest.

H. COMMENTS

Comments on the proposed amendments should be in writing and submitted within 30 calendar days following the date of publication of this notice in the Ontario Securities Commission Bulletin [•Autorité des marchés financiers Bulletin if this is the translated version•] to:

Legal Department
CDS Clearing and Depository Services Inc.
85 Richmond Street West
Toronto, Ontario M5H 2C9

Fax: 416-365-1984
e-mail: attention@cds.ca

Copies should also be provided to the Autorité des marchés financiers and the Ontario Securities Commission by forwarding a copy to each of the following individuals:

M^e Anne-Marie Beaudoin
Secrétaire de l'Autorité
Autorité des marchés financiers
800, square Victoria, 22^e étage
C.P. 246, tour de la Bourse
Montréal (Québec) H4Z 1G3

Manager, Market Regulation
Capital Markets Branch
Ontario Securities Commission
Suite 1903, Box 55,
20 Queen Street West
Toronto, Ontario M5H 3S8

Télécopieur: (514) 864-6381
Courrier électronique: consultation-en-cours@lautorite.qc.ca

Fax: 416-595-8940
e-mail: marketregulation@osc.gov.on.ca

CDS will make available to the public, upon request, all comments received during the comment period.

I. PROPOSED CDS PROCEDURE AMENDMENTS

Appendix "A" contains text of current CDS Participant Procedures marked to reflect proposed amendments as well as text of these procedures reflecting the adoption of the proposed amendments.

APPENDIX "A"
PROPOSED CDS PROCEDURE AMENDMENTS

Text of CDS Participant Procedures marked to reflect proposed amendments	Text CDS Participant Procedures reflecting the adoption of proposed amendments
<p>CDSX Procedures and User Guide</p> <p>CHAPTER 3 ISSUE ACTIVITIES</p> <p>3.2.1 Legal requirements for securities eligible in CDSX</p> <p>Money market securities where the issuer or issuing agent is a participant in CDSX are made eligible for CDSX according to the <i>Participant Rules</i>, except for federal treasury bills issued by the Bank of Canada as agent. In order to make a money market security eligible for CDSX, the issuer or issuing agent agent <u>must complete the issuer profile declaration that is a part of the ISIN activator for issuance page on the security must file an Issuer Profile Declaration form CDS Securities Management Solutions Inc. website (CDSX364) with CDSwww.cdssolutions.ca).</u></p> <p>Other securities, including federal treasury bills, are made eligible for CDSX pursuant to other arrangements made by CDS, which may include:</p> <ul style="list-style-type: none"> • Arrangements with issuers, transfer agents, paying agents, custodians, safekeepers or central securities depositories, and/or • The registration of CDS or its nominee as the registered security holder on the records of the issuer. <p>Where such other arrangements are made by CDS, Rule 2.5 of the <i>Participant Rules</i> does not apply to the securities that are subject to those arrangements, and an Issuer Profile Declaration form (CDSX364) issuer profile declaration is not filed with CDS required.</p> <p>3.2.2 Requesting issues be made eligible in CDSX</p> <p>For issues other than Government of Canada treasury bills and money market instruments, participants may request that issues be made eligible by submitting a request to CDS. For new issues, the submit a request is submitted through using the CUSIP/ISIN Request Service issuance page on the CDS CDS Securities Management Solutions Inc. website (www.edscdssolutions.ca). <u>For CDS book-entry strip bonds and packages, see Requesting ISINs for book-entry strips and packages on page 73.</u></p> <p>CDS assesses the requests on an individual basis and determines if the issues can be made eligible.</p>	<p>CDSX Procedures and User Guide</p> <p>CHAPTER 3 ISSUE ACTIVITIES</p> <p>3.2.1 Legal requirements for securities eligible in CDSX</p> <p>Money market securities where the issuer or issuing agent is a participant in CDSX are made eligible for CDSX according to the <i>Participant Rules</i>, except for federal Treasury bills issued by the Bank of Canada as agent. In order to make a money market security eligible for CDSX, the issuer or issuing agent must complete the issuer profile declaration that is a part of the ISIN issuance page on the CDS Securities Management Solutions Inc. website (www.cdssolutions.ca).</p> <p>Other securities, including federal treasury bills, are made eligible for CDSX pursuant to other arrangements made by CDS, which may include:</p> <ul style="list-style-type: none"> • Arrangements with issuers, transfer agents, paying agents, custodians, safekeepers or central securities depositories, and/or • The registration of CDS or its nominee as the registered security holder on the records of the issuer. <p>Where such other arrangements are made by CDS, Rule 2.5 of the <i>Participant Rules</i> does not apply to the securities that are subject to those arrangements, and an issuer profile declaration is not required.</p> <p>3.2.2 Requesting issues be made eligible in CDSX</p> <p>For issues other than Government of Canada treasury bills and money market instruments, participants may request that issues be made eligible by submitting a request to CDS. For new issues, submit a request using the ISIN issuance page on the CDS Securities Management Solutions Inc. website (www.cdssolutions.ca).</p> <p>For further information on ISIN requests, please refer to the (www.cdssolutions.ca) website.</p> <p>For CDS book-entry strip bonds and packages, see <u>Requesting ISINs for book-entry strips and packages on page 73.</u></p> <p>A security is made eligible in CDSX upon submission of all final documents and upon meeting the general criteria listed below.</p>

