The Ontario Securities Commission

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March 13, 2009

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

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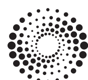

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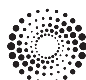

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Chapter 1

Notices / News Releases

1.1 Notices

1.1.1 Current Proceedings Before The Ontario Securities Commission

13 MARCH, 2009

CURRENT PROCEEDINGS

BEFORE

ONTARIO SECURITIES COMMISSION

- -

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

The Harry S. Bray Hearing Room
Ontario Securities Commission
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SCHEDULED OSC HEARINGS

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: ST/CSP
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: WSW/ST
March 19, 2009 11:00 a.m.	**Euston Capital and George Schwartz** s. 127 Y. Chisholm in attendance for Staff Panel: WSW/ST
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: WSW/ST
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: JEAT

March 23, 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
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/ST/KJK
March 24, 2009 11:00 a.m.	**Rajeev Thakur** s. 127 M. Britton in attendance for Staff Panel: WSW/ST
March 30 – April 17, 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
April 6, 2009 10:00 a.m.	**Gregory Galanis** s. 127 P. Foy in attendance for Staff Panel: TBA
April 7, 2009 2:00 p.m.	**Teodosio Vincent Pangia and Transdermal Corp.** s. 127 J. Feasby in attendance for Staff Panel: LER
April 8, 2009 10:00 a.m.	**FactorCorp Inc., FactorCorp Financial Inc. and Mark Twerdun** s. 127 M. Mackewn in attendance for Staff Panel: LER
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 and 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 and 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

May19-22; June 17-19, 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

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.1 27

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 3, 2009

10:00 a.m.

Adrian Samuel Leemhuis, Future Growth Group Inc., Future Growth Fund Limited, Future Growth Global Fund limited, Future Growth Market Neutral Fund Limited, Future Growth World Fund and ASL Direct Inc.

s. 127(5)

K. Daniels in attendance for Staff

Panel: TBA

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 3, 2009 10:00 a.m.	**Brilliante Brasilcan Resources Corp., York Rio Resources Inc., Brian W. Aidelman, Jason Georgiadis, Richard Taylor and Victor York** s. 127 S. Horgan in attendance for Staff Panel: 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 and 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) and (5) P. Foy in attendance for Staff Panel: TBA
TBA	**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
TBA	**Uranium308 Resources Inc., Uranium308 Resources PLC., Michael Friedman, George Schwartz, Peter Robinson, Alan Marsh Shuman and Innovative Gifting Inc.** s. 127 M. Boswell 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

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

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

1.1.2 Notice of Commission Approval – Revocation and Replacement of OSC Rule 13-502 Fees, Companion Policy 13-502CP Fees, OSC Rule 13-503 (Commodity Futures Act) Fees and Companion Policy 13-503CP (Commodity Futures Act) Fees

COMMISSION APPROVAL

REVOCATION AND REPLACEMENT OF

OSC RULE 13-502 *FEES* AND COMPANION POLICY 13-502CP *FEES*

AND

OSC RULE 13-503 *(COMMODITY FUTURES ACT) FEES* AND COMPANION POLICY 13-503CP *(COMMODITY FUTURES ACT) FEES*

On March 10, 2009, the Commission approved the revocation and replacement of the following rules and the rescission and replacement of the following policies:

OSC Rule 13-502 *Fees* and Companion Policy 13-502CP *Fees*

OSC Rule 13-503 (*Commodity Futures Act*) *Fees* and Companion Policy 13-503CP (*Commodity Futures Act*) *Fees*

Under section 143.3 of the *Securities Act* and section 68 of the *Commodity Futures Act*, the rules were delivered to the Minister of Finance on March 12, 2009. The Minister may approve or reject the rules or return them to the Commission for further consideration. If the Minister approves the Rules, they will come into force on June 1, 2009.

The text of the rules and policies can be found in Chapter 5 of today's bulletin and on the OSC website at http://www.osc.gov.on.ca. Chapter 5 also includes information about the Commission's budget and fee-setting processes.

1.1.3 Notice of Commission Approval – Material Amendments to CDS Procedures – Transfer and Automation of ISIN Issuance Service

CDS CLEARING AND DEPOSITORY SERVICES INC.

MATERIAL AMENDMENTS TO CDS PROCEDURES

ISIN ISSUANCE SERVICE PROCEDURES AMENDMENTS

NOTICE OF COMMISSION APPROVAL

In accordance with the Rule Protocol between the Ontario Securities Commission (Commission) and CDS Clearing and Depository Services Inc. (CDS), the Commission approved on March 6, 2009, amendments filed by CDS to its procedures to reflect the transfer of the ISIN issuance service from CDS to a new subsidiary, CDS Securities Management Solutions Inc., and the automation of the ISIN issuance service. A copy and description of these amendments were published for comment on January 23, 2009 at (2009) 32 OSCB 1011. No comments were received.

