The Ontario Securities Commission

OSC Bulletin

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

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Chapter 1

Notices / News Releases

1.1 Notices

1.1.1 Current Proceedings Before The Ontario Securities Commission

FEBRUARY 13, 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
Cadillac Fairview Tower
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Suresh Thakrar, FIBC	—	ST
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SCHEDULED OSC HEARINGS

February 13, 2009 9:00 a.m.	**Lyndz Pharmaceuticals Inc., Lyndz Pharma Ltd., James Marketing Ltd., Michael Eatch and Rickey McKenzie** s. 127(1) & (5) J. Feasby in attendance for Staff Panel: WSW/ST
February 13, 2009 11:00 a.m.	**Franklin Danny White, Naveed Ahmad Qureshi, WNBC The World Network Business Club Ltd., MMCL Mind Management Consulting, Capital Reserve Financial Group, and Capital Investments of America** s. 127 C. Price in attendance for Staff Panel: PJL/ST
February 16, 2009 9:30 a.m.	**Hollinger Inc., Conrad M. Black, F. David Radler, John A. Boultbee and Peter Y. Atkinson** s. 127 J. Superina in attendance for Staff Panel: LER/MCH
February 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: WSW/MCH
February 18-20; March 3-13; March 30-April 9, 2009 10:00 a.m.	**Biovail Corporation, Eugene N. Melnyk, Brian H. Crombie, John R. Miszuk and Kenneth G. Howling** s. 127(1) and 127.1 J. Superina, A. Clark in attendance for Staff Panel: JEAT/DLK/PLK

February 24, 2009 9:00 a.m.	**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
February 24 - March 11, 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: LER/CSP/ST
February 24, 2009 10:00 a.m.	**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** s. 127 M. Vaillancourt in attendance for Staff Panel: WSW/DLK
February 25, 2009 10:00 a.m.	**James Richard Elliott** s. 127 J. Feasby in attendance for Staff Panel: WSW/DLK
March 3, 2009 2:30 p.m.	**Brilliante Brasilcan Resources Corp., York Rio Resources Inc., Brian W. Aidelman, Jason Georgiadis, Richard Taylor and Victor York** s. 127 S. Horgan in attendance for Staff Panel: 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
March 5, 2009 10:00 a.m.	**FactorCorp Inc., FactorCorp Financial Inc. and Mark Twerdun** s. 127 M. Mackewn in attendance for Staff Panel: TBA
March 12, 2009 10:00 a.m.	**Hahn Investment Stewards & Co. Inc.** s. 21.7 Y. Chisholm in attendance for Staff Panel: ST/MCH
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
March 19, 2009 10:00 a.m.	**Berkshire Capital Limited, GP Berkshire Capital Limited, Panama Opportunity Fund and Ernest Anderson** s. 127 E. Cole in attendance for Staff Panel: TBA

March 20, 2009 10:00 a.m.	**Gold-Quest International, Health and Harmoney, Iain Buchanan and Lisa Buchanan** s. 127 H. Craig in attendance for Staff Panel: TBA
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
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 10:00 a.m.	**Franklin Danny White, Naveed Ahmad Qureshi, WNBC The World Network Business Club Ltd., MMCL Mind Management Consulting, Capital Reserve Financial Group, and Capital Investments of America** s. 127 C. Price in attendance for Staff Panel: PJL/KJK/ST
March 24, 2009 11:00 a.m.	**Rajeev Thakur** s. 127 M. Britton in attendance for Staff Panel: TBA
April 6, 2009 10:00 a.m.	**Gregory Galanis** s. 127 P. Foy in attendance for Staff Panel: TBA
April 13-17, 2009 10:00 a.m.	**Matthew Scott Sinclair** s. 127 P. Foy in attendance for Staff Panel: TBA
April 20-27, 2009 10:00 a.m.	**Al-Tar Energy Corp., Alberta Energy Corp., Drago Gold Corp., David C. Campbell, Abel Da Silva, Eric F. O'Brien and Julian M. Sylvester** s. 127 S. Horgan in attendance for Staff Panel: TBA
April 20-May 1, 2009 10:00 a.m.	**Shane Suman and Monie Rahman** s. 127 & 127(1) C. Price in attendance for Staff Panel: JEAT/DLK/MCH
April 28, 2009 2:30 p.m. April 29-30, 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
May 4-29, 2009 10:00 a.m.	**Borealis International Inc., Synergy Group (2000) Inc., Integrated Business Concepts Inc., Canavista Corporate Services Inc., Canavista Financial Center Inc., Shane Smith, Andrew Lloyd, Paul Lloyd, Vince Villanti, Larry Haliday, Jean Breau, Joy Statham, David Prentice, Len Zielke, John Stephan, Ray Murphy, Alexander Poole, Derek Grigor and Earl Switenky** s. 127 and 127.1 Y. Chisholm in attendance for Staff Panel: TBA

May 7-15, 2009 10:00 a.m.	**MRS Sciences Inc. (formerly Morningside Capital Corp.), Americo DeRosa, Ronald Sherman, Edward Emmons and Ivan Cavric** s. 127 & 127(1) D. Ferris in attendance for Staff Panel: TBA
May 12, 2009 2:30 p.m.	**LandBankers International MX, S.A. De C.V.; Sierra Madre Holdings MX, S.A. De C.V.; L&B LandBanking Trust S.A. De C.V.; Brian J. Wolf Zacarias; Roger Fernando Ayuso Loyo, Alan Hemingway, Kelly Friesen, Sonja A. McAdam, Ed Moore, Kim Moore, Jason Rogers and Dave Urrutia** s. 127 M. Britton in attendance for Staff Panel: JEAT/ST
May 25-June 2, 2009 10:00 a.m.	**Global Partners Capital, Asia Pacific Energy Inc., 1666475 Ontario Inc. operating as "Asian Pacific Energy", Alex Pidgeon, Kit Ching Pan also known as Christine Pan, Hau Wai Cheung, also known as Peter Cheung, Tony Cheung, Mike Davidson, or Peter McDonald, Gurdip Singh Gahunia also known as Michael Gahunia or Shawn Miller, Basis Marcellinius Toussaint also known as Peter Beckford, and Rafique Jiwani also known as Ralph Jay** s. 127 M. Boswell in attendance for Staff Panel: TBA
June 1-3, 2009 10:00 a.m.	**Robert Kasner** s. 127 H. Craig in attendance for Staff Panel: TBA
June 4, 2009 10:00 a.m.	**Shallow Oil & Gas Inc., Eric O'Brien, Abel Da Silva, Gurdip Singh Gahunia aka Michael Gahunia and Abraham Herbert Grossman aka Allen Grossman** s. 127(7) and 127(8) M. Boswell in attendance for Staff Panel: DLK/CSP/PLK
June 4, 2009 11:00 a.m.	**Abel Da Silva** s. 127 M. Boswell in attendance for Staff Panel: TBA
June 10, 2009 10:00 a.m.	**Global Energy Group, Ltd. and New Gold Limited Partnerships** s. 127 H. Craig in attendance for Staff Panel: TBA
August 10, 2009 10:00 a.m.	**New Life Capital Corp., New Life Capital Investments Inc., New Life Capital Advantage Inc., New Life Capital Strategies Inc., 1660690 Ontario Ltd., L. Jeffrey Pogachar, Paola Lombardi and Alan S. Price** s. 127 S. Kushneryk in attendance for Staff Panel: TBA
September 7-11, 2009; and September 30-October 23, 2009 10:00a.m.	**Rene Pardo, Gary Usling, Lewis Taylor Sr., Lewis Taylor Jr., Jared Taylor, Colin Taylor and 1248136 Ontario Limited** s. 127 M. Britton in attendance for Staff Panel: TBA
September 21-25, 2009 10:00 a.m.	**Swift Trade Inc. and Peter Beck** s. 127 S. Horgan in attendance for Staff Panel: TBA

November 16-December 11, 2009 10:00 a.m.	**Sulja Bros. Building Supplies, Ltd. (Nevada), Sulja Bros. Building Supplies Ltd., Kore International Management Inc., Petar Vucicevich and Andrew DeVries** s. 127 & 127.1 M. Britton in attendance for Staff Panel: TBA
January 11, 2010 10:00 a.m.	**Firestar Capital Management Corp., Kamposse Financial Corp., Firestar Investment Management Group, Michael Ciavarella and Michael Mitton** s. 127 H. Craig in attendance for Staff Panel: TBA
TBA	**Yama Abdullah Yaqeen** s. 8(2) J. Superina in attendance for Staff Panel: TBA
TBA	**Microsourceonline Inc., Michael Peter Anzelmo, Vito Curalli, Jaime S. Lobo, Sumit Majumdar and Jeffrey David Mandell** s. 127 J. Waechter in attendance for Staff Panel: TBA
TBA	**Frank Dunn, Douglas Beatty, Michael Gollogly** s. 127 K. Daniels in attendance for Staff Panel: TBA
TBA	**Peter Sabourin, W. Jeffrey Haver, Greg Irwin, Patrick Keaveney, Shane Smith, Andrew Lloyd, Sandra Delahaye, Sabourin and Sun Inc., Sabourin and Sun (BVI) Inc., Sabourin and Sun Group of Companies Inc., Camdeton Trading Ltd. and Camdeton Trading S.A.** s. 127 and 127.1 Y. Chisholm in attendance for Staff Panel: JEAT/DLK/CSP
TBA	**Juniper Fund Management Corporation, Juniper Income Fund, Juniper Equity Growth Fund and Roy Brown (a.k.a. Roy Brown-Rodrigues)** s. 127 and 127.1 D. Ferris in attendance for Staff Panel: TBA
TBA	**Merax Resource Management Ltd. carrying on business as Crown Capital Partners, Richard Mellon and Alex Elin** s. 127 H. Craig in attendance for Staff Panel: JEAT/MC/ST
TBA	**Norshield Asset Management (Canada) Ltd., Olympus United Group Inc., John Xanthoudakis, Dale Smith and Peter Kefalas** s. 127 P. Foy in attendance for Staff Panel: WSW/DLK/MCH

TBA

Irwin Boock, Stanton De Freitas, Jason Wong, Saudia Allie, Alena Dubinsky, Alex Khodjiants, Select American Transfer Co., Leasesmart, Inc., Advanced Growing Systems, Inc., International Energy Ltd., Nutrione Corporation, Pocketop Corporation, Asia Telecom Ltd., Pharm Control Ltd., Cambridge Resources Corporation, Compushare Transfer Corporation, Federated Purchaser, Inc., TCC Industries, Inc., First National Entertainment Corporation, WGI Holdings, Inc. and Enerbrite Technologies Group

s. 127(1) & (5)

P. Foy in attendance for Staff

Panel: 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

1.2 Notices of Hearing

1.2.1 Berkshire Capital Limited et al.

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

AND

**IN THE MATTER OF
BERKSHIRE CAPITAL LIMITED,
GP BERKSHIRE CAPITAL LIMITED,
PANAMA OPPORTUNITY FUND AND
ERNEST ANDERSON**

NOTICE OF HEARING

TAKE NOTICE THAT the Ontario Securities Commission (the "Commission") will hold a hearing pursuant to section 127 of the *Securities Act*, R.S.O. 1990, c. S.5, as amended (the "Act") at the offices of the Commission, 20 Queen Street West, 17th Floor, Hearing Room B, Toronto, Ontario commencing on February 10, 2009 at 4:30 p.m. or as soon thereafter as the hearing can be held;

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

(a) To extend the Temporary Order dated January 27, 2009 pursuant to subsection 127(7) and (8) of the Act until the conclusion of the hearing or for such further time as considered necessary by the Commission; and,

(b) To make such further orders as the Commission considers appropriate;

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

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

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

DATED at Toronto this "6th" day of February, 2009

"John Stevenson "

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

AND

**IN THE MATTER OF
BERKSHIRE CAPITAL LIMITED,
GP BERKSHIRE CAPITAL LIMITED,
PANAMA OPPORTUNITY FUND AND
ERNEST ANDERSON**

**STATEMENT OF ALLEGATIONS
OF STAFF OF THE
ONTARIO SECURITIES COMMISSION**

Staff of the Ontario Securities Commission ("Staff") make the following allegations in support of a Notice of Hearing to extend a Temporary Order dated January 27, 2009.

I. THE RESPONDENTS

1. Berkshire Capital Limited ("Berkshire") is a company incorporated in the Republic of Panama.

2. GP Berkshire Capital Limited ("GP") is a company incorporated in the Republic of Panama.

3. Panama Opportunity Fund ("POF") is purported to be a fund wholly owned and operated by Berkshire.

4. Ernest Anderson is an individual who resides in Ontario and is the directing mind of Berkshire, GP and POF.

II. ALLEGATIONS

5. Staff allege that:

(a) Between October 12, 2008 and January 27, 2009, the Respondents committed acts in furtherance of a trade of POF without having been registered to trade securities in accordance with Ontario securities law contrary to section 25(1)(a) of the *Securities Act*, R.S.O. c. S.5, as amended (the "Act"); and

(b) Between October 12, 2008 and January 27, 2009, the Respondents committed acts in furtherance of a trade of securities of POF which would be a distribution without a preliminary prospectus and a prospectus having been filed and receipts having been issued by the Director contrary to section 53(1) of the Act.

III. CONDUCT CONTRARY TO ONTARIO SECURITIES LAW AND CONTRARY TO THE PUBLIC INTEREST

6. Staff allege that the conduct alleged above constitutes conduct contrary to Ontario securities law and contrary to the public interest.

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

DATED at Toronto, Ontario, this 6th day of February, 2009.

1.2.2 James Richard Elliott – s. 127

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

AND

IN THE MATTER OF
JAMES RICHARD ELLIOTT

AMENDED NOTICE OF HEARING
(Section 127)

TAKE NOTICE THAT the Ontario Securities Commission (the "Commission") will hold a hearing pursuant to sections 127 and 127.1 of the *Securities Act*, R.S.O. 1990, c. S.5., as amended (the "Act") at the offices of the Commission, 20 Queen Street West, Toronto, Ontario, 17th Floor, Hearing Room B, commencing on February 25, 2009, at 10:00 a.m. or as soon thereafter as the hearing can be held,

TO CONSIDER whether, pursuant to section 127 of the Act, including subsection 127(10), it is in the public interest for the Commission:

a. to make an order pursuant to section 127(1) clause 2 of the Act that trading in securities by the Respondent cease for a period of five years, except that he may trade in one account in his own name through a registered representative if he provides a copy of the Commission's sanction order to the registered representative beforehand;

b. to make an order pursuant to section 127(1) clause 2.1 of the Act that acquisition of any securities by the Respondent be prohibited for a period of five years, except that he may acquire securities in one account in his own name through a registered representative if he provides a copy of the Commission's sanction order to the registered representative beforehand;

c. to make an order pursuant to subsection 127(1) clause 3 of the Act that any exemptions in Ontario securities law do not apply to the Respondent for a period of five years;

d. to make an order pursuant to section 127(1) clause 7 of the Act that the Respondent resign any position that the Respondent holds as director or officer of an issuer;

e. to make an order pursuant to section 127(1) clause 8 of the Act that the respondent be prohibited from becoming

or acting as an officer or director of any issuer for a period of five years; and,

f. to make such other order or orders as the Commission considers appropriate.

BY REASON of the allegations set out in the Amended Statement of Allegations of Staff and such additional allegations as counsel may advise and the Commission may permit;

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

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

DATED at Toronto this 5th day of February, 2009.

"John Stevenson"
Secretary to the Commission

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

AND

IN THE MATTER OF
JAMES RICHARD ELLIOTT

AMENDED STATEMENT OF ALLEGATIONS
OF STAFF OF THE
ONTARIO SECURITIES COMMISSION

Staff of the Ontario Securities Commission make the following allegations:

I. THE RESPONDENT

1. James Richard Elliott ("Elliott") is a resident of British Columbia. From July 27, 1998, to November 25, 2005, while a resident of British Columbia, Elliott was a director, the president and the chief executive officer of MDMI Technologies Inc ("MDMI"). MDMI is a medical device company with its head office in Richmond, British Columbia.

II. OVERVIEW

2. Elliott is subject to an order by the British Columbia Securities Commission ("BCSC") imposing sanctions, conditions, restrictions or requirements upon him. The order was imposed pursuant to an agreement between Elliott and the BCSC that he had engaged in conduct contrary public interest and would be made subject to sanctions.

3. The conduct for which Elliott agreed to be sanctioned involved trading securities of MDMI when he was unregistered to do so and issuing securities of MDMI when no prospectus receipt had been received.

4. At the time he engaged in the conduct he agreed to be sanctioned for in British Columbia, Elliott was a resident of British Columbia. Elliott lived in Ontario in 2008 and returned to British Columbia in December, 2008.

III. ALLEGATIONS

British Columbia Settlement Agreement

5. On May 28, 2008, Elliott entered into a Settlement Agreement (the "Settlement Agreement") with the BCSC respecting his conduct as the principal of MDMI. As part of the Settlement Agreement, Elliott admitted that:

(a) He was a resident of British Columbia and a director, the president and the chief executive officer of MDMI from July 27, 1998 to November 25, 2005;

(b) Elliott held presentations, met with investors and marketed the shares of MDMI from April 1999 to March 2005,

raising approximately $2.3 million from 262 British Columbia investors;

(c) At the time, Elliott was not registered to trade securities in British Columbia, no prospectus receipt had issued in respect of MDMI's securities, and there were no registration or prospectus exemptions available in respect of the trades;

(d) All of the funds obtained from investors by MDMI went to research, development and marketing of its products.

British Columbia Sanction Order

6. Pursuant to the terms of the Settlement Agreement, Elliott consented to an Order by the BCSC imposing sanctions. The Order provided that Elliott, among other things:

(a) cease trading in and be prohibited from purchasing any securities for five years, except in one account, in his own name, through a registered representative, if he provides a copy of the Order to the registered representative beforehand;

(b) resign any officer or director position he may hold, be prohibited from becoming or acting as a director or officer of any issuer, be prohibited from acting in a managing or consultative capacity in connection with activities in the securities market and be prohibited from engaging in investor relations activities for the later of five years and the date he completes a course of study concerning the duties and responsibilities of directors and officers.

7. As a term of the Settlement Agreement, Elliott also consented to the issuance of similar orders by other securities regulators based on the facts he admitted in the Settlement Agreement.

IV. CONDUCT CONTRARY TO THE PUBLIC INTEREST

8. Elliott is the subject of an Order made by a securities regulatory authority, namely the BCSC, imposing sanctions, conditions restrictions or requirements on him.

9. Elliott has agreed with a securities regulatory authority, namely the BCSC, that he be made subject to sanctions, conditions, restrictions or requirements.

10. Elliott has agreed that he acted contrary to British Columbia Securities law and acted contrary to the public interest in British Columbia.

11. Pursuant to s. 127(10)4 and 127(10)5 of the *Securities Act* (the "Act"), the extra-provincial conduct of a Respondent may form the basis of an order in the public interest in Ontario under s. 127(1).

12. Staff allege that it is in the public interest in Ontario to make orders against the Respondent.

13. Staff reserve the right to amend these allegations as they deem fit and the Commission may permit.

Dated at Toronto this 2nd day of February, 2009.

1.4 Notices from the Office of the Secretary

1.4.1 Research In Motion Limited et al.

FOR IMMEDIATE RELEASE
February 5, 2009

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

AND

IN THE MATTER OF
RESEARCH IN MOTION LIMITED,
JAMES BALSILLIE, MIKE LAZARIDIS,
DENNIS KAVELMAN, ANGELO LOBERTO,
KENDALL CORK, DOUGLAS WRIGHT,
JAMES ESTILL AND DOUGLAS FREGIN

TORONTO – The Commission approved a settlement agreement entered into by Staff of the Commission and Research In Motion Limited, James Balsillie, Mike Lazaridis, Dennis Kavelman, Angelo Loberto, Kendall Cork, Douglas Wright, James Estill, and Douglas Fregin.

A copy of the Order dated February 5, 2009 and the Settlement Agreement dated January 27, 2009 are available at **www.osc.gov.on.ca**.

OFFICE OF THE SECRETARY
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1-877-785-1555 (Toll Free)

1.4.2 Biovail Corporation et al.

FOR IMMEDIATE RELEASE
February 5, 2009

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

AND

IN THE MATTER OF
BIOVAIL CORPORATION, EUGENE N. MELNYK,
BRIAN H. CROMBIE, JOHN R. MISZUK AND
KENNETH G. HOWLING

TORONTO – The Commission issued an Order today which provides that the hearing in the above matter is adjourned to commence on Wednesday, February 18, 2009 at 10:00 a.m.

A copy of the Order dated February 5, 2009 is available at **www.osc.gov.on.ca**.

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1.4.3 Irwin Boock et al.

FOR IMMEDIATE RELEASE
February 6, 2009

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

AND

IN THE MATTER OF
IRWIN BOOCK, STANTON DEFREITAS,
JASON WONG,SAUDIA ALLIE,
ALENA DUBINSKY, ALEX KHODJIAINTS,
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

TORONTO – The Commission issued an Order adjourning the hearing until February 17, 2009 at 3:00 p.m. for the purpose of having a pre-hearing conference on that date.

A copy of the Order dated November 24, 2008 and the Order dated January 20, 2009 are available at **www.osc.gov.on.ca**.

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1.4.4 Rusoro Mining Ltd. and Gold Reserve Inc.

FOR IMMEDIATE RELEASE
February 6, 2009

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

AND

IN THE MATTER OF
RUSORO MINING LTD. AND
GOLD RESERVE INC.

AND

IN THE MATTER OF A HEARING
UNDER SECTION 127 OF
THE SECURITIES ACT,
R.S.O. 1990, c. S.5, AS AMENDED

TORONTO – The Ontario Securities Commission will hold a hearing on Thursday, February 12, 2009 at 10:00 a.m. in the Large Hearing Room, 17th Floor at 20 Queen Street West, to consider the Application made by Rusoro Mining Ltd. for a hearing pursuant to section 127 of the Securities Act concerning its offer to purchase certain securities of Gold Reserve Inc.

A copy of the Application of Rusoro Mining Ltd. dated January 30, 2009 is available at **www.osc.gov.on.ca**.

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1.4.5 Rodney International et al.

FOR IMMEDIATE RELEASE
February 6, 2009

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

AND

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

TORONTO – The hearing on sanctions and costs in this matter will be held on February 11, 2009, at 10:00 a.m. in Hearing Room B, 17th Floor, 20 Queen Street West.

OFFICE OF THE SECRETARY
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1.4.6 Berkshire Capital Limited et al.

FOR IMMEDIATE RELEASE
February 9, 2009

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

AND

IN THE MATTER OF
BERKSHIRE CAPITAL LIMITED,
GP BERKSHIRE CAPITAL LIMITED,
PANAMA OPPORTUNITY FUND AND
ERNEST ANDERSON

TORONTO – The Office of the Secretary issued a Notice of Hearing on February 6, 2009 setting the matter down to be heard on February 10, 2009 at 4:30 p.m. to consider whether it is in the public interest for the Commission to extend the Temporary Order dated January 27, 2009 pursuant to subsection 127(7) and (8) of the Act until the conclusion of the hearing, or until such further time as considered necessary by the Commission.

A copy of the Notice of Hearing dated February 6, 2009 and Staff's Statement of Allegations (in support of the Notice of Hearing to extend a Temporary Order dated January 27, 2009) dated February 6, 2009 are available at **www.osc.gov.on.ca**.

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1.4.7 James Richard Elliott

FOR IMMEDIATE RELEASE
February 9, 2009

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

AND

IN THE MATTER OF
JAMES RICHARD ELLIOTT

TORONTO – The Office of the Secretary issued an Amended Notice of Hearing setting the matter down to be heard on February 25, 2009, at 10:00 a.m. at the offices of the Commission, 20 Queen Street West, Toronto, Ontario, 17th Floor, Hearing Room "B" or as soon thereafter as the hearing can be held in the above named matter.

A copy of the Amended Notice of Hearing dated February 5, 2009 and Amended Statement of Allegations of Staff of the Ontario Securities Commission dated February 2, 2009 are available at **www.osc.gov.on.ca**.

OFFICE OF THE SECRETARY
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1.4.8 Gold-Quest International et al.

FOR IMMEDIATE RELEASE
February 10, 2009

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

AND

IN THE MATTER OF
GOLD-QUEST INTERNATIONAL,
HEALTH AND HARMONEY,
IAIN BUCHANAN, AND LISA BUCHANAN

TORONTO – The Commission issued an Order extending the Amended Temporary Order to March 20, 2009 in the above named matter.

This matter is set to return before the Commission on March 20, 2009 at 10:00 a.m.

A copy of the Order dated February 10, 2009 is available at **www.osc.gov.on.ca**.

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1.4.9 Rusoro Mining Ltd. and Gold Reserve Inc.

FOR IMMEDIATE RELEASE
February 10, 2009

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

AND

IN THE MATTER OF
RUSORO MINING LTD. AND
GOLD RESERVE INC.

AND

IN THE MATTER OF A HEARING
UNDER SECTION 127 OF
THE SECURITIES ACT,
R.S.O. 1990, c. S.5, AS AMENDED

TORONTO – The hearing that was scheduled to be held on Thursday, February 12, 2009 in this matter has been cancelled because Rusoro Mining Ltd. and Gold Reserve Inc. have withdrawn their Applications for a hearing.

OFFICE OF THE SECRETARY
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1.4.10 Rajeev Thakur

FOR IMMEDIATE RELEASE
February 11, 2009

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

AND

IN THE MATTER OF
RAJEEV THAKUR

TORONTO – The Commission issued an Order adjourning the hearing to March 24, 2009 at 11:00 a.m. in the above named matter.

A copy of the Order dated February 10, 2009 is available at **www.osc.gov.on.ca**.

OFFICE OF THE SECRETARY
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1.4.11 Berkshire Capital Ltd et al.

FOR IMMEDIATE RELEASE
February 11, 2009

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

AND

IN THE MATTER OF
BERKSHIRE CAPITAL LIMITED,
GP BERKSHIRE CAPITAL LIMITED,
PANAMA OPPORTUNITY FUND AND
ERNEST ANDERSON

TORONTO – Following a hearing held yesterday, the Commission issued an Order which provides that the Temporary Order is continued until March 20, 2009 or further order of the Commission and the hearing is adjourned to March 19, 2009 at 10:00 a.m., or such other date as is agreed by Staff and the Respondents and determined by the Office of the Secretary.

A copy of the Order dated February 10, 2009 is available at **www.osc.gov.on.ca**.

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1.4.12 Biovail Corporation et al.

FOR IMMEDIATE RELEASE
February 11, 2009

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

AND

IN THE MATTER OF
BIOVAIL CORPORATION, EUGENE N. MELNYK,
BRIAN H. CROMBIE, JOHN R. MISZUK AND
KENNETH G. HOWLING

TORONTO – The Commission will hold a hearing on Thursday, February 12, 2009 at 10:00 a.m. in the Large Hearing Room, 17th floor at 20 Queen Street West, to consider whether to approve a settlement agreement entered into by Staff of the Commission and Brian H. Crombie.

OFFICE OF THE SECRETARY
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Chapter 2

Decisions, Orders and Rulings

2.1 Decisions

2.1.1 BlackWatch Energy Services Trust – 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).

February 4, 2009

Burnet, Duckworth & Palmer LLP
1400, 350 - 7 Avenue SW
Calgary, AB T2P 3N9

Attention: Lindsay P. Cox

Dear Madam:

Re: BlackWatch Energy Services Trust (the Applicant) - Application for a decision under the securities legislation of Alberta, Saskatchewan, Manitoba, Ontario, Nova Scotia, New Brunswick, Prince Edward Island, Newfoundland and Labrador, Yukon, Northwest Territories and Nunavut (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.

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

2.1.2 MFS Institutional Advisors, Inc. – s. 7.1(1) of NI 33-109 Registration Information

Headnote

Application pursuant to section 7.1 of NI 33-109 that the Applicant be relieved from the Form 33-109F4 requirements in respect of certain of its Nominal Officers. The exempted officers are without significant authority over any part of the Applicant's operations and have no connection with its Ontario operation. The Applicant is still required to submit a Form 33-109F4 on behalf of each of its directing minds, who are certain Executive Officers, and its Registered Individuals who are those officers involved in the Ontario business activities.

Statutes Cited

Securities Act (Ontario), R.S.O. 1990, c. S.5, as am., s. 147.

Rules Cited

National Instrument 33-109 Registration Information.

February 3, 2009

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

AND

IN THE MATTER OF
MFS INSTITUTIONAL ADVISORS, INC.

DECISION
(Subsection 7.1(1) of National Instrument 33-109)

UPON the application (the Application) of MFS Institutional Advisors, Inc. (the **Applicant**) to the Ontario Securities Commission (the **Commission**) pursuant to section 7.1 of National Instrument 33-109 *Registration Information* (**NI 33-109**) for an exemption from the requirement in subsection 2.1(c) and section 3.3 of NI 33-109 that the Applicant submit a completed Form 33-109F4 for all Permitted Individuals (as defined below) of the Applicant in connection with the Applicant's registration as a dealer in the category of limited market dealer (non-resident) (**LMD**);

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

AND UPON the Applicant having represented to the Director that:

1. The Applicant is a corporation formed under the laws of the State of Delaware in the United States of America and is a wholly-owned subsidiary of Sun Life Financial Inc., which is a publicly-traded company listed on the Toronto Stock Exchange. The head office of the Applicant is located in Boston, Massachusetts, United States of America.

2. The Applicant is registered under the *Securities Act* (Ontario) (the Act) as an LMD and intends to maintain such registration. The Applicant is currently registered as an investment adviser with the United States Securities and Exchange Commission.

3. The Applicant provides investment management services to institutional clients on a global basis.

4. Less than 1% of the aggregate consolidated gross revenues from trading activities of the Applicant in any one financial year would be expected to arise from the Applicant acting as a dealer for clients in Ontario.

5. Pursuant to NI 33-109, an LMD is required to submit, in accordance with National Instrument 31-102 – *National Registration Database* (**NI 31-102**), a completed Form 33-109F4 for each permitted individual of the Applicant, including all directors and officers who have not applied to become registered individuals of the Applicant under subsection 2.2(1) of NI 33-109. The definition of "permitted individual" in the Instrument includes, among others, a director or officer of a firm.

6. All individuals who intend to trade securities in Ontario on behalf of the Applicant and who are officers of the Applicant, are, or will seek to become, registered as trading officers (the **Registered Individuals**) in accordance with the registration requirement under section 25(1) of the Act and the requirements of NI 31-102, by submitting a Form 33-109F4 completed with all the information required for a Registered Individual.

7. Other than the Executive Officers (as defined below), the Applicant's remaining officers would not reasonably be considered to be senior officers of the Applicant from a functional point of view. These officers (the **Nominal Officers**) have the title "vice-president" or a similar title but are not in charge of a principal business unit, division or function of the Applicant and, in any event, are not, or will not be, involved or have oversight of, or direction over, the Applicant's dealer activities in Ontario. The Applicant considers its permitted individuals (the **Permitted Individuals**) who have obtained, or will be seeking, non-trading officer status (the **Executive Officers**) as the holders of its most senior executive positions and/or are the individuals that are in direct contact with its Canadian clients from a marketing or direct client relationship perspective.

8. There are currently no individuals who would be included in the definition of "permitted individual" by reason of an ownership interest in the Applicant or other criteria set out in NI 33-109.

9. The Applicant seeks relief from the requirement to submit Form 33-109F4s for the Nominal Officers. The Applicant proposes to submit Form 33-109F4s on behalf of each of its Executive Officers completed with all the information required for a Permitted Individual. The Applicant also proposes to submit a Form 33-109F4 for the individual at any point in time who is its Designated Compliance Officer under its LMD registration.

10. In the absence of the requested relief, NI 33-109 would require that in conjunction with the Applicant's LMD registration, the Applicant submit a completed Form 33-109F4 for each of its Nominal Officers, rather than limiting this filing requirement to the much smaller number of Executive Officers. In addition, the Applicant would be required to submit a completed Form 33-109F4 for any additional new Nominal Officer, if the requested exemption is not granted. The information contained in the filed Form 33-109F4s would also need to be monitored on a constant basis to ensure that notices of change were submitted in accordance with the requirements of section 5.1 of NI 33-109 and that all information was kept current.

11. Given the relatively limited scope of the Applicant's activities in Ontario and given that the Nominal Officers will not have any involvement in the Applicant's Ontario activities, the preparation and filing of Form 33-109F4s on behalf of each Nominal Officer would achieve no regulatory purpose, while imposing an unwarranted administrative and compliance burden on the Applicant.

AND WHEREAS the Director is satisfied that it would not be prejudicial to the public interest to make the requested Order on the basis of the terms and conditions proposed;

IT IS ORDERED pursuant to section 7.1 of NI 33-109 that the Applicant is exempt from the requirement in subsection 2.1(c) of NI 33-109 and section 3.3 of NI 33-109 to submit a completed Form 33-109F4 for each of its Permitted Individuals who are Nominal Officers not involved in its Ontario business, provided that at no time will the Nominal Officers include any Executive Officer or Designated Compliance Officer, or other officer who will be involved in, or have oversight of, the Applicant's activities in Ontario in any capacity.

"Susan Silma"
Director, Compliance and Registrant Regulation

2.1.3 Growthworks Canadian Fund Ltd. et al.

Headnote

NP 11-203 Process for Exemptive Relief Applications in Multiple Jurisdictions – Labour-sponsored investment fund with same venture but different non-venture investment strategies among different series of Class A shares – two proposed mergers of series of Class A shares referable to different sets of portfolio assets – each set of two series a mutual fund under section 1.3 NI 81-102. Approval of mutual fund mergers under sections 5.5(1)(b) and 5.5(3) required because mergers do not meet the criteria for pre-approved reorganizations and transfers in section 5.6(1) of NI 81-102 – different investment objectives, not a qualifying exchange, prospectus and financial statements incorporated into circular by reference.

Applicable Legislative Provisions

National Instrument 81-102 Mutual Funds, ss. 5.5(1)(b), 5.5(3), 5.6(1).

February 4, 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
GROWTHWORKS CANADIAN FUND LTD.
(the "Filer")

AND

IN THE MATTER OF THE FILERS
VENTURE/BALANCED CLASS A SHARES
("Balanced Shares"),
VENTURE/DIVERSIFIED CLASS A SHARES
("Diversified Shares"),
VENTURE/RESOURCE CLASS A SHARES
("Resource Shares") AND
VENTURE/GROWTH CLASS A SHARES
("Growth Shares")

DECISION

Background

The principal regulator in the jurisdiction has received an application from the Filer for a decision under the securities legislation of the Jurisdiction of the principal regulator (the "**Legislation**") for approval under paragraph 5.5(1)(b) of National Instrument 81-102 *Mutual Funds* ("**NI 81-102**") to merge its assets referable to its Balanced Shares with its assets referable to its Diversified Shares and to merge its assets referable to its Resource Shares with its assets referable to its Growth Shares by conversion of each series of the Balanced Shares and Resources Shares into the corresponding series of the Diversified Shares and Growth Shares, respectively (collectively, the "**Conversions**") (the "**Approval**").

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

(a) Ontario 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 Alberta, Saskatchewan, Manitoba, Quebec, Nova Scotia, New

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

Interpretation

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

Representations

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

The Manager

1. GrowthWorks WV Management Ltd. (the "**Manager**") is the manager of the Filer under a management contract. The Manager's head office is in Toronto, Ontario.

The Filer

2. The Filer is a corporation incorporated under the *Canada Business Corporations Act*.

3. The Filer is a registered labour-sponsored investment fund corporation under the *Community Small Business Investment Funds Act* (Ontario), a registered labour-sponsored venture capital corporation under the *Income Tax Act* (Canada) (the "**Tax Act**") and *The Labour-Sponsored Venture Capital Corporations Act* (Manitoba) and an approved fund under the *Labour-sponsored Venture Capital Corporations Act* (Saskatchewan). The Filer's investing activities are governed by this legislation (the "**LSIF Legislation**").

4. The labour sponsor of the Filer is the Canadian Federation of Labour.

5. The authorized capital of the Filer is as follows:

   (a) an unlimited number of Class A shares issuable in series, of which there are currently 20 series created and 10 series offered under the Filer's current multi-fund long form renewal prospectus dated November 3, 2008, as amended (the "**Renewal Prospectus**");

   (b) 1,000 Class B shares which are held by the sponsor of the Filer; and

   (c) an unlimited number of Class C shares issuable in series, of which there is one issued series designated as "IPA shares" held by the Manager to provide for a "participating" or "carried" interest in the venture investments of the Filer.

6. The Filer's shares are not listed on an exchange.

7. The Filer is a mutual fund as defined in the Securities Act (Ontario).

8. The Filer's investment objective is to achieve long-term capital appreciation by investing in a mix of venture investments and non-venture investments.

9. All 20 series of Class A shares of the Filer participate in the same pool of venture investments pursuant to the same venture investment strategies. However, the Filer offers shareholders a different investment focus for non-venture investments.

10. 14 of the Filer's 20 series of Class A shares are or have been offered as "menu" series (the "**Menu Series**") in sets of two series as illustrated in the chart below. The two series in each set of Menu Series have different commission structures referred to as "Commission I" and "Commission II", each corresponding to one of two dealer compensation options.

11. As indicated by their names, the seven sets of two Menu Series are invested pursuant to different non-venture investment strategies with each set of two Menu Series therefore referable to a different portfolio of non-venture investments. Holders of Menu Series shares may generally switch from one Menu Series to another having the same commission structure.

12. 10 of the 14 Menu Series are offered under the Renewal Prospectus. The Balanced Shares and Resource Shares comprise the remaining four Menu Series. In connection with the Conversions, the Filer announced on September 26, 2008 that it will no longer offer Balanced Shares and Resource Shares and that the other Menu Series may no longer switch into Balanced Shares or Resource Shares. Consequently, Balanced Shares and Resource Shares are not offered under the Renewal Prospectus.

Menu Series proposed for conversion into series opposite its name	**Commission Option**	**Menu Series Renewal Prospectus**	**Commission Option**
Balanced Shares	Commission I	Diversified Shares	Commission I
	Commission II		Commission II
Resource Shares	Commission I	Growth Shares	Commission I
	Commission II		Commission II
		Venture/Income Class A shares of Filer	Commission I
			Commission II
		Venture/Financial Services Class A shares of Filer	Commission I
			Commission II
		Venture/GIC Class A shares of Filer	Commission I
			Commission II

13. The Filer began offering its Menu Series in 2003. The remaining six of the Filer's 20 series of Class A shares include one series offered prior to the introduction of the Menu Series in 2003 and five series created and issued in connection with past merger transactions.

14. Each group of series of Class A shares of the Filer that is referable to a separate portfolio of assets is a separate mutual fund under section 1.3 of NI 81-102 and is treated as a separate investment fund for the purpose of reporting financial results under National Instrument 81-106 *Investment Fund Continuous Disclosure* ("**NI 81-106**"). Consequently, at present, the Filer is required to prepare and file seven sets of financial statements and management reports of fund performance corresponding to the seven sets of two Menu Series referred to above.

15. The net asset value ("**NAV**") of the Filer and the prices for each series of Class A shares of the Filer are calculated at least weekly, on the last business day of each week. The valuation policies and procedures for all series of Class A shares of the Filer are the same.

16. As at January 23, 2009, the Filer had approximately $382 million in net assets and the net assets of the Class A shares of the Filer proposed to be merged were as follows:

Balanced Shares	Commission I	$4,140,730	Diversified Shares	Commission I	$7,945,911
	Commission II	$3,810,186		Commission II	$14,117,785
Resource Shares	Commission I	$1,990,167	Growth Shares	Commission I	$7,696,162
	Commission II	$1,437,764		Commission II	$3,161,574

17. The management fees for the corresponding series of the Balanced Shares and Diversified Shares and for the corresponding series of the Resource Shares and Growth Shares, respectively, are the same.

18. The Filer is not in default of securities legislation in any jurisdiction.

The Conversions

19. Shareholders of the Filer approved the Conversions at the Filer's annual and special meeting of shareholders held on December 3, 2008 ("**AGM**") by way of a vote of all shareholders present or represented at the meeting and by way of separate series votes of holders of the Balanced Shares, Resource Shares, Diversified Shares and Growth Shares, in each case by way of a special resolution. In connection with the AGM, shareholders received an information circular dated October 22, 2008 (the "**Circular**") that contained details of the Conversions, including income tax considerations associated with the Conversions, and incorporated by reference the Filer's then current renewal prospectus dated November 7, 2007, as amended. This prospectus qualified the sale of the Balanced Shares, Resource Shares, Diversified Shares and Growth Shares as part of the Filer's continuous offering of Class A shares. The Filer subsequently filed its Renewal Prospectus referred to above.

20. At present, the Balanced Shares' non-venture investment strategies are to invest in high quality debt, high yield investments and investments linked to the performance of bank securities. The Diversified Shares' non-venture investment strategies are to invest in high quality debt, high yield investments, investments linked to publicly traded equities and equity and debt securities of banks and other issuers in the financial services sector and issuers in the resource sectors. The Circular explained that the Balanced Shares and Diversified Shares have overlapping non-venture investment mandates as each mandate includes high quality debt, high yield investments and bank investments. The rights and restrictions attached to the Diversified Shares are the same as those attached to the Balanced Shares.