Text of CDS Participant Procedures marked to reflect proposed amendments	Text CDS Participant Procedures reflecting the adoption of proposed amendments
<p><u>For further information on ISIN requests, please refer to the (www.cdssolutions.ca) website.</u></p> <p><u>For CDS book-entry strip bonds and packages, see Requesting ISINs for book-entry strips and packages on page 73.</u></p> <p><u>A security is made eligible in CDSX upon submission of all final documents and upon meeting the general criteria listed below.</u></p> <p>The following general criteria apply for issue eligibility:</p> <ul style="list-style-type: none"> In addition to the required documentation specified for certificated issues, the following documents are required: <ul style="list-style-type: none"> A blanket or security-specific letter of representations from the issuer A draft or specimen of the certificate. The issuer must commit to the undertakings listed in the letter of representations by having an authorized signing officer (e.g., corporate secretary or chief financial officer) sign the letter. Physical certificates are not available to beneficial owners except as noted below: <ul style="list-style-type: none"> The book-entry-only certificate is only transferable in extraordinary circumstances as defined in the prospectus or if made depository-ineligible by CDS. Beneficial owners may not acquire physical certificates, except in extraordinary circumstances as defined in the prospectus or if the issue is made depository-ineligible by CDS. The book-entry-only certificate must be available in fully registered form or in a deferred certificate inventory or non-certificated inventory format with an approved transfer agent. <p>3.2.7 Canadian Treasury bills and money market issues</p> <p>All Government of Canada Treasury bills are made eligible by the Bank of Canada as they are issued.</p> <p>Other money market instruments can be made eligible for CDSX pursuant to Rule 2.5 of the <i>Participant Rules</i>, and as follows:</p> <ul style="list-style-type: none"> The security must have a valid ISIN. A participant must be appointed as the custodian and the issuer or issuing agent. 	<p>The following general criteria apply for issue eligibility:</p> <ul style="list-style-type: none"> In addition to the required documentation specified for certificated issues, the following documents are required: <ul style="list-style-type: none"> A blanket or security-specific letter of representations from the issuer A draft or specimen of the certificate. The issuer must commit to the undertakings listed in the letter of representations by having an authorized signing officer (e.g., corporate secretary or chief financial officer) sign the letter. Physical certificates are not available to beneficial owners except as noted below: <ul style="list-style-type: none"> The book-entry-only certificate is only transferable in extraordinary circumstances as defined in the prospectus or if made depository-ineligible by CDS. Beneficial owners may not acquire physical certificates, except in extraordinary circumstances as defined in the prospectus or if the issue is made depository-ineligible by CDS. The book-entry-only certificate must be available in fully registered form or in a deferred certificate inventory or non-certificated inventory format with an approved transfer agent. <p>3.2.7 Canadian Treasury bills and money market issues</p> <p>All Government of Canada Treasury bills are made eligible by the Bank of Canada as they are issued.</p> <p>Other money market instruments can be made eligible for CDSX pursuant to Rule 2.5 of the <i>Participant Rules</i>, and as follows:</p> <ul style="list-style-type: none"> The security must have a valid ISIN. A participant must be appointed as the custodian and the issuer or issuing agent. A paying agent must be appointed for each security, unless the issuer arranges for final and irrevocable payments to be made through the Large Value Transfer System (LVTS) to CDS with respect to the entitlement owing. If the security is an interest-bearing money market instrument, the interest must be paid only on maturity date. Payments must be in Canadian funds.

Text of CDS Participant Procedures marked to reflect proposed amendments	Text CDS Participant Procedures reflecting the adoption of proposed amendments
<ul style="list-style-type: none"> • A paying agent must be appointed for each security, unless the issuer arranges for final and irrevocable payments to be made through the Large Value Transfer System (LVTS) to CDS with respect to the entitlement owing. • If the security is an interest-bearing money market instrument, the interest must be paid only on maturity date. • Payments must be in Canadian funds. • The issuer or issuing agent must file an Issuer Profile Declaration form (CDSX364) with CDS. • <u>The issuer or issuing agent must complete the issuer declaration profile section on ISIN issuance page of the CDS Securities Management Solutions Inc. website (www.cdssolutions.ca).</u> <p>3.8 Setting up non-money market securities</p> <p>To request the setup of new issues or reissues of non-money market securities (except CDS book-entry strip bonds and packages), follow the procedures below. To request the setup of CDS book-entry strip bonds and packages, see <u>Book-entry strips and packages</u> on page 71. To set up money market issues, refer to <i>Money Market Issue and Entitlement Procedures</i>.</p> <p>Once new issues are entered and confirmed in CDSX, the securities can be traded as normal. Participants may set up and confirm trades in new issues with a trade type of NI (new issue). However, there is no special processing for trades with NI as the trade type.</p> <p>Payments for new issues are netted with all other CDSX settlements for the day. Funds for new issues are paid and collected during payment exchange.</p> <p>Since there is no pre-registration of new issue certificates, the requirements for new issue physical certificates on closing date are the same as other CDSX security withdrawals.</p> <p>If a physical certificate is issued, the security must be registered in the nominee name of CDS & CO.</p> <p>If the new issue does not close, the banking and selling group must delete the new issue trades in CDSX.</p> <p>To process a new issue:</p> <ol style="list-style-type: none"> 1. The underwriter enters a request for an ISIN using the CUSIP/ISIN Request Service on the CDS website (www.cds.ca) or submits a request 	<ul style="list-style-type: none"> • The issuer or issuing agent must complete the issuer declaration profile section on ISIN issuance page of the CDS Securities Management Solutions Inc. website (www.cdssolutions.ca). <p>3.8 Setting up non-money market securities</p> <p>To request the setup of new issues or reissues of non-money market securities (except CDS book-entry strip bonds and packages), follow the procedures below. To request the setup of CDS book-entry strip bonds and packages, see <u>Book-entry strips and packages</u> on page 71. To set up money market issues, refer to <i>Money Market Issue and Entitlement Procedures</i>.</p> <p>Once new issues are entered and confirmed in CDSX, the securities can be traded as normal. Participants may set up and confirm trades in new issues with a trade type of NI (new issue). However, there is no special processing for trades with NI as the trade type.</p> <p>Payments for new issues are netted with all other CDSX settlements for the day. Funds for new issues are paid and collected during payment exchange.</p> <p>Since there is no pre-registration of new issue certificates, the requirements for new issue physical certificates on closing date are the same as other CDSX security withdrawals.</p> <p>If a physical certificate is issued, the security must be registered in the nominee name of CDS & CO.</p> <p>If the new issue does not close, the banking and selling group must delete the new issue trades in CDSX.</p> <p>To process a new issue:</p> <ol style="list-style-type: none"> 1. The underwriter enters a request on the ISIN issuance page on the CDS Securities Management Solutions Inc. website (www.cdssolutions.ca). CDS sets up the issue in CDSX when the final documents are received. Once the ISIN has been assigned, the underwriter receives a confirmation e-mail from CDS Securities Management Solutions Inc. The underwriter should then send a request for eligibility to eligibility@cds.ca. 2. Once the new issue is confirmed by CDS, the underwriter sets up a preliminary distribution trade with the banking and selling group in CDSX. The trade has a value date equal to the closing date. 3. The banking and selling group sets up secondary market trades in CDSX with a value date equal to the closing date of the new issue. <p>For a reissued security, secondary market trades may be set up with the settlement control indicator</p>

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<p>letter to CDS. At the same time, the underwriter forwards the required documentation to CDS (see <u>Issue eligibility criteria</u> on page 42).</p> <p>CDS sets up the issue in CDSX and sends a confirmation notice with the new issue's ISIN. When the final documents are received, CDS confirms the issue in CDSX.</p> <p>1. <u>The underwriter enters a request on the ISIN issuance page on the CDS Securities Management Solutions Inc. website (www.cdssolutions.ca).</u></p> <p><u>CDS sets up the issue in CDSX when the final documents are received. Once the ISIN has been assigned, the underwriter receives a confirmation e-mail from CDS Securities Management Solutions Inc. The underwriter should then send a request for eligibility to eligibility@cds.ca.</u></p> <p>2. Once the new issue is confirmed by CDS, the underwriter sets up a preliminary distribution trade with the banking and selling group in CDSX. The trade has a value date equal to the closing date.</p> <p>3. The banking and selling group sets up secondary market trades in CDSX with a value date equal to the closing date of the new issue.</p> <p>For a reissued security, secondary market trades may be set up with the settlement control indicator (SETTLE field) set to N (hold settlement). Once the reissued security is deposited, the banking and selling group can change the settlement control indicator to Y (settle).</p> <p>4. On or before the closing date, the underwriter requests a security deposit in CDSX for the amount of the new issue or reissued security and completes the fields as indicated in the table below.</p> <p>[**NOTE**: Please refer to the procedure documents posted on the CDS web site to view the table referred to above, using the following link: http://www.cds.ca/cdsclearinghome.nsf/Pages/-EN-blacklined?Open]</p> <p>5. Once the security deposit is saved, a Security Deposit Notice - Entry prints at the underwriter's location. For more information, refer to <i>CDS Reporting Procedures</i>. The underwriter brings the notice to the closing.</p> <p>6. The transfer agent attends the closing.</p>	<p>(SETTLE field) set to N (hold settlement). Once the reissued security is deposited, the banking and selling group can change the settlement control indicator to Y (settle).</p> <p>4. On or before the closing date, the underwriter requests a security deposit in CDSX for the amount of the new issue or reissued security and completes the fields as indicated in the table below.</p> <p>**NOTE**: Please refer to the procedure documents posted on the CDS web site to view the table referred to above, using the following link: http://www.cds.ca/cdsclearinghome.nsf/Pages/-EN-blacklined?Open]</p> <p>5. Once the security deposit is saved, a Security Deposit Notice - Entry prints at the underwriter's location. For more information, refer to <i>CDS Reporting Procedures</i>. The underwriter brings the notice to the closing.</p> <p>6. The transfer agent attends the closing.</p> <p>7. If the transfer agent is the validator of the deferred certificate inventory or non-certificated inventory security, the transfer agent reviews the details of the deposit request on the Security Deposit Notice - Entry at the closing. Once the new issue closes, the transfer agent confirms the security deposit request in CDSX.</p> <p>For deferred certificate inventory or non-certificated inventory securities, a certificate is not required.</p> <p>If CDS is the validator (or custodian) of the security, the underwriter must deliver the Security Deposit Notice - Entry to CDS, along with the certificate registered to CDS & CO., in order for CDS to confirm the deposit request in CDSX.</p> <p>3.9 Requesting blocks of medium term note ISINs</p> <p>Medium term note programs are characterized by a series of notes with maturities usually ranging from three to 10 years. The securities are issued weekly, biweekly, monthly and semiannually or when market conditions warrant. CDS processes these programs with direct, unsecured, partially secured and general obligations.</p> <p>The CDS Medium Term Note service facilitates the processing of medium term notices. To begin the process, the issuer or their fiscal agent requests, through the ISIN issuance page on the CDS Securities Management Solutions Inc. website (www.cdssolutions.ca), a block of ISINs to be preassigned to the notes of their program.</p> <p>Subsequently, issuers can release a note on the market as funds are needed using one of the</p>