21. At present, the Resource Shares' non-venture investment strategies are to invest in securities linked to issuers whose business activities are in the resource sector or sub-sectors such as oil & gas, precious metals, base metals, forestry and drilling services. The Growth Shares' non-venture investment strategies are to invest in securities linked to a portfolio or index of publicly traded shares and equity securities such as broad market indexes. As of October 22, 2008 (being the date of the Circular), this is achieved through investments linked to the S&P/TSX 60 Capped Index which as at September 30, 2008 had approximately 46% weighting to resource issuers. The Circular explained that the Resource Shares and Growth Shares have overlapping non-venture investment mandates as each mandate includes investments linked to issuers participating in resource sectors. The rights and restrictions attached to the Resource Shares are the same as those attached to the Growth Shares.

22. The Conversions are intended to streamline the Filer's share offering by eliminating series that have overlapping non-venture investment strategies. The Filer believes that this streamlining will result in a more straightforward share offering without dramatically altering the range of non-venture investment strategies that investors may select from. The Conversions are also intended to create efficiencies with respect to the manner in which the Filer's financial results are tracked, compiled and reported.

23. The Conversions are expected to occur before February 28, 2009 and will be based on the NAV per share of the Balanced Shares and Resource Shares relative to the NAV per share of the Diversified Shares and Growth Shares, respectively. Accordingly, and as stated in the Circular, for a holder of Balanced Shares or Resource Shares, the Conversions will result in a change in the number of the shares held but will not change the value of the shareholder's investment on conversion.

24. The Conversions will be effected by amendment to the Filer's Articles adding a conversion feature to each series of Balanced Shares and Resource Shares that permits the Filer to convert the Balanced Shares and Resource Shares into the corresponding series of the Diversified Shares and Growth Shares, respectively.

25. The Filer has complied with Part 11 of NI 81-106 in connection with the Conversions.

26. While the Conversions will not represent "qualifying exchanges" under section 132.2 of the Tax Act, they will qualify as tax-deferred transactions under other provisions of the Tax Act such that holders of Balanced Shares and Resource Shares will not be liable for income tax as a result of the Conversions. A holder's adjusted cost base of Diversified Shares received on conversion of their Balanced Shares will be deemed to be equal to the average of the adjusted cost base of the converted Balanced Shares and the adjusted cost base of any other Diversified Shares held by the holder at the time of the conversion. The same principle would apply to conversions of Resource Shares into Growth Shares.

27. Holders of Balanced Shares, Resource Shares, Diversified Shares and Growth Shares were entitled to exercise dissent rights pursuant to and in the manner set forth in Section 190 of the *Canada Business Corporations Act* with respect to the resolutions approving the Conversions. The Circular disclosed that shareholders who exercise dissent rights with respect to their shares will be subject to the requirement to repay federal and provincial tax credits. The Filer did not receive any dissent notices in connection with the Conversions.

28. Shareholders will continue to have the right to redeem their Balanced Shares and Resource Shares until a date designated by the Filer which is expected to be shortly before the effective date of the Conversions. Any such redemptions may be subject to tax withholdings under applicable LSIF Legislation. There will be no interruption in redemptions of Diversified Shares and Growth Shares.

29. Balanced Shares and Resource Shares may continue to switch into other Menu Series until a date designated by the Filer which is expected to be shortly before the effective date of the Conversions. The Circular disclosed that the Conversions will not be considered a disposition for income tax purposes.

30. The Circular referenced the recommendation of the Board of Directors of the Filer that shareholders vote in favour of the resolutions approving the Conversions.

31. Pursuant to National Instrument 81-107 *Independent Review Committee for Investment Funds*, the Independent Review Committee of the Filer reviewed the Conversions and recommended that the Filer proceed with the Conversions subject to shareholder and regulatory approval.

32. The costs of implementing the Conversions will be borne by the Manager of the Filer.

Approval for the Conversions

33. Approval for the Conversions is required because they do not satisfy all of the criteria for pre-approved reorganizations and transfers set out in section 5.6(1) of NI 81-102 for the following reasons:

    (a) A reasonable person might not consider the investment objectives of the Diversified Shares and the Growth Shares to be substantially similar to the investment objectives of the Balanced Shares and the Resource Shares, respectively, as required by section 5.6(1)(a)(ii) of NI 81-102;

    (b) The Conversions will not represent "qualifying exchanges" within the meaning of section 132.2 of the Tax Act or be tax-deferred transactions under sections 85(1), 85.1(1), 86(1) or 87(1) of the Tax Act, as required by Section 5.6(1)(b) of NI 81-102;

    (c) The materials sent to shareholders did not include copies of the Filer's November 7, 2007 renewal prospectus, as amended, or copies of the annual and interim financial statements of the Filer, as required by Section 5.6(1)(f)(ii) of NI 81-102. However, the Circular sent to shareholders instead did:

        (i) Contain details of the Conversions, including income tax considerations associated with the Conversions;

        (ii) As permitted by NI 81-106 and National Instrument 51-102 *Continuous Disclosure Obligations*, incorporate by reference the Filer's then current renewal prospectus, which in turn incorporated by reference the most recently filed annual and interim financial statements of the Filer; and

        (iii) Disclose that shareholders can obtain a copy of the Filer's then current renewal prospectus and financial statements at no cost by accessing the SEDAR website at www.sedar.com, by accessing the Filer's website at www.growthworks.ca or by calling a toll-free telephone number (in which case the Manager would cause the requested material to be promptly mailed to the requesting shareholder).

Decision

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

The decision of the principal regulator under the Legislation is that the Approval is granted.

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

2.1.4 CGF MFC Management Ltd.

Headnote

National Policy 11-203 Process For Exemptive Relief Applications in Multiple Jurisdictions – mutual funds granted relief from preparing annual management report of fund performance as only in existence for twelve days prior to first fiscal year end.

Applicable Legislative Provisions

National Instrument 81-106 Investment Fund Continuous Disclosure, s. 4.2.

Citation: CGF MFC Management Ltd., Re, 2009 ABASC 30

February 4, 2009

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

AND

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

AND

IN THE MATTER OF
CGF MFC MANAGEMENT LTD.
(CGF MFC OR THE MANAGER)

AND

CGF INCOME & EQUITY CLASS, CGF MONEY MARKET CLASS, CGF FIXED INCOME CLASS, CGF CANADIAN HEAVYWEIGHT EQUITY CLASS, CGF US HEAVYWEIGHT EQUITY CLASS, CGF GLOBAL HEAVYWEIGHT EQUITY CLASS, CGF INTERNATIONAL HEAVYWEIGHT EQUITY CLASS, CGF CANADIAN RESOURCE CLASS, CGF VALUE FUND CLASS AND CGF INCOME FUND CLASS
(the Funds)
(the Manager and the Funds, collectively, the Filer)

DECISION

Background

The securities regulatory authority or regulator in each of the Jurisdictions (the **Decision Maker**) has received an application from the Filer for a decision under the securities legislation of the Jurisdictions (the **Legislation**) for an exemption, pursuant to section 17.1 of National Instrument 81-106 *Investment Fund Continuous Disclosure* (**NI 81-106**), from the requirement in section 4.2 of NI 81-106 to file a management report of fund performance (**MRFP**) for each Fund for the period ended December 31, 2008 (the **Exemption Sought**).

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

(a) the Alberta Securities Commission (the **Commission**) is the principal regulator for this application;

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

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

Interpretation

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

Representations

This decision is based on the following facts represented by the Manager on behalf of the Funds:

1. CGF MFC is a corporation operating under the laws of the Province of Alberta, with its head office in Calgary, Alberta.

2. CGF MFC is the administrator for the Funds, all of which are sold in every province and territory of Canada through independent financial advisors. CGF MFC will prepare and file annual and interim MRFPs for all Funds as required by NI 8I-106, except to the extent modified by this decision.

3. Neither CGF MFC nor the Funds are in default of securities legislation in the Jurisdictions or the Non-Principal Passport Jurisdictions.

4. The Funds became reporting issuers on December 19, 2008, the date on which a receipt for the final simplified prospectus in respect of each of the Funds was issued by the Commission, as principal regulator, on its own behalf and evidencing the receipt of the securities regulatory authority or regulator in Ontario and each of the Non-Principal Passport Jurisdictions.

5. The fiscal year end of each Fund is December 31. Pursuant to section 4.2 of NI 81-106, the Funds

must prepare an annual MRFP for the period ended December 31, 2008.

6. The Funds have not been or will not be offered for sale to the public until January 1, 2009, March 1, 2009 or July 1, 2009, depending on the Fund. No securities, other than for seed capital purposes, were issued between the date of formation of the Funds and December 31, 2008. Accordingly, there are no measures of performance to report on in the management discussion portion of the MRFP for the reporting period.

7. The limited activities of the Funds for the period from December 19, 2008 to December 31, 2008 do not provide any meaningful information in the financial highlights for the purposes of the preparation of a MRFP.

8. Form 81-106F1 requires that a MRFP contain a discussion of how changes to the investment fund over the financial year affected the overall level of risk associated with an investment in the investment fund, a summary of the results of operations of the investment fund for the financial year to which the management discussion of fund performance pertains, a discussion of the recent developments affecting the investment fund, a discussion of any transactions involving related parties to the investment fund, disclosure of selected financial highlights for the investment fund and a summary of the investment fund's portfolio as at the end of the financial year of the investment fund to which the MRFP pertains. Given that the Funds were, or are to be, as the case may be, only offered for sale to the public following their fiscal year ends and therefore the Funds had not commenced building their respective portfolios as at December 31, 2008, and the fact that the Funds filed their final simplified prospectus only 13 days prior to their fiscal year end, no disclosure on these items can be meaningfully provided in the MRFP.

9. The expense to the Funds of preparing and filing MRFPs would not be justified in view of the benefit to be derived from receiving the MRFPs.

10. The Filer will prepare and file annual audited financial statements for the Funds as at December 31, 2008 as required by NI 81-I06.

Decision

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

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

"Agnes Lau, CA"
Associate Director, Corporate Finance

2.1.5 Goldenfrank Resources Inc.

Headnote

National Policy 11-203 Process for Exemptive Relief Applications in Multiple Jurisdictions – Application for an order than the issuer is not a reporting issuer under applicable securities laws – Requested relief granted.

Applicable Legislative Provisions

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

(Translation)

February 9, 2009

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

AND

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

AND

IN THE MATTER OF
GOLDENFRANK RESOURCES INC.
(THE "FILER")

DECISION

Background

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

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

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

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

Interpretation

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

Representations

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

1. The Filer was incorporated under the *Canada Business Corporations Act* on May 11, 2007 under the name Ressources Goldenfrank Inc./ Goldenfrank Resources Inc. The Articles of Incorporation of the Filer were amended on March 13, 2008 to remove the "private issuer" restrictions.

2. The head office of the Filer is located at 300 St-Sacrement Street, Suite 521, Montreal, Quebec.

3. In connection with its initial public offering (the "Offering"), the Filer filed, on August 13, 2008 a final prospectus dated August 12, 2008 (the "Prospectus") with the securities regulatory authorities of the Jurisdictions and British Columbia.

4. Upon issuance of a receipt for the Prospectus on August 13, 2008, the Filer became a reporting issuer in the Jurisdictions and in British Columbia.

5. On November 3, 2008, the Filer filed an amendment to the Prospectus (the "Amended Prospectus") for which a receipt was issued on November 10, 2008 in the Jurisdictions and in British Columbia.

6. The Filer has discontinued the Offering, it has not distributed and has no intention to distribute its securities by prospectus.

7. The Filer has authorized to issue an unlimited number of common shares without par value, of which 14,552,664 are currently outstanding.

8. To the knowledge of the Filer, no trading of its securities has occurred since it filed the Prospectus.

9. The Filer currently has the same security holders as it had prior to filing the Prospectus and the Amended Prospectus.

10. The outstanding securities of the Filer are beneficially owned, directly or indirectly, by less than 15 security holders in each of the jurisdiction in Canada, except in Quebec, where the Filer has 24 security holders.

11. The outstanding securities of the Filer are beneficially owned, directly or indirectly, by less than 41 security holders in Canada.

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

13. The Filer is applying for a decision from the Decision Makers that it is not a reporting issuer in the Jurisdictions.

14. The Filer is not in default of any of its obligations under the Legislation as a reporting issuer.

15. On December 16, 2008, the Filer issued and filed a news release announcing that it decided to cancel and postpone the Offering as it will not result in the anticipated issuance of the Filer's securities and that an application was filed with the Jurisdictions to cease to be a reporting issuer.

16. On December 17, 2008, the Filer filed a notice in British Columbia pursuant to the provisions of BC Instrument 11-502, Voluntary Surrender of Reporting Issuer Status to cease to be a reporting issuer. The Filer ceased to be a reporting issuer in British Columbia on December 27, 2008.

Decision

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

The decision of the Decision Makers under the Legislation is that the decision is granted.

"Alexandra Lee"
Manager Continuous Disclosure
Autorité des marchés financiers

2.1.6 Newalta Income Fund – s. 1(10)

Headnote

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

Applicable Legislative Provisions

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

Citation: Newalta Income Fund, Re, 2009 ABASC 54

February 10, 2009

Bennett Jones LLP
4500 Bankers Hall East
855 - 2 Street SW
Calgary, AB T2P 4K7

Attention: John Piasta

Dear Sir:

Re: Newalta Income Fund (the Applicant) - Application for a decision under the securities legislation of Alberta, Manitoba, Ontario and Québec (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

2.1.7 Calpine Canada Energy Finance ULC

Headnote

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

Applicable Legislative Provisions

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

Citation: Calpine Canada Energy Finance ULC, Re, 2009 ABASC 35

February 9, 2009

IN THE MATTER OF
THE SECURITIES LEGISLATION OF
ALBERTA, SASKATCHEWAN, MANITOBA,
NEW BRUNSWICK, NOVA SCOTIA,
NEWFOUNDLAND AND LABRADOR,
ONTARIO, AND PRINCE EDWARD ISLAND
(the Jurisdictions)

AND

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

AND

IN THE MATTER OF
CALPINE CANADA ENERGY FINANCE ULC
(the Filer)

DECISION

Background

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

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

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

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

Interpretation

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

Representations

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

1. The Filer is an unlimited liability company governed by the laws of the Province of Nova Scotia, with its head office in Alberta. The Alberta Securities Commission was selected as principal regulator because the Filer's head office is located in Alberta.

2. The Filer is a wholly-owned indirect subsidiary of Calpine Corporation (**Calpine**).

3. The Filer's publicly held Senior Notes were paid in full in early February 2008, and the Filer does not have any securities listed on any stock exchange. The outstanding securities of the Filer are held by a subsidiary of Calpine.

4. The Filer is not in default if its obligations as a reporting issuer under the Legislation in the Jurisdictions except in respect of audit committee requirements under National Instrument 52-110 *Audit Committees* (**NI 52-110**) commencing in 2005 and requirements to prepare disclosure related to corporate governance under National Instrument 58-101 *Disclosure of Corporate Governance Practices* (**NI 58-101**) commencing in 2005. The defaults arose in 2005 as a result of the Filer no longer being able to rely on the exemptions in section 1.2(e)(i) and (ii) of NI 52-110 and 1.3(d)(i) and (ii) of NI 58-101 which were previously available to the Filer as a subsidiary of Calpine. The exemptions ceased to be available to the Filer because Calpine ceased to have its securities listed or quoted on a U.S. marketplace.

5. The Filer filed a notice in British Columbia under BC Instrument 11-502 *Voluntary Surrender of Reporting Issuer Status* stating that it will cease to be a reporting issuer in British Columbia. On July 2, 2008, the British Columbia Securities Commission sent a notice that it had received and accepted such notice and confirmed that non-reporting status was effective on June 22, 2008.

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

7. Upon the granting of the requested relief herein, the Filer will not be a reporting issuer or its equivalent in any of the jurisdictions in Canada.

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

Decision

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

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

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

2.1.8 Eastern Platinum Ltd.

Headnote

National Policy 11-203 Process for Exemptive Relief Applications in Multiple Jurisdictions – A reporting issuer wants relief from the requirement to prepare its financial statements in accordance with Canadian GAAP in order to use International Financial Reporting Standards (IFRS) for financial periods beginning on or after January 1, 2009. The issuer has assessed the readiness of its staff, board, audit committee, auditors and investors. The issuer will provide detailed disclosure regarding its early adoption of IFRS as set out in CSA Staff Notice 52-320 in a news release to be disseminated within seven days of the decision. The issuer will restate any financial statements prepared in accordance with Canadian GAAP for interim periods for the fiscal year in which they intend to adopt IFRS.

Applicable Legislative Provisions

National Instrument 52-107 Acceptable Accounting Principles, Auditing Standards and Reporting Currency, ss. 3.1 and 9.1.

February 9, 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
EASTERN PLATINUM LIMITED
(THE FILER)

DECISION

Background

¶ 1 The securities regulatory authority or regulator in each of the Jurisdictions (Decision Maker) has received an application from the Filer for a decision under the securities legislation of the Jurisdictions (the Legislation) exempting the Filer from the requirement in section 3.1 of National Instrument 52-107 *Acceptable Accounting Principles, Auditing Standards and Reporting Currency* (NI 52-107) that financial statements be prepared in accordance with Canadian GAAP (the Exemption Sought), in order that the Filer may prepare its financial statements for financial periods beginning on or after January 1, 2009 in accordance with International Financial Reporting

Standards (IFRS) as issued by the International Accounting Standards Board (IFRS-IASB).

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 sections 4.7(1) of Multilateral Instrument 11-102 *Passport System* (MI 11-102) is intended to be relied upon in Alberta, Manitoba, (the Passport Jurisdictions), and

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

Interpretation

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

1. the Filer is a corporation amalgamated under the *Business Corporations Act* (British Columbia) pursuant to articles of amalgamation dated April 25, 2005; the head office of the Filer is located at 1075 West Georgia Street, Suite 250, Vancouver, British Columbia V6E 3C9;

2. the Filer is a reporting issuer or equivalent in the Jurisdictions and each of the Passport Jurisdictions; the Filer is not in default of its reporting issuer obligations under the Legislation or the securities legislation of the Passport Jurisdictions; the Filer's securities are listed on the Toronto Stock Exchange, the London Stock Exchange's Alternative Investment Market, and the Johannesburg Stock Exchange;

3. the Filer is a platinum group metals producer engaged in the mining, exploration and development of properties located in various provinces in South Africa;

4. the Filer currently prepares its financial statements in accordance with Canadian GAAP;

5. the Filer has not previously prepared financial statements that contain an explicit and unreserved statement of compliance with IFRS;

6. the Filer's material subsidiaries, Barplats Investments Limited, Spitzkop Platinum (Pty) Ltd. and Lion's Head Platinum (Pty) Ltd., report their financial statements in accordance with IFRS-IASB;

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

8. NI 52-107 sets out acceptable accounting principles for financial reporting under the Legislation by domestic issuers, foreign issuers, registrants and other market participants; under NI 52-107, a domestic issuer must use Canadian GAAP; under NI 52-107, only foreign issuers may use IFRS-IASB;

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

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

11. the Filer believes that the adoption of IFRS-IASB will eliminate complexity and cost from the Filer's financial statement preparation process;

12. the Filer is implementing a comprehensive IFRS-IASB conversion plan;

13. the Filer has carefully assessed the readiness of its staff, board of directors,

audit committee, auditors, investors and other market participants for the adoption of the Filer of IFRS-IASB for financial periods beginning on and after January 1, 2009 and has concluded that they will be adequately prepared for the Filer's adoption of IFRS-IASB for periods beginning on January 1, 2009;

14. the Filer has considered the implication of adopting IFRS-IASB for financial periods beginning on or after January 1, 2009 on its obligations under securities legislation including, but not limited to, those relating to CEO and CFO certifications, business acquisition reports, offering documents, and previously released material forward looking information;

15. the Filer will disseminate a news release not more than seven days after the date of this decision disclosing relevant information about its conversion to IFRS-IASB as contemplated by CSA Staff Notice 52-320 *Disclosure of Expected Changes in Accounting Policies Relating to Changeover to International Financial Reporting Standards*, including:

    (a) the key elements and timing of the Filer's changeover plan;

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

    (c) the exemptions available under IFRS 1 *First-time Adoption of International Financial Reporting Standards* (IFRS 1) that the Filer expects to apply in preparing financial statements in accordance with IFRS-IASB;

    (d) major identified differences between the Filer's current accounting policies and those the Filer is required or expects to apply in preparing financial statements in accordance with IFRS-IASB;

    (e) the impact of adopting IFRS-IASB on the key line items in the Filer's interim financial statements for the period ending September 30, 2008;

16. the Filer will update the information set out in the news release in its annual management's discussion and analysis including, to the extent known, quantitative information regarding the impact of adopting IFRS-IASB on key line items in the Filer's annual financial statements for the year ending December 31, 2008.

Decision

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

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

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

(b) the Filer prepares its interim financial statements for interim periods beginning on or after January 1, 2009 in accordance with IFRS-IASB, except that if the Filer files interim financial statements prepared in accordance with Canadian GAAP for one or more interim periods for the financial year in which it adopts IFRS-IASB, the Filer will restate and re-file those interim financial statements in accordance with IFRS-IASB upon the Filer's adoption of IFRS-IASB; and

(c) the Filer provides the communication set out in paragraphs 15 and 16.

"Brent W. Aitken"
Vice Chair
British Columbia Securities Commission

2.1.9 Global Prosperata Funds Inc.

Headnote

Passport System for Exemptive Relief Applications – exemption from s, 2.1(e) of National Instrument 81-101 Mutual Funds to allow additional time to file final prospectus.

Applicable Legislative Provisions

National Instrument 81-101 Mutual Fund Prospectus Disclosure, subsection 2.1(e).

VIA SEDAR

February 9, 2009

Global Prosperata Funds Inc.

Attention: Mr. Glenn Moore

Dear Sirs/Mesdames:

Re: Global Iman Fund (the Fund)
Exemptive Relief Application under Part 6 of National Instrument 81-101 Mutual Fund Prospectus Disclosure (NI 81-101)
Application No. 2009/0060; SEDAR Project No. 1320633

By letter dated February 9, 2009 (the Application), the Fund applied to the Director of the Ontario Securities Commission (the Director) under section 6.1 of NI 81-101 for relief from the operation of section 2.1(e) of NI 81-101, which prohibits an issuer from filing a prospectus more than 90 days after the date of the receipt for the preliminary prospectus.

This letter confirms that, based on the information and representations made in the Application, and for the purposes described in the Application, the Director intends to grant the requested exemption to be evidenced by the issuance of a receipt for the Partnership's prospectus, subject to the condition that the prospectus be filed no later than February 24, 2009.

Yours very truly,

"Darren McKall "
Assistant-Manager, Investment Funds Branch

2.1.10 JumpTV Inc.

Headnote

MI 11-101 – relief granted from requirements in National Instrument 52-107 and National Instrument 51-102 to prepare financial statements and management discussion and analysis in accordance with Canadian GAAP and have such financial statements audited in accordance with Canadian GAAS and instead to prepare and have such financial statements prepared in accordance with U.S. GAAP and U.S. GAAS.

Applicable Legislative Provisions

National Instrument 52-107 Acceptable Accounting Principles, Auditing Standards and Reporting Currency , ss. 3.1, 3.2.
National Instrument 51-102 Continuous Disclosure Obligations.

February 11, 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
JUMPTV INC. (THE FILER)

DECISION

Background

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

(i) for an exemption from the requirements in sections 3.1 and 3.2 of National Instrument 52-107 *Acceptable Accounting Principles, Auditing Standards and Reporting Currency* (NI 52-107) requiring the Filer's annual financial statements for the periods ending December 31, 2006, December 31, 2007 (the Historical Annual Financial Statements) and the annual financial statements for the period ending December 31, 2008 (the Current Annual Financial Statements) be prepared and audited in accordance with Canadian GAAP and Canadian GAAS;

(ii) for an exemption from the requirements in section 3.1 of NI 52-107 that the interim financial statements for the period ending March 31, 2009 (the Interim Financial Statements, and together with the Historical Annual Financial Statements and the Current Annual Financial Statements, the Financial Statements) be prepared in accordance with Canadian GAAP; and

(iii) to be permitted to file management discussion and analysis (MD&A) relating to the Financial Statements prepared as if it were an SEC issuer, as defined in National Instrument 51-102 *Continuous Disclosure Obligations* (NI 51-102)

(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 British Columbia, Alberta, Saskatchewan, Manitoba, Quebec, Nova Scotia, New Brunswick, and Prince Edward Island, Newfoundland and Labrador (the Non-Principal Jurisdictions).

Interpretation

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

"U.S." means the United States of America.

"U.S. GAAP" means generally accepted accounting principles in the U.S. that the SEC has identified as having substantial authoritative support, as supplemented by Regulation S-X and Regulation S-B of the 1934 Act.

"U.S. GAAS" means generally accepted auditing standard in the U.S., as supplemented by the SEC's rules on auditor independence.

Representations

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

1. The Filer was incorporated on January 14, 2000 under the *Canada Business Corporations Act*.

2. The Filer's registered office and head office in Canada is located at 463 King Street West, 3rd Floor, Toronto, Ontario.

3. The Filer is a reporting issuer in good standing in the Jurisdiction and each of the Non-Principal Jurisdictions and is not in default of any requirements of the securities legislation in the Jurisdiction or in each of the Non-Principal Jurisdictions.

4. The authorized capital of the Filer consists of an unlimited number of common shares (Common Shares), an unlimited number of Class 1 preference shares (Class 1 Shares), issuable in series and an unlimited number of Class 2 preference shares (Class 2 Shares), issuable in series.

5. On October 20, 2008 (the Closing Date), the Filer completed a business combination with NeuLion, Inc. (NeuLion), pursuant to which NeuLion became a wholly-owned subsidiary of the Filer (the RTO).

6. As of November 30, 2008, 113,758,823 Common Shares were issued and outstanding, each of which carries the right to one vote on each matter that may come before a meeting of the Filer's shareholders (the Shareholders). Additionally, 33,406,354 outstanding stock options, warrants, retention warrants, merger warrants, Series A and B warrants, and stock appreciation rights are outstanding, each of which is exchangeable for one Common Share upon exercise. The holders of Class 1 Shares and holders of Class 2 Shares are not entitled to receive notice of, to attend or to vote at any meeting of the Shareholders. As of November 30, 2008, there are no Class 1 Shares or Class 2 Shares issued and outstanding. The Common Shares are listed and posted for trading on the Toronto Stock Exchange.

7. Of the 113,758,823 Common Shares outstanding 59% are, to the knowledge of the Filer, directly or beneficially held by U.S. residents.

8. The Filer is engaged in the business of broadcasting of live international and sports video over the Internet with the majority of its business partners being located outside of Canada.

9. Other than one executive officer, all of the executive officers and 75% of the directors of the Filer are resident outside of Canada.

10. The majority of the capital assets of the Filer are located outside of Canada.

11. The business of the Filer is administered principally outside of Canada.

12. The Shareholders voted on and approved the merger between the Filer and NeuLion (the Merger) as outlined in the in the management information circular dated September 4, 2008 (the Information Circular), at a special meeting of the Filer dated October 17, 2008 called for the purposes of, *inter alia*, voting on the Merger. Under the terms of the Merger, the Filer agreed to, *inter alia*, issue to NeuLion, approximately 50% of the Filer's then issued and outstanding Common Shares in exchange for all of the NeuLion's issued and outstanding equity securities.

13. As disclosed to the Shareholders in the Information Circular:

    (i) the Filer determined that NeuLion is the acquirer and will consider the Merger as an RTO effective as of the closing of the Merger; and

    (ii) in connection with the RTO, the Filer will no longer qualify as a "foreign private issuer" within the meaning of United States securities laws as a result of the RTO and will be required, pursuant to Section 12(g) of the 1934 Act, as amended, to file a Registration Statement on Form 10 (the Registration Statement) with respect to its Common Shares within 120 days following its fiscal year end.

14. In addition, U.S. federal securities laws require that any financing conducted by the Filer after the Closing Date be conducted in the manner required for a United States domestic issuer.

15. Under Canadian GAAP, the RTO is accounted for as a "reverse take-over". As a result of the application of this requirement, NeuLion's historical financial statements become the comparative financial statements for the Filer. NeuLion's historical financial statements are stated in conformity with U.S. GAAP and have no quantitative differences with Canadian GAAP.

16. The financial information for all comparative periods in the Filer's Financial Statements will be replaced with NeuLion financial information as a result of the RTO, which financial information has not been previously reported in Canadian GAAP.

17. Upon filing the Registration Statement, the Filer will become an "SEC issuer" within the meaning of NI 52-107 and will be eligible to rely on the exemptions in sections 4.1 and 4.2 of NI 52-107 and file financial statements prepared in accordance with U.S. GAAP and where applicable, audited in accordance with U.S. GAAS.

18. The Filer's Financial Statements are stated in United States dollars.

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) the Filer files Financial Statements that are prepared in accordance with U.S. GAAP;

(b) the notes to the first two sets of the Filer's annual financial statements after the change from Canadian GAAP to U.S. GAAP (the Future Annual Financial Statements) and the notes to the Filer's interim financial statements for interim periods during those two years (the Future Interim Financial Statements, and together with the Future Annual Financial Statements, the Future Financial Statements):

    (i) explain the material differences between Canadian GAAP (as applicable to public enterprises) and U.S. GAAP that relate to recognition, measurement and presentation;

    (ii) quantify the effect of material differences between Canadian GAAP (as applicable to public enterprises) and U.S. GAAP that relate to recognition, measurement and presentation, including a tabular reconciliation between net income reported in the Future Financial Statements and net income computed in accordance with Canadian GAAP (as applicable to public enterprises); and

    (iii) provide disclosure consistent with disclosure requirements of Canadian GAAP (as applicable to public enterprises) to the extent not already reflected in the Future Financial Statements;

(c) the financial information for any comparative periods in the Financial Statements that were previously reported in accordance with Canadian GAAP be presented as follows:

    (i) as restated and presented in accordance with U.S. GAAP; and

(ii) supported by an accompanying note that:

A. explains the material differences between Canadian GAAP (as applicable to public enterprises) and U.S. GAAP that relate to recognition, measurement and presentation; and

B. quantifies the effect of material differences between Canadian GAAP (as applicable to public enterprises) and U.S. GAAP that relate to recognition, measurement and presentation, including a tabular reconciliation between net income as presented in accordance with Canadian GAAP and net income as restated and presented in accordance with U.S. GAAP;

(d) the Historical Annual Financial Statements and the Current Annual Financial Statements are accompanied by an auditor's report prepared in accordance with U.S. GAAS that:

(i) contains an unqualified opinion;

(ii) identifies all financial periods presented for which the auditor has issued an auditor's report;

(iii) refers to the former auditor's reports on the comparative periods, if the Filer has changed its auditor and one or more of the comparative periods presented in the Historical Annual Financial Statements or the Current Annual Financial Statements were audited by a different auditor; and

(iv) identifies the auditing standards used to conduct the audit and the accounting principles used to prepare the Historical Annual Financial Statements and the Current Annual Financial Statements;

(e) the Filer complies with section 5.2 of NI 51-102 as if the Filer were an SEC issuer as defined in NI 51-102;

(f) where the Legislation requires Financial Statements to be audited, the Financial Statements are audited in accordance with U.S. GAAS;

(g) the Filer refiles the Historical Annual Financial Statements and related MD&A using U.S. GAAP and U.S. GAAS;

(h) if the Filer does not file the Registration Statement within 120 days following its fiscal year end, the Filer will refile on the System for Electronic Document Analysis and Retrieval (SEDAR):

(i) the Historical Annual Financial Statements and related MD&A (originally prepared using U.S. GAAP and U.S. GAAS) using Canadian GAAP and Canadian GAAS;

(ii) the Current Annual Financial Statements and related MD&A (originally prepared using U.S. GAAP and U.S. GAAS) using Canadian GAAP and Canadian GAAS; and

(iii) the Interim Financial Statements and related MD&A (originally prepared using U.S. GAAP and U.S. GAAS), if any, using Canadian GAAP and Canadian GAAS;

(i) if the Registration Statement does not become effective within six months from the date of this decision, the Filer will either:

(i) refile on SEDAR the Financial Statements and related MD&A (originally prepared using U.S. GAAP and U.S. GAAS); or

(ii) or will submit an application to vary this decision,

within six months from the date of this decision.

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

2.2 Orders

2.2.1 Onsino Capital Corporation – s. 144

Headnote

Application by an issuer for an order revoking a cease trade order made by the Commission – cease trade order issued as a result of the issuer's failure to file certain continuous disclosure documents required by Ontario securities law – defaults subsequently remedied by bringing continuous disclosure filings up-to-date - cease trade order revoked.

Applicable Legislative Provisions

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

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

AND

IN THE MATTER OF
ONSINO CAPITAL CORPORATION

ORDER
(Section 144)

WHEREAS a Director of the Ontario Securities Commission (the "Commission") issued a temporary cease trade order dated September 11, 2007 under section 127 of the Act, as extended by an order dated September 21, 2007 (together, the "Cease Trade Order") directing that all trading in the securities of Onsino Capital Corporation (the "Applicant") cease until further order by the Director;

AND WHEREAS the Applicant has applied to the Commission for an order pursuant to section 144 of the Act revoking the Cease Trade Order;

AND WHEREAS the Applicant has represented to the Commission that:

1. The Applicant was incorporated under the laws of the Province of Ontario on March 7, 2005.

2. The Applicant has been a reporting issuer in Ontario, British Columbia and Alberta since August 11, 2005. The Applicant's head office is located in Toronto, Ontario.

3. The Applicant was formerly classified as a Capital Pool Corporation as defined in TSX Venture Inc ("TSX-V") Policy 2.4. As at June 30, 2006, the Applicant had 9,785,000 common shares issued and outstanding, of which 4,000,000 common shares were deposited in escrow subject to the completion of a private placement and an initial public offering.

4. The escrowed common shares were subject to release upon the completion of a Qualifying Transaction as defined in TSX-V Policy 2.4. As the Applicant did not complete a Qualifying Transaction in the time limit prescribed by the TSX-V, 2,000,000 of the common shares held in escrow were cancelled.

5. As at the date hereof, the authorized capital of the Applicant consists of an unlimited number of common shares of which 7,785,000 are issued and outstanding (of which 2,000,000 common shares continue to be held in escrow).

6. The Applicant's common shares were suspended from trading on the TSX-V on September 4, 2007. On December 12, 2007, the Applicant's common shares were transferred to the NEX. As of the date hereof, the Applicant's common shares remain suspended from trading on the NEX.

7. The Ontario Cease Trade Order was issued as a result of the Applicant's failure to file, in accordance with the requirements of Ontario securities law, interim financial statements (the "Interim Financial Statements") and the related Management's Discussion and Analysis (the "Interim MD&A") for the six month period ended June 30, 2007.

8. The Applicant is also subject to a cease trade order issued by the British Columbia Securities Commission on September 11, 2007 (the "B.C. Cease Trade Order").

9. Other than the Ontario Cease Trade Order and the B.C. Cease Trade Order, the Applicant has not previously been subject to a cease trade order.

10. The Applicant filed the Interim Financial Statements, the Interim MD&A and related officers' certificates on SEDAR on November 28, 2007.

11. The Applicant has applied to have the Ontario Cease Trade Order and the B.C. Cease Trade Order concurrently revoked.

12. Other than the Ontario Cease Trade Order, the Applicant is not in default of its continuous disclosure obligations under Ontario securities law and has paid all outstanding fees to the Commission, including all applicable activity and participation fees and late filing fees.

13. The Applicant's issuer profiles on SEDAR and SEDI are up-to-date.

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

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

AND UPON considering that it would not be prejudicial to the public interest to revoke the Cease Trade Order

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

DATED at Toronto this 4th day of February, 2009.

"Michael Brown"
Assistant Manager, Corporate Finance Branch

2.2.2 Research In Motion Limited et al. – ss. 127, 127.1

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

AND

IN THE MATTER OF
RESEARCH IN MOTION LIMITED,
JAMES BALSILLIE, MIKE LAZARIDIS,
DENNIS KAVELMAN, ANGELO LOBERTO,
KENDALL CORK, DOUGLAS WRIGHT,
JAMES ESTILL AND DOUGLAS FREGIN

ORDER
(Sections 127 and 127.1)

WHEREAS on February 3, 2009 the Ontario Securities Commission (the "Commission") issued a Notice of Hearing and related Statement of Allegations (the "Notice of Hearing") in respect of Research In Motion Limited ("RIM"), James Balsillie, Mike Lazaridis, Dennis Kavelman, Angelo Loberto, Kendall Cork, Douglas Wright, James Estill, and Douglas Fregin (collectively the "Respondents" or, apart from RIM, the "Individual Respondents");

AND WHEREAS the Respondents have entered into a settlement agreement with Staff of the Commission dated January 27, 2009 (the "Settlement Agreement") in relation to the matters set out in the Notice of Hearing;

UPON reviewing the Notice of Hearing and Settlement Agreement, and upon hearing submissions from counsel for the Respondents and for Staff of the Commission (the "Staff");

AND WHEREAS the Respondents have entered into the following undertakings as part of the Settlement Agreement:

(a) Balsillie undertakes not to act as a director of any reporting issuer until the later of (a) twelve months from the date of this order, and (b) RIM's compliance with paragraphs 17 and 18 of the Governance Assessment document attached as Schedule "C" to the Settlement Agreement;

(b) Balsillie, Lazaridis and Kavelman undertake to contribute $38.3 million (which includes interest of $5.3 million) to RIM in respect of the outstanding benefit arising from incorrectly priced stock options granted to all employees from 1996 to 2006;

(c) Balsillie, Lazaridis and Kavelman undertake to contribute $44.8 million to RIM to defray costs incurred by RIM in

the investigation and remediation of stock options granting practices and related governance practices at RIM, which will be reduced by $15 million as credit for amounts already paid by Balsillie and Lazaridis in respect of costs incurred;

(d) As determined by the Board of Directors of RIM, with the Individual Respondents abstaining, to be in the best interests of RIM, the amounts described in recitals (b) and (c) above, may be settled by Balsillie, Lazaridis and Kavelman agreeing not to exercise certain vested RIM stock options that collectively have a fair value equal to the amounts described in recitals (b) and (c) above. The fair value of such RIM stock options is to be determined on a Black-Scholes calculation based on the last trading day prior to the issuance of a Notice of Hearing in this matter;

(e) Lazaridis undertakes to complete a course acceptable to Staff regarding the duties of directors and officers of public companies within twelve months from the date of this order;

(f) Each of Loberto, Cork, Wright, Estill, and Fregin undertakes that he has repaid to RIM any increased benefit he received from the allocation to him of incorrectly priced options;

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

IT IS HEREBY ORDERED that:

(a) the settlement is approved;

(b) RIM shall submit to a review of its practices and procedures pursuant to s.127(1)(4) of the Act by an independent person agreed to by Staff of the Commission and RIM and paid for by RIM, as set out in Schedule “C” to the Settlement Agreement;

(c) James Balsillie:

(i) shall pay an administrative penalty of $5 million to be allocated for the benefit of third parties by the Commission, pursuant to section 3.4(2) of the Act;

(ii) shall pay $700,000 to the Commission towards the costs of its investigation; and

(iii) shall be reprimanded by the Commission;

(d) Mike Lazaridis:

(i) shall pay an administrative penalty of $1.5 million to be allocated for the benefit of third parties by the Commission, pursuant to section 3.4(2) of the Act;

(ii) shall pay $150,000 to the Commission towards the costs of its investigation; and

(iii) shall be reprimanded by the Commission;

(e) Dennis Kavelman:

(i) is prohibited from becoming or acting as a director or officer of any reporting issuer until the later of (a) five years from the date of this order, and (b) the date he completes a course acceptable to Staff of the Commission regarding the duties of directors and officers of public companies;

(ii) shall pay an administrative penalty of $1.5 million to be allocated for the benefit of third parties by the Commission, pursuant to section 3.4(2) of the Act;

(iii) shall pay $150,000 to the Commission towards the costs of its investigation; and

(iv) shall be reprimanded by the Commission;

(f) Angelo Loberto:

(i) is prohibited from becoming or acting as a director or officer of any reporting issuer, until he has completed a course acceptable to Staff regarding the duties of directors and officers of public companies;

(ii) shall pay $50,000 to the Commission towards the costs of its investigation; and

(iii) shall be reprimanded by the Commission;

(g) Kendall Cork:

(i) shall complete a course acceptable to Staff regarding the duties of directors and officers

of public companies within twelve months from the date of this order, failing which he will be prohibited from acting as a director pending completion of such course; and

(ii) shall be reprimanded by the Commission;

(h) Douglas Wright:

(i) shall complete a course acceptable to Staff regarding the duties of directors and officers of public companies within twelve months from the date of this order, failing which he will be prohibited from acting as a director pending completion of such course; and

(ii) shall be reprimanded by the Commission;

(i) James Estill:

(i) shall complete a course acceptable to Staff regarding the duties of directors and officers of public companies within twelve months from the date of this order, failing which he will be prohibited from acting as a director pending completion of such course; and

(ii) shall be reprimanded by the Commission;

(j) Douglas Fregin shall complete a course acceptable to Staff regarding the duties of directors and officers within twelve months from the date of this order, failing which he will be prohibited from acting as a director of a reporting issuer pending completion of such a course; and

(k) the Individual Respondents will not seek, accept, or be offered indemnification from or through RIM for any of the payments associated with or paid by the Individual Respondents as a result of this settlement and this order.