Text of CDS Participant Procedures marked to reflect proposed amendments	Text CDS Participant Procedures reflecting the adoption of proposed amendments
<p>7. If the transfer agent is the validator of the deferred certificate inventory or non-certificated inventory security, the transfer agent reviews the details of the deposit request on the Security Deposit Notice - Entry at the closing. Once the new issue closes, the transfer agent confirms the security deposit request in CDSX.</p> <p>For deferred certificate inventory or non-certificated inventory securities, a certificate is not required.</p> <p>If CDS is the validator (or custodian) of the security, the underwriter must deliver the Security Deposit Notice - Entry to CDS, along with the certificate registered to CDS & CO., in order for CDS to confirm the deposit request in CDSX.</p> <p>3.9 Requesting blocks of medium term note ISINs</p> <p>Medium term note programs are characterized by a series of notes with maturities usually ranging from three to 10 years. The securities are issued weekly, biweekly, monthly and semiannually or when market conditions warrant. CDS processes these programs with direct, unsecured, partially secured and general obligations.</p> <p>The CDS Medium Term Note service facilitates the processing of medium term notices. To begin the process, the issuer or their fiscal agent requests <u>requests, through the ISIN issuance page on the CDS Securities Management Solutions Inc. website (www.cdssolutions.ca), a block of ISINs to be preassigned to the notes of their program. They also request depository eligibility for the program.</u></p> <p>Subsequently, issuers can release a note on the market as funds are needed using one of the preassigned ISINs. Each note may be customized to the issuer's needs at the time of release and may be extendible, retractable, redeemable, convertible, exchangeable or carry other special features.</p> <p>Issuer responsibilities</p> <p>The issuer must:</p> <ul style="list-style-type: none"> • Determine the structure of the issue as either a single certificate for the value of the entire issue as book-entry-only or as physical certificates • Determine the closing date • Provide a letter of representations when issuing a book-entry-only security <p>Fiscal agent responsibilities</p> <p>The fiscal agent, who may be the issuer or any organization acting on behalf of the issuer, must:</p> <ol style="list-style-type: none"> 1. Send a written request for the block of ISINs to 	<p>preassigned ISINs. Each note may be customized to the issuer's needs at the time of release and may be extendible, retractable, redeemable, convertible, exchangeable or carry other special features.</p> <p>Issuer responsibilities</p> <p>The issuer must:</p> <ul style="list-style-type: none"> • Determine the structure of the issue as either a single certificate for the value of the entire issue as book-entry-only or as physical certificates • Determine the closing date • Provide a letter of representations when issuing a book-entry-only security. <p>Fiscal agent responsibilities</p> <p>The fiscal agent, who may be the issuer or any organization acting on behalf of the issuer, must:</p> <ol style="list-style-type: none"> 1. Send a written request to activate a pre-assigned ISIN. The request must include the following: <ul style="list-style-type: none"> • The quantity of ISINs required • The terms and conditions of the program (e.g., the currencies and interest rates) • A description of the medium term note and a final prospectus • A request for depository eligibility with a contact name and fax number (for confirmation) 2. On closing date, request a security deposit in CDSX and arrange for the collection of funds for the initial release. 3. On payable date, pay entitlements through CDS. <p>At the beginning of the program, CDS Securities Management Solutions Inc. provides the fiscal agent with a block of ISINs (minimum purchase of 10 ISINs). As each new medium term note is released, the issuer uses a different ISIN from the block provided at the beginning of the program.</p> <p>Re-opening an issue</p> <p>For an issue with the same terms and conditions as the previous issue, an additional deposit is required to increase the balance on CDS ledgers.</p> <p>CHAPTER 4 BOOK-ENTRY STRIPS AND PACKAGES</p> <p>4.2 Strip and package cutoff times</p> <p>Unless stated otherwise, all book-entry strip and package transactions are processed on the same day if the request is received by 10:00 a.m. ET (8:00 a.m. MT, 7:00 a.m. PT). Submissions received after 10:00</p>

Text of CDS Participant Procedures marked to reflect proposed amendments	Text CDS Participant Procedures reflecting the adoption of proposed amendments
<p>CDS activate a pre-assigned ISIN. The request must include the following:</p> <ul style="list-style-type: none"> • The quantity of ISINs required • The terms and conditions of the program (e.g., the currencies and interest rates) • A description of the medium term notes through a preliminary prospectus followed by note and a final prospectus • A request for depository eligibility with a contact name and fax number (for confirmation) • A payment for the processing of the request. <p>2. Provide a description of the medium term notes through a preliminary prospectus followed by a final prospectus.</p> <p>3. Submit a term sheet when issuing subsequent notes and indicate the ISIN to be activated.</p> <p>4. Request depository eligibility, when required.</p> <p>5. Settle all fees pertaining to the issuance of ISINs.</p> <p>6. On closing date, request a security deposit in CDSX and arrange for the collection of funds for the initial release.</p> <p>7. On payable date, pay entitlements through CDS.</p> <p>At the beginning of the program, CDS <u>Securities Management Solutions Inc.</u> provides the fiscal agent with a block of ISINs (minimum purchase of 10 ISINs). As each new medium term note is released, the issuer uses a different ISIN from the block provided at the beginning of the program.</p> <p>Re-opening an issue</p> <p>For an issue with the same terms and conditions as the previous issue, an additional deposit is required to increase the balance on CDS ledgers.</p> <p>CHAPTER 4 BOOK-ENTRY STRIPS AND PACKAGES</p> <p>4.2 Strip and package cutoff times</p> <p>Unless stated otherwise, all book-entry strip and package transactions are processed on the same day if the request is received by 10:00 a.m. ET (8:00 a.m. MT, 7:00 a.m. PT). Forms—Submissions received after 10:00 a.m. ET (8:00 a.m. MT, 7:00 a.m. PT) are processed on the next business day.</p> <p>Book-closed period</p> <p>If a security held in CDSX is stripped during the book-closed period, participants are credited with the</p>	<p>a.m. ET (8:00 a.m. MT, 7:00 a.m. PT) are processed on the next business day.</p> <p>Book-closed period</p> <p>If a security held in CDSX is stripped during the book-closed period, participants are credited with the maturing component or next interest component.</p> <p>If the security is reconstituted during the book-closed period, the maturing components are removed from the participant's position and they receive the interest payment in the underlying security.</p> <p>4.3 Requesting ISINs for book-entry strips and packages</p> <p>To create a book-entry strip or package that does not have an existing ISIN, submit a request for strip ISINs at least three days prior to requesting strip processing or packaging.</p> <p>Note: Allow additional time for requests requiring approval by CDS Operational Support.</p> <p>To request ISINs for book-entry strips or packages:</p> <ol style="list-style-type: none"> 1. Do one of the following: <ul style="list-style-type: none"> • For book-entry stripping into individual components, ensure that the underlying security is eligible by reviewing the <u>Eligibility criteria for stripping underlying securities</u> on page 75. • For packaging, ensure that the strip components are eligible by reviewing the <u>Eligibility criteria for packaging book-entry strips</u> on page 77. 2. Submit an ISIN request using the ISIN issuance page on the CDS Securities Management Solutions Inc. website (www.cdssolutions.ca). <p>Once the ISINs are issued, CDS makes the package or components CDSX-eligible. These securities are subject to CDS procedures for allocation of voting rights and handling of special situations (e.g., accelerated payments).</p> <p>CDS attaches a copy of the <u>CDS Book-Entry Strip Component Listing</u> on page 74 to the eligibility bulletin to inform all participants.</p> <p>CDS Book-Entry Strip Component Listing</p> <p>[**NOTE**: Please refer to the procedure documents posted on the CDS web site to view this table, using the following link: http://www.cds.ca/cdsclearinghome.nsf/Pages/-EN-blacklined?Open]</p>

Text of CDS Participant Procedures marked to reflect proposed amendments	Text CDS Participant Procedures reflecting the adoption of proposed amendments
<p>maturing component or next interest component.</p> <p>If the security is reconstituted during the book-closed period, the maturing components are removed from the participant's position and they receive the interest payment in the underlying security.</p> <p>4.3 Requesting ISINs for book-entry strips and packages</p> <p>To create a book-entry strip or package that does not have an existing ISIN, submit a request for strip ISINs at least three days prior to requesting strip processing or packaging.</p> <p>Note: Allow additional time for requests requiring approval by CDS Operational Support.</p> <p>To request ISINs for book-entry strips or packages:</p> <ol style="list-style-type: none"> Do one of the following: <ul style="list-style-type: none"> For book-entry stripping into individual components, ensure that the underlying security is eligible by reviewing the <u>Eligibility criteria for stripping underlying securities</u> on page 76. For packaging, ensure that the strip components are eligible by reviewing the <u>Eligibility criteria for packaging book-entry strips</u> on page 77. Complete the applicable form: <ul style="list-style-type: none"> ISIN Request for Strip Components—Bonds (CDSX044) ISIN Request for Strip Components—Asset-Backed Securities (CDSX045) ISIN Request for Book-Entry Strip Package form (CDSX211). Enclose the proper documentation as indicated on the request form, with the following exceptions: <ul style="list-style-type: none"> For debt securities stripped into components other than interest and principal payments, include a prospectus or issue circular and an offering circular for the components. <p>Note: A preliminary prospectus or circular is acceptable, provided that a copy of the final prospectus or circular is forwarded to CDS before closing.</p> <ul style="list-style-type: none"> For government bonds with irregular payment amounts or frequencies, corporate 	<p>The CDS Book-Entry Strip Component Listing includes a description and ISIN of the underlying security or package, a description of the components and their ISINs, and the rate or amount used to determine the stripping or packaging quantities.</p> <p>For bonds stripped to a date prior to maturity (e.g., a callable bond), the description of the principal component includes the maturity year of the underlying bond, followed by the "maturity date" (the cutoff date) of the component.</p> <p>For callable bonds stripped to the next call date, the principal component includes all interest payments subsequent to the call date. Similarly, for a retractable bond, the principal component includes all interest payments subsequent to the retraction date.</p> <p>4.3.1 Generic ISINs</p> <p>Generic ISINs are automatically assigned (the same ISINs) to all CDS book-entry strip bonds which have the same issuer, payable date, payment currency and payment type (interest, payment or principal), carry the same rights and have no distinguishing features.</p> <p>Strip bonds cannot have generic ISINs when one or more of the following conditions apply:</p> <ul style="list-style-type: none"> The underlying issues for the strip bonds are backed by different sources of revenues, assets or guarantees (i.e., there is a difference or potential difference in the credit risk). The strip bond component includes more than just a "bullet" payment or has unique characteristics (e.g., real-return bonds or principal components from callable or retractable bonds). The strip bonds were created under the terms of a prospectus or special contract (e.g., strip bonds derived from some corporate bonds). The rights of the bond holders vary from bond to bond and are not <i>pari passu</i>. <p>A separate set of generic ISINs may be assigned for principal and interest components from issues which become callable if withholding tax laws change.</p> <p>If two or more strip components were made generic and CDS becomes aware that the strip components should not have been made generic:</p> <ul style="list-style-type: none"> There can be no unwinding of positions in the generic strip components. Any entitlement received on these strip components will be distributed to the holders of the generic strip component in proportion to their

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<p>bonds and asset backed securities, include a payment schedule.</p> <ul style="list-style-type: none"> For strips not covered by a blanket exception order from the applicable securities commission, include a letter from legal counsel stating how the strips will be sold (i.e., by prospectus, private placement or exemption order) and confirming that the distribution complies with all applicable securities acts and regulations. If the proper documentation is not included, there may be a delay in the assignment of ISINs until CDS is able to obtain the required information. <p>4. Send the completed form and documentation to CDS Eligibility in Toronto-1</p> <p>2. <u>Submit an ISIN request using the ISIN issuance page on the CDS Securities Management Solutions Inc. website (www.cdssolutions.ca).</u></p> <p>CDS creates Once the ISINs and are issued, CDS makes the package or components CDSX-eligible. These securities are subject to CDS procedures for allocation of voting rights and handling of special situations (e.g., accelerated payments).</p> <p>CDS then sends <u>attaches</u> a copy of the <u>CDS Book-Entry Strip Component Listing</u> on page 74 to the requestor and issues an eligibility bulletin to inform all participants.</p> <p>CDS Book-Entry Strip Component Listing</p> <p>[**NOTE**: Please refer to the procedure documents posted on the CDS web site to view this table, using the following link: http://www.cds.ca/cdsclearing/home.nsf/Pages/-EN-blacklined?Open]</p> <p>The CDS Book-Entry Strip Component Listing includes a description and ISIN of the underlying security or package, a description of the components and their ISINs, and the rate or amount used to determine the stripping or packaging quantities.</p> <p>For bonds stripped to a date prior to maturity (e.g., a callable bond), the description of the principal component includes the maturity year of the underlying bond, followed by the "maturity date" (the cutoff date) of the component.</p> <p>For callable bonds stripped to the next call date, the principal component includes all interest payments subsequent to the call date. Similarly, for a retractable bond, the principal component includes all interest payments subsequent to the retraction date.</p>	<p>economic interest and in accordance with the maturities and privilege events procedures for book-entry strips.</p> <p>Payment components may be used by CDS if requested by a participant.</p> <p>Money Market Issue and Entitlement Procedures</p> <p>CHAPTER 3 REQUESTING ISSUER CODES</p> <p>Every security in CDSX requires an ISIN. For money market securities, the issuer code is embedded in the ISIN. CDSX requires that a different issuer code be assigned for every money market issuer, currency and instrument type combination for which the participant is the issuer or issuing agent.</p> <p>Issuer codes are assigned and communicated to CDS Securities Management Solutions (SMS) by Standard & Poor's. In order to obtain an issuer code, submit a request using the ISIN issuance page on the CDS Securities Management Solutions Inc. website (www.cdssolutions.ca) . Using that information, CDS sets up the issuer code in CDSX and assigns the participant as the issuing agent for that issuer. Only CDS can set up an issuer code in CDSX.</p> <p>3.1 Requesting new money market issuer codes</p> <p>For each new money market issuer code, submit a request using the ISIN issuance page on the CDS Securities Management Solutions Inc. website (www.cdssolutions.ca).</p> <p>All money market issuer codes are set up to allow trading before the issues have been confirmed and made CDSX-eligible (except Canada T-bills). For more information, see <u>Generating money market ISINs</u> on page 13.</p> <p>The Issuer Code Warning report flags issuer codes that have exceeded 80 per cent of the maximum number of possible ISIN combinations using ISIN generation method 1. This report can be used to monitor the need to request new money market issuer codes. For more information on this report, refer to <i>CDS Reporting Procedures</i>.</p> <p>Requesting new issuer codes</p> <p>To request a new issuer code from CDS:</p> <ol style="list-style-type: none"> 1. Submit a new issuer code request using the ISIN issuance page on the CDS Securities Management Solutions Inc. website (www.cdssolutions.ca). CDS sets up the new issuer code in CDSX upon receipt of the new issuer code from Standard & Poor's. 2. Contact CDS to confirm that the submission has