Dated at Toronto this 5th day of February 2009.

"James E.A. Turner"

"David L. Knight"

"Paulette L. Kennedy"

2.2.3 TMX Group Inc. – s. 104(2)(c)

Headnote

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

Applicable Legislative Provisions

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

February 2, 2009

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

AND

IN THE MATTER OF
TMX GROUP INC.

ORDER
(Clause 104(2)(c))

UPON the application (the "**Application**") of TMX Group Inc. (the "**Issuer**") to the Ontario Securities Commission (the "**Commission**") for an order pursuant to clause 104(2)(c) of the Act exempting the Issuer from the requirements of sections 94 to 94.8 and 97 to 98.7 of the Act (the "**Issuer Bid Requirements**") in connection with the proposed purchases ("**Proposed Purchases**") by the Issuer of up to 1,000,000 (the "**Subject Shares**") of its common shares (the "**Shares**") from Royal Bank of Canada and/or its affiliates (the "**Selling Shareholder**");

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

AND UPON the Issuer having represented to the Commission that:

1. The Issuer is a corporation governed by the *Business Corporations Act* (Ontario).

2. The head office of the Issuer is located at 130 King Street West, Toronto, Ontario, M5X 1J2.

3. The Issuer is a reporting issuer in each of the provinces of Canada and the Shares are listed for trading on Toronto Stock Exchange ("**TSX**"). The Issuer is not in default of any requirement of the securities legislation in the jurisdictions in which it is a reporting issuer.

4. The authorized common share capital of the Issuer consists of an unlimited number of Shares, of which 74,403,577 were issued and outstanding as of December 31, 2008.

5. The corporate headquarters of the Selling Shareholder is located in Toronto, Ontario.

6. The Selling Shareholder has advised the Issuer that they do not directly or indirectly own more than 5% of the issued and outstanding Shares.

7. The Selling Shareholder has advised the Issuer that they are the beneficial owners of at least 1,000,000 Shares.

8. To the knowledge of the Issuer after reasonable inquiry, the Selling Shareholder owns the Subject Shares and the Subject Shares were not acquired in anticipation of resale pursuant to the Proposed Purchases.

9. Pursuant to a "Notice of Intention to Make a Normal Course Issuer Bid" filed with TSX and dated August 14, 2008 (the "**Notice**"), the Issuer is permitted to make normal course issuer bid (the "**Bid**") purchases (each, a "**Bid Purchase**") to a maximum of 7,595,585 Shares in accordance with sections 628 to 629.3 of Part VI of the TSX Company Manual (the "**TSX Rules**"). As of December 31, 2008, 3,082,060 Shares have been purchased under the Bid.

10. In addition to making Bid Purchases by means of open market transactions, the Notice contemplates that the Issuer may purchase Shares by way of exempt offer.

11. The Issuer and the Selling Shareholder intend to enter into one or more agreements of purchase and sale (each, an "**Agreement**") pursuant to which the Issuer will agree to acquire, by one or more trades occurring within 30 days of the date of this Order, the Subject Shares from the Selling Shareholder for a purchase price (the "**Purchase Price**") that will be negotiated at arm's length between the Issuer and the Selling Shareholder. The Purchase Price will be at a discount to the prevailing market price and below the bid-ask price for the Shares.

12. The purchase of the Subject Shares by the Issuer pursuant to the Agreement will constitute an "issuer bid" for purposes of the Act, to which the applicable issuer bid requirements in Sections 94 to 94.8 and 97 to 98.7 of the Act would apply (the "**Issuer Bid Requirements**").

13. Because the Purchase Price will be at a discount to the prevailing market price and below the bid-ask price for the Shares at the time of each trade, the Proposed Purchases cannot be made through TSX's trading system and, therefore, will not occur "through the facilities" of TSX. As a result, the Issuer will be unable to acquire the Subject Shares from the Selling Shareholder in reliance upon the exemption from the Issuer Bid Requirements that is available pursuant to Section 101.2(1) of the Act.

14. But for the fact that the Purchase Price will be at a discount to the prevailing market price and below the bid-ask price for the Shares at the time of the trade, the Issuer could otherwise acquire the Subject Shares as a "block purchase" (a "**Block Purchase**") in accordance with Section 629(1)7 of the TSX Rules and Section 101.2(1) of the Act.

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

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

17. Management is of the view that the Issuer will be able to purchase the Subject Shares at a lower price than the price at which the Issuer will be able to purchase the Shares under the Bid and management is of the view that this is an appropriate use of the Issuer's funds.

18. The purchase of Subject Shares will not adversely affect the Issuer or the rights of any of the Issuer's securityholders and the Proposed Purchases will not affect control of the Issuer. The Proposed Purchases will be carried out with a minimum of cost to the Issuer.

19. To the best of the Issuer's knowledge, as of December 18, 2008 the public float for the Shares consisted of approximately 98% for purposes of the TSX Rules.

20. The market for the Shares is a "liquid market" within the meaning of Section 1.2 of Multilateral

Instrument 61-501 *Protection of Minority Security Holders*.

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

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

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

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

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

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

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

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

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

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

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

"David L. Knight"
Commissioner
Ontario Securities Commission

"Paulette Kennedy"
Commissioner
Ontario Securities Commission

2.2.4 Biovail Corporation et al. – ss. 127, 127.1

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

AND

IN THE MATTER OF
BIOVAIL CORPORATION, EUGENE N. MELNYK,
BRIAN H. CROMBIE, JOHN R. MISZUK AND
KENNETH G. HOWLING

ORDER
(Sections 127 and 127.1)

WHEREAS on March 24, 2008 the Ontario Securities Commission (the "Commission") issued a Notice of Hearing and related Statement of Allegations (the "Notice of Hearing") against Biovail Corporation ("Biovail"), Eugene N. Melnyk ("Melnyk"), Brian H. Crombie ("Crombie"), John R. Miszuk ("Miszuk") and Kenneth G. Howling ("Howling");

AND WHEREAS the Commission has approved settlement agreements reached with Biovail, Miszuk and Howling;

AND WHEREAS Staff of the Commission and Crombie have requested that the hearing on the merits in this matter be adjourned to begin on Wednesday, February 18, 2009;

AND WHEREAS Melnyk has indicated to the Commission that he does not oppose this request;

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

IT IS HEREBY ORDERED that the hearing in this matter be adjourned to commence on Wednesday, February 18, 2009 at 10:00 am.

Dated at Toronto this 5th day of February, 2009.

"James E. A. Turner"

2.2.5 Irwin Boock et al. – ss. 127, 127.1

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

AND

IN THE MATTER OF
IRWIN BOOCK, STANTON DEFREITAS,
JASON WONG,SAUDIA ALLIE,
ALENA DUBINSKY, ALEX KHODJIAINTS,
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

ORDER
(Section 127 and 127.1)

WHEREAS on October 16, 2008, the Commission commenced the within proceeding by issuing a Notice of Hearing pursuant to sections 127 and 127.1 of the *Securities Act*, R.S.O. 1990, c. S.5, as amended (the "Act");

AND WHEREAS the Notice of Hearing named as respondents the above-named individuals (the "Individual Respondents") and the above-named corporate entities (the "Corporate Respondents");

AND WHEREAS the Notice of Hearing gave notice that the Commission would hold a hearing pursuant to sections 127 and 127.1 of the Act, at the offices of the Commission, commencing on November 24, 2008 at 10 a.m., or as soon thereafter as the hearing can be held, to consider whether it is in the public interest to make orders against the Respondents, as particularized in the Notice of Hearing and by reason of the allegations of Staff set out in the Statement of Allegations of Staff dated October 16, 2008 and any such additional allegations as counsel may advise and the Commission may permit;

AND WHEREAS prior to the commencement of the within proceeding, the Commission made temporary orders on May 18, May 22, May 30, 2007 and May 5 and May 14, 2008 as against certain of the Individual Respondents and against all of the Corporate Respondents (the "Temporary Orders");

AND WHEREAS the Temporary Orders were modified and extended from time to time by further orders of the Commission;

AND WHEREAS the Temporary Orders in effect as of November 24, 2008, inter alia required pursuant to sections 127(1) and (5) the Act that:

i) trading in the securities of the Corporate Respondents shall cease; and

ii) all trading in any securities by Stanton DeFreitas and Irwin Boock shall cease;

AND WHEREAS Staff advised that it is not at this time seeking a temporary cease trade order in respect of Saudia Allie, Alena Dubinsky, Alex Khodjiaints or Jason Wong;

AND UPON HEARING submissions from counsel for Staff of the Commission, counsel to Boock, DeFreitas, Enerbrite Technologies, and NutriOne Corporation, respectively, and from Alena Dubinsky and Alex Kodjiaints on their own behalf, and upon being advised that Jason Wong through his counsel does not object to the relief being sought by Staff, with no one appearing for the balance of the Individual and Corporate Respondents;

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

IT IS ORDERED THAT:

1. the Temporary Orders in respect of Corporate Respondents and in respect of Boock and DeFreitas shall be extended until the conclusion of the within proceeding or until further order of the Commission with the exception that:

   i) Boock shall be permitted to trade in his existing RRSP account, the details of which Staff are aware, in securities that are listed on the Toronto Stock Exchange or New York Stock Exchange, provided that Boock provide to Staff copies of the monthly account statements for the RRSP account on a timely basis;

2. Staff shall make their best efforts to effect service of the Notice of Hearing, Statement of Allegations and this Order on all of the Respondents; and

3. the hearing is adjourned until January 20, 2009 at 3 pm.

DATED at Toronto this 24th day of November, 2008.

"David L. Knight"

"Suresh Thakrar"

2.2.6 Irwin Boock et al. – ss. 127, 127.1

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

AND

IN THE MATTER OF
IRWIN BOOCK, STANTON DEFREITAS,
JASON WONG,SAUDIA ALLIE,
ALENA DUBINSKY, ALEX KHODJIAINTS,
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

ORDER
(Section 127 and 127.1)

WHEREAS on October 16, 2008, the Commission commenced this proceeding by issuing a Notice of Hearing pursuant to sections 127 and 127.1 of the *Securities Act*, R.S.O. 1990, c. S.5, as amended (the "Act");

AND WHEREAS the Notice of Hearing named as respondents the above-named individuals (the "Individual Respondents") and the above-named corporate entities (the "Corporate Respondents");

AND WHEREAS the Notice of Hearing gave notice that the Commission would hold a hearing pursuant to sections 127 and 127.1 of the Act, at the offices of the Commission, commencing on November 24, 2008 at 10 a.m., or as soon thereafter as the hearing could be held, to consider whether it is in the public interest to make orders against the Respondents, as particularized in the Notice of Hearing and by reason of the allegations of Staff set out in the Statement of Allegations of Staff dated October 16, 2008 and any such additional allegations as counsel may advise and the Commission may permit;

AND WHEREAS prior to the commencement of this proceeding, the Commission made temporary orders on May 18, May 22, May 30, 2007 and May 5 and May 14, 2008 against certain of the Individual Respondents and against all of the Corporate Respondents (the "Temporary Orders");

AND WHEREAS the Temporary Orders were modified and extended from time to time by further orders of the Commission;

AND WHEREAS the Temporary Orders in effect as of November 24, 2008, among other things, required pursuant to sections 127(1) and (5) the Act that:

i) trading in the securities of the Corporate Respondents shall cease; and

ii) all trading in any securities by Stanton DeFreitas and Irwin Boock shall cease;

AND WHEREAS on November 24, 2008, the Temporary Orders in respect of the Corporate Respondents and in respect of Boock and DeFreitas were extended until the conclusion of this proceeding or until further order of the Commission with an exception allowing Boock to trade in his existing RRSP account in securities that are listed on the Toronto Stock Exchange or New York Stock Exchange, provided that Boock provides to Staff copies of the monthly account statements for the RRSP account on a timely basis;

AND UPON HEARING submissions from counsel for Staff of the Commission, counsel to Boock, DeFreitas, and Enerbrite Technologies, respectively, and from Alena Dubinsky and Alex Kodjiaints on their own behalf, and upon being advised that Jason Wong through his counsel does not object to the order being sought by Staff, with no one appearing for the balance of the Individual and Corporate Respondents;

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

IT IS ORDERED THAT the hearing is adjourned until February 17, 2009 at 3 p.m. for the purpose of having a pre-hearing conference on that date.

DATED at Toronto this 20th day of January, 2009.

"James E. A. Turner"

"David L. Knight"

2.2.7 Gold-Quest International et al. – s. 127

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

AND

IN THE MATTER OF
GOLD-QUEST INTERNATIONAL,
HEALTH AND HARMONEY,
IAIN BUCHANAN, AND LISA BUCHANAN

ORDER
(Section 127 of the Securities Act)

WHEREAS on the 1st day of April, 2008, the Ontario Securities Commission (the "Commission") ordered, pursuant to clause 2 of subsection 127(1) and subsection 127(5) of the *Securities Act*, R.S.O. 1990, c. S.5, as amended (the "Act") that all trading in any securities of Gold-Quest International ("Gold-Quest") shall cease (the "Temporary Order");

AND WHEREAS the Commission further ordered as part of the Temporary Order that pursuant to clause 2 of subsection 127(1) and subsection 127(5) of the Act that all trading in any securities by Health and HarMONEY, Iain Buchanan and Lisa Buchanan (the "Ontario Respondents") shall cease;

AND WHEREAS the Commission further ordered as part of the Temporary Order that pursuant to clause 3 of subsection 127(1) and subsection 127(5) of the Act that any exemptions contained in Ontario securities law do not apply to Gold-Quest and the Ontario Respondents;

AND WHEREAS the Commission further ordered as part of the Temporary Order that pursuant to clause 3 of subsection 127(1) and subsection 127(5) of the Act that any exemptions contained in Ontario securities law do not apply to Gold-Quest's officers, directors, agents or employees;

AND WHEREAS on April 8, 2008, the Commission issued a Notice of Hearing in this matter (the "Notice of Hearing");

AND WHEREAS Gold-Quest and the Ontario Respondents were served with the Temporary Order, the Notice of Hearing and the Evidence Brief of Staff of the Commission ("Staff") as set out in the Affidavit of Service of Dale Grybauskas dated April 14, 2008;

AND WHEREAS no correspondence has ever been sent to Staff on behalf of Gold-Quest and no one has ever appeared for Gold-Quest;

AND WHEREAS upon hearing submissions from counsel for Staff and on written consent of counsel for the Ontario Respondents dated April 11, 2008, the Commission extended the Temporary Order until July 14, 2008 or until further order of the Commission, subject to a

carve-out to permit Iain Buchanan to trade in securities listed on a recognized public exchange only in his own existing account(s), for his own benefit, and through a dealer registered with the Commission, and a carve-out to permit Lisa Buchanan to trade in securities listed on a recognized public exchange only in her own existing account(s), for her own benefit, and through a dealer registered with the Commission (the "Amended Temporary Order");

AND WHEREAS on May 6, 2008, the U.S. Securities and Exchange Commission (the "SEC") filed an emergency civil enforcement action against Gold-Quest, and U.S. District Court Judge Lloyd D. George issued numerous orders against Gold-Quest and persons related to Gold-Quest, including orders prohibiting the trading in securities of Gold-Quest, freezing assets related to the sale of Gold-Quest securities and appointing a permanent receiver for Gold-Quest;

AND WHEREAS on July 14, 2008, counsel for Staff attended before the Commission while counsel for the Ontario Respondents did not attend but provided correspondence with respect to the Temporary Order;

AND WHEREAS on July 14, 2008, upon hearing submissions from counsel for Staff and considering the correspondence from counsel for the Ontario Respondents, the Commission extended the Amended Temporary Order against Gold-Quest and the Ontario Respondents until October 7, 2008;

AND WHEREAS on October 7, 2008, counsel for Staff and counsel for the Ontario Respondents did not oppose the extension of the Amended Temporary Order;

AND WHEREAS on October 7, 2008, upon considering the correspondence from counsel for the Ontario Respondents, the Commission extended the Amended Temporary Order against Gold-Quest and the Ontario Respondents until December 9, 2008;

AND WHEREAS on December 9, 2008, counsel for Staff and counsel for the Ontario Respondents did not oppose the extension of the Amended Temporary Order;

AND WHEREAS on December 9, 2008, upon considering the correspondence from counsel for the Ontario Respondents, the Commission extended the Amended Temporary Order against Gold-Quest and the Ontario Respondents until February 10, 2009;

AND WHEREAS on February 10, 2009, counsel for Staff and counsel for the Ontario Respondents did not oppose the extension of the Amended Temporary Order;

AND WHEREAS on February 10, 2009, upon considering the correspondence from counsel for the Ontario Respondents, we conclude that it is in the public interest to extend the Amended Temporary Order without prejudice to the right of the Ontario Respondents to bring an application before the Commission to challenge the scope of the Amended Temporary Order;

AND WHEREAS counsel for Staff and counsel for the Ontario Respondents agree that the hearing to extend the Amended Temporary Order shall be scheduled for March 20, 2009;

IT IS ORDERED THAT:

1. The Amended Temporary Order against Gold-Quest and the Ontario Respondents is extended to March 20, 2009 on the terms and conditions set forth in the Amended Temporary Order; and

2. A hearing to extend the Amended Temporary Order shall be held on March 20, 2009 at 10:00 a.m. or such other date as is agreed by the parties and determined by the Office of the Secretary.

DATED at Toronto this 10th day of February, 2009

"Wendell S. Wigle"

"Margot C. Howard"

2.2.8 Rajeev Thakur – ss. 127, 127.1

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

AND

IN THE MATTER OF
RAJEEV THAKUR

ORDER
(Section 127 and Section 127.1)

WHEREAS on January 9, 2009, the Ontario Securities Commission (the "Commission") commenced this proceeding by issuing a Notice of Hearing, which gave notice that the Commission would hold a hearing pursuant to sections 127 and 127.1 of the *Securities Act*, R.S.O. 1990, c. S.5, as amended, at the offices of the Commission, commencing on February 12, 2009 at 10 a.m., or as soon thereafter as the hearing could be held, to consider whether it is in the public interest to make orders against Rajeev Thakur (the "Respondent"), as particularized in the Notice of Hearing and by reason of the Statement of Allegations of Staff dated January 9, 2009 and any such additional allegations as counsel may advise and the Commission may permit;

AND WHEREAS counsel for the Respondent as well as counsel for Staff have informed us by writing that they consent to an adjournment of this matter to March 24, 2009.

AND WHEREAS the Commission is of the opinion that it is appropriate in the circumstances to grant the request for an adjournment;

IT IS HEREBY ORDERED that:

the hearing is adjourned until March 24, 2009 at 11:00 a.m.

DATED at Toronto this 10th day of February, 2009.

"Wendell S. Wigle"

"Carol S. Perry"

2.2.9 Berkshire Capital Ltd. et al. – ss. 127(7), (8)

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

AND

IN THE MATTER OF
BERKSHIRE CAPITAL LIMITED,
GP BERKSHIRE CAPITAL LIMITED,
PANAMA OPPORTUNITY FUND AND
ERNEST ANDERSON

ORDER
(Subsection 127(7) and (8))

WHEREAS the Ontario Securities Commission (the "Commission") issued a temporary order on January 27, 2009 (the "Temporary Order") with respect to Berkshire Capital Limited, GP Berkshire Capital Limited, Panama Opportunity Fund (the "Berkshire Entities") and with respect to Ernest Anderson ("Anderson") (collectively, the "Respondents");

AND WHEREAS the Temporary Order ordered that: (i) trading in securities of and by the Respondents cease pursuant to paragraph 2 of subsection 127(1) and subsection 127(5) of the Securities Act, R.S.O. 1990, c. S.5, as amended (the "Act"); and (ii) any exemptions contained in Ontario securities law not do not apply to the Respondents pursuant to paragraph 3 of subsection 127(1) and subsection 127(5) 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 Staff of the Commission ("Staff") served Anderson with the Temporary Order on January 27, 2009 and the Notice of Hearing and the Statement of Allegations on February 6, 2009;

AND WHEREAS Staff served the Berkshire Entities by sending the Temporary Order to Anderson who, although he accepted service on his own behalf, refused service on behalf of the Berkshire Entities;

AND WHEREAS Staff also served the Berkshire Entities by emailing the Temporary Order, the Notice of Hearing and the Statement of Allegations to the Berkshire Entities' Panamanian contacts, Georgia Lainiotis and Mohamed Al-Harazi, who have been identified to Staff as being involved with the Berkshire Entities;

AND WHEREAS on February 10, 2009, Staff appeared before the Commission, Anderson having provided his consent to extend the Temporary Order and adjourn the hearing to March 19, 2009 in writing;

AND WHEREAS Staff have filed the Affidavit of Stephanie Collins in support of Staff's request to extend the Temporary Order against the Berkshire Entities;

AND WHEREAS Staff and Anderson consent to an extension of the Temporary Order until March 19, 2009 and the Berkshire Entities did not appear;

IT IS ORDERED that the Record of Staff (February 10, 2009) be served on Anderson before March 19, 2009; and

IT IS ORDERED that the Temporary Order is continued until March 20, 2009 or further order of the Commission and the hearing is adjourned to March 19, 2009 at 10:00 a.m., or such other date as is agreed by Staff and the Respondents and determined by the Office of the Secretary.

DATED at Toronto this 10th day of February, 2009.

"Wendell S. Wigle"

"Margot C. Howard"

2.2.10 National Bank Financial Inc. and National Bank Financial Ltd. – s. 4.1 of Rule 31-502

Headnote

Salespersons of the Applicants who were previously registered in another Jurisdiction prior to January 1, 1994 are exempt from the post registration proficiency requirements under paragraph 2.1(2) of Rule 31-502 Proficiency Requirements for Registrants, subject to conditions.

Rules Cited:

Ontario Securities Commission Rule 31-502 Proficiency Requirements for Registrants, subsection 2.1(2), and section 4.1.

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

AND

IN THE MATTER OF
NATIONAL BANK FINANCIAL INC. AND
NATIONAL BANK FINANCIAL LTD.

ORDER
(Section 4.1 of Rule 31-502)

UPON the Director having received the application (the **Application**) of National Bank Financial Inc. (**NBFI**) and National Bank Financial Ltd. (**NBFL** and, together with NBFI, the **Applicants**) for an exemption, pursuant to section 4.1 of Ontario Securities Commission Rule 31-502 – *Proficiency Requirements for Registrants* (the **OSC Proficiency Rule**), from the provisions of subsection 2.1(2) of the OSC Proficiency Rule (the **OSC Requirement**);

AND WHEREAS the OSC Requirement provides that the registration of a salesperson is suspended on the last day of the thirtieth month after the date the registration was granted, unless the salesperson has: (a) completed the Wealth Management Essentials Course (the **WME Course**) before the registration was granted, or (b) before the end of the thirty month period, completed the WME Course;

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

AND UPON the Applicants have represented to the Director that:

1. NBFI is registered under the Act as a dealer in the category of investment dealer. NBFI is a member of the Investment Industry Regulatory Organization of Canada (**IIROC**) and the Bourse de Montréal Inc., and is a participating organization of the Toronto Stock Exchange.

2. NBFL is registered under the Act as a dealer in the category of investment dealer and is a member of IIROC.

3. Rule 2900 – *Proficiency and Education* (**Rule 2900**) of IIROC's Dealer Member Rules sets out proficiency requirements for persons registered with IIROC. Consistent with the OSC Requirement, paragraph A.3(c) of Part I of Rule 2900 (the **IIROC Proficiency Rule**) requires registered representatives (**salespersons**) of investment dealers who are IIROC members (**Dealers**) to have successfully completed the WME Course within thirty months of approval.

4. The IIROC Proficiency Rule first became effective on January 1, 1994 (the **IIROC Effective Date**). Part II of Rule 2900 includes a 'grandfather clause' whereby salespersons who were registered to trade on behalf of a Dealer in a jurisdiction immediately prior to the IIROC Effective Date are exempted from the IIROC Proficiency Rule.

5. The OSC Proficiency Rule, which became effective on August 17, 2000 (the **Rule Effective Date**), adopted and expanded the IIROC Proficiency Rule, but did not include a similar 'grandfather clause' exempting salespersons who were registered to trade on behalf of a Dealer immediately prior to the IIROC Effective Date from the OSC Requirement. As such, salespersons of the Applicants who have been registered to trade on behalf of a Dealer under the securities legislation of a jurisdiction other than Ontario immediately prior to the IIROC Effective Date and who were first registered to trade on behalf of a Dealer under the Act after the Rule Effective Date are subject to the OSC Requirement.

6. Until recently, both the IIROC Proficiency Rule and the OSC Requirement required that, within 30 months of initial approval, a salesperson must have completed either the Professional Financial Planning Course (the **PFP Course**) or the first course of the Canadian Investment Management Program (the **CIM Program** and, together with the PFP Course, the **Previous Courses**). Both the IIROC Proficiency Rule and the OSC Requirement were recently amended by replacing the Previous Courses with the WME Course.

7. In an order dated November 28, 2003, the Applicants had previously obtained an exemption from the OSC Requirement which referenced the Previous Courses. The Applicants now require new exemptive relief from the OSC Requirement which reflects the WME Course.

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

IT IS ORDERED, pursuant to section 4.1 of the OSC Proficiency Rule, that salespersons of the Applicants are not subject to the OSC Requirement, provided that:

(a) immediately prior to the IIROC Effective Date, the particular salesperson was registered under the securities legislation of one or more jurisdictions other than Ontario as a salesperson of a Dealer that was then registered under such legislation as an investment dealer (or the equivalent) and the registration of the salesperson was not specifically restricted to the sale of mutual funds or non-retail trades; and

(b) after the IIROC Effective Date, that salesperson was either registered to trade on behalf of a Dealer continuously in one or more jurisdictions other than Ontario, or any period after the IIROC Effective Date in which the salesperson's registration to trade on behalf of a Dealer was suspended or in which the salesperson was not so registered does not exceed three years.

February 9, 2009

"Susan Silma"
Director, Compliance and Registrant Regulation
Ontario Securities Commission

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Chapter 3

Reasons: Decisions, Orders and Rulings

3.1 OSC Decisions, Orders and Rulings

3.1.1 Research In Motion Limited et al.

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

AND

IN THE MATTER OF
RESEARCH IN MOTION LIMITED,
JAMES BALSILLIE, MIKE LAZARIDIS,
DENNIS KAVELMAN, ANGELO LOBERTO,
KENDALL CORK, DOUGLAS WRIGHT,
JAMES ESTILL AND DOUGLAS FREGIN

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 sections 127 and 127.1 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 Research In Motion Limited ("RIM" or the "Company"), James Balsillie ("Balsillie"), Mike Lazaridis ("Lazaridis"), Dennis Kavelman ("Kavelman"), Angelo Loberto ("Loberto"), Kendall Cork ("Cork"), Douglas Wright ("Wright"), James Estill ("Estill") and Douglas Fregin ("Fregin") (collectively, the "Respondents" or, apart from RIM, the "Individual Respondents").

PART II – JOINT SETTLEMENT RECOMMENDATION

2. Staff of the Commission ("Staff") agree to recommend settlement of the proceeding commenced by Notice of Hearing (the "Proceeding") against the Respondents according to the terms and conditions set out in Part VI of this Settlement Agreement. The Respondents agree 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. The Respondents agree with the facts set out in Part III of this Settlement Agreement solely for the purposes of this Settlement Agreement. This Settlement Agreement and the agreed facts set out herein are without prejudice to the Respondents in any other proceeding, including, without limitation, any civil, administrative, quasi-criminal, or criminal actions or proceedings that may be brought by any person or agency, whether or not this Settlement Agreement is approved by the Commission. The Respondents agree that the non-monetary orders proposed in this Settlement Agreement may be reciprocated by the Securities Regulatory Authorities, as defined in National Instrument 14-101.

The Parties

4. RIM is a reporting issuer in Ontario and its shares are listed on both the Toronto Stock Exchange (the "TSX") and the Nasdaq Stock Market ("NASDAQ"). RIM carries on business with its head office located in Waterloo, Ontario.

5. Balsillie is a chartered accountant. He has a Bachelor of Commerce degree from the University of Toronto, a Masters of Business Administration from the Harvard Business School and is a Fellow of the Institute of Chartered Accountants of Ontario. At all material times, he was co-Chief Executive Officer ("co-CEO") and Chairman of the Board of Directors of RIM. He was a member of the Compensation Committee of RIM from 1997 to 2000. He is no longer Chairman, but he remains co-CEO and a director of RIM.

6. Lazaridis is a founder of RIM. At all material times, he was co-CEO, President and a director of RIM, and he continues to hold all these positions. Lazaridis focused on research, product development, engineering and manufacturing of RIM's products.

7. Kavelman is a chartered accountant. He was Vice-President, Finance from February 1995 through 1997 and then Chief Financial Officer ("CFO") of RIM from 1997 to March 2007. He is now Chief Operating Officer, Administration and Operations.

8. Loberto was Director of Finance at RIM from August 1997 and was Vice-President, Finance from September 2001 into 2007. He is now Vice-President, Corporate Operations.

9. Cork was a director of RIM from 1999 to 2007 and has been a Director Emeritus of RIM since 2007. He was a member of the Audit Committee from 1999 to 2007 and a member of the Compensation Committee from 2000 to 2007.

10. Wright was a director of RIM from 1995 to 2007 and has been a Director Emeritus of RIM since 2007. He was a member of the Audit Committee from 1996 to 2007 and its Chair from 1998 and a member of the Compensation Committee from 1998 to 2007 and its Chair from at least 2003.

11. Estill has been a director of RIM since 1997 and was a member of the Audit Committee from 1998 through 2007.

12. Fregin is a founder of RIM and was a director of RIM from 1985 to 2007. He was the Vice-President, Hardware Design and subsequently Vice-President, Operations at RIM, but is no longer connected with RIM.

Overview of Agreed Facts

13. The conduct at issue relates to stock options granting practices at RIM which, over a ten year period from December 1996 to July 2006 (the "Material Time"), were inconsistent with the terms of RIM's stock option plan and with RIM's public disclosure.

The Stock Option Plan

14. In advance of RIM becoming a reporting issuer in December, 1996, RIM's Board of Directors (the "Board") approved a new stock option plan (the "Plan") to govern the granting of stock options ("Options") for the Company both before and after it became a reporting issuer.

15. Material provisions of the Plan for the purposes of these Proceedings and during the Material Time included the following:

> **Section 1.02 Definitions.**
>
> **"Securities Laws"** means, collectively, the applicable securities laws, regulations, schedules, prescribed forms, policy statements, notices, blanket rulings and other similar instruments of each of the jurisdictions in which the Corporation is or becomes a reporting issuer or equivalent and also includes, as the context so requires, the by-laws, rules, regulations and policies of the Exchange.
>
> **Section 2.05 Price.**
>
> The exercise price per Common Share with respect to any option shall be determined by the Board of Directors at the time the option is granted, subject to the requirements of the Securities Laws, until the Common Shares are listed and posted for trading on an Exchange. In respect of options to acquire Common Shares granted after such listing, such price shall not be less than the minimum permitted exercise price per Common Share under the applicable rules and policies of such Exchange.
>
> **Section 3.03 Delegation to Compensation Committee.**
>
> All of the powers exercisable by the Board of Directors under this Plan may, to the extent permitted by applicable law and authorized by resolution of the Board of Directors of the Corporation, be exercised by a Compensation Committee of not less than three (3) directors.

> **Section 3.04 Administration of the Plan.**
>
> This Plan shall be administered by the Board of Directors of the Corporation. The Board of Directors shall be authorized to interpret and construe this Plan and may, from time to time, establish, amend or rescind rules and regulations required for carrying out the purposes, provisions and administration of this Plan and determine the Participants to be granted options, the number of Common Shares covered thereby, the exercise price therefore and the time or times when they may be exercised.

16. The Plan was amended on July 14, 1998 (the "Amended Plan") and from time to time thereafter. The provisions addressing the administration of the Plan and the delegation of authority to administer the Plan did not change substantially during the Material Time. Any amendments to the Plan were approved by the Directors at meetings of the Board.

17. Under the Amended Plan, Options were to be granted at an exercise price of not less than the closing price of RIM's common shares on the TSX on the last trading day preceding the date on which the grant of Options was approved. Section 2.05 of the Amended Plan reads as follows:

> **Section 2.05 Price.**
>
> The exercise price per Common Share with respect to any option shall be determined by the Board of Directors at the time the option is granted, but such price shall not be less than the closing price of the Common Shares on the Exchange on the last trading day preceding the date on which the grant of the option is approved by the Board of Directors.

18. Section 3.03, "Delegation to Compensation Committee", of the version of the Plan that was in place from August 12, 2002 through January 29, 2003, provided that delegation could be made to "a Compensation Committee of not less than two (2) directors." In all other respects, section 3.03 of was unchanged.

19. From October 1997, as a TSX listed issuer, RIM was also obliged to comply with options granting requirements under the TSX Company Manual (the “TSX Rules”) In respect of pricing, s.633(c) of the TSX Rules provided as follows:

> The exercise price must not be lower than the market price of the shares on the Toronto Stock Exchange at the time of the grant … A stock option plan must specify how the “market price” will be determined for the purpose of setting exercise prices.

20. The TSX Rules were amended thereafter to provide under s.613(h)(i) that “the exercise price for stock options granted under a security based compensation arrangement or otherwise must not be lower than the market price of the securities at the time the option is granted.”

21. The Respondents should have taken reasonable steps to be and remain aware during the Material Time of the terms of the Plan as described above.

22. The Plan’s pricing provision required that grants be made “at the money”, where the exercise price per share is equal to the closing market price of the shares on the last trading day immediately preceding the date of the grant. Option recipients would then benefit from any subsequent increase in the share price when they exercised their options. “In the money” grants are options granted at an exercise price lower than the market price of the security on the grant date.

23. As set out above, the Plan specifically authorized the Board to delegate, by resolution, “all of the powers exercisable by the Board of Directors under this Plan” to a Compensation Committee. However, during the Material Time, no resolution was passed by the Board delegating any power under the Plan to the Compensation Committee.

24. Board minutes reflect that the Board thought Balsillie had the authority, as a result of being Chairman, to grant options to all employees other than himself and Lazaridis. The Board should have known this was inconsistent with the Plan.

Incorrect Options Dating Practices

25. “Option Backdating” refers to the practice of pricing an option at a date earlier than the grant date permitted by a stock option plan when the market price of the shares was lower than it was on the actual grant date.

26. "Option Repricing" refers to the practice of altering an option's exercise price by changing the purported grant date from the date the option was actually granted to a later date, or reissuing options at a later date and cancelling an earlier grant, when the market price of the underlying stock is lower.

27. As described below, Balsillie, Lazaridis, Kavelman and Loberto engaged in the grant of Options, in which Option Backdating or Option Repricing occurred. The grant dates selected resulted in more favourable pricing for the Options or "in the money" grants as described above. In many instances, the lowest share price in a period was chosen using hindsight in order to set the grant date and, therefore, the exercise price. These practices are collectively referred to as "Incorrect Dating Practices".

28. The Incorrect Dating Practices had the effect of providing an undisclosed benefit to the option recipient that was not authorized or permitted by the Plan or the TSX Rules.

29. Approximately 1,400 of 3,200 Option grants made by RIM during the Material Time were made using Incorrect Dating Practices, many of which gave the recipient an undisclosed benefit that was not authorized or permitted by the Plan or the TSX Rules.

30. The Incorrect Dating Practices were contrary to the Plan and the TSX Rules.

31. The Individual Respondents personally received an undisclosed benefit from grants of Options that were "in the money" at the time they were made, in breach of the Plan and the TSX Rules. They have, however, all since repaid any "in the money" benefits received, with interest, or have repriced unexercised options.

32. The total "in the money" benefit resulting from the Incorrect Dating Practices for all employees was approximately $66 million, of which approximately $33 million has not been reimbursed or repaid to RIM or otherwise forfeited or cancelled.

33. Each of Balsillie, Lazaridis, Kavelman and Loberto should have taken reasonable steps to ensure that the Incorrect Dating Practices were not contrary to the Plan and the TSX Rules and to ensure that RIM's option granting practices did not provide an undisclosed benefit to Option recipients that was not authorized or permitted by the Plan or the TSX Rules at a potential shortfall to RIM's treasury of approximately $66 million.

34. Grants of Options were seldom approved by the Board or the Compensation Committee as required by the Plan. Rather, the only Option grants which the Compensation Committee or the Board approved were those made to Balsillie and Lazaridis. In May 2003, the Compensation Committee determined that it would begin reviewing grants to senior officers but it was not consistent in doing so.

35. Balsillie, Kavelman and Loberto, personally or through their delegates, participated in the selection of favourable grant dates to be used in many of the Option grants to employees, officers and directors, thereby setting an exercise price for the Options that was lower than that permitted by the Plan and the TSX Rules. Lazaridis participated in selecting grant dates to be used in some cases. In doing so, each of them did not take reasonable steps to learn of and comply with the requirements of the Plan and the TSX Rules.

36. During the Material Time, Balsillie, Lazaridis, Cork, Wright, Fregin and Estill, in their capacity as Directors, should have taken reasonable steps to be and remain aware of the requirements of the Plan and to adhere to its terms. Those terms required them, among other things, to determine Option exercise prices as required by the Plan. The Directors' failures and lack of due diligence materially contributed to RIM's failure to ensure that its Option granting practices accorded with the requirements of the Plan and the TSX Rules.

37. The Incorrect Dating Practices at RIM and the Individual Respondents' participation in them, as described above, were contrary to the public interest.

Misleading Disclosure

38. As a reporting issuer, RIM was obliged to make certain annual and periodic disclosure in accordance with the requirements of Part XVIII of the Act, particularly sections 77 and 78. From July 1998 to August 2006, RIM repeatedly made statements in many of its filings, including its financial statements and as more particularly described in Schedule "B" attached hereto (the "Public Disclosure"), that contained the misleading or untrue statement that Options were priced at the fair market value of the Company's common shares at the date of the grant and were granted in accordance with the terms of the Plan, contrary to Ontario securities law or to the public interest.

39. Balsillie as Chairman of the Board and co-CEO, Lazaridis as President and co-CEO, Kavelman as CFO, and Estill, Cork, Wright and Fregin as directors failed to exercise reasonable diligence in approving, and causing RIM to file, documents containing the statements described in paragraph 38.

40. In addition, in the Management Information Circulars set forth in Schedule "B", sent to shareholders in connection with, among other things, the election of Directors, appointment of auditors, and amendments to the Plan, and in the Annual Reports set forth in Schedule B, the Company included a description of its Options granting practices that repeated the misleading or untrue statements described in paragraph 38. These statements were misleading in that they did not reflect properly or accurately RIM's Options granting practices. These Management Information Circulars and Annual Reports were reviewed and approved by the Board.

41. These misleading descriptions of RIM's Option granting practices were repeated in other filings issued by RIM during the Material Time including prospectuses issued in 1999, 2000 and 2004.

42. The Management Information Circulars also substantially understated the true compensation awarded to the Named Executive Officers (as defined in the Management Information Circulars) by failing to disclose the unauthorized benefit they received as a result of the improperly dated Options during the Material Time.

43. In the Management's Discussion and Analysis of Financial Condition and Results of Operations ("MD&A") for the years 2004 through 2006, management of RIM stated that the exercise price of Options granted by RIM was equal to the market value of the underlying shares at the date of grant, as a result of which the Company did not have to recognize any compensation expense. However, in respect of many Options grants, the exercise price was not equal to the market value of the shares at the date of grant as disclosed.

44. The Company made the above disclosures, and when the Individual Respondents authorized, acquiesced in, or permitted those statements to be made they did not exercise reasonable diligence to ensure that the statements were not misleading or untrue contrary to the Act and/or the public interest.

Failure to Maintain Internal Controls

45. Every RIM Annual Report between 1998 and 2006, in the section entitled "Management's Responsibility for Financial Reporting" signed by Lazaridis and Kavelman, stated that management of RIM had developed and maintained systems of accounting and internal controls that it believed provided reasonable assurance that transactions were executed in accordance with management's authorization and that the Company's financial records were reliable for the preparation of accurate financial statements.

46. However, the Company failed to maintain adequate internal and accounting controls with respect to issuing Options in compliance with RIM's Plan, for both how Options were granted and documented, and in respect of the measurement date used to account for certain Option grants. Rather, the Option granting practices were characterized by informality and a lack of definitive documentation, and lacked safeguards to ensure compliance with applicable accounting, regulatory, and disclosure rules.