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<p>4.3.1 Generic ISINs</p> <p>CDS Generic ISINs are automatically assigned generic ISINs assigned (the same ISINs) to all CDS book-entry strip bonds which have the same issuer, payable date, payment currency and payment type (interest, payment or principal), carry the same rights and have no distinguishing features.</p> <p>Strip bonds cannot have generic ISINs when one or more of the following conditions apply:</p> <ul style="list-style-type: none"> • The underlying issues for the strip bonds are backed by different sources of revenues, assets or guarantees (i.e., there is a difference or potential difference in the credit risk). • The strip bond component includes more than just a “bullet” payment or has unique characteristics (e.g., real-return bonds or principal components from callable or retractable bonds). • The strip bonds were created under the terms of a prospectus or special contract (e.g., strip bonds derived from some corporate bonds). • The rights of the bond holders vary from bond to bond and are not <i>pari passu</i>. <p>CDS may assign a <u>A</u> separate set of generic ISINs <u>may be assigned</u> for principal and interest components from issues which become callable if withholding tax laws change.</p> <p>If two or more strip components were made generic and CDS becomes aware that the strip components should not have been made generic:</p> <ul style="list-style-type: none"> • There can be no unwinding of positions in the generic strip components. • Any entitlement received on these strip components will be distributed to the holders of the generic strip component in proportion to their economic interest and in accordance with the maturities and privilege events procedures for book-entry strips. <p>Payment components may be used by CDS if requested by a participant.</p> <p>Money Market Issue and Entitlement Procedures</p> <p>CHAPTER 3 REQUESTING ISSUER CODES</p> <p>Every security in CDSX requires an ISIN. For money market securities, the issuer code is embedded in the ISIN. CDSX requires that a different issuer code</p>	<p>been received. CDS provides confirmation once the new issuer code is set up in CDSX.</p> <p>Once the new issuer code has been set up in CDSX, review the new issuer code in CDSX (see <u>Viewing money market issuer codes</u> on page 25)</p> <p>Note: If the default paying agent for this issuer code is LVTP, the issuing agent must pay all entitlements with a specific LVTS payment.</p> <p>3.2 Viewing money market issuer codes</p> <p>Use the Accessible Issuer Codes function to view a list of all money market issuer codes, the issuer description, the instrument type associated with an issuer code, the currency and, if applicable, the effective dates for which the issuer code can be used.</p> <p>View existing issuer codes on the Money Market Eligible Issuer Codes report produced daily.</p> <p>To view issuer codes online:</p> <ol style="list-style-type: none"> 1. Log on to CDS systems. For more information, refer to <i>Participating in CDS Services</i>. 2. On the CDS Clearing and Depository Services Inc. Main Menu, type the number identifying CDSX – Customer Functions in the SELECTION field and press ENTER. The CDSX – Customer Functions Menu on page 26 displays.

Text of CDS Participant Procedures marked to reflect proposed amendments	Text CDS Participant Procedures reflecting the adoption of proposed amendments
<p>be assigned for every money market issuer, currency and instrument type combination for which the participant is the issuer or issuing agent.</p> <p>Only CDS can provide a money market issuer code. Issuer codes are assigned and communicated to CDS <u>Securities Management Solutions (SMS)</u> by Standard & Poor's. In order to obtain an issuer code, submit a Company Issuer Profile form request using the ISIN issuance page on the CDS Securities Management Solutions Inc. website <u>(CDSX024www.cdssolutions.ca)</u> to CDS. Using that information, CDS sets up the issuer code in CDSX and assigns the participant as the issuing agent for that issuer. Only CDS can set up an issuer code in CDSX.</p> <p>3.1 Requesting new money market issuer codes</p> <p>For each new money market issuer code, complete and submit to CDS a Company Issuer Profile form (CDSX024) and an Issuer Profile Declaration form (CDSX364). CDS then submits a request to Standard & Poor's to obtain the new money market issuer code.</p> <p><u>For each new money market issuer code, submit a request using the ISIN issuance page on the CDS Securities Management Solutions Inc. website (www.cdssolutions.ca).</u></p> <p>All money market issuer codes are set up to allow trading before the issues have been confirmed and made CDSX-eligible (except Canada T-bills). For more information, see <u>Generating money market ISINs</u> on page 13.</p> <p>The Issuer Code Warning report flags issuer codes that have exceeded 80 per cent of the maximum number of possible ISIN combinations using ISIN generation method 1. This report can be used to monitor the need to request new money market issuer codes. For more information on this report, refer to <i>CDS Reporting Procedures</i>.</p> <p>Requesting new issuer codes</p> <p>To request a new issuer code from CDS:</p> <ol style="list-style-type: none"> Complete a Company Issuer Profile form (CDSX024) and an Issuer Profile Declaration form (CDSX364) for each new issuer code being requested. Complete the Default Paying Agent field, which indicates the company (i.e., CUID) that performs the paying agent duties for securities created using the issuer code. <p>Note: The issuing agent and the default paying agent can be the same.</p>	

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<p>1. Submit the required form or forms and a written new issuer code request for using the ISIN issuance page on the issuer code to CDSCDS Securities Management Solutions Inc. website (www.cdssolutions.ca). CDS will set sets up the new issuer code in CDSX upon receipt of the new issuer code from Standard & Poor's (approximately three days).</p> <p>2. Contact CDS to confirm that the submission has been received. CDS provides confirmation once the new issuer code is set up in CDSX.</p> <p>Once the new issuer code has been set up in CDSX, review the new issuer code in CDSX (see Viewing money market issuer codes on page 25).</p> <p>Note: If the default paying agent for this issuer code is LVTP, the issuing agent must pay all entitlements with a specific LVTS payment.</p> <p>3.2 Viewing money market issuer codes</p> <p>Use the Accessible Issuer Codes function to view a list of all money market issuer codes, the issuer description, the instrument type associated with an issuer code, the currency and, if applicable, the effective dates for which the issuer code can be used.</p> <p>View existing issuer codes on the Money Market Eligible Issuer Codes report produced daily.</p> <p>To view issuer codes online:</p> <ol style="list-style-type: none"> 1. Log on to CDS systems. For more information, refer to <i>Participating in CDS Services</i>. 2. On the CDS Clearing and Depository Services Inc. Main Menu, type the number identifying CDSX – Customer Functions in the SELECTION field and press ENTER. The CDSX – Customer Functions Menu on page 26 displays. 	

13.1.8 MFDA Reschedules Hearing in the Matter of Purisima Dy

NEWS RELEASE
For immediate release

**MFDA RESCHEDULES HEARING
IN THE MATTER OF PURISIMA DY**

January 21, 2009 (Toronto, Ontario) – The Mutual Fund Dealers Association of Canada ("MFDA") commenced a disciplinary proceeding in respect of Purisima Dy by Notice of Hearing dated October 21, 2008.

A first appearance in this proceeding took place on January 19, 2009 before a three-member Hearing Panel of the MFDA Central Regional Council. The Hearing on the Merits in this proceeding, originally scheduled to take place on April 21-22, 2009, has been rescheduled to May 20-21, 2009 commencing 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 will be open to the public, except as may be required for the protection of confidential matters.

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

The MFDA is the self-regulatory organization for Canadian mutual fund dealers. The MFDA regulates the operations, standards of practice and business conduct of its 153 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

13.1.9 MFDA Reschedules Settlement Hearing in the Matter of Peter Bruno Lamarche

NEWS RELEASE
For immediate release

**MFDA RESCHEDULES SETTLEMENT HEARING
IN THE MATTER OF PETER BRUNO LAMARCHE**

January 21, 2009 (Toronto, Ontario) – The Mutual Fund Dealers Association of Canada ("MFDA") announced on November 20, 2008 that it had issued a Notice of Settlement Hearing regarding the presentation, review and consideration of a proposed settlement agreement by a Hearing Panel of the Central Regional Council.

The Settlement Hearing, previously scheduled to take place on December 16, 2008, has been rescheduled to take place on Monday, February 2, 2009 at 2:00 p.m. (Eastern) in the Hearing Room located at the offices of the MFDA, 121 King Street West, Suite 1000, Toronto, Ontario. The proposed settlement agreement is between staff of the MFDA and Peter Lamarche and involves matters for which Mr. Lamarche may be disciplined by the Regional Council pursuant to MFDA By-laws.

The hearing will be open to the public except as may be required for the protection of confidential matters. A copy of the Notice of Settlement 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 153 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

Chapter 25

Other Information

25.1 Consents

25.1.1 Grenville Gold Corporation – s. 4(b) of the Regulation

Headnote

Consent given to a corporation under the Business Corporations Act (Ontario) to continue under the Business Corporations Act (British Columbia).

Statutes Cited

Business Corporations Act, R.S.O. 1990, c. B.16, as am., s. 181.

Regulations Cited

Regulation made under the Business Corporations Act, O. Reg. 289/00, as am., s. 4(b).

**IN THE MATTER OF
R.R.O. 1990, REGULATION 289/00,
AS AMENDED (the Regulation)
MADE UNDER THE
BUSINESS CORPORATIONS ACT (ONTARIO)
R.S.O. 1990. c. B.16, AS AMENDED (the OBCA)**

AND

**IN THE MATTER OF
GRENVILLE GOLD CORPORATION**

**CONSENT
(Subsection 4(b) of the Regulation)**

UPON the application of Grenville Gold Corporation (the Applicant) to the Ontario Securities Commission (the Commission) requesting the consent of the Commission for the Applicant to continue into another jurisdiction pursuant to subsection 4(b) of the Regulation.