47. RIM's failure to maintain adequate internal and accounting controls with respect to issuing Options and accurately disclosing the failure to put internal controls in place was contrary to the public interest.

CEO and CFO Certificates

48. On March 30, 2004, the Company became subject to the requirement to file CEO and CFO certificates (the "Certificates"), pursuant to NI 52-109 *Certification of Disclosure in Issuers' Annual and Interim Filings* ("NI 52-109").

49. Balsillie, Lazaridis and Kavelman, in their capacity as the certifying officers for RIM, failed to take reasonable steps in their review of the underlying Annual Information Forms, financial statements, and Management's Discussion & Analysis concerning RIM's Options granting practices before completing the Certificates.

Lack of Diligence by Directors and Senior Officers

50. Directors and officers of RIM owed a duty to the Company to provide proper oversight to ensure that its policies and procedures, and its disclosure obligations under the Act were complied with fully, accurately, and in a timely way.

51. The Individual Respondents did not take reasonable steps to provide proper oversight in relation to RIM's Options granting practices or to ensure that the Public Disclosure reflected those practices during the Material Time, contrary to the Act and/or the public interest.

Internal Review of Options Granting Practices

52. In August 2006, RIM commenced a voluntary internal review (the "Internal Review") by the Audit Committee of RIM's Option granting practices and related accounting. This review was later continued by a Special Committee of the Board.

53. On March 5, 2007, the Company filed a status update and a report on SEDAR on the results of the Internal Review of Option grants (the "Status Update"). According to the Status Update, the Special Committee reviewed the facts and circumstances surrounding the approximately 3,200 grants of Options that were made by the Company between December 1996 and August 2006 to its employees and directors.

54. According to the Status Update, the Special Committee made a number of findings, including the following:

    (a) All Options granted prior to February 27, 2002 were accounted for incorrectly under U.S. generally accepted accounting principles ("GAAP"), as the Company failed to apply variable accounting for the awards as a result of the net settlement feature of the Plan.

    (b) From February 28, 2002 to August 2006, incorrect measurement dates for accounting purposes were identified for approximately 321 grants in respect of Options to acquire 4,581,000 common shares. This represents approximately 63% of the grants made by the Company after February 28, 2002.

    (c) Since its initial public offering in 1997, RIM publicly reported that stock options were granted upon approval of the Board or Compensation Committee. Over the same period, RIM has also consistently issued public reports that Options were granted at exercise prices not less than the market price of the shares on the date immediately prior to the grants of the Options, which was untrue.

    (d) Until the commencement of the Internal Review in August 2006, all Option grants, except grants to RIM's co-CEOs, were made by or under the authority of Balsillie or his delegate. For a number of years after the Company's initial public offering in 1997, Balsillie was directly involved in approving grants, including grants that have been found to have been accounted for incorrectly.

    (e) Balsillie's direct involvement in approving grants diminished over time, as more responsibility for approving certain grants was delegated, without explicit conditions or documentation, to Kavelman, Loberto and to other employees. Kavelman, Loberto and other, less senior, personnel were also involved in granting Options that have been found to have been accounted for incorrectly.

    (f) Lazaridis also had a role in granting Options.

    (g) Some New Hire Grants and the majority of Periodic Grants, as defined in the Status Update, were accounted for using incorrect measurement dates, with the result that the exercise prices of the Options were less than the fair market value as of the date when all the events necessary to make the grants were complete.

    (h) In many instances, including some Option grants to Directors, the co-CEOs, COOs and the CFO (the "C-level officers"), hindsight was used to select grant dates with favourable pricing on grants, resulting in grantees receiving an in the money benefit that was not recorded in the financial statements as stock-based compensation.

    (i) The Company failed to maintain adequate internal and accounting controls with respect to issuing Options in compliance with the Plan, both in terms of how Options were granted and documented, and the measurement date used to account for certain Option grants. The grant process was characterized by informality and a lack of definitive documentation, and lacked safeguards to ensure compliance with applicable accounting, regulatory and disclosure rules.

    (j) The practices identified above benefited Directors and employees across all levels at RIM. However, by virtue of larger Option grants to more senior employees, such employees received a greater individual benefit from the Company's Options granting practices. Each of the Company's C-level officers and certain other officers of the Company received in the money benefits from Options grants that were effectively made at less than fair market value as of the date the granting process was complete.

55. On May 17, 2007, RIM announced that it had completed the restatement of its previously filed U.S. GAAP financial statements arising as a result of the internal review of its Option granting practices and various accounting errors relating to Option grants (the "Restatement"). RIM was not required to restate its historical Canadian GAAP results.

56. As a result of the Restatement, RIM took a cumulative charge of US $248.2 million including US $227 million in non-cash, stock-based compensation expense for fiscal 1999 through fiscal 2006. The Restatement resulted from granting "in the money" Options, as well as the misapplication of U.S. GAAP as it relates to a "net settlement" feature in RIM's Plan through fiscal 2002. U.S. GAAP required RIM to have used variable accounting for all grants through fiscal 2002, among other errors. Had the Company not been required to use variable accounting, the granting of "in the money" Options during the years 1996 through 2006 would have led to a total potential charge of approximately $66 million.

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

57. By engaging in the conduct described above, the Respondents have breached Ontario securities law and/or have acted contrary to the public interest.

PART V – RESPONDENTS' POSITION

58. The Respondents request that the settlement hearing panel consider the following mitigating circumstances:

Co-operation of the Respondents

(a) The Internal Review was voluntarily initiated by the Company.

(b) The Special Committee, consisting solely of outside (non-management) directors, supervised and directed the Internal Review and retained experienced counsel to assist it.

(c) The Company promptly reported to Staff the need for a Restatement as well as the Internal Review.

(d) The findings of the Internal Review were publicly disclosed by RIM on March 5, 2007.

(e) As described more fully below, RIM has undertaken the remediation recommended by the Internal Review to prevent a recurrence, to improve RIM's corporate culture, and to ensure sound financial reporting.

(f) RIM and the Individual Respondents cooperated with Staff's investigation.

Special Remedial Measure Undertaken or Planned by the Respondents

(g) Immediately after the commencement of the Internal Review, the Company suspended all Option grants, except for exceptional circumstances. On December 21, 2006, the Board adopted interim equity granting guidelines that included new procedures for granting Options in accordance with the Board's and its outside advisors' recommendations.

(h) All directors and all C-level officers returned the improper benefits they received from all Options that were incorrectly priced. In addition, all vice-presidents of the Company returned the improper benefits they received for Options that were incorrectly priced and granted after the employee's commencement of employment or, where the employee was hired below the level of vice-president, after such employee was promoted to vice-president.

(i) Restitution in the aggregate amount of $8,575,609, including interest to the date of payment, has been paid to the Company by its directors, C-level officers and vice-presidents. In addition, $15,008,383 has been recovered through the repricing of Options, including for certain employees who have voluntarily re-priced options with dating issues.

(j) On March 2, 2007, Balsillie voluntarily stepped down as the Chairman of the Company's Board and John Richardson became Lead Director.

(k) An Oversight Committee was established on March 2, 2007, comprising exclusively independent directors, each of whom is also on the Board's Audit Committee or Compensation Committee, or both.

(l) Cork and Wright voluntarily resigned from all committees of the Board and determined not to stand for re-election as directors of RIM. They currently serve as directors emeritus. Barbara Stymiest ("Stymiest"), and John Wetmore, were appointed to the Board of Directors on March 2, 2007. David Kerr and Roger Martin were appointed to the Board of Directors at the Company's 2007 annual general meeting. The Board now comprises eight directors, six of whom are independent of the Company. The only directors who continue in a management role are Balsillie and Lazaridis, RIM's co-CEOs.

(m) Stymiest is the chair of the Audit Committee and is an audit committee financial expert, as defined under applicable securities laws.

(n) On March 2, 2007, Kavelman agreed to step down as the Company's CFO and from any financial reporting function. At the same time, Loberto agreed to step down as Vice-President, Finance and he no longer has a financial reporting function. Both of them now work on the operations side of RIM.

(o) The Board replaced the interim guidelines adopted in December 2006 with a formal Policy on Granting Equity Awards in June 2007. The Oversight Committee and the Compensation Committee periodically review the Company's policies with respect to Option granting practices.

(p) In July 2007, the Board determined that non-management Board members would not be compensated with Options.

(q) RIM has paid about $45 million to investigate and deal with Incorrect Dating Practices at the Company. Balsillie and Lazaridis have paid a total of $15 million ($7.5 million each) towards those costs.

PART VI – TERMS OF SETTLEMENT

59. The Respondents agree to the terms of settlement listed below.

60. Balsillie undertakes not to act as a director of any reporting issuer until the later of (a) twelve months from the date of the Commission order approving this settlement with him, and (b) RIM's compliance with the paragraphs 17 and 18 of the Governance Assessment document attached at as Schedule "C" to this document.

61. Balsillie, Lazaridis and Kavelman undertake to contribute $38.3 million (which includes interest of $5.3 million) to RIM in respect of the outstanding benefit arising from incorrectly priced stock options granted to all employees from 1996 to 2006.

62. Balsillie, Lazaridis and Kavelman undertake to contribute $44.8 million to RIM to defray costs incurred by RIM in the investigation and remediation of stock options granting practices and related governance practices at RIM, which will be reduced by $15 million as credit for amounts already paid by Balsillie and Lazaridis in respect of costs incurred.

63. As determined by the Board, with the Individual Respondents abstaining, to be in the best interests of RIM, the amounts described in paragraphs 61 and 62 may be settled by Balsillie, Lazaridis and Kavelman agreeing not to exercise certain vested RIM stock options that collectively have a fair value equal to the amounts described in paragraphs 61 and 62. The fair value of such RIM stock options is to be determined on a Black-Scholes calculation based on the last trading day prior to the issuance of a Notice of Hearing in this matter.

64. Lazaridis undertakes to complete a course acceptable to Staff regarding the duties of directors and officers of public companies no later than twelve months from the date of the Commission order approving this settlement with him.

65. Each of Loberto, Cork, Wright, Estill, and Fregin undertakes that he has repaid to RIM any increased benefit he received from the allocation to him of incorrectly priced options.

66. The Commission will make an order pursuant to sections 127(1) and 127.1 of the Act as follows:

(a) The settlement is approved;

(b) RIM shall submit to a review of its practices and procedures pursuant to s.127(1)(4) of the Act by an independent person to be selected by the Commission and paid for by RIM (the "Independent Review") as set out in Schedule "C" to this document;

(c) James Balsillie:

(i) shall pay an administrative penalty of $5 million to be allocated for the benefit of third parties by the Commission, pursuant to section 3.4(2) of the Act;

(ii) shall pay $700,000 to the Commission towards the costs of its investigation; and

(iii) shall be reprimanded by the Commission.

(d) Mike Lazaridis:

(i) shall pay an administrative penalty of $1.5 million to be allocated for the benefit of third parties by the Commission, pursuant to section 3.4(2) of the Act;

(ii) shall pay $150,000 to the Commission towards the costs of its investigation; and

(iii) shall be reprimanded by the Commission.

(e) Dennis Kavelman:

(i) is prohibited from becoming or acting as a director or officer of any reporting issuer until the later of (a) five years from the date of the Commission order approving this settlement with him, and (b) the date he completes a course acceptable to Staff regarding the duties of directors and officers of public companies;

(ii) shall pay an administrative penalty of $1.5 million to be allocated for the benefit of third parties by the Commission, pursuant to section 3.4(2) of the Act;

(iii) shall pay $150,000 to the Commission towards the costs of its investigation; and

(iv) shall be reprimanded by the Commission.

(f) Angelo Loberto:

(i) is prohibited from becoming or acting as a director or officer of any reporting issuer, until he has completed a course acceptable to Staff regarding the duties of directors and officers of public companies;

(ii) shall pay $50,000 to the Commission towards the costs of its investigation; and

(iii) shall be reprimanded by the Commission.

(g) Kendall Cork:

(i) shall complete a course acceptable to Staff regarding the duties of directors and officers of public companies no later than twelve months from the date of the Commission order approving a settlement with him, failing which he will be prohibited from acting as a director pending completion of such course; and

(ii) shall be reprimanded by the Commission.

(h) Douglas Wright

(i) shall complete a course acceptable to Staff regarding the duties of directors and officers of public companies no later than twelve months from the date of the Commission order approving a settlement with him, failing which he will be prohibited from acting as a director pending completion of such course; and

(ii) shall be reprimanded by the Commission.

(i) James Estill:

(i) shall complete a course acceptable to Staff regarding the duties of directors and officers of public companies no later than twelve months from the date of the Commission order approving a settlement with him, failing which he will be prohibited from acting as a director pending completion of such course; and

(ii) shall be reprimanded by the Commission.

(j) Douglas Fregin shall complete a course acceptable to Staff regarding the duties of directors and officers no later than twelve months from the date of the Commission order approving a settlement with him, failing which he will be prohibited from acting as a director of a reporting issuer pending completion of such a course.

(k) The Individual Respondents will not seek, accept, or be offered indemnification from RIM for any of the payments associated with or paid by the Individual Respondents as a result of this settlement and any resulting Commission order.

PART VII – STAFF COMMITMENT

67. 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 below.

68. If the Commission approves this Settlement Agreement and a Respondent fails to comply with any of the terms of the Settlement Agreement, Staff may bring proceedings under Ontario securities law against that 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

69. 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.

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

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

72. Without limiting in any way Respondents' ability to make full answer and defence in, or enter into settlements with respect to, any civil, criminal or other proceeding, 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.

73. Whether or not the Commission approves this Settlement Agreement, the Respondents 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

74. 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 Respondents before the settlement hearing takes place will be without prejudice to Staff and the Respondents; and

(b) Staff and the Respondents 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.

75. 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

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

77. A fax or PDF copy of any signature will be treated as an original signature.

Dated this 27th day of January, 2009.

Research In Motion Limited

By: *"Grant Gardiner"*
Name: Grant Gardiner
Title: Legal Counsel, Regulatory and Compliance

Dated this 27th day of January, 2009

"James Balsillie"
James Balsillie

Dated this 27th day of January, 2009

"Mike Lazaridis"
Mike Lazaridis

Dated this 27th day of January, 2009

"Dennis Kavelman"
Dennis Kavelman

Dated this 27th day of January, 2009

"Angelo Loberto"
Angelo Loberto

Dated this 28th day of January, 2009

"Kendall Cork"
Kendall Cork

Dated this day of January, 2009

"Douglas Wright"
Douglas Wright

Dated this day of January, 2009

"James Estill"
James Estill

Dated this 27th day of January, 2009

"Douglas Fregin"
Douglas Fregin

Dated this 27th day of January, 2009

"Peggy Dowdall-Logie"
Peggy Dowdall-Logie
Executive Director and Chief Administrative Officer
For: Staff of the Ontario Securities Commission

SCHEDULE "A"

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

AND

**IN THE MATTER OF
RESEARCH IN MOTION LIMITED,
JAMES BALSILLIE, MIKE LAZARIDIS,
DENNIS KAVELMAN, ANGELO LOBERTO,
KENDALL CORK, DOUGLAS WRIGHT,
JAMES ESTILL AND DOUGLAS FREGIN**

**ORDER
(Sections 127 and 127.1)**

WHEREAS on _____, 2009 the Ontario Securities Commission (the "Commission") issued a Notice of Hearing and related Statement of Allegations (the "Notice of Hearing") in respect of Research In Motion Limited ("RIM"), James Balsillie, Mike Lazaridis, Dennis Kavelman, Angelo Loberto, Kendall Cork, Douglas Wright, James Estill, and Douglas Fregin (collectively the "Respondents" or, apart from RIM, the "Individual Respondents");

AND WHEREAS the Respondents have entered into a settlement agreement with Staff of the Commission dated January ___, 2009 (the "Settlement Agreement") in relation to the matters set out in the Notice of Hearing;

UPON reviewing the Notice of Hearing and Settlement Agreement, and upon hearing submissions from counsel for the Respondents and for Staff of the Commission (the "Staff");

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

IT IS HEREBY ORDERED that:

(a) The settlement is approved;

(b) RIM shall submit to a review of its practices and procedures pursuant to s.127(1)(4) of the Act by an independent person agreed to by Staff of the Commission and RIM and paid for by RIM, as set out in Schedule "C" to the Settlement Agreement;

(c) James Balsillie:

(i) shall pay an administrative penalty of $5 million to be allocated for the benefit of third parties by the Commission, pursuant to section 3.4(2) of the Act;

(ii) shall pay $700,000 to the Commission towards the costs of its investigation; and

(iii) shall be reprimanded by the Commission.

(d) Mike Lazaridis:

(i) shall pay an administrative penalty of $1.5 million to be allocated for the benefit of third parties by the Commission, pursuant to section 3.4(2) of the Act;

(ii) shall pay $150,000 to the Commission towards the costs of its investigation; and

(iii) shall be reprimanded by the Commission.

(e) Dennis Kavelman:

(i) is prohibited from becoming or acting as a director or officer of any reporting issuer until the later of (a) five years from the date of the Commission order approving a settlement with him, and (b) the date he completes a course acceptable to Staff of the Commission regarding the duties of directors and officers of public companies;

(ii) shall pay an administrative penalty of $1.5 million to be allocated for the benefit of third parties by the Commission, pursuant to section 3.4(2) of the Act;

(iii) shall pay $150,000 to the Commission towards the costs of its investigation; and

(iv) shall be reprimanded by the Commission.

(f) Angelo Loberto:

(i) is prohibited from becoming or acting as a director or officer of any reporting issuer, until he has completed a course acceptable to Staff regarding the duties of directors and officers of public companies;

(ii) shall pay $50,000 to the Commission towards the costs of its investigation; and

(iii) shall be reprimanded by the Commission.

(g) Kendall Cork:

(i) shall complete a course acceptable to Staff regarding the duties of directors and officers of public companies no later than twelve months from the date of the Commission order approving a settlement with him, failing which he will be prohibited from acting as a director pending completion of such course; and

(ii) shall be reprimanded by the Commission.

(h) Douglas Wright:

(i) shall complete a course acceptable to Staff regarding the duties of directors and officers of public companies no later than twelve months from the date of the Commission order approving a settlement with him, failing which he will be prohibited from acting as a director pending completion of such course; and

(ii) shall be reprimanded by the Commission.

(i) James Estill:

(i) shall complete a course acceptable to Staff regarding the duties of directors and officers of public companies no later than twelve months from the date of the Commission order approving a settlement with him, failing which he will be prohibited from acting as a director pending completion of such course; and

(ii) shall be reprimanded by the Commission.

(j) Douglas Fregin: shall complete a course acceptable to Staff regarding the duties of directors and officers no later than twelve months from the date of the Commission order approving a settlement with him, failing which he will be prohibited from acting as a director of a reporting issuer pending completion of such a course.

(k) The Individual Respondents will not seek, accept, or be offered indemnification from or through RIM for any of the payments associated with or paid by the Individual Respondents as a result of this settlement and any resulting Commission order.

Dated at Toronto this ___th day of January, 2009.

SCHEDULE "B"

RIM made the following filings in which statements were made that were misleading or untrue:

- Prospectus dated December 4, 1996;
- Prospectus dated October 17, 1997 and filed on SEDAR on October 17, 1997;
- Management information circular dated June 2, 1998 and filed on SEDAR on June 19, 1998;
- Management information circular dated June 9, 1999 and filed on SEDAR on June 18, 1999;
- Annual report for the fiscal year ended February 28, 1999 and filed on SEDAR on June 18, 1999;
- Audited annual financial statements for the fiscal year ended February 28, 1999 and filed on SEDAR on June 18, 1999;
- Short form prospectus dated October 13, 1999 and filed on SEDAR on October 13, 1999;
- Supplemented short form prospectus dated October 13, 1999 and filed on SEDAR on October 15, 1999;
- Audited annual financial statements for the fiscal year ended February 29, 2000 and filed on SEDAR on July 7, 2000;
- Management information circular dated June 12, 2000 and filed on SEDAR on July 7, 2000;
- Annual report for the fiscal year ended February 29, 2000 and filed on SEDAR on July 7, 2000;
- Short form prospectus dated October 26, 2000 and filed on SEDAR on October 26, 2000;
- Supplemented short form prospectus dated October 26, 2000 and filed on SEDAR on October 27, 2000;
- Management information circular dated June 15, 2001 and filed on SEDAR on June 29, 2001;
- Audited annual financial statements for the fiscal year ended February 28, 2001 and filed on SEDAR on June 29, 2001;
- Annual report for the fiscal year ended February 28, 2001 and filed on SEDAR on July 3, 2001;
- Interim financial statements for the three months ended June 2, 2001 and filed on SEDAR on July 5, 2001;
- Interim financial statements for the three and six months ended September 1, 2001 and filed on SEDAR on October 5, 2001;
- Interim financial statements for the three and nine months ended December 1, 2001 and filed on SEDAR on January 28, 2002;
- Management information circular dated July 2, 2002 and filed on SEDAR on July 10, 2002;
- Annual report for the fiscal year ended March 2, 2002 and filed on SEDAR on July 10, 2002;
- Audited annual financial statements for the fiscal year ended March 2, 2002 and filed on SEDAR on July 10, 2002;
- Interim financial statements for the three months ended June 1, 2002 and filed on SEDAR on July 19, 2002;
- Interim financial statements for the three and six months ended August 31, 2002 and filed on SEDAR on October 28, 2002;
- Interim financial statements for the three and nine months ended November 30, 2002 and filed on SEDAR on January 13, 2003;

- Audited annual financial statements for the fiscal year ended March 1, 2003 and filed on SEDAR on June 5, 2003;
- Annual report for the fiscal year ended March 1, 2003 and filed on SEDAR on June 25, 2003;
- Management information circular dated May 30, 2003 and filed on SEDAR on June 25, 2003;
- Interim financial statements for the three months ended May 31, 2003 and filed on SEDAR on July 29, 2003;
- Interim financial statements for the three and six months ended August 30, 2003 and filed on SEDAR on September 26, 2003;
- Audited annual financial statements for the fiscal year ended March 1, 2003 and filed on SEDAR on January 7, 2004;
- Interim financial statements for the three and nine months ended November 29, 2003 and filed on SEDAR on January 7, 2004;
- Short form prospectus dated January 14, 2004 and filed on SEDAR on January 14, 2004;
- Supplemented short form prospectus dated January 14, 2004 and filed on SEDAR on January 15, 2004;
- Audited annual financial statements for the fiscal year ended February 28, 2004 prepared in accordance with Canadian GAAP and filed on SEDAR on June 8, 2004;
- Audited annual financial statements for the fiscal year ended February 28, 2004 prepared in accordance with U.S. GAAP and filed on SEDAR on June 8, 2004;
- Management information circular dated June 8, 2004 and filed on SEDAR on June 16, 2004;
- Annual report for the fiscal year ended February 28, 2004 and filed on SEDAR on June 16, 2004;
- Interim financial statements for the three months ended May 29, 2004 and filed on SEDAR on July 7, 2004;
- Interim financial statements for the three and six months ended August 28, 2004 and filed on SEDAR on October 7, 2004;
- Interim financial statements for the three and nine months ended November 27, 2004 and filed on SEDAR on January 7, 2005;
- Interim financial statements for the three and nine months ended November 27, 2004 and filed on SEDAR on January 10, 2005;
- Audited annual financial statements for the fiscal year ended February 26, 2005 prepared in accordance with Canadian GAAP and filed on SEDAR on May 6, 2005;
- Audited annual financial statements for the fiscal year ended February 26, 2005 prepared in accordance with U.S. GAAP and filed on SEDAR on May 6, 2005;
- Management information circular dated May 31, 2005 and filed on SEDAR on June 20, 2005;
- Annual report for the fiscal year ended February 26, 2005 and filed on SEDAR on June 20, 2005;
- Interim financial statements for the three months ended May 28, 2005 and filed on SEDAR on June 30, 2005;
- Interim financial statements for the three and six months ended August 27, 2005 and filed on SEDAR on October 6, 2005;
- Interim financial statements for the three and nine months ended November 26, 2005 and filed on SEDAR on January 6, 2006;

- Audited annual financial statements for the fiscal year ended March 4, 2006 and filed on SEDAR on May 10, 2006;
- Annual report for the fiscal year ended March 4, 2006 and filed on SEDAR on May 10, 2006;
- Management information circular dated June 2, 2006 and filed on SEDAR on June 16, 2006;
- Interim financial statements for the three months ended June 3, 2006 and filed on SEDAR on July 4, 2006.

SCHEDULE "C"

GOVERNANCE ASSESSMENT
OF
RESEARCH IN MOTION LIMITED

1. Research In Motion Limited ("RIM" or the "Company") shall within 30 days of the settlement being approved by the Commission, retain, and enter into an agreement with an independent consultant (the "Consultant"), in accordance with paragraph 3, below, to conduct, at RIM's expense, a comprehensive examination and review of RIM and to report to RIM's board of directors (the "Board") and to the Staff of the Commission ("Staff") on RIM's governance practices and procedures and internal control over financial reporting including the areas of assessment identified in paragraph 2, below.

2. The Consultant shall assess, review and report to the Board and to Staff on whether RIM has:

   (a) processes and procedures appropriate to RIM that enable the Board to oversee management effectively and satisfy the Board's other legal and corporate responsibilities, including:

      (i) director recruitment, selection, orientation and education practices and procedures, as well as the manner and extent of compliance with those practices and procedures;

      (ii) processes and procedures to promote independence from management, as well as the manner and extent of compliance with those processes and procedures;

      (iii) processes and procedures addressing information flow to the Board;

      (iv) processes and procedures addressing director engagement, relationship with and oversight and evaluation of management, external auditor, internal auditor, internal counsel and external counsel; and

      (v) establishment and oversight of corporate policy framework to govern major risks and activities of the enterprise;

   (b) processes and procedures appropriate to RIM that enable the Company's senior management team to carry out management functions in a manner that supports compliance with corporate governance practices applicable to RIM, including:

      (i) remediation of accounting and reporting for stock options with implementation of appropriate processes and control activities;

      (ii) processes and procedures to ensure knowledge of and compliance with public company obligations and proper standards of corporate governance;

      (iii) processes and procedures addressing management engagement; and

      (iv) processes and procedures addressing management's relationship with the Board;

   (c) processes and procedures appropriate to RIM to prevent and detect violations of law or of RIM's internal policies and procedures and to promote honest and ethical conduct, including:

      (i) oversight of ethics compliance by the Board and senior management, including written compliance reports and direct Board reporting by compliance personnel as appropriate;

      (ii) dissemination of ethics program communications by senior management;

      (iii) an appropriate code of conduct;

      (iv) enforcement of applicable standards;

      (v) measurement of compliance program effectiveness and procedural review and modification as appropriate;

(vi) ethics and compliance policies, including the adequacy and effectiveness of any whistleblower procedures designed to allow employees and others to report confidentially matters that may bear on RIM's obligations, including financial reporting; and

(vii) internal reporting mechanisms for employees, with protocols for investigating employee reports and protection of employees;

(d) processes and procedures appropriate to RIM to comply with Ontario securities law requirements with respect to internal control over financial reporting, including:

(i) compliance standards and procedures, including an internal audit plan, financial reporting controls, compliance structure and employee handbook or policy and procedures manual;

(ii) monitoring and auditing systems, including internal audit, financial audit, and compliance audit plans; and

(iii) a risk assessment program;

(e) processes and procedures appropriate to RIM to ensure that public disclosure is appropriate and is properly reviewed by management and the Board as required before it is released, including:

(i) procedures to comply with the audit committee review requirements in NI 52-110, *Audit Committees*;

(ii) procedures to comply with the disclosure requirements of NI 52-109, *Certification of Disclosure in Issuers' Annual and Interim Filings* and/or applicable Sarbanes Oxley requirements; and

(iii) procedures to ensure the Board can properly meet its disclosure approval obligations under NI 51-102, *Continuous Disclosure Obligations*.

3. Staff and RIM agree that Protiviti Co. will act as the Consultant. The Consultant will execute a non-disclosure agreement acceptable to the Company, which will cover all disclosures and communications not otherwise specifically addressed in this document.

4. The Consultant shall have the right, as reasonable and necessary in the circumstances, to retain, at RIM's expense, lawyers, accountants, and other persons or firms, other than (i) officers, directors, or employees of RIM, or (ii) persons or entities who have acted for or advised any other person or entity in relation to the events giving rise to this assessment (unless RIM is prepared to agree in writing to waive any such conflict), to assist in the discharge of the Consultant's obligations. RIM shall pay all reasonable fees and expenses, as reasonably documented, of any persons or firms retained by the Consultant.

5. The Consultant and its staff shall have access, in a reasonably timely manner and for reasonable periods of time, to:

(a) all of RIM's books and records that are necessary to complete the Consultant's mandate, other than those that are subject to lawyer-client or other legal privileges; and

(b) all of RIM's directors, officers, employees and advisors necessary to complete the Consultant's mandate, again subject to lawyer-client or other legal privileges.

6. To facilitate the Consultant's efficient and timely review and to minimize disruption to Company operations, RIM shall delegate a member of senior management (the "RIM Delegate") acceptable to the Consultant, who will be its main point of contact with RIM management and employees and who will ensure that the Consultant has reasonably prompt access to the people and materials referred to in paragraph 5, above, taking into consideration that other business or personal obligations may dictate that relevant individuals or materials may not always be immediately accessible.

7. The Board and senior management shall also instruct employees that their full cooperation with the Consultant is required, but that such employees may seek direction from the RIM Delegate, or RIM's internal or external counsel, with respect to communications with the Consultant.

8. The Board shall designate an independent director acceptable to the Consultant who will be available to meet with the Consultant as reasonably necessary, taking into account that other business or personal obligations may dictate that such director may not always be immediately accessible, and who will facilitate communication with and reporting to the Board.

9. The Board shall meet with the Consultant at regularly scheduled meetings of the Board at the request of, and on reasonable notice by, the Consultant. Some or all of such meetings shall take place in the absence of management and of the non-independent directors.

10. The Consultant shall prepare a draft of its final report ("Draft Report") and provide that Draft Report to RIM for review and comment before that report is finalized and delivered.

11. The Consultant shall report regularly to Staff and, to the extent reasonably possible in the circumstances, shall deliver a final report (the “Final Report”) to RIM and Staff within six months of its appointment.

12. The Final Report shall address the Consultant’s review of the areas of review specified above and shall include a description of the review performed, the conclusions reached, recommendations for any changes or improvements to RIM’s policies and procedures as the Consultant reasonably deems necessary to conform to the law in Canada and best practices, including an assessment of whether or not certain deficiencies that may be identified are substantial enough to require changes or improvements, and possible procedures for implementing the recommended changes or improvements.

13. Within forty-five days of its receipt of the Final Report RIM shall adopt the recommendations contained in the Final Report or advise the Consultant and Staff in writing of any recommendations that it considers unnecessary or inappropriate. With respect to any recommendation that RIM considers unnecessary or inappropriate, RIM need not adopt that recommendation at that time, but RIM shall propose, in writing, an alternative policy, procedure, or system designed to achieve the same objective or purpose, or shall identify the policies, procedures or systems already in place that RIM believes achieve the same objective or purpose, or, if neither of those options is practicable or necessary, shall identify why the recommendation is unnecessary or inappropriate to RIM.

14. Within forty-five days of RIM advising the Consultant and Staff in writing of any recommendations that it considers unnecessary or inappropriate, RIM and the Consultant shall attempt in good faith to reach an agreement with respect to any recommendations of the Consultant to which RIM and the Consultant do not agree. In the event that RIM and the Consultant are unable to agree on an alternative proposal, then, in addition to any other disclosure it makes on the matter, a committee comprised of all the independent directors must set out in writing RIM’s reasons for not implementing the recommendation and how RIM will address the issues raised by the recommendation, or how, in RIM's view, the issue raised by the recommendation has already been addressed or need not be addressed.

15. A summary of the Consultant's recommendations contained in the Final Report, as may be modified by the discussions and good faith negotiations identified in paragraphs 13 and 14, above, will be posted on the Commission website and disclosed in RIM’s Management Discussion & Analysis (“MD&A”).

16. RIM shall retain the Consultant for a period of twelve months from the date of appointment. The Consultant shall review the implementation of its recommendations in its Final Report that RIM has agreed to implement, as may be modified by the discussions and good faith negotiations identified in paragraphs 13 and 14, above, and provide a report to the Board, its audit committee, and to Staff twelve months after appointment, concerning the progress of the implementation. If, at the conclusion of this twelve-month period, not all the recommendations of the Consultant (to the extent deemed significant by Staff) that RIM has agreed to implement in whole or in part or with modifications have been substantially implemented for at least two successive fiscal quarters, Staff may, in its discretion, direct RIM to extend the Consultant’s term of appointment, on substantially the same terms, until such time as all recommendations (to the extent deemed significant by Staff) accepted by RIM have been substantially implemented for at least two successive fiscal quarters.

17. For each recommendation made in the Final Report that RIM has agreed to implement, as may be modified by the discussions and good faith negotiations identified in paragraphs 13 and 14 above, RIM shall disclose in its MD&A:

    (a) a description of the recommendation that RIM has agreed to implement; and

    (b) RIM’s plan, along with any actions already undertaken, to implement the recommendation.

18. Following the completion of the steps identified above, if the independent directors determine not to implement in whole or in part one or more of the recommendations in the Final Report, as may be modified by the discussions and good faith negotiations identified in paragraphs 13 and 14 above, RIM shall disclose in its MD&A the independent directors’ reasons for not implementing any such recommendations and how RIM has addressed or proposes to address the issue raised by such recommendations, or shall identify why the recommendation is unnecessary or inappropriate to RIM.

19. Other than with respect to those recommendations that RIM's independent directors determine not to implement in accordance with paragraphs 14 and 18, RIM shall continue to make the disclosure provided for in paragraph 17, above, until the recommendations have been addressed in a manner satisfactory to the Consultant and to Staff, acting reasonably.

20. The Consultant shall submit a monthly statement of associated costs and expenses to RIM, and, assuming such costs and expenses are reasonable in the circumstances, the Company shall make payment within thirty days of receipt.

21. For the period of engagement and for a period of two years from completion of the engagement, the Consultant shall not enter into any employment, consultant, attorney-client, auditing, or other professional relationship with RIM, or any of its present or former affiliates, directors, officers, employees, or agents acting in their capacity as such, and shall require that any firm with which the Consultant is affiliated or of which the Consultant is a member, except for Robert Half Canada, or any person engaged to assist the Consultant in performance of the Consultant's duties under the Settlement Agreement and Commission order not, without prior written consent of Staff, enter into any employment, consultant, attorney-client, auditing, or other professional relationship with RIM, or any of its present or former affiliates, directors, officers, employees, or agents acting in their capacity as such for the period of the engagement and for a period of two years after the engagement.

3.1.2 Imagin Diagnostic Centres Inc. et al.

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

HEARING HELD PURSUANT TO SECTIONS 127 AND 127.1 OF THE ACT

SETTLEMENT HEARING RE: CYNTHIA JORDAN, ALLAN McCAFFREY,
MICHAEL SHUMACHER, CHRISTOPHER SMITH, AND MICHAEL ZELYONY

HEARING:	Friday, January 16, 2009		
PANEL:	Suresh Thakrar	-	Commissioner and Chair of the Panel
	Kevin J. Kelly	-	Commissioner
APPEARANCES:	Hugh Craig Jonathon Feasby	-	for Staff of the Ontario Securities Commission
	Robert Brush Jane Patterson	- –	for Allan McCaffrey, Michael Shumacher, Christopher Smith and Michael Zelyony
	Shawna Fattal	–	for Cynthia Jordan

ORAL RULING AND REASONS

The following text has been prepared for the purpose of publication in the Ontario Securities Commission Bulletin and is based on excerpts of the transcript of the hearing. The excerpts have been edited and supplemented and the text has been approved by the Chair of the Panel for the purpose of providing a public record of the decision.

Chair:

[1] This was a hearing under sections 127 and 127.1 of the Securities Act, R.S.O. 1990, c. S.5, as amended, (the "Act") for the Ontario Securities Commission (the "Commission") to consider whether it is in the public interest to approve five separate proposed Settlement Agreements between Staff of the Commission ("Staff") and the respondents:

1. Cynthia Jordan ("Jordan");
2. Allan McCaffrey ("McCaffrey");
3. Michael Shumacher ("Shumacher");
4. Christopher Smith ("Smith"); and
5. Michael Zelyony ("Zelyony").

[2] We have read Staff's written submissions, and heard the oral submissions and we have decided to approve all five Settlement Agreements as being in the public interest. These are our oral reasons in this matter.

[3] The facts and circumstances agreed to by Staff and the five respondents are set out in the five separate Settlement Agreements. These facts are not findings of fact by this Panel, rather, they are facts agreed to by Staff and the respondents for the purposes of the Settlement Agreements. In approving all five Settlement Agreements, we relied solely on the facts set out in the agreements and those facts represented to us at the hearing (see: *Re Rankin* (2008), 31 O.S.C.B. 3303 at para. 5).

[4] All five respondents were named in the Notice of Hearing issued on September 28, 2007. Each of the respondents is not currently registered with the Commission, nor were they registered with the Commission during the relevant time of the conduct at issue in this proceeding.

[5] The misconduct of all five respondents relates to their roles in the trading activities in securities of Imagin Diagnostic Centres Inc. ("Imagin") in the period between March 2003 and February 2007.

[6] Imagin is a corporation incorporated pursuant to the laws of Canada with its head office previously located in Toronto, Ontario. Imagin is not registered in any capacity with the 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 raised from Ontario investors. These securities have not been qualified by a prospectus filed with the Commission. Further, the sales of securities were from Imagin's offices in Toronto to investors including residents in Ontario.

[8] Prior to February 2006, a significant portion of Imagin's Staff in Toronto assisted in the sales of its securities to investors both inside and outside of Ontario. Imagin's head office moved to Vancouver, British Columbia in February 2006. After February 2006, Toronto employees of Imagin continued to contact or qualify potential investors and any sales leads gathered were then forwarded to Vancouver for further sales action by Imagin.

[9] As stated in each of their respective Settlement Agreements, the role of each of the respondents can be described as follows:

- From December 3, 2002 to January 23, 2003, Jordan was President of Imagin. Thereafter, she remained as an officer and director of Imagin during the material time. She authorized, permitted or acquiesced to the sale of Imagin securities by employees of Imagin to members of the public from December 2002 until October 2006. Some of these sales of securities were from Imagin's office in Toronto to investors, including residents of Ontario.

- During the material time, McCaffrey was employed by Imagin from March 2003 until February 2007, and during almost all of this time period he was in charge, in an overseer capacity, of those employees of Imagin engaged in the sale of securities of Imagin to members of the public. Some of these sales made by McCaffrey were from Imagin's offices in Toronto to investors, including residents of Ontario.

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

- During the material time, Smith was employed by Imagin and was engaged in the sale of securities to members of the public from September 2003 to June 2006. Some of these sales made by Smith were from Imagin's offices in Toronto to investors, including residents of Ontario.

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

[10] Through these acts, all five respondents engaged in the business of trading in securities in Ontario. They all acted as a market intermediary, as defined in section 204(1) of the Regulations to the Act. As confirmed in the Commission's decision in *Re Momentas Corp.* (2006), 29 O.S.C.B. 7408, a market intermediary includes those persons hired by an issuer primarily to engage in the sale of securities of that issuer to members of the public. Accordingly, each respondent was acting as a market intermediary while employed at Imagin to sell securities of Imagin.

[11] As stated in *Re Allen* (2005), 28 O.S.C.B. 8541, Ontario Securities Commission Rule 45-501 provides certain exemptions from registration requirements for trading in securities. However, section 3.4 of that rule removes the registration exemption for market intermediaries.

[12] Therefore, in this matter, as a market intermediary, each of the five respondents was required to be registered with the Commission pursuant to section 25 of the Act. Accordingly, each respondent traded in securities without being registered as required by subsection 25(1) of the Act and this was contrary to the public interest.

[13] By entering into the Settlement Agreements, all five respondents have recognized the seriousness of their misconduct and admit that individually they engaged in conduct that was contrary to the public interest.

[14] The Commission's mandate in upholding the purposes of the Act, as set out in section 1.1 of the Act, is:

(a) to provide protection to investors from unfair, improper or fraudulent practices; and

(b) to foster fair and efficient capital markets and confidence in the capital markets.

[15] Further, in accordance with paragraph 2.1(2)(iii) of the Act, the Commission is guided by certain fundamental principles in pursuing the purposes of the Act, including the "maintenance of high standards of fitness and business conduct to ensure honest and responsible conduct by market participants".

[16] It is important that all market participants in the business of selling or promoting securities must meet the registration, qualification and conduct requirements of the Act. This has also been affirmed in the Commission's decision in *Re Momentas Corp.*, *supra* at para. 46.

[17] The role of the Commission in exercising its public interest jurisdiction is set out in *Re Mithras Management Ltd.* (1990), 13 O.S.C.B. 1600 at 1610-1611.

[18] Before we go to our order, we would like to briefly refer to the law as it applies to the consideration of the Settlement Agreements before the Commission.