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

AND UPON the Applicant having represented to the Commission that:

1. The Applicant was incorporated under the OBCA on November 17, 1994. Its registered office is located at 93 Gloucester Street, Toronto, Ontario M4Y 1M2 and its head office is located at Suite 208, 905 West Pender Street, Vancouver, BC, V6C 1L6. On December 15, 1999, the Applicant filed Articles of Amendment removing the restrictions in the transfer of its common shares. On September 16, 2002, the Applicant filed Articles of Amendment subdividing its issued and outstanding common shares on the basis of three (3) new common shares for one (1) old common share of the Applicant.
2. The Applicant has an authorized share capital consisting of an unlimited number of common shares, of which 42,676,511 common shares were issued and outstanding as of December 31, 2008.
3. The Applicant is a Tier 2 issuer in accordance with the policies of the TSX Venture Exchange (the Exchange). The Applicant's outstanding common shares are listed and posted for trade on the Exchange under the symbol "GVG".
4. The Applicant intends to apply (the Application for Continuance) to the Director under the OBCA for authorization to continue under the Business Corporation Act, S.B.C. 2002, c. 57 (the BCBCA) pursuant to section 181 of the OBCA

(the Continuance). Pursuant to subsection 4(b) of the Regulation, where a corporation is an offering corporation, the Application for Continuance must be accompanied by a consent for the Commission.

5. The Applicant is an offering corporation under the OBCA and is a reporting issuer under the *Securities Act*, R.S.O. 1990, c. S.5, as amended (the Act). The Applicant is also a reporting issuer or its equivalent under the securities legislation of the province of British Columbia and Alberta (collectively, the Legislation).
6. The Applicant intends to remain a reporting issuer under the Act and the Legislation after the Continuance.
7. The Applicant is not in default of any of the provision of the Act or the regulations or rules made thereunder and is not in default under the securities legislation of any other jurisdiction where it is a reporting issuer or its equivalent.
8. The Applicant is not in default of any of the rules, regulations or policies of the Exchange.
9. The Applicant is not a party to any proceeding or, to the best of its knowledge, information and belief, pending proceeding under the Act.
10. The holders of common shares of the Applicant (the Shareholders) authorized the Continuance of the Applicant at a special meeting of Shareholders held on June 19, 2008 (the Meeting). The special resolution authorizing the Continuance was approved at the Meeting by 100% of the votes cast.
11. The management information circular of the Applicant dated May 21, 2008, provided to all the Shareholders in connection with the Meeting, included a summary of the differences between the BCBCA and the OBCA and advised Shareholders of their dissent rights in connection with the Continuance pursuant to Section 185 of the OBCA.
12. The material rights, duties and obligations of a corporation governed by the BCBCA are substantially similar to those of a corporation governed by the OBCA.
13. The Continuance is proposed to be made because the Applicant believes it to be in the best interest to continue as a corporation and conduct its affairs in accordance with the laws of the Province of British Columbia because
 - a) the Applicant's officers are resident of British Columbia;
 - b) the majority of the Applicant's directors are residents of British Columbia;
 - c) the Applicant's auditors and legal advisors are based in British Columbia.

THE COMMISSION HEREBY CONSENTS to the continuance of the Applicant as a corporation under the BCBCA.

DATED at Toronto, Ontario this 16th of January, 2009.

"Wendell S. Wigle"
Commissioner
Ontario Securities Commission

"Carol S. Perry"
Commissioner
Ontario Securities Commission

UNDERTAKING

To: Ontario Securities Commission (the "Commission")

RE: Grenville Gold Corporation (the "Applicant") – Application dated August 25, 2008 for a Consent to continue to Delaware (the "Continuance") pursuant to clause 4(b) of Ontario Regulation 289/00 made under the Business Corporations Act, R.S.O. 1990, c. B.16

The Applicant hereby undertakes that it will complete and file an "Issuer Form of Submission to Jurisdiction and Appointment of Agent for Service of Process" in the form of Schedule "A" hereto (the "Submission to Jurisdiction Form") with the Commission through the System for Electronic Document Analysis and Retrieval (SEDAR) promptly following the effective date of the Continuance.

The Applicant hereby further undertakes that it will maintain and update the information contained in the Submission to Jurisdiction Form, or furnish a new Submission to Jurisdiction Form, in accordance with the provisions contained therein.

Dated: _____

Name: _____

Title: _____

SCHEDULE "A"

**ISSUER FORM OF SUBMISSION TO
JURISDICTION AND APPOINTMENT OF
AGENT FOR SERVICE OF PROCESS**

Name of issuer (the "Issuer")

Jurisdiction of incorporation, or equivalent, of Issuer:

Address of principal place of business of Issuer:

Description of securities (the "Securities"):

Name of agent for service of process (the "Agent")

Address for service of process of Agent in Canada (which address may be anywhere in Canada)

The Issuer designates and appoints the Agent at the address of the Agent stated above as its agent upon whom may be served with a notice, pleading, subpoena, summons or other process in an action, investigation or administrative, criminal, quasi-criminal, penal or other proceeding (the "Proceeding") arising out of, relating to or concerning the obligations of the Issuer as a reporting issuer and irrevocably waives any right to raise as a defense in any such Proceedings an alleged lack of jurisdiction to bring such Proceedings.

The Issuer irrevocably and unconditionally submits to the non-exclusive jurisdiction of:

the judicial, quasi-judicial and administrative tribunals of each of the provinces and territories of Canada in which the Securities of the Issuer have been distributed; and

any administrative proceeding in any such province or territory,

in any Proceedings arising out of or related to or concerning the obligations of the Issuer as a reporting issuer.

Until six years after it has ceased to be a reporting issuer in any Canadian province or territory, the Issuer shall file a new Submission to Jurisdiction and Appointment of Agent for Service of Process substantially in then form or as otherwise prescribed by securities law at least 30 days before termination, for any reason, of this Submission to Jurisdiction and Appointment of Agent for Service of Process.

Until six years after it has ceased to be a reporting issuer in any Canadian province or territory, the Issuer shall file an amended Submission to Jurisdiction and Appointment of Agent for Service of Process at least 30 days before a change in the name or the address of the Agent.

This Submission to Jurisdiction and Appointment of Agent for Service of Process shall be governed by and construed in accordance with the laws of the Province of Ontario.

Dated: _____

Signature of Signing Officer of Issuer

Print name and title of person signing

Other Information

AGENT

The undersigned accepts the appointment as agent for service of process of Grenville Gold Corporation under the terms and conditions of the preceding Submission to Jurisdiction and Appointment of Agent for Service of Process.

Dated: _____

Signature of Agent

Print name of person signing and, if Agent is not an individual, the title of the person

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