[19] We are guided by the sanctioning factors listed in *Re M.C.J.C. Holdings and Michael Cowpland* (2002), 25 O.S.C.B. 1133 and *Re Belteco Holdings Inc.* (1998), 21 O.S.C.B. 7743, which Staff referred us to in their written submissions.

[20] In addition, appropriate sanctions need to take into account the specific circumstances of each case as stated in *Re M.C.J.C. Holdings and Michael Cowpland*, *supra* at 1134-1135.

[21] In this respect, higher sanctions are imposed against McCaffrey as he had a more significant role in the scheme.

[22] Jordan was, for a short period of time, the President of Imagin and then an officer and director of Imagin; however, it is the Panel's understanding that Jordan did not have an active role in the day-to-day management of the company. Staff explained that she was only a "figure head". Notwithstanding her limited activity in the company, we note that officers and directors have obligations that must be fulfilled.

[23] On the other hand, the other respondents, Smith, Shumacher and Zelyony were engaged in sales and did not have the same responsibility or involvement as McCaffrey.

[24] We also took into consideration the mitigating factors that existed for each respondent.

[25] With respect to Jordan, she cooperated with Staff's investigation, provided a voluntary statement, expressed extreme remorse at the settlement hearing, and stated that she has no intention to return to work in the securities industry.

[26] With respect to McCaffrey, Shumacher, Smith and Zelyony, each states in their respective Settlement Agreement that he:

- cooperated with Staff's investigation and provided a voluntary statement;
- unknowingly breached the Act; and
- asserts that after he became aware of Staff's inquiries about the sale of Imagin securities, he was provided a legal opinion that had been previously provided to Imagin stating that the conduct above did not breach the Act.

[27] We also note that the respondents cooperated with Staff at the earliest possible stage. The respondents have indicated their willingness to continue to cooperate and to testify in the ongoing Commission proceeding against the remaining respondents in this matter.

[28] It was established in *Re Sohan Singh Koonar et al.* (2002), 25 O.S.C.B. 2691, that the role of the Commission Panel in reviewing a settlement agreement is not to substitute its own sanctions for what is proposed in the settlement agreement. Instead, the Commission should ensure that the agreed sanctions in the settlement agreement are within acceptable parameters.

[29] This is what we as a Panel have done in approving each of the five Settlement Agreements. We are of the view that the sanctions set out in the five Settlement Agreements are within acceptable parameters. Therefore, we make the following Orders:

[30] With respect to Jordan:

(a) It is hereby ordered, pursuant to section 127 of the Act, that:

i. The Settlement Agreement dated January 15, 2009, between Staff of the Commission and Cynthia Jordan is approved;

ii. 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,

iii. The Respondent is prohibited for five years from becoming or acting as a registrant commencing on the date of this order.

[31] With respect to McCaffrey:

(a) It is hereby ordered, pursuant to section 127 of the Act, that:

i. The Settlement Agreement dated January 15, 2009, between Staff of the Commission and Allan McCaffrey is approved;

ii. 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;

iii. The Respondent is prohibited for ten years from becoming or acting as a registrant commencing on the date of this order; and,

iv. 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.

[32] With respect to Shumacher:

(a) It is hereby ordered, pursuant to section 127 of the Act, that:

i. The Settlement Agreement dated January 15, 2009, between Staff of the Commission and Michael Shumacher is approved;

ii. 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,

iii. The Respondent is prohibited for five years from becoming or acting as a registrant commencing on the date of this order.

[33] With respect to Smith:

(a) It is hereby ordered, pursuant to section 127 of the Act, that:

i. The Settlement Agreement dated January 15, 2009, between Staff of the Commission and Christopher Smith is approved;

ii. 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,

iii. The Respondent is prohibited for five years from becoming or acting as a registrant commencing on the date of this order.

[34] With respect to Zelyony:

(a) It is hereby ordered, pursuant to section 127 of the Act, that:

i. The Settlement Agreement dated January 15, 2009, between Staff of the Commission and Michael Zelyony is approved;

ii. 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,

iii. The Respondent is prohibited for five years from becoming or acting as a registrant commencing on the date of this order.

[35] In conclusion, we find that together, all the sanctions imposed in this matter provide adequate specific and general deterrence, which the Supreme Court of Canada has established is an important regulatory objective for securities commissions (*Re Cartaway Resources Corp.*, [2004] 1 S.C.R. 672).

[36] From the Panel's view, although the regulatory sanctions agreed to in the Settlement Agreements may be below what we might have imposed after a hearing on the merits, we note that this was not a hearing on the merits and there is no certainty as to what the outcome of any such hearing would have been. We also note that the respondents should be given credit for their cooperation with Staff and that by settling, Commission resources have been conserved. In this case the respondents cooperated with Staff at the earliest stage and we recognize their willingness to cooperate, settle issues, participate in future hearings and streamline the process in this proceeding. Therefore, we find that the agreed sanctions in this case are acceptable and fall within acceptable parameters.

[37] Therefore, we approve the Settlement Agreements as being in the public interest.

Approved by the Chair of the Panel on February 5, 2009.

"Suresh Thakrar"

3.1.3 Biovail Corporation et al. – ss. 127, 127.1

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

AND

IN THE MATTER OF
BIOVAIL CORPORATION, EUGENE N. MELNYK, BRIAN H. CROMBIE,
JOHN R. MISZUK AND KENNETH G. HOWLING

HEARING HELD PURSUANT TO SECTIONS 127 AND 127.1 OF THE ACT

SETTLEMENT HEARING RE: JOHN R. MISZUK AND KENNETH G. HOWLING

HEARING:	January 27, 2009		
PANEL:	Suresh Thakrar	-	Commissioner and Chair of the Panel
	Margot C. Howard	-	Commissioner
APPEARANCES:	Kathryn Daniels	-	for Staff of the Ontario Securities Commission
	Wendy Berman Melissa MacKewn	-	John R. Miszuk
	Joel Wiesenfeld Natalie Biderman	-	Kenneth G. Howling

ORAL RULING AND REASONS

The following text has been prepared for the purpose of publication in the Ontario Securities Commission Bulletin and is based on excerpts of the transcript of the hearing. The excerpts have been edited and supplemented and the text has been approved by the Chair of the Panel for the purpose of providing a public record of the decision.

Chair:

[1] This was a hearing under sections 127 and 127.1 of the *Securities Act*, R.S.O. 1990, c. S.5, as amended, (the "Act") for the Ontario Securities Commission (the "Commission") to consider whether it is in the public interest to approve two proposed Settlement Agreements between:

1. Staff of the Commission ("Staff") and the respondent John R. Miszuk ("Miszuk"); and

2. Staff and the respondent Kenneth G. Howling ("Howling").

[2] We, as a Panel, have decided to approve both Settlement Agreements as being in the public interest. At the request of the parties, and for convenience, we agreed to hear the submissions concurrently and are issuing a single set of oral reasons. However, our reasons address two separate distinct Settlement Agreements and we will be signing two separate orders. These are our oral reasons in these matters which will be published in the Bulletin.

[3] The facts and circumstances agreed to by both respondents are set out in the respective Settlement Agreements. These facts are not findings of fact by this Panel, rather, they are facts agreed to by Staff and the respondents for purposes of the agreements. In approving both Settlement Agreements, we relied solely on the facts set out in them and the facts represented to us at today's hearing (see: *Re Rankin* (2008), 31 O.S.C.B. 3303 at para. 5).

[4] The conduct at issue in both Settlement Agreements relates to Biovail Corporation ("Biovail"), which is a reporting issuer in the province of Ontario.

[5] We will discuss the conduct at issue as it relates to each settlement below.

Miszuk's Settlement Agreement

[6] During the relevant period Mizsuk was Biovail's Vice-President, Controller and Assistant Secretary.

[7] The specific matters that are the subject of the Settlement Agreement between Miszuk and Staff fall into two categories.

[8] The first category relates to Miszuk's role in considering Biovail's recognition in its interim financial statements for Q2 of 2003 of revenue relating to the sale of Wellbutrin XL ("WXL") tablets as discussed in the Settlement Agreement in paragraphs nine through 28. The following is a brief review of the agreed facts as they relate to Miszuk's role:

> The Q2 2003 Press Release, the Q2 2003 Analyst Call and the Q2 2003 Financial Statements, included in Biovail's revenue for the quarter approximately U.S. $8 million relating to the sale of WXL tablets to GlaxoSmithKline PLC ("GSK") that Biovail has represented was carried out on a "bill-and-hold" basis. Inclusion of this amount in the revenue for the quarter increased Biovail's operating income by approximately U.S. $4.4 million, which was a material amount.
>
> Canadian Generally Accepted Accounting Principles ("Canadian GAAP") provides that in most cases, revenue is not recognized until the passing of possession of goods. In other words, in most cases, revenue should not be recognized until delivery has occurred. Delivery is generally not considered to have occurred unless the product has been delivered to the customer's place of business or to an alternative site specified by the customer.
>
> "Bill and hold" transactions, in which delivery of the goods does not immediately take place, provide an exception to general revenue recognition principles. Such transactions, however, must meet very specific accounting requirements.
>
> Miszuk states that he did not participate in the discussions between GSK and Biovail regarding the pre-launch manufacturing of WXL. He was made aware of the terms of the arrangement by members of Biovail's senior management and, at all times, relied on the information provided by senior management. Miszuk states that at all times he acted in good faith in considering the terms of the transaction and the recognition of revenue.
>
> Miszuk further acknowledges that he ought to have been more careful in considering the recognition of revenue for the sale of the specified tablets. Specifically, he ought to have made further inquiries or sought further guidance from a qualified accounting professional concerning this arrangement. His failure to do so constituted conduct contrary to the public interest.

[9] The second category relates to Miszuk's role in Biovail's incorrect accounting in its 2003 quarterly statements in relation to unrealized foreign exchange gains or losses for an outstanding debt obligation. This is discussed in the Settlement Agreement in paragraphs 29 through 35. The following is a brief review of the facts as they relate to Miszuk's role:

> Biovail failed to properly account for an obligation denominated in Canadian dollars in its Q1 2003 Financial Statements, its Q2 2003 Financial Statements and its Q3 2003 Financial Statements.
>
> As background, in December 2002, Biovail assumed an obligation denominated in Canadian dollars. Since Biovail reported its results in U.S. dollars, it was required to account for this obligation in its financial statements in U.S. dollars.
>
> Canadian GAAP requires that any outstanding balance of a foreign currency denominated obligation that is a monetary item be revalued using the FX Rate current at each balance sheet date. At March 31, 2003, however, Biovail, continued to use the FX Rate from December 2002 and did the same thing for the June 30, 2003 and September 30, 2003 statements. The interim financial statements for Q1, Q2, and Q3 of 2003 therefore did not accurately reflect any unrealized exchange losses or gains on the outstanding balance of the obligation.
>
> In early July 2003, the issue of whether the remaining loan balance required an adjustment to the FX Rate being applied was raised with Biovail by its subsidiary BLI. Miszuk states that he directed that steps be taken to analyze the issue and confirm whether the appropriate accounting treatment was being used. The interim financial statements issued for Q2 2003 and Q3 2003 continued to record the debt obligation based on the FX Rate as of December 2002, until corrected and restated in 2004.
>
> As a result of this restatement, for the financial statements filed on May 14, 2004, Biovail's net income decreased by U.S. $5.4 million and U.S. $3.9 million for the Q1 and Q2 2003, respectively, and increased by U.S. $3.1 million for the Q3 2003 Financial Statements.
>
> Miszuk states that he at all times acted in good faith. However, Miszuk acknowledges that he ought to have been more careful in determining whether the foreign exchange losses and gains issue was analysed and correctly accounted for prior to the completion of Biovail's Q1, Q2 and Q3 quarterly financial statements. Specifically, when the issue was first identified in July 2003, he ought to have followed up to ensure that an analysis of the issue was prepared and considered. His failure to do so constituted conduct contrary to the public interest.

[10] By entering into the Settlement Agreement, Miszuk acknowledges that his failure to take appropriate care and to seek further guidance from a qualified accounting professional constitutes conduct contrary to the public interest.

Howling's Settlement Agreement

[11] During the relevant period Howling was Biovail's head of Investor Relations with the title "Vice-President, Finance". Howling is a former Certified Public Accountant and was the former Chief Financial Officer of Biovail.

[12] The specific matters that are the subject of the Settlement Agreement between Howling and Staff relate to Howling's role in Biovail's dissemination of incorrect statements in certain press releases in October 2003, March 2004 and in certain analyst calls and investor meetings, as discussed in the Settlement Agreement in paragraphs five through 27. The following is a brief review of the facts as they relate to Howling.

[13] As head of Investor Relations, Howling, assisted by several Biovail employees, managed Biovail's corporate communications, including liaising with senior management of Biovail regarding the company's press releases and other public disclosures. Typically, Howling and his staff would prepare financial press releases for review and approval by senior management, including Biovail's Chief Executive Officer and its Chief Financial Officer. The information included in the press releases was obtained from those persons in the company with relevant knowledge.

[14] Howling had no authority to issue press releases on Biovail's behalf. Howling had no financial reporting or accounting responsibilities nor any operational responsibilities.

[15] Biovail made statements in press releases issued on October 3, 8 and 30, 2003 and March 3, 2004 that, in material respects, inaccurately disclosed the implications to Biovail, of a truck accident that occurred on October 1, 2003.

[16] The Press releases concerned Biovail's disclosure that preliminary financial results for its third quarter of 2003 would be below previously issued guidance.

[17] For example, the October 3, 2003 Press Release, amongst other things, stated that "[r]evenue associated with the WXL shipment was in the range of [U.S.] $10 million to [U.S.] $20 million". Biovail later stated, in a March 3, 2004 press release, that "actual revenue loss" from the shipment on the truck was U.S. $5 million.

[18] Howling's role as head of Investor Relations at Biovail was to receive information from both internal and external sources, participate in the drafting of press releases and company communications, inform the senior executives of issues brought to his attention that required clarification, finalize the press releases and other company communications in consultation with the senior executives, obtain authorization for the release, and then liaise with investors and analysts.

[19] Howling is a former Certified Public Accountant and was the former Chief Financial Officer of Biovail. As such, and in his role as the head of Investor Relations, he had an understanding of the information needs of the investing public. He should have taken greater care to ensure that accurate information was disseminated to the investing public. His failure to take greater care constitutes conduct contrary to the public interest.

[20] Now that we have reviewed the facts in each Settlement Agreement, we would like to briefly refer to the law as it applies to the consideration of sanctions and Settlement Agreements before the Commission.

Approval of the two Settlement Agreements

[21] The Commission's mandate in upholding the purposes of the Act, as set of in section 1.1 of the Act, is:

(a) to provide protection to investors from unfair, improper or fraudulent practices; and

(b) to foster fair and efficient capital markets and confidence in the capital markets.

[22] The promotion of fair and efficient capital markets requires timely, accurate and efficient disclosure. Such disclosure is a cornerstone principle of securities regulation. Everyone investing in securities should have equal access to information that may affect their investment decisions. The Act requires that reporting issuers provide full, fair and complete disclosure of their financial results by filing with the Commission interim and annual financial statements prepared in accordance with Canadian GAAP. Sections 77 and 78 of the Act reflect this. The Act's focus on public disclosure of information is meaningless without a requirement that such disclosure be accurate, complete and accessible to investors.

[23] With respect to sanctions, we are guided by the sanctioning factors listed in *Re M.C.J.C. Holdings and Michael Cowpland* (2002), 25 O.S.C.B. 1133 and *Re Belteco Holdings Inc.* (1998), 21 O.S.C.B. 7743, which were referred to us by Staff in their submissions. In doing this, the Commission takes into account circumstances that are appropriate to the particular

respondents. This requires us to be satisfied that the proposed sanctions are proportionately appropriate with respect to the circumstances facing the particular respondent (*Re M.C.J.C. Holdings and Michael Cowpland* (2002), 25 O.S.C.B. 1133 at 1134).

[24] With respect to reviewing the two Settlement Agreements, as established in *Re Sohan Singh Koonar et al.* (2002), 25 O.S.C.B. 2691, the role of the Commission Panel in reviewing a settlement agreement is not to substitute its own sanctions for what is proposed in the settlement agreement. The Commission should ensure that the agreed sanctions in the settlement agreement are within acceptable parameters.

[25] In addition, significant weight should be given to the agreement reached between adversarial parties, as a balancing of factors and interests will have already taken place in reaching the agreement. The Commission, in its reasons for approving the settlement agreement in *Re Melnyk* (2007), 30 O.S.C.B. 5253 commented on its role as follows:

> [w]e note that our role is not to renegotiate the terms of the Settlement Agreement or to suggest changes to the facts, statements or sanctions set forth in the Settlement Agreement. Our role is to decide whether to approve the Settlement Agreement, as a whole, on the terms presented to us. (*Re Melnyk*, supra, at para. 15)

[26] This is what we as a Panel have done in approving both Settlement Agreements. We are of the view that the sanctions set out in both Settlement Agreements are within the acceptable parameters.

[27] In Staff's written submissions they pointed out the following mitigating factors with respect to each respondent:

1. The avoidance of substantial costs and expenses associated with proceeding with a contested hearing; and

2. The cooperation of each respondent with respect to the ongoing proceeding and their agreement to testify.

[28] We also took into account the mitigating factors that Howling has stated in the Settlement Agreement. Specifically:

1. Howling states that he relied, at all times, on information he received from his superiors and others when drafting disclosures and responding to investor inquiries regarding the truck accident's impact on Biovail's earnings;

2. He also states that he relied on the fact that senior management directly reviewed and authorized the subject disclosures; and

3. Further, Howling states that he acted at all times in good faith.

[29] Both Miszuk and Howling have each entered into a separate Settlement Agreement, and in doing so, both have recognized that their conduct was contrary to the public interest.

[30] Therefore with respect to Miszuk we find it appropriate to order that:

1. The Settlement Agreement is approved;

2. Miszuk is reprimanded;

3. Miszuk is prohibited from becoming or acting as a director or officer of a reporting issuer for a period of three years from the date of this Order;

4. Miszuk shall successfully complete the Financial Literacy Program of the Institute of Corporate Directors before becoming or acting as a financial officer of a reporting issuer;

5. Miszuk shall cooperate with the Commission and Staff in this matter and shall appear and give truthful and accurate testimony at the hearing in this matter if requested by Staff; and

6. Miszuk shall pay $30,000.00 in respect of a portion of the costs of the investigation and hearing in relation to this matter.

[31] And with respect to Howling we find it appropriate to order that:

1. The Settlement Agreement is approved;

2. Howling is reprimanded;

3. Howling is prohibited from becoming or acting as a director or officer of a reporting issuer for a period of two years from the date of this Order;

4. Howling shall cooperate with the Commission and Staff in this matter and shall appear and testify at the hearing in this matter if requested by Staff; and

5. Howling shall pay $20,000.00 in respect of a portion of the costs of the investigation and hearing in relation to this matter.

[32] In conclusion, we find that, in each case, the sanctions imposed in these matters provide adequate specific and general deterrence, which the Supreme Court has established is an important regulatory objective for securities commissions (*Re Cartaway Resources Corp.*, [2004] 1 S.C.R. 672). We agree with Staff's submissions that the sanctions imposed will have an impact on Miszuk's and Howling's ability to make a living. This is achieved through the imposition of a prohibition to act as an officer and director. In addition, counsel for Miszuk pointed out the reputational harm that would be experienced by Miszuk as a result of this Order and that this should not be underestimated.

[33] Although the regulatory sanctions agreed to in the two Settlement Agreements may be below what we might have imposed after a hearing on the merits, we note that this was not a hearing on the merits, and there is no certainty as to what the outcome of any such hearing would have been.

[34] It was submitted during the hearing that there were no cases having similar circumstances to these described in the Settlement Agreements. After considering the importance of disclosure, the submissions by counsel, the facts agreed to in each Settlement Agreement, the mitigating factors and giving due consideration that a balancing of factors would have taken place in reaching each agreement, we find that the agreed sanctions in these matters are acceptable.

[35] The public reprimand also provides strong censure of both Miszuk's and Howling's past conduct.

[36] Therefore, we approve the two Settlement Agreements as being in the public interest.

Approved by the Chair of the Panel on February 10, 2009.

"Suresh Thakrar"

Chapter 4

Cease Trading Orders

4.1.1 Temporary, Permanent & Rescinding Issuer Cease Trading Orders

Company Name	Date of Temporary Order	Date of Hearing	Date of Permanent Order	Date of Lapse/Revoke
Silverbirch Inc.	30 Jan 09	11 Feb 09	11 Feb 09	
HLT Energies Inc.	09 Feb 09	20 Feb 09		
Name Inc.	27 Jan 09	06 Feb 09	06 Feb 09	
Onsino Capital Corporation	11 Sept 07	21 Sept 07	21 Sept 07	04 Feb 09

Onsino Capital Corporation was published incorrectly with all dates being in the year 2009. All dates in September should be in the year 2007 not 2009 as stated in last week's bulletin. The correct information is stated above in the chart.

Also, Name Inc. is the actual name of the issuer and not a spelling error.

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
Brainhunter Inc.	28 Jan 09	10 Feb 09	10 Feb 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		
Brainhunter Inc.	28 Jan 09	10 Feb 09	10 Feb 09		
Name Inc.	27 Jan 09	06 Feb 09	06 Feb 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 SecuritiesScource (see www.carswell.com).

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

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

Chapter 8

Notice of Exempt Financings

REPORTS OF TRADES SUBMITTED ON FORMS 45-106F1 AND 45-501F1

Transaction Date	No of Purchasers	Issuer/Security	Total Purchase Price ($)	No of Securities Distributed
01/19/2009 to 01/23/2009	5	473 Albert Street Office Limited Partnership - Limited Partnership Units	326,000.00	326,000.00
01/30/2009	5	Activplant Corporation - Note	500,000.00	1.00
01/01/2008 to 12/31/2008	1	Acuity All Cap 30 Canadian Equity Fund - Units	13,827,682.58	564,370.23
01/01/2008 to 12/31/2008	1	Acuity Canadian Equity Fund - Units	3,259,236.10	148,215.43
01/01/2008 to 12/31/2008	1	Acuity Canadian Small Cap Fund - Units	5,534,863.64	508,656.93
01/01/2008 to 12/31/2008	1	Acuity Clean Environment Equity Fund - Units	1,743,341.20	106,588.70
01/01/2008 to 12/31/2008	1	Acuity Dividend Fund - Units	13,256,367.92	1,329,618.29
01/01/2008 to 12/31/2008	1	Acuity Dividend Fund - Units	13,256,367.92	1,329,618.29
01/01/2008 to 12/31/2008	1	Acuity EAFE Equity Fund - Units	2,990,540.80	349,909.50
01/01/2008 to 12/31/2008	1	Acuity Fixed Income Fund - Units	9,883,890.36	904,573.10
01/01/2008 to 12/31/2008	1	Acuity Global Dividend Fund - Units	5,540,967.22	666,283.93
01/01/2008 to 12/31/2008	1	Acuity Global Equity Fund - Units	3,467,404.44	428,381.53
01/01/2008 to 12/31/2008	1	Acuity Global High Income Fund - Units	8,053,426.34	968,359.62
01/01/2008 to 12/31/2008	1	Acuity High Income Fund - Units	217,641,180.37	1,669,645.91
01/01/2008 to 12/31/2008	1	Acuity Income Trust Fund - Units	370,000.00	27,637.93
01/01/2008 to 12/31/2008	1	Acuity Natural Resource Fund - Units	3,171,885.71	272,627.39
01/01/2008 to 12/31/2008	1	Acuity Pure Canadian Equity Fund - Units	3,856,623.18	392,115.98
01/01/2008 to 12/31/2008	1	Acuity Social Values Balanced Fund - Units	2,240,761.82	152,427.04
01/01/2008 to 12/31/2008	1	Acuity Social Values Canadian Equity Fund - Units	3,123,061.82	210,352.48

Transaction Date	No of Purchasers	Issuer/Security	Total Purchase Price ($)	No of Securities Distributed
01/01/2008 to 12/31/2008	1	Acuity Social Values Global Equity Fund - Units	1,739,070.32	208,013.74
01/03/2008 to 12/31/2008	55	Addenda Bond Pooled Fund - Trust Units	226,597,404.00	NA
01/04/2008 to 11/14/2008	45	Addenda Corporate Bond Pooled Fund - Trust Units	148,583,818.00	NA
05/16/2008 to 09/26/2008	7	Addenda Global Bond Pooled Fund - Trust Units	79,025,000.00	NA
01/11/2008 to 12/19/2008	29	Addenda Long Term Corporate Bond Pooled Fund - Trust Units	74,265,011.00	NA
01/25/2008 to 11/28/2008	11	Addenda Long Term Government Bond Pooled Fund - Trust Units	77,306,377.00	NA
01/03/2008 to 12/24/2008	4	Addenda Money Market Pooled Fund - Trust Units	20,255,000.00	NA
01/12/2009	11	Advantex Marketing International Inc. - Common Share Purchase Warrant	NA	9,853,685.00
01/23/2009 to 01/29/2009	32	African Gold Group, Inc. - Units	1,331,050.00	26,621,000.00
01/28/2009	1	Airesurf Networks Holdings Inc. - Units	15,000.00	300,000.00
01/07/2008 to 12/23/2008	9	Alliance Global Research Growth Fund - Units	30,641,067.38	1,254,187.62
01/04/2008 to 12/31/2008	9	Alliance International Large Cap Growth Fund - Units	51,697,806.48	1,945,565.45
05/30/2008 to 12/31/2008	18	AllianceBernstein Global Style Blend (CAD Half-Hedged) Fund - Units	109,678,636.95	4,692,263.74
01/31/2008 to 12/31/2008	85	AlphaNorth Asset Management - Common Shares	3,880,000.00	350,916.57
05/01/2008	1	AQR Global Asset Allocation Offshore Fund (USD) V Ltd. - Common Shares	101,890,000.00	1,000.00
01/31/2008 to 02/29/2008	3	Aquilon Premium Value Partnership - Units	1,300,000.00	1,065.43
01/02/2008 to 02/01/2008	2	Aquilon Trading Facility L.P. - Units	532,976.25	11,250.00
01/28/2009	1	Bayfield Ventures Corp. - Common Shares	5,500.00	15,000.00
07/01/2008	1	Blackstone Global Park Avenue Offshore Fund Ltd. - Common Shares	3,000,000.00	3,000.00
01/01/2008	3	Blackstone Market Opportunities Offshore Fund L.P. - Capital Commitment	7,598,927.00	3.00
03/01/2008	3	Blackstone Park Avenue Fund L.P. - Capital Commitment	27,620,000.00	3.00
03/01/2008 to 07/01/2008	2	Blackstone Partners offshore Fund Ltd. - Common Shares	60,000,000.00	54,281.46

Transaction Date	No of Purchasers	Issuer/Security	Total Purchase Price ($)	No of Securities Distributed
01/01/2008	3	Blackstone Strategic Alliance Fund L.P. - Capital Commitment	6,000,000.00	3.00
01/01/2008	2	Blackstone Value Recovery Offshore Fund Ltd. - Capital Commitment	50,000,000.00	2.00
01/26/2009	8	Blueprint Software Systems Inc. - Units	5,000,000.00	18,896,447.00
04/01/2008 to 09/02/2008	3	Brandes Canada Global Equity Unit Trust - Units	7,090,102.79	7,090,102.79
02/02/2009	1	Canadian Auto Receivables Enterprise Network Trust II - Note	928,975,667.38	1.00
09/01/2008	1	Canadian Hedge Watch Index Plus - A - Units	33,553.53	333.64
01/22/2009	15	CareVest First Mortgage Investment Corporation - Preferred Shares	500,567.00	500,567.00
01/01/2008 to 12/31/2008	1	CC&L All Strategies Fund - Trust Units	421,654.27	4,413.73
01/01/2008 to 12/13/2008	7	CC&L American Equity Fund - Units	728,558.43	104,596.09
01/01/2008 to 12/31/2008	1	CC&L Arrowstreet EAFE Fund - Trust Units	545,300.00	61,553.05
01/01/2008 to 12/31/2008	6	CC&L Arrowstreet EAFE Fund - Trust Units	613,135.14	65,667.94
01/01/2008 to 12/31/2008	3	CC&L Balanced Canadian Equity Fund - Trust Units	5,684,266.39	265,916.25
01/01/2008 to 12/31/2008	8	CC&L Bond Fund - Trust Units	9,413,318.68	931,165.00
01/01/2008 to 12/31/2008	7	CC&L Bond Fund - Units	3,010,706.10	292,794.37
01/01/2008 to 12/31/2008	1	CC&L Canadian Equity Fund - Trust Units	10,317,543.85	1,026,969.96
01/01/2008 to 12/31/2008	5	CC&L Canadian Equity Fund - Trust Units	498,904.80	53,020.43
01/01/2008 to 12/31/2008	6	CC&L Canadian Q Core Fund - Trust Units	18,487,728.38	2,531,812.04
01/01/2008 to 12/31/2008	1	CC&L Canadian Q Growth Fund - Trust Units	9,747,269.27	1,039,056.70
01/01/2008 to 12/31/2008	2	CC&L Genesis Fund - Trust Units	1,103,625.99	794,421.46
01/01/2008 to 12/31/2008	6	CC&L Global Fund - Trust Units	10,587,645.47	815,084.68
01/01/2008 to 12/31/2008	2	CC&L Group Balanced Plus Fund II - Trust Units	21,682,519.86	14,363,408.97
01/01/2008 to 12/31/2008	2	CC&L Group Bond Fund II - Trust Units	37,070,187.72	3,569,422.44

Transaction Date	No of Purchasers	Issuer/Security	Total Purchase Price ($)	No of Securities Distributed
01/01/2008 to 12/31/2008	2	CC&L Group Canada Plus Fund II - Trust Units	2,661,300.26	294,844.26
01/01/2008 to 12/31/2008	1	CC&L Group Canadian Equity Fund - Trust Units	15,877,755.43	904,372.97
01/01/2008 to 12/31/2008	1	CC&L Group Global Fund - Trust Units	1,874,654.96	260,917.67
01/01/2008 to 12/31/2008	11	CC&L Group Global Fund - Units	64,746.15	7,804.31
01/01/2008 to 12/31/2008	10	CC&L Group Money Market Fund - Trust Units	445,696,025.55	44,569,602.56
01/01/2008 to 12/31/2008	1	CC&L Group Money Market Fund II - Trust Units	1,310,412,058.44	131,041,205.84
01/01/2008 to 12/31/2008	2	CC&L High Income Fund - Trust Units	1,592,242.43	128,775.92
01/01/2008 to 12/31/2008	9	CC&L Long Bond Fund - Trust Units	157,861,968.13	15,006,856.27
01/01/2008 to 12/31/2008	1	CC&L Multi Strategy Fund - Trust Units	1,083,008.00	10,241.67
01/01/2008 to 12/31/2008	1	CC&L US Equity Fund - Trust Units	1,186,800.00	164,626.00
01/01/2008 to 12/31/2008	1	CC&L US Q Market Neutral Onshore Fund II - Trust Units	99,269,353.68	992,693.54
04/25/2008	1	CIF Global High Income Opportunities Fund - Common Shares	507,800.00	20,920.50
01/15/2009	6	CLERA INC. - Units	101,000.00	101,000.00
01/19/2009 to 01/29/2009	15	CMC Markets UK plc - Contracts for Differences	99,000.00	15.00
01/27/2009 to 02/04/2009	31	CMC Markets UK plc - Contracts for Differences	116,600.00	31.00
04/30/2008 to 06/30/2008	4	CMS Platinum Fund II, L.P. - Limited Partnership Units	2,840,380.00	0.10
01/01/2008 to 12/31/2008	1	Co-Operators Canadian Equity Pooled Fund - Units	399,000.00	399,000.00
01/01/2008 to 12/31/2008	7	Co-Operators Commercial Mortgage Pooled Fund - Units	17,422,413.49	17,422,413.49
01/01/2008 to 12/31/2008	2	Co-Operators Fixed Income Pooled Fund - Units	337,383.05	337,383.05
01/01/2008 to 12/31/2008	9	Co-Operators International Equity Pooled Fund - Units	5,737,000.00	5,737,000.00
01/01/2008 to 12/31/2008	18	Co-operators Money Market Pooled Fund - Units	152,458,211.74	152,458,212.00
01/01/2008 to 12/31/2008	9	Co-operators T-Bill Money Market Pooled Fund - Units	264,011,674.63	264,011,674.63

Transaction Date	No of Purchasers	Issuer/Security	Total Purchase Price ($)	No of Securities Distributed
01/01/2008 to 12/31/2008	4	Co-Operators US Equity Pooled Fund - Units	3,559,920.82	3,559,920.82
12/31/2007 to 09/30/2008	11	Core Canadian Equity Fund - Units	696,825.88	60,656.03
01/03/2008 to 12/17/2008	84	Cumberland Global Fund - Units	5,008,596.82	566,804.70
02/27/2008 to 12/24/2008	10	Cumberland Opportunities Fund - Units	345,595.00	75,351.41
01/26/2009	2	Darnley Bay Resources Limited - Flow-Through Units	20,050.00	133,666.00
01/26/2009	3	Darnley Bay Resources Limited - Units	64,080.00	534,000.00
02/01/2008 to 08/01/2008	3	DB Equilibria Japan Fund - Units	20,035,000.00	20,035.00
12/31/2007 to 11/30/2008	1	Discovery Fund - Units	1,221,000.00	62,543.15
07/22/2008 to 12/30/2008	25	Diversified Assets LP - Limited Partnership Units	4,850,000.00	970.00
01/04/2008 to 12/31/2008	70	Diversified Private Trust - Units	8,555,658.42	599,156.90
01/31/2009	5	Dumont Nickel Inc. - Units	122,000.00	12,200,000.00
12/31/2008	38	Eagleridge Minerals Ltd. - Common Shares	56,566.16	471,376.00
01/01/2008	1	Enriched Capital long-Short Fund - Units	175,000.00	15,898.83
02/05/2009	2	Eugenic Corp. - Units	130,000.00	2,600,000.00
01/16/2009	1	Falcon Ridge RMH Limited Partnership - Limited Partnership Units	11,000.00	2.00
11/20/2008	2	Ferrier and Britannia Limited Partnership - Membership Interests	4,940,000.00	0.95
01/27/2009	1	First Leaside Expansion Limited Partnership - Units	10,000.00	10,000.00
01/16/2009	1	First Leaside Fund - Trust Units	50,000.00	50,000.00
01/21/2009 to 01/28/2009	10	First Leaside Fund - Trust Units	115,000.00	115,000.00
01/26/2009 to 01/28/2009	3	First Leaside Fund - Trust Units	55,000.00	55,000.00
01/21/2009	2	First Leaside Wealth Management Inc. - Preferred Shares	25,767.00	25,767.00
01/01/2009	1	Flatiron Trust - Trust Units	25,000.00	12.27
07/09/2008	3	Floyd Growth Fund - Units	75,000.00	11,031.36
01/14/2009	30	Focus Ventures Ltd. - Units	499,999.50	3,411,963.00

Transaction Date	No of Purchasers	Issuer/Security	Total Purchase Price ($)	No of Securities Distributed
01/01/2008 to 12/31/2008	18	Front Street Canadian Hedge - Units	793,408.46	49,066.62
01/01/2008 to 12/31/2008	11	Front Street Mining Opportunities Fund - Units	3,099,918.00	149,441.54
01/23/2009	2	Fuel Transfer Technologies Inc. - Preferred Shares	20,085.00	6,180.00
01/21/2009	37	Full Metal Minerals Ltd. - Common Share Purchase Warrant	1,059,249.75	7,161,665.00
01/01/2008 to 12/31/2008	7	GEM Balanced Pool - Units	36,550,659.69	2,499,679.42
01/01/2008 to 12/31/2008	5	GEM Canadian Equity Pool - Units	15,709,577.54	1,423,379.44
01/01/2008 to 12/31/2008	2	GEM Diversified Income Pool - Units	8,526.14	971.40
01/01/2008 to 12/31/2008	5	GEM Fixed Income Pool - Units	13,723,302.32	1,349,552.44
01/01/2008 to 12/31/2008	4	GEM Global Equity Pool - Units	9,507,844.09	970,883.24
01/19/2009 to 01/23/2009	44	General Motors Acceptance Corporation of Canada, Limited - Notes	1,659,878.76	1,659,878.76
01/26/2009 to 01/30/2009	14	General Motors Acceptance Corporation of Canada, Limited - Notes	4,246,041.39	42,460.41
01/02/2008 to 12/31/2008	22	GIIC Global Fund - Units	7,613,170.71	711,358.52
01/01/2008 to 12/31/2008	31	Global Intrepid - Canada Fund - Units	320,107,092.00	3,356,898.31
01/01/2008 to 12/31/2008	2	Global Intrepid - Taxable Canada Fund - Units	442,119.62	5,548.75
01/28/2009	6	Golden Odyssey Mining Inc. - Common Shares	75,413.00	1,508,260.00
02/01/2008 to 04/01/2008	1	Gottex Market Neutral Fund - Units	661,389.00	NA
03/01/2008 to 11/24/2008	3	Gottex Real Asset Fund, L.P. - Units	182,960,468.63	182,960,468.63
01/07/2008 to 12/31/2008	19	Growth and Income Private Trust - Units	2,771,074.68	151,727.87
02/19/2008 to 10/20/2008	3	Gryphon Europac Fund - Units	28,726,125.78	3,293,992.68
01/02/2008 to 12/31/2008	327	Highstreet Balanced Fund - Units	58,629,940.57	4,082,584.00
01/01/2008 to 12/31/2008	57	Highstreet Canadian Bond Fund - Units	38,831,811.52	3,750,848.00
01/02/2008 to 12/31/2008	39	Highstreet International Equity Fund A - Units	30,334,024.62	3,374,322.00

Transaction Date	No of Purchasers	Issuer/Security	Total Purchase Price ($)	No of Securities Distributed
01/02/2008 to 12/23/2008	130	Highstreet Money Market Fund - Units	72,547,747.37	7,251,775.00
02/27/2008 to 08/07/2008	3	Highstreet US Small Cap Fund - Units	496,816.99	51,507.00
01/02/2008 to 12/31/2008	52	Highstreet U.S. Equity Fund - Units	24,826,920.95	2,844,694.00
12/31/2007	5	Highwater Diversified Opportunities Fund - Common Shares	3,345,000.00	334,492.52
01/29/2009	2	Horseman Global Fund Ltd. - Common Shares	609,190.53	2,055.16
01/01/2008 to 12/31/2008	153	IA Clarington Bond Pooled Fund - Trust Units	5,643,970.00	24,722.59
01/01/2008 to 12/31/2008	136	IA Clarington Canadian Equities Pooled Fund-Defensive - Trust Units	3,073,333.00	4,893.36
01/01/2008 to 12/31/2008	87	IA Clarington Canadian Equities Pooled Fund-Quality - Trust Units	1,975,247.00	7,699.23
01/01/2007 to 12/31/2008	211	IA Clarington Money Market Pooled Fund - Trust Units	8,267,912.17	34,863.56
01/19/2009 to 01/23/2009	22	IGW Real Estate Investment Trust - Trust Units	649,200.90	581,726.58
01/01/2008 to 01/31/2009	3	IMFC Limited Partnership - Units	480,000.00	617.63
02/03/2009	1	Imperial Capital Equity Partners Ltd. - Capital Commitment	500,000.00	1.00
10/30/2008 to 12/31/2008	6	Interactive Capital Partners Corporation - Common Shares	100,000.00	2,000,000.00
01/04/2008 to 08/28/2008	2	International Finance Participation Trust (2004) - Units	27,238,621.19	2,687.64
01/01/2008 to 12/31/2008	50	Jarislowsky International Pooled Fund - Units	67,605,232.53	3,231,284.15
01/01/2008 to 12/31/2008	88	Jarislowsky Special Equity Fund - Units	125,954,275.80	5,716,475.39
01/01/2008 to 12/31/2008	85	Jarislowsky, Fraser Balanced Fund - Units	124,654,510.53	8,927,467.16
01/01/2008 to 12/31/2008	20	Jarislowsky, Fraser Bond Fund - Units	32,417,684.64	3,078,653.55
01/01/2008 to 12/31/2008	46	Jarislowsky, Fraser Canadian Equity Fund - Units	364,134,480.66	11,065,367.99
01/01/2008 to 12/31/2008	25	Jarislowsky, Fraser Global Balanced Fund - Units	19,173,296.59	1,843,137.89
01/01/2008 to 12/31/2008	5	Jarislowsky, Fraser Global Equity Fund - Units	2,235,009.34	260,155.47
01/01/2008 to 12/31/2008	40	Jarislowsky, Fraser Money Market Fund - Units	562,591,966.73	56,259,196.67

Transaction Date	No of Purchasers	Issuer/Security	Total Purchase Price ($)	No of Securities Distributed
01/01/2008 to 12/31/2008	9	Jarislowsky, Fraser U.S. Equity Fund - Units	12,381,506.99	1,727,296.17
01/01/2008 to 12/31/2008	24	Jarislowsky, Fraser U.S. Money Market Fund - Units	191,502,154.52	17,871,370.00
01/29/2009	24	KBP Capital Corp. - Bonds	619,100.00	6,191.00
01/29/2009	23	Keystone Business Park Inc. - Common Shares	619.10	6,191.00
01/04/2008 to 12/31/2008	148	KFA Balanced Pooled Fund - Units	7,724,761.00	1,835,499.52
02/01/2008 to 12/01/2008	3	King Street Capital, Ltd. - Common Shares	30,731,773.00	136,355.36
01/04/2008 to 12/12/2008	23	Lincluden Private Trust - Units	3,596,263.43	186,185.85
01/13/2009	196	Loyalty Income Fund Trust - Units	1,652,530.00	1,652,531.00
01/05/2009	1	Magenta Mortgage Investment Corporation - Common Shares	200,000.00	200,000.00
01/01/2008 to 11/24/2008	9	Mamgmt Fund Services Ltd. - Units	2,399,063.90	241,597.07
01/02/2008 to 12/31/2008	796	Man AHL Diversified (Canada) Fund - Units	58,636,825.34	5,832,700.82
03/06/2008 to 12/05/2008	53	Man Glenwood Focus (MC) Fund - Units	5,986,100.00	597,336.05
01/08/2008 to 11/17/2008	41	Man Multi-Strategy (Canada) Fund - Units	1,310,952.63	130,748.55
01/01/2008 to 12/31/2008	43	Manion, Wilkins & Associates Ltd. - Units	213,766,094.00	2,137,661.00
01/01/2008 to 12/31/2008	77	Manitou Partners Registered Fund - Units	14,066,111.02	122,822.50
01/01/2008 to 12/31/2008	1	Manulife Canadian Core Class - Units	856,276.27	35,733.42
01/01/2008 to 12/31/2008	1	Manulife Canadian Large Cap Value Class - Units	116,451,562.49	10,899,419.25
01/01/2008 to 12/31/2008	1	Manulife Global Core Class - Units	6,212.63	27,884.52
01/01/2008 to 12/31/2008	1	Manulife Global Leaders Class - Units	5,180,831.86	615,900.22
01/01/2008 to 12/31/2008	1	Manulife Global Opportunities Class - Units	5,418,342.75	803,630.87
01/01/2008 to 12/31/2008	1	Manulife Global Value Class - Units	19,850,217.77	1,524,013.50
01/01/2008 to 12/31/2008	1	Manulife International Value Class - Units	227,077.89	14,502.75

Transaction Date	No of Purchasers	Issuer/Security	Total Purchase Price ($)	No of Securities Distributed
01/01/2008 to 12/31/2008	1	Manulife Japan Opportunities Class - Units	370,039.56	35,072.66
01/01/2008 to 12/31/2008	1	Manulife Mawer Canadian Equity Class - Units	104,221,160.04	14,701,411.88
01/01/2008 to 12/31/2008	1	Manulife Mawer World Investment Class - Units	5,396,724.60	666,656.70
01/01/2008 to 12/31/2008	1	Manulife SEAMARK Total Global Equity Class - Units	2,452,063.04	222,408.79
01/01/2008 to 12/31/2008	1	Manulife U.S. Large Cap Growth Class - Units	75,798,739.78	10,913,788.52
01/01/2008 to 12/31/2008	1	Manulife U.S. Large Cap Value Class - Units	81,713.65	8,779.36
01/01/2008 to 12/31/2008	1	Manulife U.S. Mid Cap Value Class - Units	179,420.42	17,538.82
01/19/2009	1	Maudore Minerals Ltd. - Common Shares	12,200.00	483,200.00
01/07/2009	4	Moneta Porcupine Mines Inc. - Common Shares	140,000.00	2,333,334.00
01/22/2009	41	Montec Holdings Inc. - Preferred Shares	2,820,000.00	35,250,000.00
01/01/2009 to 02/02/2009	3	Montrachet Investments Limited Partnership - Units	800,000.00	80,000.00
01/01/2008 to 12/31/2008	40	Mortgage Investment Corporation of Eastern Ontario - Common Shares	8,439,388.19	843,938.82
01/16/2009	2220	Myles Franchise Corporation - Common Shares	400,000.00	2,220.00
01/25/2009 to 02/02/2009	34	Nelson Financial Group Ltd. - Notes	1,385,000.00	34.00
01/22/2009	1	New Solutions Financial (II) Corporation - Debenture	12,630.00	1.00
01/31/2008	1	New Star EAFE Fund - Trust Units	195,000.00	7,032.98
01/01/2008 to 12/31/2008	2	New Star EAFE Fund - Trust Units	7,929,339.22	316,516.02
01/22/2009 to 01/30/2009	83	Newport Fixed Income Fund - Units	5,622,033.65	56,092.80
01/23/2009 to 01/30/2009	25	Newport Yield Fund - Units	647,001.38	6,597.30
01/01/2008	56	Norema Income Fund - Units	43,200.00	864.00
01/18/2008 to 12/01/2008	12	Northern Rivers Conservative Growth Fund - Units	157,400.00	6,182.61
01/01/2008 to 11/01/2008	6	Northern Rivers Conservative Growth Fund L.P. - Limited Partnership Units	300,000.00	197.60
02/27/2008 to 12/16/2008	4	Northern Rivers Evolution Fund - Units	215,000.00	7,575.75

Transaction Date	No of Purchasers	Issuer/Security	Total Purchase Price ($)	No of Securities Distributed
01/01/2008 to 07/01/2008	4	Northern Rivers Global Energy Fund L.P. - Limited Partnership Units	225,000.00	143.77
10/01/2008 to 12/01/2008	8	Northern Rivers Innovation Fund L.P. - Limited Partnership Units	532,539.00	169.33
01/01/2008 to 09/01/2008	16	Northern Rivers Innovation RSP Fund - Trust Units	1,330,000.00	66,575.54
01/13/2008 to 09/11/2008	9	Northern Rivers Monthly Income and Capital Appreciation Fund - Units	1,278,400.00	62,886.97
02/08/2008	4	Northern Rivers Private Equity I LP. - Limited Partnership Units	1,600,000.00	1,600.00
02/29/2008	48	Northern Rivers Silicon Valley Access Fund L.P. - Limited Partnership Units	7,435,000.00	7,435.00
01/15/2009	23	Northwest Plaza Commercial Trust - Notes	850,002.00	850,002.00
07/18/2008 to 09/01/2008	6	Panorama Fund - Limited Partnership Units	31,902,630.14	3,190,263.01
01/01/2008 to 12/31/2008	2	PCJ Canadian Equity Fund - Trust Units	1,049,604.44	107,318.19
01/01/2008 to 12/31/2008	2	PCJ Canadian Equity Fund - Trust Units	433,011.13	38,579.76
01/01/2008 to 12/31/2008	1	PCJ Canadian Small Cap Fund - Trust Units	181,301.30	21,085.92
01/01/2008 to 12/31/2008	1	PCJ Canadian Small Cap Fund - Trust Units	15,973.04	1,283.77
03/17/2008	1	PCM Special Opportunities Fund - Limited Partnership Units	29,820,000.00	29,820.00
10/15/2008	1	PCM Special Opportunities Fund - Limited Partnership Unit	100,000.00	1.00
07/25/2008	1	PCM Special Opportunities Fund - Limited Partnership Units	22,000,000.00	220.00
05/21/2008	1	PCM Special Opportunities Fund - Limited Partnership Units	8,874,900.00	8,874.90
05/01/2008	1	PCM Special Opportunities Fund - Limited Partnership Units	10,132,000.00	10,132.00
04/16/2008	1	PCM Special Opportunities Fund - Limited Partnership Units	20,050,000.00	20,050.00
04/02/2008	1	PCM Special Opportunities Fund - Limited Partnership Units	15,270,000.00	15,270.00
03/31/2008	1	PCM Special Opportunities Fund - Limited Partnership Units	15,427,500.00	15,427.50
03/28/2008	1	PCM Special Opportunities Fund - Limited Partnership Units	15,243,000.00	15,243.00
03/18/2008	1	PCM Special Opportunities Fund - Limited Partnership Units	15,007,500.00	15,007.50

Transaction Date	No of Purchasers	Issuer/Security	Total Purchase Price ($)	No of Securities Distributed
01/01/2008 to 07/01/2008	6	Performance Growth Fund - Units	3,300,000.00	33,000.00
01/01/2008 to 12/01/2008	15	Performance Market Hedge Fund - Units	43,612,331.00	43,612.00
01/03/2008 to 12/31/2008	12	PIMCO Canada Canadian CorePLUS Bond Trust - Units	483,308,042.77	4,946,806.38
01/31/2008 to 12/02/2008	5	PIMCO Canada Canadian CorePLUS Long Bond Trust - Units	214,774,891.10	2,202,510.11
01/28/2009	9	Portage Minerals Inc. - Common Shares	NA	15,000,000.00
01/13/2009	3	Primary Petroleum Corporation - Common Shares	80,000.00	800,000.00
01/01/2008 to 12/13/2008	2	Private Client Balanced Portfolio - Trust Units	263,315.00	25,017.00
01/01/2008 to 12/31/2008	14	Private Client Balanced RSP Portfolio - Investment Trust Interests	926,645.63	89,783.90
01/01/2008 to 12/31/2008	1	Private Client Canadian Equity II Portfolio - Units	12,437.27	514.97
01/01/2008 to 12/31/2008	3	Private Client Socially Responsible Canadian Equity Portfolio - Units	215,192.27	19,169.34
01/01/2008 to 12/31/2008	6	Private Client US Money Market Portfolio - Trust Units	764,269.76	76,412.47
01/01/2008 to 12/31/2008	56	Pro-Hedge Capital Preservation Plus Fund - Trust Units	1,745,765.71	1,745,765.71
01/01/2008 to 12/31/2008	79	Pro-Hedge Multi-Manager Elite Fund - Trust Units	1,623,395.10	1,623,395.10
01/22/2009	1	Probe Resources Ltd. - Warrants	560,000.00	2,800,000.00
01/01/2008 to 03/31/2008	35	Property Values Income and Common Shares LP - Limited Partnership Units	1,400,000.00	56.00
12/31/2008	4	Puget Ventures Inc. - Units	280,000.00	1,400,000.00
01/21/2009	33	Purgenesis Technologies Inc. - Warrants	628,500.00	NA
01/01/2008 to 12/31/2008	417	RBC Dexia Investor Services Trust - Units	8,536,956,967.88	2,471,815.86
01/14/2009	4	Republic of the Philippines - Bonds	620,000.00	500,000.00
01/01/2008 to 12/31/2008	15	Rival North American Growth Fund L.P. - Limited Partnership Units	1,026,400.00	103,078.29
06/30/2008 to 11/28/2008	189	Rival North American RRSP Growth Fund L.P. - Trust Units	396,400.00	40,930.96
01/20/2009	1	Rocmec Mining Inc. - Units	100,000.00	1,250,000.00
01/15/2008 to 12/15/2008	1322	Romspen Mortgage Investment Fund - Units	118,101,250.00	11,810,125.00
01/22/2009	5	Sand Box Technologies Inc. - Common Shares	167,597.56	143,000.00

Transaction Date	No of Purchasers	Issuer/Security	Total Purchase Price ($)	No of Securities Distributed
01/02/2008 to 12/29/2008	26	Sandford C. Bernstein Global Blend Equity Fund - Units	503,784,367.01	21,023,432.36
01/02/2008 to 12/31/2008	26	Sandford C. Bernstein Global Equity Fund - Units	232,179,109.46	10,681,848.81
01/02/2008 to 12/31/2008	6	Sandford C. Bernstein Global Strategic Value Fund - Units	74,647,366.55	4,565,368.54
01/02/2008 to 12/31/2008	24	Sandford C. Bernstein International Equity (Cap-Weighted, Unhedged) Fund - Units	130,702,605.26	4,744,451.06
01/04/2008 to 12/31/2008	2	Sandford C. Bernstein U.S. Diversified Value Equity Fund - Units	9,664,178.27	511,851.47
01/03/2008 to 12/31/2008	5	Sanford C. Bernstein Canadian Value Equity Fund - Units	100,068,741.89	3,010,609.76
01/01/2008 to 12/31/2008	4	Scheer, Rowelett & Associates Canadian Equity Fund - Trust Units	493,751.34	31,153.50
01/01/2008 to 12/31/2008	3	Scheer, Rowlett & Associates Balanced Fund - Trust Units	56,773,370.97	4,901,194.63
01/01/2008 to 12/31/2008	3	Scheer, Rowlett & Associates Bond Fund - Trust Units	117,954,882.13	11,387,354.42
01/01/2008 to 12/31/2008	8	Scheer, Rowlett & Associates Canadian Equity Fund - Trust Units	141,508,231.20	9,341,349.67
01/01/2008 to 12/31/2008	2	Scheer, Rowlett & Associates EAFE Fund - Trust Units	1,224,417.98	163,670.70
01/01/2008 to 12/31/2008	3	Scheer, Rowlett & Associates Money Market Fund - Trust Units	6,886,031.19	668,603.12
01/01/2008 to 12/31/2008	1	Scheer, Rowlett & Associates Short Term Bond Fund - Trust Units	682,928.08	68,097.49
01/01/2008 to 12/31/2008	2	Scheer, Rowlett & Associates US Equity Fund - Trust Units	1,056,159.57	174,816.05
02/02/2009	1	Seattle Genetics, Inc. - Common Shares	1,205,660.00	100,000.00
06/30/2008 to 10/31/2008	111	Secutor Founders Fund - Common Shares	3,220,012.50	653,764.00
01/26/2009	1	Skybridge Development Corp. - Common Shares	33,750.00	250,000.00
01/13/2009 to 01/15/2009	16	Skyline Apartment Real Estate Investment Trust - Units	397,548.42	36,140.77
02/01/2008 to 11/01/2008	5	South Pole Capital LP - Limited Partnership Units	1,070,000.00	10,700.00
01/20/2009	1	Special Notes Limited Partnership - Limited Partnership Interest	75,000.00	75,000.00
01/28/2009	1	Special Notes Limited Partnership - Units	150,000.00	150,000.00
01/21/2009	5	SQI Diagnostics Inc. - Common Shares	1,664,375.00	1,331,500.00
01/01/2008 to 12/31/2008	7	SRA Canadian Equity Fund - Trust Units	31,434,815.10	2,535,209.64

Transaction Date	No of Purchasers	Issuer/Security	Total Purchase Price ($)	No of Securities Distributed
01/01/2008 to 12/31/2008	1	SRA Short Term Bond Fund - Trust Units	350,000.00	34,878.97
01/01/2008 to 12/31/2008	1	SRA / PCJ Canadian Equity Core Fund - Trust Units	3,900,788.61	487,788.74
10/30/2008 to 12/30/2008	80	Stage Ventures 2008 Limited Partnership - Limited Partnership Units	9,483,410.00	8,863.00
07/01/2008	1	Stratus Feeder Limited - Common Shares	303,474,000.00	300,000.00
01/26/2009	1	Strudex Fibres Limited - Common Shares	NA	17.65
01/31/2008 to 11/28/2008	49	TA3 Hedge Fund - Units	2,426,561.12	NA
01/01/2008 to 12/31/2008	79	Thornmark Alpha Fund - Units	8,842,563.65	655,910.49
01/01/2008 to 12/31/2008	187	Thornmark Dividend & Income Fund - Units	30,049,535.75	1,962,510.01
01/01/2008 to 12/31/2008	73	Thornmark Enhanced Equity Fund - Units	7,350,215.37	669,279.42
01/01/2008 to 12/31/2008	58	Thornmark Fixed Income Fund - Units	15,997,897.37	1,550,847.58
02/03/2009	12	Timminco Limited - Common Shares	24,999,100.00	7,042,000.00
12/31/2008	24	TLC Explorations Inc. - Units	520,000.00	520,000.00
01/01/2008 to 12/01/2008	91	Tower Growth Fund - Units	5,081,426.41	623,101.60
02/01/2008 to 10/01/2008	11	Tower Hedge Fund L.P. - Units	1,597,972.55	152,843.14
01/01/2008 to 10/01/2008	11	Tower Income Fund - Units	665,053.58	73,698.47
01/15/2009	27	Toxin Alert Inc. - Units	80,000.00	800,000.00
01/04/2008 to 12/10/2008	1	Trimark Canadian Bond Fund - Units	4,836,493.33	461,941.26
01/04/2008 to 07/21/2008	1	Trimark Canadian Resources Fund - Units	2,278.94	106.11
02/19/2008 to 07/21/2008	1	Trimark Discovery Fund - Units	9,580.94	2,196.33
07/15/2008 to 07/16/2008	1	Trimark Fund - Units	90,309.11	2,738.87
01/15/2008 to 11/21/2008	1	Trimark Global Endeavour Fund - Units	986,950.04	91,763.99
01/02/2008 to 12/31/2008	1	Trimark Select Canadian Growth Fund - Units	738,148.95	47,510.90
01/03/2008 to 12/30/2008	1	Trimark Select Growth Fund - Units	1,905,426.12	111,373.36

Transaction Date	No of Purchasers	Issuer/Security	Total Purchase Price ($)	No of Securities Distributed
01/20/2009	14	Triple Dragon Resources Inc. - Common Shares	150,000.00	1,000,000.00
02/01/2008 to 12/01/2008	138	Turtle Creek Equity Fund - Trust Units	381,251.10	40,575.15
01/02/2008 to 12/01/2008	58	Turtle Creek Investment Fund - Units	6,152,124.57	539,511.22
09/30/2008	1	T.Rowe Price Funds SICAV - Global Equity Fund Class I - Common Shares	40,228,057.90	4,009,366.39
01/24/2008 to 11/25/2008	1	U.S. Core Equity 2 Portfolio of DFA Investment Dimensions Group Inc. - Common Shares	4,818,831.18	495,344.32
01/21/2009	5	Wescorp Energy Inc. - Common Share Purchase Warrant	NA	600,000.00
01/26/2009	7	White Pine Resources Inc. - Flow-Through Units	500,000.00	2,000,000.00
01/23/2009	1	Whitecastle New Urban Fund, L.P. - Limited Partnership Units	350,000.00	350,000.00
07/30/2008	1	WMP Global Select Capital Appreciation Fund - Units	42,712,578.57	4,271,257.86
06/01/2008 to 06/25/2008	1	WMP Global Smaller Companies Portfolio - Units	4,110,008.00	172,771.61
12/05/2008 to 01/15/2009	4	Zelos Therapeutics Inc. - Notes	1,080,295.62	NA
01/15/2009	10	Zelos Therapeutics Inc. - Notes	606,267.40	NA
01/21/2009	3	Zorzal Incorporated - Debentures	80,000.00	80,000.00

Chapter 11

IPOs, New Issues and Secondary Financings

Issuer Name:
Armtec Infrastructure Income Fund
Principal Regulator - Ontario
Type and Date:
Preliminary Short Form Prospectus dated February 6, 2009
NP 11-202 Receipt dated February 6, 2009
Offering Price and Description:
$50,055,000.00 - 2,820,000 Units Price:$17.75 per Unit
Underwriter(s) or Distributor(s):
Scotia Capital Inc.
BMO Nesbitt Burns Inc.
TD Securities Inc.
Canaccord Capital Corporation
CIBC World Markets Inc.
National Bank Financial Inc.
M Partners Inc.
Raymond James Ltd.
Promoter(s):
-
Project #1372559

Issuer Name:
Breaker Energy Ltd.
Principal Regulator - Alberta
Type and Date:
Preliminary Short Form Prospectus dated February 4, 2009
NP 11-202 Receipt dated February 4, 2009
Offering Price and Description:
$15,005,200.00 - 4,660,000 Class A Shares Price: $3.22 per Class A Share
Underwriter(s) or Distributor(s):
CIBC World Markets Inc.
FirstEnergy Capital Corp.
Wellington West Capital Markets Inc.
BMO Nesbitt Burns Inc.
Scotia Capital Inc.
Dundee Securities Corporation
Canaccord Capital Corporation
Tristone Capital Inc.
Promoter(s):
-
Project #1371962

Issuer Name:
Deans Knight Income Corporation
Principal Regulator - British Columbia
Type and Date:
Preliminary Long Form Prospectus dated February 9, 2009
NP 11-202 Receipt dated February 9, 2009
Offering Price and Description:
$ * - * Common Shares Price: $10.00 per Common Share - Minimum Purchase: 100 Shares
Underwriter(s) or Distributor(s):
GMP Securities L.P.
RBC Dominion Securities Inc.
Canaccord Capital Corporation
Blackmont Capital Inc.
Haywood Securities Inc.
FirstEnergy Capital Corp.
Promoter(s):
Deans Knight Capital Management Ltd.
Project #1373168

Issuer Name:
First Asset Energy & Resource Fund
Principal Regulator - Ontario
Type and Date:
Preliminary Short Form Prospectus dated February 5, 2009
NP 11-202 Receipt dated February 6, 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 #1372494

Issuer Name:
First Asset Pipes & Power Income Fund
Principal Regulator - Ontario
Type and Date:
Preliminary Short Form Prospectus dated February 5, 2009
NP 11-202 Receipt dated February 6, 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 #1372497

Issuer Name:
First Asset REIT Income Fund
Principal Regulator - Ontario
Type and Date:
Preliminary Short Form Prospectus dated February 5, 2009
NP 11-202 Receipt dated February 6, 2009
Offering Price and Description:
Warrants to Subscribe for up to * Series A Units at a Subscription Price of $ *
Underwriter(s) or Distributor(s):
-
Promoter(s):
-
Project #1372495

Issuer Name:
First Asset Yield Opportunity Trust
Principal Regulator - Ontario
Type and Date:
Preliminary Short Form Prospectus dated February 5, 2009
NP 11-202 Receipt dated February 6, 2009
Offering Price and Description:
Warrants to Subscribe for up to * Series A Units at a Subscription Price of $ *
Underwriter(s) or Distributor(s):
-
Promoter(s):
-
Project #1372496

Issuer Name:
Global Biotech Corp
Type and Date:
Preliminary Long Form Prospectus dated February 5, 2009
Receipted on February 6, 2009
Offering Price and Description:
-
Underwriter(s) or Distributor(s):
-
Promoter(s):
Louis Greco
Perry Choiniere
Gilles Lamarre
Project #1369618

Issuer Name:
Horizons BetaPro S&P/TSX 60 Inverse ETF
Horizons BetaPro S&P/TSX Capped Energy Inverse ETF
Horizons BetaPro S&P/TSX Capped Financials Inverse ETF
Horizons BetaPro S&P/TSX Global Gold Inverse ETF
Principal Regulator - Ontario
Type and Date:
Preliminary Long Form Prospectus dated February 4, 2009
NP 11-202 Receipt dated February 6, 2009
Offering Price and Description:
Class A Units
Underwriter(s) or Distributor(s):
-
Promoter(s):
BetaPro Management Inc.
Project #1372455

Issuer Name:
ING Canada Inc.
Principal Regulator - Ontario
Type and Date:
Preliminary Short Form Prospectus dated February 4, 2009
NP 11-202 Receipt dated February 5, 2009
Offering Price and Description:
$1,258,421,192.00 - 47,757,920 Common Shares Price: $26.35 per Share
Underwriter(s) or Distributor(s):
CIBC World Markets Inc.
TD Securities Inc.
RBC Dominion Securities Inc.
BMO Nesbitt Burns Inc.
Scotia Capital Inc.
National Bank Financial Inc.
Merrill Lynch Canada Inc.
Genuity Capital Markets
Promoter(s):
-
Project #1372156

Issuer Name:
Omega Global Opportunities Fund
Principal Regulator - Quebec
Type and Date:
Preliminary Simplified Prospectus dated February 2, 2009
NP 11-202 Receipt dated February 5, 2009
Offering Price and Description:
Units of the Advisor Series and F Series
Underwriter(s) or Distributor(s):
National Bank Securities Inc.
Promoter(s):
National Bank Securities Inc.
Project #1371837

Issuer Name:
Osisko Mining Corporation
Principal Regulator - Quebec
Type and Date:
Preliminary Short Form Prospectus dated February 9, 2009
NP 11-202 Receipt dated February 9, 2009
Offering Price and Description:
$350,350,000.00 - 77,000,000 Units Price - $4.55 per Unit
Underwriter(s) or Distributor(s):
Thomas Weisel Partners Canada Inc.
BMO Nesbitt Burns Inc.
Dundee Securities Corporation
RBC Dominion Securities Inc.
National Bank Financial Inc.
Paradigm Capital Inc.
Canaccord Capital Corporation
TD Securities Inc.
PI Financial Corp.
Promoter(s):
-
Project #1373072

Issuer Name:
Preferred Share Investment Trust
Principal Regulator - Ontario
Type and Date:
Preliminary Long Form Prospectus dated February 5, 2009
NP 11-202 Receipt dated February 6, 2009
Offering Price and Description:
$ * - * Units Price: $10.00 per Unit $2,000 Minimum Purchase (200 Units)
Underwriter(s) or Distributor(s):
CIBC World Markes Inc.
BMO Nesbitt Burns Inc.
National Bank Financial Inc.
RBC Dominion Securities Inc.
Scotia Capital Inc.
TD Securities Inc.
Wellington West Capital Markets Inc.
Canaccord Capital Corporation
Dundee Securities Corporation
HSBC Securities (Canada) Inc.
Manulife Securities Incorporated
Raymond James Ltd.
Richardson Partners Financial Limited
Blackmont Capital Inc.
GMP Securities L.P.
Promoter(s):
First Asset Investment Management Inc.
Project #1372322

Issuer Name:
RBC Select Very Conservative Portfolio
Principal Regulator - Ontario
Type and Date:
Preliminary Simplified Prospectus dated February 4, 2009
NP 11-202 Receipt dated February 4, 2009
Offering Price and Description:
Series A, Advisor Series and Series F Units
Underwriter(s) or Distributor(s):
Royal Mutual Funds Inc.
Promoter(s):
RBC Asset Management Inc.
Project #1371947

Issuer Name:
Work Horse Capital & Strategic Acquisitions Ltd.
Principal Regulator - Ontario
Type and Date:
Preliminary CPC Prospectus dated February 3, 2009
NP 11-202 Receipt dated February 4, 2009
Offering Price and Description:
$400,000.00 - 4,000,000 Common Shares Price - $0.10 per Common Share
Underwriter(s) or Distributor(s):
Investpro Securities Inc.
Promoter(s):
Michael Inskip
Project #1371633

Issuer Name:
ALAMOS GOLD INC
Principal Regulator - Ontario
Type and Date:
Final Short Form Prospectus dated February 6, 2009
NP 11-202 Receipt dated February 9, 2009
Offering Price and Description:
$75,200,000.00 - 9,400,000 Common Shares Price: Cdn. $8.00 per Common Share
Underwriter(s) or Distributor(s):
BMO Nesbitt Burns Inc.
GMP Securities L.P.
RBC Dominion Securities Inc.
Macquarie Capital Markets Canada Ltd.
TD Securities Inc.
CIBC World Markets Inc.
UBS Securities Canada Inc.
Fraser Mackenzie Limited
Genuity Capital Markets
Haywood Securities Inc.
Paradigm Capital Inc.
Salman Partners Inc.
Promoter(s):
-
Project #1370835

Issuer Name:
Anatolia Minerals Development Limited
Principal Regulator - Ontario
Type and Date:
Final Short Form Prospectus dated February 5, 2009
NP 11-202 Receipt dated February 5, 2009
Offering Price and Description:
$51,800,000.00 - 28,000,000 Common Shares Price: $1.85 per Share
Underwriter(s) or Distributor(s):
RBC Dominion Securities Inc.
BMO Nesbitt Burns Inc.
Wellington West Capital Markets Inc.
National Bank Financial Inc.
Dundee Securities Corporation
Haywood Securities Inc.
Paradigm Capital Inc.
Raymond James Ltd.
Promoter(s):
-
Project #1370139

Issuer Name:
Business Cycle Growth Fund
Business Cycle Income Fund
Principal Regulator - Nova Scotia
Type and Date:
Final Simplified Prospectus dated February 5, 2009
NP 11-202 Receipt dated February 6, 2009
Offering Price and Description:
Mutual fund trust units at net asset value
Underwriter(s) or Distributor(s):
-
Promoter(s):
Wave Cycle Mutual Funds Ltd.
Project #1362115

Issuer Name:
Covington Venture Fund Inc.
Type and Date:
Final Long Form Prospectus dated January 30, 2009
Receipted on February 5, 2009
Offering Price and Description:
Class A Shares, Series II, Class A Shares, Series III, Class A Shares, Series VIII and Class A Shares, Serriex IX @ Net Asset Value
Underwriter(s) or Distributor(s):
-
Promoter(s):
Covington Capital Corporation
Project #1363002

Issuer Name:
Dynamic Focus+ Energy Income Trust Fund (Series A, F, I, IP, O and OP only)
Dynamic Focus+ Real Estate Fund
Dynamic Focus+ Resource Fund (Series A, F, I, IP, O and OP only)
Dynamic Focus+ Small Business Fund (Series A, I, IP, O and OP only)
Dynamic Dollar-Cost Averaging Fund (Series A only)
Dynamic High Yield Bond Fund (Series A, F, I and O only)
Dynamic Power American Currency Neutral Fund (Series A, F, I, IP and O only)
Dynamic Power American Growth Fund
Dynamic Power Balanced Fund
Dynamic Power Canadian Growth Fund
Dynamic Far East Value Fund (Series A, F, I, IP, O and OP only)
Dynamic Power American Growth Class
Dynamic Power Balanced Class
Dynamic Power Canadian Growth Class
Dynamic Power Global Balanced Class
Dynamic Power Global Growth Class
Dynamic Power Global Navigator Class
Dynamic Canadian Value Class
Dynamic Global Value Class
Dynamic Global Energy Class
(Series A, Series F, Series I, Series IP, Series O, Series OP and Series T Securities (unless otherwise indicated)

Principal Regulator - Ontario
Type and Date:
Amendment #1 dated January 26, 2009 to the Simplified Prospectuses and Annual Information Forms dated December 19, 2008
NP 11-202 Receipt dated February 6, 2009
Offering Price and Description:
-
Underwriter(s) or Distributor(s):
Goodman & Company, Investment Counsel Ltd..
Promoter(s):
Goodman & Company, Investment Counsel Ltd.
Project #1336671

Issuer Name:
Eagle Credit Card Trust
Principal Regulator - Ontario
Type and Date:
Final Base Shelf Prospectus dated February 5, 2009
NP 11-202 Receipt dated February 6, 2009
Offering Price and Description:
Up to $1,500,000,000.00 of Credit Card Receivables-Backed Notes
Underwriter(s) or Distributor(s):
CIBC WORLD MARKETS INC.
RBC DOMINION SECURITIES INC.
BMO NESBITT BURNS INC.
MERRILL LYNCH CANADA INC.
NATIONAL BANK FINANCIAL INC.
SCOTIA CAPITAL INC.
TD SECURITIES INC.
Promoter(s):
President's Choice Bank
Project #1370021

Issuer Name:
Ford Auto Securitization Trust
Principal Regulator - Ontario
Type and Date:
Final Base Shelf Prospectus dated February 6, 2009
NP 11-202 Receipt dated February 9, 2009
Offering Price and Description:
Up to $2,000,000,000.00 of Asset-Backed Notes
Underwriter(s) or Distributor(s):
-
Promoter(s):
Ford Credit Canada Limited
Project #1371241

Issuer Name:
Meritas Balanced Portfolio Fund
Meritas Canadian Bond Fund
Meritas International Equity Fund
Meritas Jantzi Social Index Fund
Meritas Money Market Fund
Meritas Monthly Dividend and Income Fund
Meritas U.S. Equity Fund
Principal Regulator - Ontario
Type and Date:
Final Simplified Prospectuses dated February 6, 2009
NP 11-202 Receipt dated February 6, 2009
Offering Price and Description:
Mutual Fund Units @ Net asset Value
Underwriter(s) or Distributor(s):
Meritas Financial Inc.
Promoter(s):
-
Project #1354738

Issuer Name:
Precision Drilling Trust
Principal Regulator - Alberta
Type and Date:
Final MJDS Shelf Prospectus dated February 4, 2009
NP 11-202 Receipt dated February 5, 2009
Offering Price and Description:
$800,000,000.00:
Trust Units
Debt Securities
Warrants
Subscription Receipts
Underwriter(s) or Distributor(s):
-
Promoter(s):
-
Project #1367502

Issuer Name:
Progress Energy Resources Corp.
Principal Regulator - Alberta
Type and Date:
Final Short Form Prospectus dated February 10, 2009
NP 11-202 Receipt dated February 10, 2009
Offering Price and Description:
$140,507,500.00 - 12,950,000 Common Shares Price: $10.85 per Common Share
Underwriter(s) or Distributor(s):
Peters & Co. Limited
BMO Nesbitt Burns Inc.
Scotia Capital Inc.
CIBC World Markets Inc.
FirstEnergy Capital Corp.
National Bank Financial Inc.
Canaccord Capital Corporation
Cormark Securities Inc.
RBC Dominion Securities Inc.
Tristone Capital Inc.
Promoter(s):
-
Project #1371685

Issuer Name:
Silver Wheaton Corp.
Principal Regulator - British Columbia
Type and Date:
Final Short Form Prospectus dated February 6, 2009
NP 11-202 Receipt dated February 6, 2009
Offering Price and Description:
C$250,000,000.00 - 31,250,000 Common Shares Price: C$8.00 per Common Share
Underwriter(s) or Distributor(s):
Genuity Capital Markets
GMP Securities L.P.
BMO Nesbitt Burns Inc.
Scotia Capital Inc.
UBS Securities Canada Inc.
Canaccord Capital Corporation
Macquarie Capital Markets Canada Ltd.
Raymond James Ltd.
RBC Dominion Securities Inc.
Salman Partners Inc.
Promoter(s):
-
Project #1370936

Issuer Name:
Discovery 2009 Flow-Through Limited Partnership
Type and Date:
Preliminary Long Form Prospectus dated January 27, 2009
Withdrawn on February 9, 2009
Offering Price and Description:
$ * - * Units Price: $25.00 per Unit MINIMUM SUBSCRIPTION: $2,500 (One Hundred Units)
Underwriter(s) or Distributor(s):
Middlefield Capital Corporation
Promoter(s):
Middlefield Fund Management Limited
Middlefield Group Limited
Project #1368837

Issuer Name:
Lazard Capital Allocator Opportunistic Strategies Fund
Principal Jurisdiction - Ontario
Type and Date:
Preliminary Simplified Prospectus and Annual Information Form dated November 3, 2008
Withdrawn on February 4, 2009
Offering Price and Description:
Series A and F Shares
Underwriter(s) or Distributor(s):
-
Promoter(s):
First Defined Portfolio Management Co.
Project #1337210

Chapter 12

Registrations

12.1.1 Registrants

Type	Company	Category of Registration	Effective Date
New Registration	OTT CAPITAL CORPORATION	Limited Market Dealer	February 4, 2009
New Registration	Brean Murray, Carret & Co., LLC	International Dealer	February 4, 2009

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Chapter 13

SRO Notices and Disciplinary Proceedings

13.1.1 MFDA Hearing Panel Issues Reasons for Decision Respecting Settlement with Manulife Securities Investment Services Inc.

NEWS RELEASE
For immediate release

MFDA HEARING PANEL ISSUES REASONS
FOR DECISION RESPECTING SETTLEMENT WITH
MANULIFE SECURITIES INVESTMENT SERVICES INC.

February 4, 2009 (Toronto, Ontario) – A Hearing Panel of the Central Regional Council of the Mutual Fund Dealers Association of Canada ("MFDA") has issued its Reasons for Decision in connection with the Settlement Hearing held in Toronto, Ontario on December 22, 2008 in respect of Manulife Securities Investment Services Inc.

A copy of the Reasons for Decision is available on the MFDA website at www.mfda.ca.

The MFDA is the self-regulatory organization for Canadian mutual fund dealers. The MFDA regulates the operations, standards of practice and business conduct of its 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

13.1.2 IIROC Rules Notice – Request for Comments – Amendments to Dealer Member Rules to permit partial offsets for offset strategies involving interest rate swaps and total performance swaps

AMENDMENTS TO DEALER MEMBER RULES TO PERMIT PARTIAL OFFSETS FOR OFFSET STRATEGIES INVOLVING INTEREST RATE SWAPS AND TOTAL PERFORMANCE SWAPS

Summary of nature and purpose of Proposed Amendments

On January 28, 2009, the Board of Directors (the Board) of the Investment Industry Regulatory Organization of Canada (IIROC) approved the publication for comment of the proposed amendments (Proposed Amendments) to the Dealer Member Rule section 100.4F (the Rule) that would allow for partial offsets on interest rate swaps and total performance swaps.

The primary objective of the Proposed Amendments is to extend the current margin treatment on swap offsets to partial offsets on interest rate and total performance swaps. This would permit partial notional amounts to be netted before applying the required margin to the swap position.

Specifically, the Proposed Amendments to IIROC Dealer Member Rule subsections 100.4F(a) and 100.4F(d) set out in Attachment A would:

- add the term “or agreements” to cover the situation where multiple swap contracts are entered into; and
- specifically permit the provision of reduced margin for partial swap agreement offsets.

Issues and specific Proposed Amendments

Subsections 100.4F(a) and (d) stipulate that swap positions (for each pair of interest rate swap or total performance swap offsets) may be netted where the notional amount of the offsetting swap or underlying security position is the same. The subsections, however, are silent on permitting partial offsets between two positions with different notional amounts. Consequently, under current rules, even partially offset positions would be required to be margined separately, which results in a higher overall margin requirement than necessary to cover the position risk.

The following two examples are used to illustrate the rationale for allowing partial swap offsets:

1. A Dealer Member is long two interest rate swaps with underlying notional amounts of $50 million and $25 million, respectively, and short an interest rate swap with an underlying notional amount of $50 million. Assuming all positions are either fixed or variable, current subsection 100.4F(a) would allow for the netting of the long and short swaps of $50 million and margin would be required on the remaining $25 million long swap position.

2. Another Dealer Member is long one interest rate swap of $75 million and short one interest rate swap of $50 million. Assuming all positions are either fixed or variable, there would be no offset allowed by current subsection 100.4F(a), because the notional amounts are not the same. Margin would be required on both the $75 million and the $50 million swap positions, although the risk exposure is economically the same as a $25 million long swap position.

Based on the two examples above, IIROC is of the opinion that partial offsets should be allowed as the economic risk exposures that are inherent in the position are the same. Regarding subsection 100.4F(d), similar examples using total performance swap offsets instead of the above interest rate swaps would arrive at similar outcomes. As a result, it is proposed that partial offsets also be allowed for total performance swaps.

The proposed rule amendments and a black-line copy of the Dealer Member Rule affected by these amendments are set out in Attachments A and B.

Proposed Rule Classification

In deciding to propose these amendments, IIROC identified that there was a need to permit the provision of reduced margin for partial offsets involving either interest rate swaps or total performance swaps as Dealer Members should be motivated through the capital requirements to at least partially reduce/hedge position risk.

The Proposed Amendments were assessed as being in the public interest and not detrimental to the best interests of the capital markets. As a result, the Board has determined that the Proposed Amendments are a Public Comment Rule proposal.

Effects of the proposed Rule on market structure, Dealer Members, non-Dealer Members, competition, and costs of compliance

Statements have been made elsewhere as to the nature and purpose of the Proposed Amendments.

The Proposed Amendments are intended to promote the efficient use of capital and to align the capital and margin requirements with the offset risk. Hence, they do not impose any burden or constraint on competition or innovation that is not necessary or appropriate in furtherance of IIROC's regulatory objectives. They do not impose costs or restrictions on the activities of market participants (including Dealer Members and non-Dealer Members) that are disproportionate to the goals of the regulatory objectives sought to be realized. The Proposed Amendments are also consistent with other IIROC rules and regulations.

Technological implications and implementation plan

The Proposed Amendments will not have an impact on Dealer Members' systems. The Bourse de Montréal is also in the process of passing these amendments. As such, it is intended that these amendments will be implemented once both IIROC and Bourse de Montréal receive approval from their recognizing regulators.

Request for public comment

Comments are sought on the Proposed Amendments. Comments should be made in writing. Two copies of each comment letter should be delivered by March 16, 2009 (30 days from the publication date of this notice). One copy should be addressed to the attention of:

Mindy Kwok
Investment Analyst, Member Regulation Policy
Investment Industry Regulatory Organization of Canada
Suite 1600, 121 King Street West,
Toronto, Ontario,
M5H 3T9

The second copy should be addressed to the attention of:

Manager of Market Regulation
Ontario Securities Commission,
19th floor, Box 55,
20 Queen Street West,
Toronto, Ontario,
M5H 3S8

Those submitting comment letters should be aware that a copy of their comment letter will be made publicly available on the IIROC website (www.iiroc.ca under the heading "IIROC Rulebook – Dealer Member Rules – Policy Proposals and Comment Letters Received").

Questions may be referred to:

Mindy Kwok
Investment Analyst, Member Regulation Policy
Investment Industry Regulatory Organization of Canada
(416) 943-6979
mkwok@iiroc.ca

Answerd Ramcharan
Specialist, Member Regulation Policy
Investment Industry Regulatory Organization of Canada
(416) 943-5850
aramcharan@iiroc.ca

Attachments

Attachment A – Proposed Amendments

Attachment B – Black-line copy of IIROC Dealer Member Rule 100.4F reflecting the amendments

Attachment A

INVESTMENT INDUSTRY REGULATORY ORGANIZATION OF CANADA
AMENDMENTS TO DEALER MEMBER RULES TO PERMIT PARTIAL OFFSETS
FOR OFFSET STRATEGIES INVOLVING INTEREST RATE SWAPS
AND TOTAL PERFORMANCE SWAPS

PROPOSED AMENDMENTS

1. Dealer Member Rule sections 100.4F(a) and (d) are amended to allow for partial offsets by:

   (a) adding the words “or agreements” after the words “swap agreement”; and

   (b) adding the words “notional amount or same partial” after the words “reference to the same”.

Attachment B

INVESTMENT INDUSTRY REGULATORY ORGANIZATION OF CANADA
AMENDMENTS TO DEALER MEMBER RULES TO PERMIT PARTIAL OFFSETS
FOR OFFSET STRATEGIES INVOLVING INTEREST RATE SWAPS
AND TOTAL PERFORMANCE SWAPS

BLACK-LINE COPY

Dealer Member Rule Sections 100.4F(a) and (d)

100.4F. Swap Positions Offset

For the purposes of this regulation, a "**fixed interest rate**" is an interest rate, which is not reset at least every 90 days, a "**floating interest rate**" is an interest rate, which is not a fixed interest rate and "**realization clause**" is an optional clause within a total performance swap agreement which allows the Dealer Member to close out the swap agreement at the realization price (either the buy-in or sell-out price) of the security position involved in the offset.

(a) Interest Rate Swap versus Interest Rate Swap Offset

Where a Dealer Member

(i) is a party to an interest rate swap agreement or agreements requiring it to pay (or entitling it to receive) Canadian dollar or United States dollar fixed (or floating) interest rate amounts calculated with reference to a notional amount;

and

(ii) is a party to another offsetting interest rate swap agreement or agreements entitling it to receive (or requiring it to pay) a fixed (or floating) interest rate amount calculated with reference to the same notional amount or same partial notional amount, denominated in the same currency and is within the same maturity band for margin purposes as the interest rate swap referred to in (i);

the margin required in respect of the positions in (i) and (ii) may be netted, provided that margin on fixed interest rate component payment (or receipt) positions may only be offset against margin on fixed interest rate component receipt (or payment) positions, and margin on floating interest rate component payment (or receipt) positions may only be offset against margin on other floating interest rate component receipt (or payment) positions.

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(d) Total Performance Swap versus Total Performance Swap Offset

Where a Dealer Member:

(i) is a party to a total performance swap agreement or agreements requiring it to pay (or entitling it to receive) Canadian dollar or United States dollar amounts calculated based on the performance of a stipulated underlying security or basket of securities, with reference to a notional amount;

and

(ii) is a party to another total performance swap agreement or agreements entitling it to receive (or requiring it to pay) amounts calculated based on the performance of the same underlying security or basket of securities, with reference to the same notional amount or same partial notional amount and denominated in the same currency;

the margin required in respect of the positions in (i) and (ii) may be netted, provided that margin on performance component payment (or receipt) positions may only be offset against margin on performance component receipt (or payment) positions, and margin on floating interest rate component payment (or receipt) positions may only be offset against margin on other floating interest rate component receipt (or payment) positions.

13.1.3 IIROC Rules Notice – Request for Comments – Amendments to Complaint Handling Requirements - Client Complaint Handling Rule and Guidance Note and Amendments to Dealer Member Rules 19, 37 and 2500

AMENDMENTS TO COMPLAINT HANDLING REQUIREMENTS –
CLIENT COMPLAINT HANDLING RULE AND GUIDANCE NOTE AND
AMENDMENTS TO DEALER MEMBER RULES 19, 37 AND 2500

Summary of nature and purpose of proposed Rule

The proposed amendments to the complaint handling requirements seek to establish an effective framework for the client complaint handling process. The proposed new rule sets out specific standards and timelines to be adhered to in acknowledging, investigating and responding to client complaints that allege misconduct relating to the handling of the client's account(s). The rule also requires the Dealer Member to adequately inform the client of all the subsequent options available to them should the client be dissatisfied with the final response from the Dealer Member. In addition to the new rule regarding complaint handling, the proposed amendments will repeal the current complaint handling requirements set out in IIROC Dealer Member Rule 2500, Section VIII, and replaced it with a general requirement that Dealer Members establish policies and procedures to deal effectively with all client complaints and respond to all written complaints.

Current rules

IIROC Dealer Member Rule 2500, Section VIII sets out general requirements for the handling of retail client complaints. The current rule requires Dealer Members to establish procedures to effectively deal with client complaints, including the following: the acknowledgement of all written complaints; the conveyance of the results of investigations to clients in due course; the requirement that sales practice complaints be in writing and signed by the client and then handled by sales supervisors or compliance staff; and the obligation that written complaint submissions be filed with the compliance department. In addition, there are complaint recordkeeping requirements and procedures that must be put in place for internal disciplinary action and the escalation of complaints to senior management when appropriate.

Relevant history

In May 2005, the Ontario Securities Commission (OSC) held an Investor Town Hall. A panel of representatives from the Investment Dealers Association (IDA), the Mutual Fund Dealers Association (MFDA), the Ombudsman for Banking Services and Investments (OBSI), the Small Investor Protection Association (SIPA) and the OSC listened to the concerns of retail investors. Investors emphasized what is essential in a regulatory regime - accountability, transparency, fairness, and effectiveness. A commitment to address these concerns resulted in the formation of a joint working committee of executives and senior management from the OSC, the OBSI, the MFDA, and the IDA to analyze the issues and develop solutions. One of the most significant concerns identified was complaint handling, both in terms of process transparency and timeliness.

To begin to address the concerns expressed with the complaint handling process, the IDA issued a Member Regulation Notice (MR0441) in December 2006. The objective of the notice was to detail the existing complaint handling rules and expectations of the IDA, and now IIROC, and to outline best practices that Dealer Member firms should consider adopting. The notice also indicated that the then IDA expected to submit to the OSC and other CSA jurisdictions, changes to its complaint handling rules which would include complaint handling timelines, a possible requirement to designate one or more individuals to oversee a Dealer Member's complaint handling process and further clarification of complaint handling standards.

The proposed amendments were developed in consultation with IIROC advisory committees and with public input from investors and other stakeholders. Two previous versions of these proposed amendments have been issued. The first version was approved at the October 2007 meeting of the IDA Board and was published for comment on November 9, 2007. A second version incorporated revisions that IIROC proposed to make to address comments that had been received. As these revisions were not material, IIROC determined that these proposed amendments did not need to be republished for public comment. The second version was adopted by the IIROC Board on July 16, 2008 and subsequently forwarded to the CSA and posted on IIROC's website.

On May 28, 2008, the CSA constituted a working group which developed a framework for harmonizing the complaint handling rules in each of the IIROC and MFDA proposals, and proposed National Instrument 31-103 – *Registration Requirements*. IIROC staff participated in the working group and the current proposed amendments reflect the revisions that IIROC staff has made to the previous IIROC proposal in light of the framework. It should be noted that harmonization of the IIROC and MFDA complaint handling proposals does not mean that the language of the two proposals will be the same, but rather that the respective proposals will be broadly consistent with each other and with the CSA's framework. The CSA has indicated that the framework will constitute the baseline for approval of the IIROC and MFDA proposals.

Proposed rule

Complaint handling rule scope

The proposed rule is targeted to the handling of retail client complaints alleging misconduct in the handling of their account or accounts. As such, a complaint subject to this rule:

- must be submitted by a client or a person authorized to act on behalf of a client;
- may be either a recorded expression of dissatisfaction or a verbal expression of dissatisfaction; and
- must allege misconduct in the handling of their account or accounts.

Alleged misconduct includes, but is not limited to, allegations of breach of confidentiality, theft, fraud, misappropriation or misuse of funds or securities, forgery, unsuitable investments, misrepresentation, unauthorized trading relating to the client's account(s), other inappropriate financial dealings with clients and engaging in securities-related activity outside of the Dealer Member.

Designated Complaints Officer to oversee complaint handling process

The proposed rule will require a Dealer Member to appoint a Designated Complaints Officer (DCO) with the knowledge, experience, and authority to manage the complaint handling process and to act as a liaison with IIROC. The DCO need not be a registered individual position. Dealer Members may choose to name the Chief Compliance Officer or the Ultimate Designated Person or an individual acting in a supervisory capacity over the complaints process for the DCO position.

Specific standards and procedures handling timeline

As part of the proposed rule, Dealer Members will be required to establish procedures and standards. In addition to having written complaint handling procedures in place, Dealer Members must facilitate client access to their complaint handling process by making available a written summary of the firms' complaint handling procedures (either on their website or by other means). The written summary must provide the contact information for complaint submission and the designated complaints officer.

Both the acknowledgement letter and the substantive response letter have several requirements that all firms must include in the respective correspondence. The acknowledgement letter must be sent to a client within five (5) business days of receipt of a complaint. The initial response to the client must consist of the following: the contact information of the individual handling the complaint; a statement that a client may contact the above noted individual for a status update; an explanation of the internal complaint handling process; a reference to an attached copy of an IIROC approved complaint handling process brochure and a reference to the statute of limitations contained in the document; a reference to the maximum 90 calendar days timeline to provide a substantive response; and a request for any information reasonably required to resolve the complaint.

The substantive response letter must be accompanied by an IIROC approved complaint handling process brochure and be sent to a client as soon as possible, but no later than 90 calendar days from the date of receipt by the firm. A Dealer Member is obligated to advise a client if a final response will not be sent within the stated timeline in addition to contacting IIROC with an explanation for the delay. The substantive response must comprise the following elements: a summary of the complaint; results of the investigation; the final decision with an explanation; and a statement delineating the options available if a client is unsatisfied with a Dealer Member's response.

There is also a duty to assist in client complaint resolution for both Approved Persons and Dealer Members. Approved Persons must co-operate after moving to a different firm and Dealer Members must do likewise if events relating to a complaint occurred at more than one Dealer Member or the Approved Person is an employee or agent of another firm.

Settlement agreements

Confidentiality restrictions in a settlement agreement must not restrict a client from initiating a complaint or continuing with any pending complaint in progress or participating in any further proceedings.

Complaint record retention

Record retention requirements stipulate the maintenance of files for a minimum of seven (7) years, and maintenance in a central, readily accessible place for two (2) years. Information to be retained includes the following: the complainant's name; the date of the complaint; the name of the individual who is the subject of the complaint; the security or services which are the subject of the complaint; the materials reviewed in the investigation; the name, title, and date individuals were interviewed for the investigation; and the date and conclusions of the decision.

Internal discipline

Procedures must be established to ensure appropriate internal disciplinary measures are applied for breaches of IIROC rules and applicable securities legislation.

Corollary amendments to IIROC Dealer Member Rules 19, 37 and 2500, Section VIII

As a result of the proposed rule, some corollary amendments must be made as follows:

- The repeal of IIROC Dealer Member Rule 19.4 (formerly IDA By-law No. 19.4), a requirement to maintain for twenty-four (24) months an up-to-date record of all written complaints in a central, readily accessible place. This requirement is now contained within the proposed rule.

- The repeal of IIROC Dealer Member Rule 37.3 (formerly IDA By-law No. 37.3), a requirement to provide the client with a copy of the IIROC approved complaint handling process brochure at the time of account opening or when the client submits a complaint. This requirement is now contained within the proposed rule and has been expanded to also require that the client be provided with a copy of the IIROC approved complaint handling process brochure when the substantive response is provided to a client regarding a complaint they have submitted.

- The repeal and replacement of IIROC Dealer Member Rule 2500, Section VIII (formerly IDA Policy No. 2, Section VIII), which sets out the current complaint handling requirements, with a general requirement that Dealer Members establish policies and procedures to deal effectively with client complaints, including complaints falling outside the scope of the proposed rule (such as service complaints), and respond to all written complaints.

The proposed rule does not duplicate certain requirements that are currently set out in IIROC Dealer Member Rule 3100 (formerly IDA Policy No. 8) relating to the handling of complaints and therefore will be applied in conjunction with the requirements set out IIROC Dealer Member Rule 3100.

Issues and alternatives considered

During our consultations with the Compliance and Legal Section (CLS), a concern was raised that the scope of the complaint definition was too broad so as to permit anyone to file a complaint of any nature which would require investigation. To address this concern, IIROC staff have agreed to restrict the definition of "complaint" for the purposes of the proposed rule to expressions of dissatisfaction by a client or a person authorized to act on behalf of the client relating to the handling of their account(s). The requirements set out in IIROC Dealer Member Rule 3100 will continue to apply to a broader range of complaints and other matters such as registration and civil claims.

In drafting the newly created position of Designated Complaints Officer (DCO), IIROC staff considered mandating registration of the position. After much consideration, it was deemed unnecessary as the objective of the rule is to name an individual with the knowledge, experience, and authority to manage complaint handling, not to hold the DCO exclusively responsible for complaint handling; the proper handling of complaints is an overall firm responsibility.

The issue of what processes would be considered internal processes under the rule was also discussed. Specifically, a number of financial institution groups offer a centralized internal ombudsman process to clients of all institutions within the financial institution group. Offering this internal process to clients of Dealer Members is not regulatory requirement. However, because the process is offered centrally to clients of all institutions within a number of financial institution groups, the affected Dealer Members indicated that they did not have control over the time taken by the internal ombudsman process and therefore argued that this process should not be included in determining compliance with the proposed maximum complaint handling timeline.

As a result, as part of its consideration of the October 2007 proposal, the IDA Board of Directors considered two options:

(1) The original proposal to set a maximum six (6) months[1] timeline for the completion of all internal complaint handling processes (**including** any internal ombudsman process offered by the firm or its affiliates); or

(2) A proposal to set a maximum ninety (90) day timeline for the completion of all internal complaint handling processes (**excluding** any internal ombudsman process offered by an affiliate of the firm)

[1] As Dealer Members currently send a substantive response to clients within six (6) months 83.6% of the time, it was concluded that this time frame was an appropriate starting point. There was an intention if this option was pursued of shortening this timeline over time.

The Board has decided to propose the second option provided:

(1) Where an affiliate of a Dealer Member offers an internal ombudsman process, the client is informed when the substantive response letter is issued:

(a) that the use of the internal ombudsman process is not mandatory;

(b) the estimated / maximum time the process is expected to take; and

(c) that the selection of the internal ombudsman process by the client may leave little remaining time in the statute of limitation period.

and:

(2) Where after ninety (90) days, either a substantive response has not been issued or the complaint is still being considered within an affiliate-offered internal ombudsman process, the client is informed that the option of the Ombudsman for Banking Services and Investments (OBSI) considering their complaint is now available.

Comparison with similar provisions in other jurisdictions

United Kingdom

The Financial Services Authority (FSA) has rules relating to the handling of complaints by firms and licensees, including the procedures which a firm must put in place; the time limits within which a firm must deal with a complaint; the forwarding of complaints; the records of a complaint which a firm must make and retain; and the requirements on a firm to report information to the FSA. These requirements ensure that complaints are handled fairly, effectively, and promptly, and resolved at the earliest possible opportunity, minimizing the number of unresolved complaints which need to be referred to the Financial Ombudsman Service. This purpose is consistent with the FSA's statutory objective of consumer protection.

The FSA mandates that a firm have effective and transparent procedures in place for the reasonable and prompt handling of complaints. A complaint is defined as any oral or written expression of dissatisfaction, whether justified or not, from or on behalf of a person about the provision of, or failure to provide, a financial service, which alleges that the complainant has suffered (or may suffer) financial loss, material distress or material inconvenience.

A firm must send a written acknowledgement to the complainant promptly upon receipt of a complaint and keep complainants informed of progress on their complaints thereafter. Firms should attempt to resolve complaints at the earliest possible stage. At the end of eight (8) weeks after receipt of a complaint, a firm must send either a final response or a written response that explains why the firm is still not in a position to provide a final response, along with an estimate of when it expects to be able to provide a final response. If a final response is not sent within eight (8) weeks, clients must be advised that they need not wait to refer their complaint to the Financial Ombudsman Service. A complainant may decide to give a firm more time before exercising any right to refer a complaint to the Financial Ombudsman Service. When a firm sends its final response, clients must be informed that if dissatisfied, they have six (6) months to refer a complaint to the Financial Ombudsman Services. In the case of both a final response and an interim response sent within eight (8) weeks, a copy of the Financial Ombudsman Service's standard explanatory leaflet must be enclosed in the correspondence. Complaints that are resolved within one (1) business day are exempt from these timelines.

United States

The complaint related rules of the Financial Industry Regulatory Authority (FINRA) direct clients towards arbitration and/or mediation processes. Critics in the U.S. are demanding an overhaul of the system to allow clients to seek redress in a court of law.

FINRA advises that the first course of action should be to report a discrepancy or a disagreement to the broker's manager. Management may take steps that will resolve the problem quickly. If the brokerage firm's management does not resolve a complaint within a reasonable period, it is suggested that a client seek legal advice. Mediation should be the first step in the dispute resolution process. If efforts to settle a dispute are unsuccessful, arbitration should be a consideration. The new account agreement may contain a clause that requires a client to use the arbitration process. Therefore, access to courts may be limited. It should be noted that arbitration decisions are final. Arbitrators cannot reconsider decisions even if new evidence is found. Although an arbitration decision may be challenged in court, decisions are rarely reversed.

Proposed Rule classification

IIROC has determined that the proposed rule is a Public Comment Rule.

Statements have been made elsewhere as to the nature and effects of the proposed rule, as well as analysis. The purposes of the proposed rule are to:

- ensure compliance with securities laws;
- prevent fraudulent and manipulative acts and practices;
- promote just and equitable principles of trade and the duty to act fairly, honestly and in good faith;
- foster fair, equitable and ethical business standards and practices; and
- promote the protection of investors.

It is believed that the proposed rules and amendments will be effective in facilitating improvements to the Dealer Member's complaint handling processes to ensure that clients are aware of the process they should follow should they have a complaint and to ensure the fair and prompt handling of complaints. Further, it is believed that Dealer Member adherence to a common complaint handling framework will lead to greater complaint handling consistency from one Dealer Member to the next and, ultimately, enhanced client confidence in the integrity and fairness of the compliant resolution process within the industry. As a result, the Board has determined that the proposed amendments are in the public interest.

Effects of the proposed Rule on market structure, Dealer Members, non-Dealer Members, competition and costs of compliance

The proposed amendments do not impose any burden or constraint on competition or innovation that is not necessary or appropriate in furtherance of IIROC's regulatory objectives. They do not impose costs or restrictions on the activities of market participants (including Dealer Members and non-Dealer Members) that are disproportionate to the goals of the regulatory objectives sought to be realized.

Technological implications and implementation plan

It is not expected that there will be a major systems impact on Dealer Members as a result of the proposed amendments. To meet the timelines set out in the proposed rule, Dealer Members must be aware of complaint aging. It is anticipated that Dealer Members may use the Complaints and Settlement Reporting System (ComSet) to track the aging of complaints that are in process.

The proposed amendments will be made effective on a date determined by IIROC staff after approval is received from IIROC's recognizing regulators. IIROC anticipates that there will be either a requirement for immediate implementation or a short implementation period once the rule is made effective. Dealer Members should consider using this time prior to approval of the rule to prepare for the ninety (90) days timeline. Once these proposed amendments are approved and implemented, IIROC will monitor compliance with the new framework and will determine if any changes are necessary to address practical issues or potential enhancements that become apparent.

Request for public comment

Comments are sought on the proposed amendments. Comments should be made in writing. Two copies of each comment letter should be delivered by March 16, 2009 (30 days from the publication date of this notice). One copy should be addressed to the attention of:

Jamie Bulnes
Director, Member Regulation Policy
Investment Industry Regulatory Organization of Canada
Suite 1600, 121 King Street West
Toronto, ON
M5H 3T9

The second copy should be addressed to the attention of:

Manager of Market Regulation
Ontario Securities Commission
19th Floor, Box 55
20 Queen Street West
Toronto, ON M5H 3S8
marketregulation@osc.gov.on.ca

Those submitting comment letters should be aware that a copy of their comment letter will be made publicly available on the IIROC website (**www.iiroc.ca** under the heading "IIROC Rulebook - Dealer Member Rules - Policy Proposals and Comment Letters Received").

Questions may be referred to:

Jamie Bulnes
Director, Member Regulation Policy
Investment Industry Regulatory Organization of Canada
416-943-6928
jbulnes@iiroc.ca

Attachments

Attachment A – Proposed Amendments enacting a new Dealer Member Rule and Guidance Note on client complaint handling and amending IIROC Dealer Member Rules 19, 37 and 2500

Attachment A

INVESTMENT INDUSTRY REGULATORY ORGANIZATION OF CANADA

**AMENDMENTS TO COMPLAINT HANDLING REQUIREMENTS –
CLIENT COMPLAINT HANDLING RULE AND GUIDANCE NOTE AND
AMENDMENTS TO DEALER MEMBER RULES 19, 37 AND 2500**

PROPOSED AMENDMENTS

1. A new Dealer Member Rule and Guidance Note[1] on the complaint handling process are enacted as follows:

"RULE XXXX

Client Complaint Handling

1. Introduction

This rule establishes minimum requirements for the client complaint handling process including timely complaint resolution, record retention, and internal discipline. Clients who are considered to be institutional clients pursuant to Rule 2700 are not subject to this rule. There are additional requirements set out in Rule 3100 that are also applicable to the processes of handling client complaints.

2. General

A "complaint" subject to this rule must be submitted by a client or a person authorized to act on behalf of a client and is deemed to include:

- A recorded expression of dissatisfaction with a Dealer Member or employee or agent alleging misconduct; and
- A verbal expression of dissatisfaction with a Dealer Member or employee or agent alleging misconduct that would reasonably necessitate an investigation based on the circumstances of the complainant, or the nature or severity of the alleged misconduct.

Alleged misconduct includes, but is not limited to, allegations of breach of confidentiality, theft, fraud, misappropriation or misuse of funds or securities, forgery, unsuitable investments, misrepresentation, unauthorized trading relating to the client's account(s), other inappropriate financial dealings with clients and engaging in securities related activities outside of the Dealer Member.

Complaints are to be handled by sales supervisors or compliance staff (or the equivalent) and a copy must be filed with the compliance department / function (or the equivalent) of the Dealer Member.

A matter which is the subject of litigation is not considered a "complaint" for the purposes of this Rule.

3. Designated complaints officer

The Dealer Member must appoint an individual to act as the designated complaints officer. The individual must have the requisite experience and authority to oversee the complaint handling process and to act as a liaison with the Corporation.

4. Complaint procedures / standards

Establish written procedures for dealing with complaints

Dealer Members must have written policies and procedures to ensure that complaints are dealt with effectively, fairly and expeditiously.

Each Dealer Member must ensure that registered representatives and their supervisors are made aware of all complaints filed by their clients.

[1] IIROC is in the midst of a project to rewrite its Rule Book. Should these proposals be made effective prior to the implementation of the new Rule Book format, the rule and the guidance note will be implemented on an interim basis using the existing rule numbering approach.

Each Dealer Member must put procedures in place so that its senior management is made aware of complaints of serious alleged misconduct and of all legal actions.

Dealer Members must have policies and procedures in place to monitor the general nature of complaints. When a Dealer Member reasonably determines that the number and / or severity of complaints is significant, or when a Dealer Member detects frequent and repetitive complaints made with respect to the same matter which may on a cumulative basis indicate a serious problem, then internal procedures and practices must be reviewed, with recommendations to be submitted to the appropriate management level.

Client access to complaint process

At time of account opening, Dealer Members must provide new clients with:

- a written summary of the Dealer Member's complaint handling procedures, which is clear and can be easily understood by clients; and
- a copy of a Corporation approved complaint handling process brochure.

On an ongoing basis, Dealer Members must make available to their clients (either on their website or by other means) a written summary of the Dealer Member's complaint handling procedures, so that clients can stay informed on how to submit a complaint.

Complaint acknowledgement letter

The Dealer Member must send an acknowledgement letter to the complainant within five (5) business days of receipt of a complaint.

The acknowledgement letter must include the following:

(a) The name, job title, and full contact information of the individual at the Dealer Member handling the complaint;

(b) A statement indicating that the client should contact the individual at the Dealer Member handling the complaint if he / she would like to inquire about the status of the complaint;

(c) An explanation of the Dealer Member's internal complaint handling process, including but not limited to the role of the designated complaints officer;

(d) A reference to an attached copy of a Corporation approved complaint handling process brochure and a reference to the statutes of limitations contained in the document;

(e) The ninety (90) calendar days timeline to provide a substantive response to complaints; and

(f) A request for any information reasonably required to investigate the complaint.

Complaint substantive response letter

The Dealer Member must send a substantive response letter to the complainant. The substantive response letter must be accompanied by a copy of a Corporation approved complaint handling process brochure.

Dealer Members must respond to client complaints as soon as possible and no later than ninety (90) calendar days from the date of receipt by the firm. The ninety (90) days timeline must include all internal processes (with the exception of any internal ombudsman processes offered by an affiliate of the firm) of the Dealer Member that are made available to the client. The client must be advised if he / she is not to receive a final response within the ninety (90) days time frame accompanied by reasons for the delay and the new estimated time of completion.

The Dealer Member is required to advise the Corporation if it is unable to meet the ninety (90) days timeline and must provide reasons for the delay.

The substantive response to the client must include the following information:

(a) A summary of the complaint;

(b) The results of the Dealer Member's investigation;

(c) The Dealer Member's final decision on the complaint, including an explanation; and

(d) A statement describing to the client the options available if the client is not satisfied with the Dealer Member's response, including:

(i) arbitration;

(ii) if a request is made within 180 days from the date of the Dealer Member's final response, the ombudsperson service (i.e. the Ombudsman for Banking Services and Investments);

(iii) submitting a regulatory complaint to the Corporation for an assessment of whether disciplinary action is warranted;

(iv) litigation / civil action; and

(v) other applicable options.

In addition, where an internal ombudsman process is offered by an affiliate of the Dealer Member, the Dealer Member must disclose in the substantive response letter:

(a) that the use of the internal ombudsman process is not mandatory; and

(b) the estimated length of time the process is expected to take based on historical data.

Duty to assist in client complaint resolution

Approved Persons must co-operate with Dealer Members where they were employed or acted as agent when moving to a different firm after events or activities resulted in a client complaint.

Dealer Members must co-operate with each other if events relating to a complaint took place at more than one Dealer Member or the Approved Person is an employee or agent of another Dealer Member.

5. Settlement agreements

A release entered into between a Dealer Member and a client may not impose confidentiality or similar restrictions aimed at preventing a client from initiating a complaint to the securities regulatory authorities, self regulatory organizations or other enforcement authorities, or continuing with any pending complaint in progress, or participating in any further proceedings by such authorities.

6. Complaint record retention

The complaint file must be maintained for seven (7) years and retrievable within a reasonable period of time.

Each Dealer Member must keep an up-to-date record in a central, readily accessible place of all recorded submissions and follow-up documentation received by it relating to the conduct, business, and affairs of the Dealer Member, or an employee or agent of the Dealer Member for a period of two (2) years from the date of receipt of the complaint.

The following information must be retained for each complaint:

(a) The complainant's name;

(b) The date of the complaint;

(c) The nature of the complaint;

(d) The name of the individual who is the subject of the complaint;

(e) The security or services which are the subject of the complaint;

(f) The materials reviewed in the investigation;

(g) The name, title, and date individuals were interviewed for the investigation; and

(h) The date and conclusions of the decision rendered in connection with the complaint.

7. Internal Discipline

Each Dealer Member must establish procedures to ensure that breaches of the Rules of the Corporation as well as applicable securities legislation are subjected to appropriate internal disciplinary measures.

GUIDANCE NOTE XXXX

Client Complaint Handling

COMPLAINTS GENERALLY

The fair and timely handling of client complaints is vital to the overall integrity of the investment industry. Dealer Members should regard the handling of all client complaints as an essential element of the proper servicing of client accounts generally. Addressing client complaints fairly and on a timely basis demonstrates to clients that their issues are dealt with seriously and enhances investor confidence in the industry. An effective framework for dealing with client complaints is in keeping with appropriate standards of professionalism for the industry.

As a result, it is important that Dealer Members establish policies and procedures to deal effectively with client complaints. Such policies and procedures must address the general requirements of Rule 2500, Section VIII, and the specific requirements of Rule XXXX regarding client complaint handling. Rule 2500, Section VIII, requires Dealer Members to provide a written response to all complaints made in writing. Further, where a written complaint does not relate to a matter within the scope of Rule XXXX, Rule 2500, Section VIII also requires that the Dealer Member resolve and respond to the complaint within a reasonable time frame.

COMPLAINTS SUBJECT TO THE REQUIREMENTS OF RULE XXXX

GENERAL

Recorded expression of dissatisfaction

A recorded expression of dissatisfaction includes any written submission, electronic communication, or verbal recording.

Verbal expression of dissatisfaction

As set out in the Rule, verbal expressions of dissatisfaction alleging misconduct are to be treated as a complaint subject to the Rule. Where the client has provided a clear verbal expression of dissatisfaction alleging misconduct, the complaint should be treated in the same manner as if it were a recorded expression of dissatisfaction, provided that prior to the issuance of a substantive response letter, the Dealer Member may require that the client document the complaint in a recorded form.

If a verbal expression of dissatisfaction is unclear, a sales supervisor / compliance staff or the equivalent is expected to exercise professional judgment in deciding if the verbal expression of dissatisfaction relates to alleged misconduct that requires an investigation. Where a preliminary investigation of a verbal expression of dissatisfaction has been performed and the Dealer Member determines:

1. That there is evidence to indicate that the client complaint may have merit, the complaint should be treated in the same manner as a recorded expression of dissatisfaction, provided that prior to the issuance of a substantive response letter, the Dealer Member may require that the client document the complaint in a recorded form.

2. That the nature of the client complaint is unclear or there is no evidence to indicate that the client complaint has merit, the Dealer Member shall request that the client document and submit the complaint in a recorded form. Where the client:

    (a) Documents and submits the complaint in recorded form, the complaint should be treated in the same manner as if it had originally been submitted as a recorded expression of dissatisfaction; or

    (b) Fails to document and submit the complaint in recorded form, the Dealer Member may exercise their professional judgment and terminate their investigation of the complaint.

Decision to not investigate a complaint or to terminate an investigation of a complaint

A sales supervisor / compliance staff or the equivalent may exercise their professional judgment in deciding whether a complaint requires an investigation. In assessing whether a complaint should be investigated, Dealers Members must consider whether the client would have a reasonable expectation that the complaint should be handled through the process outlined in the Rule. Complaints made by individuals who are not clients of the Dealer Member are not subject

to the Rule. The decision and reason not to commence an investigation of a complaint must be fully documented and maintained in accordance with the complaint record retention requirements.

DESIGNATED COMPLAINTS OFFICER

The designated complaints officer is not a registered individual position. The purpose of the position is to ensure that the Dealer Member has someone with the requisite knowledge, experience and authority in place to manage the proper handling of complaints.

Dealer Members may choose to name the Ultimate Designated Person or Chief Compliance Officer or an individual acting in a supervisory capacity over the complaints process for the position of designated complaints officer.

Dealer Members are encouraged to make available to the designated complaints officer and their staff specific training relating to dispute resolution.

COMPLAINT PROCEDURES / STANDARDS

Client access

The information provided to clients on an ongoing basis would include the first point of contact in submitting a complaint and the contact information for the designated complaints officer. The information provided may include the stipulation that the designated complaints officer should generally only be contacted when a complaint had been submitted and the client wishes to express concerns with the handling of the complaint.

Complaint substantive response letter – timelines

The ninety (90) calendar days timeline to provide a substantive response to clients must include all internal processes (with the exception of any internal ombudsman processes offered by an affiliate of the firm) of the Dealer Member that are made available to the client that involve but are not limited to the supervisory function / branch management, the compliance function, and legal review.

Complaint substantive response letter – OBSI information

Member firms must inform clients that OBSI will consider a client complaint at the earlier of:

(i) the date the complaint substantive response is provided to the client; or

(ii) ninety (90) days after the receipt of the complaint.

This can be done, depending upon the status of the complaint, either as part of the substantive response letter or as part of any letter informing the client that the complaint will not be resolved within ninety (90) days.

Duty to assist clients in documenting complaints

Dealer Members should be prepared to assist clients in submitting a complaint, in particular if the client is handicapped in any way, is a senior with special needs or a language or a literacy issue is involved.

COMPLAINT RECORD RETENTION

Records in a central, readily accessible place must be retrievable within two (2) business days and documents kept for an extended period of time must be retrievable within five (5) business days unless there are reasonable, extenuating circumstances.

2. Dealer Member Rule 19 is amended by repealing section 19.4 as follows:

> "Each Dealer Member shall keep an up-to-date record in a central place of all written complaints received by it relating to the conduct, business and affairs of the Dealer Member, any registered representative, investment representative, branch manager, assistant or co-branch manager, sales manager, partner, director or officer, or any person employed by the Dealer Member, for a period of 24 months from the date of receipt of the complaint."

3. Dealer Member Rule 37 is amended by repealing section 37.3 as follows:

> "Each Dealer Member shall provide to new clients, and to clients who submit written complaints to the Dealer Member, a copy of the written material approved by the Corporation which describes the arbitration programme or organization approved by the Board of Directors pursuant to Rule 37.1 and the ombudsperson service approved by the Board of Directors pursuant to Rule 37.2."

4. Dealer Member Rule 2500, Section VIII is repealed and replaced as follows:

> "Each Dealer Member must establish policies and procedures to deal effectively with client complaints. Such policies and procedures must comply with Rule XXXX regarding client complaint handling, and also address complaints that may fall outside the scope of Rule XXXX. All complaints made in writing must be provided with a written response from Dealer Members."

13.1.4 IIROC Response to Comments on Client Complaint Handling Rule and Guidance Note and Amendments to IIROC Dealer Member Rules 19, 37 and 2500

January 28, 2009

Re: IIROC response to comments on Client Complaint Handling Rule and Guidance Note and amendments to IIROC Dealer Member Rules 19, 37 and 2500

We have provided an open letter in response to the comment letters received on proposed complaint handling requirements and the proposed amendments to IIROC Dealer Member Rules 19, 37 and 2500 (previously IDA By-law Nos. 19 and 37 and Policy No. 2). The comments specific to the proposed rule and guidance note have been summarized to correspond with the various sections of the rule, followed by IIROC staff response.

GENERAL

Definition of a complaint

We have received the following comments which relate to the definition of a complaint:

- Two comment letters suggest that the definition of a complaint is too broad and in one instance also vague.
- Two comment letters state that the rule should only pertain to complaints of a regulatory nature.
- Four comment letters remark that the words in the basket clause, "would include, but is not limited to….", extends the scope of the complaint definition to potentially include alleged misconduct not relating to a client's account or dealings with the Dealer Member as well as service complaints.
- One comment letter submits that the complaint definition would capture grievances which may be settled in the ordinary course of business.

IIROC staff response

The complaint definition that appears in the proposed rule was developed to specifically target retail client complaints alleging misconduct in the handling of their account or accounts. As such, a complaint subject to this rule:

- must be submitted by a client or a person authorized to act on behalf of a client;
- may be either a recorded expression of dissatisfaction or a verbal expression of dissatisfaction; and
- must allege misconduct in the handling of their account or accounts.

The proposed complaint definition also indicates that alleged misconduct includes, but is not limited to, allegations of breach of confidentiality, theft, fraud, misappropriation or misuse of funds or securities, forgery, unsuitable investments, misrepresentation, unauthorized trading relating to the client's account(s), other inappropriate financial dealings with clients and engaging in securities related activities outside of the Dealer Member. It is therefore our view that the complaint definition is not too broad in scope or vague.

It is also our view that all complaints alleging misconduct in the handling of the client's account or accounts should be dealt with in the same timely manner irrespective of whether the alleged misconduct is regulatory or criminal in nature or both.

Finally, because the complaint definition specifically targets allegations of misconduct in the handling of the client's account or accounts, complaints that relate to non client account matters and service issues would be outside of the scope of this rule. None of the specific alleged misconduct items listed in the proposed complaint definition would be considered service issues or issues to be settled in the ordinary course of business. There will however be a requirement to respond to all written complaints under Dealer Member Rule 2500, Section VIII.

Nature of complaint received

We have received the following comments which relate to a verbal expression of dissatisfaction being included in the definition of a complaint:

- Five comment letters assert that complaints should be submitted in writing for various reasons:
  - verbal comments are too subjective and may lead to confusion and miscommunication;
  - there is great potential for confusion and risk with verbal communication such that the substance, nature, and scope of the allegations are not going to be accurately interpreted in order to respond and address them;
  - it is not unduly onerous and is beneficial as it provides focus and clarity of the client's intention, substantive allegations, and scope of the subject of the complaint;
  - verbal expressions can be far too subjective and very difficult to summarize;
  - there will be disagreements about the timing, content, intent, and seriousness of the verbal complaint. Moreover, credibility issues may arise as there may be different recollections about the verbal statements;
  - it would not be unduly onerous on clients and would help to keep the focus of the complaints process on substantive allegations of misconduct; and
  - a written submission provides a bright line commencement point to the complaint handling process otherwise there is a potential inability of Dealer Members to determine when the ninety (90) days period to provide a substantive response begins.
- One comment letter claims that the concept of a verbal expression of dissatisfaction seems to encompass service related complaints.
- Three comment letters state that verbal complaints could be made to any employee, regardless of their seniority. Notes of conversations or voicemail messages would be required to determine if an investigation was warranted under the circumstances. Records would have to be retained for review.

IIROC staff response

The vast majority of client complaints received by Dealer Members are received in writing. In relative terms, there are not many verbal complaints received that allege misconduct. A verbal complaint, like any other expression of dissatisfaction, must be linked to alleged misconduct before it is subject to the proposed complaint handling framework. Consequently, verbal service complaints would not be included in the requirements relating to misconduct complaints. However, there will be a requirement to respond to all written complaints under Dealer Member Rule 2500, Section VIII.

We appreciate that the handling of verbal complaints can be problematic if the firm is not provided with enough information to properly investigate the alleged misconduct complaint or multiple conversations with the client result in complaint inconsistencies. To address these potential verbal complaint problems, the proposed Guidance Note leaves it to the professional judgment of the sales supervisor / compliance staff or equivalent to determine if the receipt of a verbal expression of dissatisfaction alone requires an investigation into the alleged misconduct. The proposed Guidance Note also permits the Dealer Member to request that a verbal complaint be put in recorded form prior to the issuance of a substantive response to the client. It should be noted however that the ninety (90) day timeline to issue a substantive response commences from the time a complaint is made, whether verbal or in writing.

Regarding the concern that verbal complaints could be made to any employee, it is expected, as with written complaints addressed to any employee, that Dealer Members already have in place policies and procedures to escalate complaints to the appropriate staff.

Person authorized to act on behalf of the client

We have received the following comments regarding the submission of a complaint by a person authorized to act on behalf of a client:

- Two comment letters express the view that only complaints submitted by a person legally authorized to act on behalf of a client should be accepted. It is further explained that legal authorization may be contractual in nature, such as where a legal advisor is retained by the client, through the granting of a power of attorney prepared in accordance with the applicable law, or granted to executors or beneficiaries of the estate of a deceased client.

IIROC staff response

It has been suggested that only a legally authorized agent of a client such as a legal advisor or executor of an estate should have the status to submit a complaint on behalf of a client. This is too restrictive as it impinges on the freedom of a client to appoint anyone to act on his or her behalf through a letter of authorization. There is no intention of IIROC to modify this long standing practice.

Individuals with special needs

We have received one comment recommending that the special needs of seniors, the handicapped, and immigrants be a consideration in the Rule.

IIROC staff response

The duty to assist clients was contemplated in the proposed Guidance Note. We have amended the section in the Guidance Note to further clarify that Dealer Members should be prepared to assist clients in submitting a complaint, in particular if the client is handicapped in any way, is a senior with special needs or a language or a literacy issue is involved.

DESIGNATED COMPLAINTS OFFICER (DCO)

We have received the following comments in connection with the newly created position of Designated Complaints Officer (DCO):

- Two comment letters recommend clarification whether Dealer Members should internally determine what would comprise the requisite knowledge, experience, and authority for a DCO or whether IIROC will be providing guidance on what the requisite knowledge, experience, and authority should be. One letter goes a step further in suggesting that Dealer Members should have the discretion to determine who qualifies as a DCO by establishing their own standards as such standards will vary from one Dealer Member to the next.

- Two comment letters are of the opinion that the reference to the ISO 10002-2004(E), *Guidelines for Complaints Handling in Organizations* should be replaced with specific responsibilities for the DCO position set out in the Rule. One of the two comment letters suggests that the reference to the ISO standards is an inappropriate delegation of rulemaking authority to an external body.

- Two comment letters urge specific training in dispute resolution should be mandatory. One comment letter would have the DCO be responsible for the entire dispute resolution system including information technology and privacy related issues.

IIROC staff response

The proposed Guidance Note provides assistance to Dealer Members in determining the choice of DCO such as the Ultimate Designated Person, the Chief Compliance Officer or an individual with supervisory responsibility over the complaints process. Dealer Members have been granted wide discretion in the choice of DCO as they are in the best position to designate an individual based on their skills, experience and a variety of criteria which may be unique to each firm. Specific training will not be mandatory, such as instruction in dispute resolution. Nor will sole responsibility rest with the DCO as it is a firm wide duty as much as a senior management role. We have removed the reference to the ISO standards.

COMPLAINT PROCEDURES / STANDARDS

Establish written procedures for dealing with complaints

We have received one comment that IIROC should clarify what is meant by “serious alleged misconduct” that would require escalation of a complaint to senior management.

IIROC staff response

This is a restatement of IIROC Dealer Member Rule 2500 (previously IDA Policy No. 2) in which senior management must be made aware of complaints of serious misconduct. Those who handle complaints must exercise professional judgment in their decision to inform senior management of serious alleged misconduct. Alleged misconduct is delineated in the proposed rule.

Client access to the complaint handling process

We have received the following comments in relation to the complaint handling information to be provided (including the method of delivery and frequency):

- One comment letter would like clarification of the difference between a Dealer Member's complaint handling procedures material and the IIROC approved complaint handling process brochure. It is suggested that Dealer Members only supply one complaint handling document to clients to avoid confusion from voluminous disclosure.

- Two comment letters suggest flexibility in the delivery of information such as electronic delivery or in a welcome package for new clients.

- Four comment letters warn that notification of options in both the IIROC approved brochure and the substantive response is unnecessarily duplicative and may result in client confusion.

- Three comment letters advise that a reference to litigation / civil action may be problematic if a Dealer Member wishes to raise a limitation period defense on a statute barred claim.

IIROC staff response

The complaint handling information included in the IIROC approved complaint handling process brochure is general in nature while the other is specific to the Dealer Member. A client will be able to distinguish the difference between the two documents.

As not all clients will have access to the internet, the only minimum requirement alternative is that a written document must be provided to the client. However, where a client has internet access, there is nothing in the proposed rule that prohibits the Dealer Member from delivering the written document electronically. Also, delivery of the required information in a welcome package is not precluded if it is done at the time of account opening.

An important part of the proposed complaint handling rule is ensuring that the client is fully aware of their complaint handling options. We therefore see no disadvantage to informing the client on more than one occasion (i.e., at time of account opening, complaint acknowledgement and complaint substantive response) and by more than one means (substantive response and standard brochure) of their complaint handling options. We do not believe that client confusion will result if the information the Dealer Member includes in the substantive response letter is consistent with the information included in the IIROC approved brochure.

Finally, we note that the reference to litigation / civil action is consistent with the current IIROC approved complaint handling brochure which refers to statutes of limitations and advises clients that they may wish to consult a lawyer to decide how to proceed.

Complaint acknowledgement letter

We have received four comments that five (5) business days is insufficient to send an acknowledgement letter to a client and the time frame should be extended to at least ten (10) business days or, in the alternative, a caveat for an increased period of time owing to extenuating circumstances.

IIROC staff response

We have considered this suggestion but continue to believe that five (5) business days is a reasonable time period within which to send the client an acknowledgement letter. We also note that this is a target which we expect Dealer Members to meet but understand that special circumstances may occasionally result in an extension of time to acknowledge a complaint.

Complaint substantive response letter

Various issues were raised with respect to the substantive response letter[1]:

1. Timeline is either 90 business or calendar days

Two comment letters request clarification as to whether the reference to ninety (90) days is to either business or calendar days.

[1] One comment letter is represented unless otherwise noted for the issues listed below.

IIROC staff response

The ninety (90) days timeline is ninety (90) calendar days since "days" and "calendar days" have the same meaning throughout the IIROC Rule Book. Nevertheless, we have amended the proposed rule and guidance note to clarify that the timeline is ninety (90) calendar days.

2. Matters in litigation

Three comment letters are of the opinion that a misunderstanding has arisen that complaints subject to litigation will require a substantive response letter.

IIROC staff response

To clarify, a matter that is in litigation is not a complaint as such and therefore does not fall within the purview of the proposed rule.

3. Substantive response undefined and indeterminate

The substantive response is both undefined and indeterminate.

IIROC staff response

The proposed rule clearly describes what must be included in the substantive response to the client. Reference should be made to the provisions in section 4 of the proposed rule under the sub-heading entitled "Complaint substantive response letter".

4. Means of notifying IIROC if time limit not met

Three comment letters believe that guidance must be forthcoming to delineate the means of notifying IIROC if the ninety (90) days time limit will not be met by a Dealer Member.

IIROC staff response

Where the Dealer Member is unable to meet the ninety (90) days time limit for a particular complaint, they will notify IIROC through a filing on the ComSet system. To accommodate this filing, modifications will be made to the ComSet system to: (1) delineate complaints subject to the ninety (90) days time limit and (2) allow for the filing of a delayed complaint notification.

5. Reasons for delay beyond ninety (90) days time limit

It has been noted that a file may not be concluded for reasons beyond the control of the Dealer Member.

IIROC staff response

If there are reasons beyond the control of the Dealer Member in providing a substantive response, these reasons should be provided to IIROC as part of the delayed complaint notification filed through ComSet. IIROC will decide on a case by case basis if the explanation offered for the delay is reasonable. IIROC will consider issuing guidance in the future based on compliance experience with the rule.

6. Ninety (90) days time limit too stringent

The ninety (90) days time limit is shorter than IIROC's original proposal of six (6) months and is inconsistent with the MFDA's amended Policy 3. A six (6) months time frame would have established a more practical standard for the completion of complex investigations. A gradual transition would have given firms additional time to assess their resources and systems in adjusting to a tighter time frame.

IIROC staff response

The ninety (90) days timeline is a reasonable complaint handling standard that Dealer Members should try to meet. By way of comparison, the timelines in other jurisdictions are as follows: eight (8) weeks in the United Kingdom; forty-five (45) days in Australia; and twenty-five (25) days in Ireland. Furthermore, for the period commencing January 2004 and ending December 2007, IIROC statistics show that Dealer Members already send a substantive response to clients within one-hundred-and-eighty (180) days 83.6% of the time, and within ninety (90) days 62.2% of the time. Given these existing completion rates, compliance with the ninety (90) days timeline would seem to be a reasonably achievable undertaking. If a specific complaint is particularly

complex and cannot be responded to within the time frame allowed, this will be considered provided the explanation given in the notification filed with IIROC is reasonable.

A previous IIROC proposal to establish a six (6) months time limit would have included the time taken by the internal ombudsman (where an internal ombudsman process is in place) in the time limit. In response to concerns expressed that Dealer Members had no control over the time taken by an internal ombudsman to review a complaint, IIROC decided to exclude the internal ombudsman process from the time limit and to shorten the time limit to ninety (90) days.

There will be either a requirement for immediate implementation or a short implementation period once the rule is effective. Dealer Members should consider using this time prior to approval of the rule to prepare for the ninety (90) days timeline.

7. Inconsistency between Rule and Guidance Note

Two comment letters state that the Rule does not include the internal ombudsman process in the ninety (90) days time frame for providing a substantive response. However, the Guidance Note appears to take the opposite position.

IIROC staff response

We thank the commenters for pointing out this inconsistency and we have amended the Guidance Note to eliminate the inconsistency. The following sentence has been deleted: "As a result, should a Dealer Member offer its own internal ombudsman process, this would be subject to the ninety (90) days timeline."

8. View that internal ombudsman process will be circumvented

There are two comments relating to the consideration by the Ombudsman for Banking Services and Investments (OBSI) of a client complaint at the earlier of: (i) the date the complaint substantive response is provided to the client; or (ii) ninety (90) days after the receipt of the complaint. One correspondent is of the opinion that the approach is inconsistent with the OBSI Terms of Reference and current practice. A second letter notes an alteration in process owing to concurrent changes at OBSI which would require Dealer Members to inform clients that OBSI will consider a client complaint after a substantive response is given to the client or no later than ninety (90) days after receipt of the complaint. In effect, the internal ombudsman process will be circumvented.

IIROC staff response

OBSI is proposing changes to their Terms of Reference which are co-incident with the development of IIROC's complaint handling standards. IIROC is not seeking to circumvent or eliminate the internal ombudsman process as we do not have jurisdiction over such a function of the banks. For those financial institutions that offer an internal ombudsman process, the client will continue to have the option of pursuing that recourse or escalating directly to OBSI. In order for the client to make a fully informed choice, the Dealer Member must disclose in the substantive response to the client that the use of the internal ombudsman process is at the option of the client, and the estimated length of time the internal ombudsman process is expected to take.

9. Disclosure of expected time period for review by the internal ombudsman process

As a Dealer Member has little control over the length of time that the independent Ombudsman may take, it is therefore inappropriate to consult the Ombudsman prior to every substantive response which will only serve to delay the process.

IIROC staff response

The disclosure of the estimated time for the internal ombudsman process would not require a consultation with the ombudsman for each specific complaint, but rather will be based on historical data. We have amended the rule to make this clear.

10. Conflict of interest

A conflict of interest exists between Dealer Members and their clients: there is a reticence in firms to offer full disclosure owing to potential litigation and clients need full disclosure to make a properly informed decision.

IIROC staff response

Submission of a complaint by a client usually results in the creation of opposing interests. The proposed complaint handling rule will not eliminate this situation, but it is intended to set clear requirements for the Dealer Member to adhere to in resolving the complaint on a timely basis. An example of how the proposed rule seeks to provide additional disclosures to the client is that the

contents of the substantive response letter are prescribed and include a stipulation that the Dealer Member's final decision must include an explanation.

Duty to assist in client complaint resolution

We have received the following comments in relation to privacy issues:

- Three comment letters are concerned that the disclosure and sharing of personal client information may lead to a myriad of legal issues such as breach of confidentiality, client privacy, employment law or other potential liabilities.

- One comment letter contends that a Dealer Member may refuse to co-operate which may leave the other Dealer Member in a position of uncertainty as to how to proceed with handling the client's complaint.

- One comment letter advises that IIROC should co-ordinate information sharing between Dealer Members.

IIROC staff response

The proposed rule requires that there should be co-operation between firms in recognition that Approved Persons do not remain with one Dealer Member throughout their career and consequently, events leading up to a client complaint may take place at more than one firm.

Should other relevant Dealer Members not co-operate in a particular Dealer Member's complaint investigation this should be noted in any ComSet filing if such refusal has thwarted a full and fair response to the client.

We believe that the suggestion that IIROC co-ordinate the sharing of complaint investigation information between firms is impractical.

Settlement agreements

We have received the following comments in relation to the use of confidentiality restrictions:

- Two comment letters maintain that confidentiality clauses should be permitted in the settlement agreement.

- One comment letter is of the opinion that the term, "other enforcement authorities", is too broad and vague; consequently, the term should be removed or defined.

- One comment letter does not take issue with the limits on confidentiality provisions in the proposed rule, however, it is suggested that a positive statement with respect to general confidentiality should be included.

- One comment letter expresses skepticism of confidentiality agreements in general because other investors are exposed to wrongdoing. There is a follow-up recommendation for IIROC to confirm the turning over of appropriate complaint cases to law enforcement and providing a statistical summary in its Annual Report.

IIROC staff response

There is nothing in this rule that changes current practice. The proposed rule does not restrict the use of confidentiality terms in settlement agreements. It is a restatement of generally accepted industry practices as set out in the May 22, 2001 IDA Member Regulation Notice, *Releases Entered Into Between Member Firms and Clients and Confidentiality Restrictions* (MR-0076, Amended). It would be inappropriate to use positive language with respect to confidentiality as this would connote encouragement as opposed to neutrality.

The term "other enforcement authorities" is sufficiently precise and was included in the IDA Member Regulation Notice referred to above. We have taken under consideration the recommendation for IIROC to confirm, track, and report on referrals to law enforcement.

Complaint record retention

We have received the following comments with respect to the retrieval, retention, and centralization of records:

- Four comment letters advocate the principles based approach of a "reasonable period of time" to retrieve records. One comment letter claims that the specific time frame set out in the Guidance Note does not accommodate the business structure of many registrants, particularly large registrants with significant data storage.

- Three comment letters question the benefit of centralization of files.

IIROC staff response

The proposed rule stipulates that information must be obtained within a reasonable period of time. Feedback from Dealer Members suggested that establishing time frames would be helpful. However, flexibility will be provided in the administration and enforcement of the rule in this regard.

Complaint files should be in a centrally located place to facilitate Dealer Member responses to general queries by IIROC and reviews conducted by the Business Conduct Compliance Department. Dispersion of files would cause unnecessary delays which can be avoided through centralization.

OTHER MATTERS[2]

1. Harmonization

We have received the following comments in relation to co-ordination between organizations and a consistent approach to rulemaking:

- Four comment letters express concern that the various formulations of complaint handling by the MFDA, AMF, OBSI, CSA, and IIROC will be conflicting and as a result will confuse investors and industry members. It is suggested that harmonization will ensure uniformity and a level playing field for self-regulatory organization (SRO) and non-SRO registrants.

- One comment letter would like to see Dealer Members granted an exemption to proposed NI 31-103.

IIROC Staff Response

We consulted extensively with the Mutual Fund Dealers Association (MFDA), the Ombudsman for Banking Services and Investments (OBSI) and the Canadian Securities Administrators (CSA) during the development process. Furthermore, on May 28, 2008, the CSA constituted a working group which developed a framework for harmonizing the complaint handling rules in each of the IIROC and MFDA proposals, and proposed National Instrument 31-103 – *Registration Requirements*. IIROC staff participated in the working group and the current proposed amendments reflect the revisions that IIROC staff has made to the previous IIROC proposal in light of the framework. As a result, there are few remaining differences between the IIROC draft Rule and Guidance Note and the MFDA draft Policy.

While exemptions to national instruments are given at the discretion of the CSA, there is no inconsistency between the CSA's proposed standards in NI 31-103 and IIROC's proposed rule, although the latter provides a more comprehensive regime.

2. Rule to stand alone

We have received the following comments that the rule should be complete and not require a Guidance Note for implementation nor should third party standards be incorporated by reference:

- Three comment letters state that the Rule should stand alone and, one of the three comment letters is of the view that the Guidance Note should only be issued after matters requiring clarification are identified.

- Three comment letters state that it is not appropriate to incorporate by reference the ISO standards in IIROC rules. ISO standards worthy of inclusion should be set out in the Rule. Or, as suggested in one of the comment letters, the ISO standards are not of assistance as Dealer Members had no input or specific knowledge of such complaint handling guidelines.

[2] One comment letter is represented unless otherwise noted for the issues listed below.

IIROC staff response

The Guidance Note was developed to assist Dealer Members in complying with the Rule. The Guidance Note is not intended to prescribe requirements that are not set out in the proposed Rule. We have removed the reference to the ISO standards.

3. Approval of complaint handling procedures

IIROC should review and approve the complaint handling procedures and standards of its Dealer Members.

IIROC staff response

Following the implementation of the Rule a review to determine the level of compliance with the Rule will be undertaken by the Business Conduct Compliance Department, and a report will be issued.

4. Consultation with investors

Consideration of the proposed amendments should include consultation with SIPA and the OSC's Investor Advisory Committee.

IIROC Staff Response

All comments received in response to the publication of these proposals for public comment are being taken into account by IIROC staff. We note that we received a submission from SIPA; however, the OSC's Investor Advisory Committee was no longer in existence.

5. Housekeeping

Under the heading "Complaint Acknowledgement Letter", the word "resolve" should be changed to "investigate". Not every complaint will be resolved, however, the Dealer Member must at least investigate and respond to the complaint.

IIROC Staff Response

We have revised the language as suggested.

6. Comments provided on other IIROC proposals and initiatives

A number of letters included comments in their response letters that related to another IIROC rule amendment proposal; specifically, the proposals to implement the core principles of the Client Relationship Model (CRM).

IIROC Staff Response

These comments will be addressed as part of the IIROC consolidated response to public comments for that proposal.

13.1.5 IIROC Rules Notice – Request for Comments – Amendments to Dealer Member Rules Regarding Conversion and Reconversion Offset Strategies

AMENDMENTS TO DEALER MEMBER RULES REGARDING CONVERSION AND RECONVERSION OFFSET STRATEGIES

Summary of nature and purpose of Proposed Amendments

On January 28, 2009, the Board of Directors (the Board) of the Investment Industry Regulatory Organization of Canada (IIROC) approved the publication for comment of proposed amendments (Proposed Amendments) to the Dealer Member Rules (the Rules) that would amend and clarify the key language used in describing the calculations for determining the minimum capital and margin requirements for Conversions and Reconversions throughout the IIROC Rulebook.

Dealer Member Rule 100 currently refers to Conversions (Long Tripos) and Reconversions (Short Tripos) in the three sections:

- *Option and security combinations* – 100.9(g)(v), 100.9(g)(vi), 100.10(g)(v) and 100.10(g)(vi)
- *Index option combinations with index baskets and index participation units* – 100.9(h)(ii)(E), 100.9(h)(ii)(F), 100.10(h)(ii)(E) and 100.10(h)(ii)(F)
- *Index option combinations with index futures contracts* – 100.9(h)(v)(E), 100.9(h)(v)(F), 100.10(h)(v)(E) and 100.10(h)(v)(F).

While each of these sections indicates the same fundamental structure for either a Conversion (Long Tripo) or Reconversion (Short Tripo), the key language used in describing the calculation for determining the minimum margin requirement is inconsistent between the sections.

Moreover, because the rules relating to Conversions and Reconversions do not require the strikes on the calls and puts to be the same, it is important that the rules are clear in describing how to calculate the minimum required margin, because there is the potential that the maximum loss may not be covered if one incorrectly uses exercise values relating to the calls when the exercise values relating to the puts should have been used, and vice versa.

In particular, IIROC's analysis indicates that the current key language used in the Reconversion offsets is imprecise and, in some scenarios, can lead to under-margining of the Reconversion offset positions. These issues can be addressed through rule wording changes that will correct the calculation methodology for Reconversions, and at the same time, make clear and consistent, the calculation methodology for both Conversions and Reconversions in the three sections of Dealer Member Rule 100 where they are present.

The primary objective of the Proposed Amendments is to make explicit which option's exercise values are to be used in calculating minimum capital and margin requirements. The secondary objective of the Proposed Amendments is housekeeping in nature, and it is to ensure language consistency across the three sections where these offsets are present.

Issues and specific Proposed Amendments

The current IIROC Dealer Member Rules do not clearly indicate which options (calls or puts) to use in the calculations, resulting in the potential for inaccurate minimum margin or capital requirements. IIROC Dealer Member Rules for options are designed to cover maximum loss scenarios.

For a Conversion (Long Tripo) the main margin calculation can be expressed mathematically as follows:

Margin = (Market Value Stock – Option with the Lowest Exercise Value) + (Long Put Value – Short Call Value)

In order for the rules to cover the maximum loss scenario, it is necessary that the rules stipulate that the options with the lowest exercise value are used in the calculation. If the calculation uses the higher exercise value options, an inaccurate amount will result, reflecting the maximum possible gain. Therefore, the language for the three long tripo combination sections [100.9(g)(v), 100.9(h)(ii)(E), and 100.9(h)(v)(E) for customer positions; and 100.10(g)(v), 100.10(h)(ii)(E), and 100.10(h)(v)(E) for Dealer Member positions] have been simplified and clarified to refer to "whichever is lower". Furthermore, the words "an equivalent number of" have been added to 100.9(h)(v)(E) and 100.10(h)(v)(E) to maintain language consistency across the long tripo combination sections.

For a Reconversion (Short Tripo), the main margin calculation can be expressed mathematically as follows:

Margin = (Option with the Highest Exercise Value – Market Value Stock) + (Long Call Value – Short Put Value)

In order for the rules to cover the maximum loss scenario, it is necessary that the rules stipulate that the highest exercise value options are used in the calculation. If the calculation is done properly, the margin requirement equals the maximum potential loss. If the calculation uses the lower exercise value options, an inaccurate amount will result, reflecting the maximum possible gain. Consequently, the language for the three short tripo combination sections [100.9(g)(vi), 100.9(h)(ii)(F), and 100.9(h)(v)(F) for customer positions; and 100.10(g)(vi), 100.10(h)(ii)(F), and 100.10(h)(v)(F) for Dealer Member positions] have been simplified and clarified to refer to "whichever is higher". In addition, the words "an equivalent number of" have been added to 100.9(h)(v)(F) and 100.10(h)(v)(F) to maintain language consistency across the short tripo combination sections.

The Proposed Amendments and a black-line copy of the Dealer Member Rules affected by these amendments are set out in Attachments A and B.

Proposed Rule Classification

In deciding to propose these amendments, IIROC identified that there was a need to clarify and harmonize the language and calculation methodology used in determining the minimum capital and margin requirements for Conversions and Reconversions.

To address this need was assessed as being in the public interest and not detrimental to the best interests of the capital markets. As a result, the Board has determined that the Proposed Amendments are a Public Comment Rule proposal.

Effects of the proposed Rule on market structure, Dealer Members, non-Dealer Member, competition and costs of compliance

Statements have been made elsewhere as to the nature and effects of the Proposed Amendments.

The specific purpose of the Proposed Amendments is to amend and clarify the key language used in describing the calculations for determining the minimum capital and margin requirements for Conversions and Reconversions in order to ensure that the risk of these positions is adequately covered.

It is believed that the proposed amendments will have no impact in terms of capital market structure, competition generally, cost of compliance and conformity with other rules. The Proposed Amendments do not permit unfair discrimination among customers, issuers, brokers, dealers, members or others. It does not impose any burden on competition that is not necessary or appropriate in furtherance of the above purposes.

Technological implications and implementation plan

It is not anticipated that there will be any system impacts resulting from the implementation of these rule changes. The Bourse de Montréal (the Bourse) is also in the process of passing this amendment. Implementation of this amendment will therefore take place once both the Corporation and the Bourse have received approval to do so from their respective recognizing regulators.

Request for public comment

Comments are sought on the Proposed Amendments. Comments should be made in writing. Two copies of each comment should be delivered by March 16, 2009 (30 days from the publication date of this notice). One copy should be addressed to the attention of:

Bruce Grossman
Information Analyst, Member Regulation Policy,
Investment Industry Regulatory Organization of Canada,
Suite 1600, 121 King Street West,
Toronto, Ontario
M5H 3T9

The second copy should be addressed to the attention of:

Manager of Market Regulation,
Ontario Securities Commission,
19th Floor, Box 55,
20 Queen Street West,
Toronto, Ontario,
M5H 3S8

Those submitting comment letters should be aware that a copy of their comment letter will be made publicly available on the IIROC website (www.iiroc.ca under the heading "IIROC Rulebook – Dealer Member Rules – Policy Proposals and Comment Letters Received").

Questions may be referred to:
Bruce Grossman
Information Analyst, Member Regulation Policy
Investment Industry Regulatory Organization of Canada
(416) 943-5782
bgrossman@iiroc.ca

Attachments

Attachment A – Proposed Amendments

Attachment B – Black-line copy of IIROC Dealer Member Rule 100 reflecting amendments

Attachment A

INVESTMENT INDUSTRY REGULATORY ORGANIZATION OF CANADA
AMENDMENTS TO DEALER MEMBER RULES REGARDING CONVERSION AND RECONVERSION OFFSET STRATEGIES

PROPOSED AMENDMENTS

1. Dealer Member Rule 100.9(g)(v) is amended by replacing the words ", where the aggregate exercise value used in the calculation cannot be greater than the aggregate exercise value of the call options" with the words "or the short call options, whichever is lower".

2. Dealer Member Rule 100.9(g)(vi) is amended by:

   (a) adding the words "or short put options, whichever is higher," immediately after the words, "the difference, plus or minus, between the aggregate exercise value of the long call options"; and

   (b) deleting the words ", where the aggregate exercise value used in the calculation cannot be greater than the aggregate exercise value of the put options".

3. Dealer Member Rule 100.9(h)(ii)(E) is amended by:

   (a) deleting the words ", where the aggregate exercise value used in the calculation cannot be greater than the aggregate exercise value of the";

   (b) adding the words "or short" immediately before the words "call options" in subparagraph "(a)(iii)"; and

   (c) adding the words ", whichever is lower" immediately after the words "call options" in subparagraph "(a)(iii)".

4. Dealer Member Rule 100.9(h)(ii)(F) is amended by:

   (a) adding the words "or short put options, whichever is higher," immediately after the words, "the difference, plus or minus, between the aggregate exercise value of the long call options"; and

   (b) deleting the words "where the aggregate exercise value used in the calculation cannot be greater than the aggregate exercise value of the put options".

5. Dealer Member Rule 100.9(h)(v)(E) is amended by:

   (a) adding the words "an equivalent number of", immediately before the words "index put options", "index call options", "index participation unit put options", and "index participation unit call options";

   (b) deleting the words "the greater of" immediately before the words "the difference, plus or minus, between the daily settlement value of the long futures contracts and the aggregate exercise value of the long put options or the short call options"; and

   (c) adding the words "whichever is lower," immediately before the word "plus".

6. Dealer Member Rule 100.9(h)(v)(F) is amended by:

   (a) adding the words "an equivalent number of", immediately before the words "index call options", "index put options", "index participation unit call options", and "index participation unit put options";

   (b) deleting the words "the greater of" immediately before the words "the difference, plus or minus, between the aggregate exercise value of the long call options or short put options"; and

   (c) adding the words "whichever is higher," immediately after the words "the difference, plus or minus, between the aggregate exercise value of the long call options or short put options".

7. Dealer Member Rule 100.10(g)(v) is amended by replacing the words ", where the aggregate exercise value used in the calculation cannot be greater than the aggregate exercise value of the call options" with the words "or the short call options, whichever is lower".

8. Dealer Member Rule 100.10(g)(vi) is amended by:

   (a) adding the words “or short put options, whichever is higher”, immediately after the words, “the difference, plus or minus, between the aggregate exercise value of the long call options”; and

   (b) deleting the words “, where the aggregate exercise value used in the calculation cannot be greater than the aggregate exercise value of the put options”.

9. Dealer Member Rule 100.10(h)(ii)(E) is amended by:

   (a) deleting the words “where the aggregate exercise value used in the calculation cannot be greater than the aggregate exercise value of the”;

   (b) adding the words “or short” immediately before the words “call options” in subparagraph “(a)(iii)”; and

   (c) adding the words “, whichever is lower” immediately after the words “call options” in subparagraph “(a)(iii)”.

10. Dealer Member Rule 100.10(h)(ii)(F) is amended by:

   (a) adding the words “or short put options, whichever is higher” immediately after the words “the difference, plus or minus, between the aggregate exercise value of the long call options”; and

   (b) deleting the words “, where the aggregate exercise value used in the calculation cannot be greater than the aggregate exercise value of the put options”.

11. Dealer Member Rule 100.10(h)(v)(E) is amended by:

   (a) adding the words “an equivalent number of”, immediately before the words “index put options”, “index call options”, “index participation unit put options”, and “index participation unit call options”;

   (b) deleting the words “greater of the”, immediately before the words, “difference, plus or minus, between the daily settlement value of the long futures contracts and the aggregate exercise value of the long put options or the short call options”; and

   (c) adding the words “whichever is lower,” immediately before the word “plus”.

12. Dealer Member Rule 100.10(h)(v)(F) is amended by:

   (a) adding the words “an equivalent number of”, immediately before the words “index call options”, “index put options”, “index participation unit call options”, and “index participation unit put options”;

   (b) deleting the words “greater of the” immediately before the words, “difference, plus or minus, between the aggregate exercise value of the long call options or short put options”; and

   (c) adding the words “, whichever is higher,” immediately before the words “and the daily settlement value of the short futures contracts, plus”.

Attachment B

INVESTMENT INDUSTRY REGULATORY ORGANIZATION OF CANADA
AMENDMENTS TO DEALER MEMBER RULES REGARDING CONVERSION AND RECONVERSION OFFSET STRATEGIES

BLACK-LINE COPY

Dealer Member Rule 100.9(g)(v) – Amendment #1

(v) Conversion or long tripo combination

Where, in the case of equity or participation unit options, a position in an underlying interest is carried long in a customer's account and the account is also long an equivalent position in put options and short an equivalent position in call options, the minimum margin required shall be:

(A) 100% of the market value of the long put options; minus

(B) 100% of the market value of the short call options; plus

(C) the difference, plus or minus, between the market value of the qualifying basket (or participation units) and the aggregate exercise value of the long put options~~, where the aggregate exercise value used in the calculation cannot be greater than the aggregate exercise value of the call options~~ or the short call options, whichever is lower.

Dealer Member Rule 100.9(g)(vi) – Amendment #2

(vi) Reconversion or short tripo combination

Where, in the case of equity or participation unit options, a position in an underlying interest is carried short in a customer's account and the account is also long an equivalent position in call options and short an equivalent position in put options, the minimum margin required shall be:

(A) 100% of the market value of the long call options; minus

(B) 100% of the market value of the short put options; plus

(C) the difference, plus or minus, between the aggregate exercise value of the long call options or short put options, whichever is higher, and the market value of the qualifying basket (or participation units)~~, where the aggregate exercise value used in the calculation cannot be greater than the aggregate exercise value of the put options~~.

Dealer Member Rule 100.9 (h)(ii)(E) – Amendment #3

(E) Conversion or long tripo combinations

Where a customer account contains one of the following option related combinations:

- long a qualifying basket of index securities, long an equivalent number of index put options and short an equivalent number of index call options (Note: Subject to incremental margin where qualifying basket is imperfect); or
- long index participation units, long an equivalent number of index put options and short an equivalent number of index call options (Note: Subject to tracking error minimum margin); or
- long a qualifying basket of index securities, long an equivalent number of index participation unit put options and short an equivalent number of index participation unit call options (Note: Subject to incremental margin where qualifying basket is imperfect and subject to tracking error minimum margin); or
- long index participation units, long an equivalent number of index participation unit put options and short an equivalent number of index participation unit call options;

the minimum margin required shall be the sum of:

(I) where applicable, the calculated incremental margin rate for the qualifying basket of index securities, multiplied by the market value of the qualifying basket;

and

(II) the greater of:

(a) the sum of:

(i) 100% of the market value of the long put options; minus

(ii) 100% of the market value of the short call options; plus

(iii) the difference, plus or minus, between the market value of the qualifying basket (or participation units) and the aggregate exercise value of the long put options~~, where the aggregate exercise value used in the calculation cannot be greater than the aggregate exercise value of the~~ or short call options, whichever is lower;

and

(b) where applicable, the published tracking error margin rate for a spread between the index and the related participation units, multiplied by the market value of the underlying participation units.

Dealer Member Rule 100.9 (h)(ii)(F) – Amendment #4

(F) Reconversion or short tripo combinations

Where a customer account contains one of the following option related combinations:

- short a qualifying basket of index securities, short an equivalent number of index put options and long an equivalent number of index call options (Note: Subject to incremental margin where qualifying basket is imperfect); or

- short index participation units, short an equivalent number of index put options and long an equivalent number of index call options (Note: Subject to tracking error minimum margin); or

- short a qualifying basket of index securities, short an equivalent number of index participation unit put options and long an equivalent number of index participation unit call options (Note: Subject to incremental margin where qualifying basket is imperfect and subject to tracking error minimum margin); or

- short index participation units, short an equivalent number of index participation unit put options and long an equivalent number of index participation unit call options;

the minimum margin required shall be the sum of:

(I) where applicable, the calculated incremental margin rate for the qualifying basket of index securities, multiplied by the market value of the qualifying basket;

and

(II) the greater of:

(a) the sum of:

(i) 100% of the market value of the long call options; minus

(ii) 100% of the market value of the short put options; plus

(iii) the difference, plus or minus, between the aggregate exercise value of the long call options or short put options, whichever is higher, and the market value of the qualifying basket (or participation units)~~, where the aggregate exercise value used in the calculation cannot be greater than the aggregate exercise value of the put options~~;

and

(b) where applicable, the published tracking error margin rate for a spread between the index and the related participation units, multiplied by the market value of the underlying participation units.

Dealer Member Rule 100.9 (h)(v)(E) – Amendment #5

(E) Conversion or long tripo combination involving index options or index participation unit options and index futures contracts

Where a customer account contains one of the following tripo combinations:

- long index futures contracts and long an equivalent number of index put options and short an equivalent number of index call options with the same expiry date (Note: Subject to tracking error minimum margin); or

- long index futures contracts and long an equivalent number of index participation unit put options and short an equivalent number of index participation unit call options with the same expiry date (Note: Subject to tracking error minimum margin);

the minimum margin required shall be:

(I) ~~the greater of~~ the difference, plus or minus, between the daily settlement value of the long futures contracts and the aggregate exercise value of the long put options or the short call options, whichever is lower, plus

(II) the aggregate net market value of the put and call options;

but in no case may the margin required be less than the published tracking error margin rate for a spread between the future and the related index or participation units, multiplied by the market value of the underlying qualifying basket or participation units.

Dealer Member Rule 100.9 (h)(v)(F) – Amendment #6

(F) Reconversion or short tripo combination involving index options or index participation unit options and index futures contracts

Where a customer account contains one of the following tripo combinations:

- short index futures contracts and long an equivalent number of index call options and short an equivalent number of index put options with the same expiry date (Note: Subject to tracking error minimum margin); or

- short index futures contracts and long an equivalent number of index participation unit call options and short an equivalent number of index participation unit put options with the same expiry date (Note: Subject to tracking error minimum margin);

the minimum margin required shall be:

(I) ~~the greater of~~ the difference, plus or minus, between the aggregate exercise value of the long call options or short put options, whichever is higher, and the daily settlement value of the short futures contracts, plus

(II) the aggregate net market value of the call and put options;

but in no case may the margin required be less than the published tracking error margin rate for a spread between the future and the related index or participation units, multiplied by the market value of the underlying qualifying basket or participation units.

Dealer Member Rule 100.10 (g)(v) – Amendment #7

(v) Conversion or long tripo combination

Where, in the case of equity or participation unit options, a position in an underlying interest is carried long in a Dealer Member's account and the account is also long an equivalent position in put options and short an equivalent position in call options, the minimum capital required shall be:

(A) 100% of the market value of the long put options; minus

(B) 100% of the market value of the short call options; plus

(C) the difference, plus or minus, between the market value of the qualifying basket (or participation units) and the aggregate exercise value of the long put options~~, where the aggregate exercise value used in the calculation cannot be greater than the aggregate exercise value of the call options~~ or the short call options, whichever is lower.

Dealer Member Rule 100.10 (g)(vi) – Amendment #8

(vi) Reconversion or short tripo combination

Where, in the case of equity or participation unit options, a position in an underlying interest is carried short in a Dealer Member's account and the account is also long an equivalent position in call options and short an equivalent position in put options, the minimum capital required shall be:

(A) 100% of the market value of the long call options; minus

(B) 100% of the market value of the short put options; plus

(C) the difference, plus or minus, between the aggregate exercise value of the long call options or short put options, whichever is higher, and the market value of the qualifying basket (or participation units)~~, where the aggregate exercise value used in the calculation cannot be greater than the aggregate exercise value of the put options~~.

Dealer Member Rule 100.10 (h)(ii)(E) – Amendment #9

(E) Conversion or long tripo combinations

Where a Dealer Member account contains one of the following option related combinations:

- long a qualifying basket of index securities, long an equivalent number of index put options and short an equivalent number of index call options (Note: Subject to incremental margin where qualifying basket is imperfect); or

- long index participation units, long an equivalent number of index put options and short an equivalent number of index call options (Note: Subject to tracking error minimum margin); or

- long a qualifying basket of index securities, long an equivalent number of index participation unit put options and short an equivalent number of index participation unit call options (Note: Subject to incremental margin where qualifying basket is imperfect and subject to tracking error minimum margin); or

- long index participation units, long an equivalent number of index participation unit put options and short an equivalent number of index participation unit call options;

the minimum capital required shall be the sum of:

(I) where applicable, the calculated incremental margin rate for the qualifying basket of index securities, multiplied by the market value of the qualifying basket.

and

(II) the greater of:

(a) the sum of:

(i) 100% of the market value of the long put options; minus

(ii) 100% of the market value of the short call options; plus

(iii) the difference, plus or minus, between the market value of the qualifying basket (or participation units) and the aggregate exercise value of the long put options~~, where the aggregate exercise value used in the calculation cannot be greater than the aggregate exercise value of the~~ or short call options, whichever is lower;

and

(b) where applicable, the published tracking error margin rate for a spread between the index and the related participation units, multiplied by the market value of the underlying participation units.

Dealer Member Rule 100.10 (h)(ii)(F) – Amendment #10

(F) Reconversion or short tripo combinations

Where a Dealer Member account contains one of the following option related combinations:

- short a qualifying basket of index securities, short an equivalent number of index put options and long an equivalent number of index call options (Note: Subject to incremental margin where qualifying basket is imperfect); or

- short index participation units, short an equivalent number of index put options and long an equivalent number of index call options (Note: Subject to tracking error minimum margin); or

- short a qualifying basket of index securities, short an equivalent number of index participation unit put options and long an equivalent number of index participation unit call options (Note: Subject to incremental margin where qualifying basket is imperfect and subject to tracking error minimum margin); or

- short index participation units, short an equivalent number of index participation unit put options and long an equivalent number of index participation unit call options;

the minimum capital required shall be the sum of:

(I) where applicable, the calculated incremental margin rate for the qualifying basket of index securities, multiplied by the market value of the qualifying basket;

and

(II) the greater of:

(a) the sum of:

(ii) 100% of the market value of the long call options; minus

(ii) 100% of the market value of the short put options; plus

(iii) the difference, plus or minus, between the aggregate exercise value of the long call options or short put options, whichever is higher and the market value of the qualifying basket (or participation units)~~, where the aggregate exercise value used in the calculation cannot be greater than the aggregate exercise value of the put options~~.

and

(b) where applicable, the published tracking error margin rate for a spread between the index and the related participation units, multiplied by the market value of the underlying participation units.

Dealer Member Rule 100.10 (h)(v)(E) – Amendment #11

(E) Conversion or long tripo combination involving index options or index participation unit options and index futures contracts

Where a Dealer Member account contains one of the following tripo combinations:

- long index futures contracts and long an equivalent number of index put options and short an equivalent number of index call options with the same expiry date (Note: Subject to tracking error minimum margin); or

- long index futures contracts and long an equivalent number of index participation unit put options and short an equivalent number of index participation unit call options with the same expiry date (Note: Subject to tracking error minimum margin);

the minimum capital required shall be:

(I) the ~~greater of the~~ difference, plus or minus, between the daily settlement value of the long futures contracts and the aggregate exercise value of the long put options or the short call options, whichever is lower, plus

(II) the aggregate net market value of the put and call options;

but in no case may the capital required be less than the published tracking error margin rate for a spread between the future and the related index or participation units, multiplied by the market value of the underlying qualifying basket or participation units.

Dealer Member Rule 100.10 (h)(v)(F) – Amendment #12

(F) Reconversion or short tripo combination involving index options or index participation unit options and index futures contracts

Where a Dealer Member account contains one of the following tripo combinations:

- short index futures contracts and long an equivalent number of index call options and short an equivalent number of index put options with the same expiry date (Note: Subject to tracking error minimum margin); or

- short index futures contracts and long an equivalent number of index participation unit call options and short an equivalent number of index participation unit put options with the same expiry date (Note: Subject to tracking error minimum margin);

the minimum capital required shall be:

(I) the ~~greater of the~~ difference, plus or minus, between the aggregate exercise value of the long call options or short put options, whichever is higher, and the daily settlement value of the short futures contracts, plus

(II) the aggregate net market value of the call and put options;

but in no case may the capital required be less than the published tracking error margin rate for a spread between the future and the related index or participation units, multiplied by the market value of the underlying qualifying basket or participation units.

13.1.6 MFDA Adjourns Hearing on the Merits in the Matter of Tony Tung-Yuan Lin

NEWS RELEASE
For immediate release

MFDA ADJOURNS HEARING ON THE MERITS IN THE MATTER OF TONY TUNG-YUAN LIN

February 11, 2009 (Toronto, Ontario) – The Mutual Fund Dealers Association of Canada ("MFDA") commenced a disciplinary proceeding in respect of Tony Tung-Yuan Lin by Notice of Hearing dated May 16, 2008.

The hearing of this matter on its merits resumed on February 9 and 10, 2009 and was subsequently adjourned to May 26 and 27, 2009 at 10:00 a.m. (Pacific) in the hearing room located at the Wosk Centre for Dialogue, 580 West Hastings Street, Vancouver, British Columbia. The hearing is open to the public, except as may be required for the protection of confidential matters.

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

The MFDA is the self-regulatory organization for Canadian mutual fund dealers, regulating 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

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