1.1.4 Notice of Commission Approval – Material Amendments to CDS Rules Relating to Issuer Electronic Payments

CDS CLEARING AND DEPOSITORY SERVICES INC.

MATERIAL AMENDMENTS TO CDS RULES

ISSUER ELECTRONIC PAYMENTS

NOTICE OF COMMISSION APPROVAL

On March 6, 2009, the Commission approved, subject to the following terms and conditions, amendments to the rules of CDS Clearing and Depository Services Inc. (CDS) relating to issuer electronic payments, in accordance with the Rule Protocol Regarding the Review and Approval of CDS Clearing and Depository Services Inc. Rules by the Ontario Securities Commission. The amendments will require, as of November 1, 2011, all entitlement payments made to CDS to be made in an acceptable electronic format, as defined in the amended rules. The amendments further provide that, after November 1, 2011, securities of issuers that do not make entitlement payments to CDS in an acceptable electronic format will be ineligible for deposit with CDSX©. A notice and description of the amendments was published, together with a request for comment, in the Commission's Bulletin on December 12, 2008, at (2008) 31 OSCB 11954. No comment letters were received regarding the amendments. The terms and conditions to the Commission approval are as follows:

1. CDS report to OSC staff quarterly on (i) the specific steps or actions that CDS has taken during the quarter to raise the awareness of the proposed amendments among issuers, transfer agents and law firms, and (ii) statistics on the total number and value of non-electronic entitlement payments received by CDS relative to the combined electronic and non-electronic entitlement payments received by CDS during the quarter.

2 CDS provide OSC staff, by June 1, 2011 with an estimate of the number of issuers whose securities it believes may become ineligible for the depository service as a result of the inability or unwillingness of issuers to make entitlement payments in the required manner, with a proposal for any alternative action that may be considered.

1.3 News Releases

1.3.1 CSA Offers New Fraud Prevention Resources for Investors

FOR IMMEDIATE RELEASE
March 10, 2009

CSA OFFERS NEW FRAUD PREVENTION RESOURCES FOR INVESTORS

Calgary – The Canadian Securities Administrators (CSA) is kicking off Fraud Prevention Month in March by unveiling a number of investing and fraud prevention resources for Canadians.

"The recent economic downturn has created an opportunity for fraud artists to capitalize on investor anxiety" says Jean St-Gelais, Chair of the CSA and President & Chief Executive Officer of the Autorité des marchés financiers (Québec). "The investor tools available on our updated CSA website are designed to help Canadians be vigilant against fraud artists."

A particular type of investment fraud of which Canadians should be aware of is boiler room scams. The new CSA brochure, *Boiler room scams – could you be vulnerable*, available on the CSA website, describes:

- how boiler room scams work and what to watch for;
- who is vulnerable; and
- what you can do to protect yourself.

The recently revised CSA website provides investors with a new 'Avoiding Fraud' section that includes an online tool to help investors learn how to identify fraud.

The CSA continues to participate as a partner in the Fraud Prevention Forum. Chaired by the Competition Bureau, the Forum works to prevent Canadians from becoming victims of fraud by educating them on how to recognize it, report it and stop it. Throughout the month of March 2009, partners of the Fraud Prevention Forum will be involved in a number of national, regional and local activities supporting fraud prevention.

To find out more about the information and tools the CSA has available to help Canadians identify and avoid fraud, visit the CSA website at: www.securities-administrators.ca.

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

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1.3.2 OSC Freezes Fee Levels for Period of One Year

FOR IMMEDIATE RELEASE
March 13, 2008

OSC FREEZES FEE LEVELS
FOR PERIOD OF ONE YEAR

Toronto – The Ontario Securities Commission (OSC) today published amended Rules 13-502 *Fees* and 13-503 *(Commodity Futures Act) Fees*. In light of the current economic climate, the OSC will not be increasing participation and activity fees from the levels currently charged to market participants for the 12 months ending March 31, 2010.

Speaking for the Commission, Chair David Wilson said: "We understand the challenges faced by market participants in Ontario and recognize that now is not the time for a fee increase. Maintaining the current fee levels for the next year will not impact our ability to provide protection to investors from unfair, improper or fraudulent practices and foster fair and efficient capital markets. We have refocused our resources in order to meet changing market conditions."

On October 3, 2008, the OSC published the Rules for public comment. At the time, cost increases and an updated fee structure were proposed to match the OSC's forecast costs over the next two years. Since then, the economic situation in Ontario and around the world has worsened. Comment letters received from market participants expressed concerns with the proposed Rule changes in the context of the current economic situation. Those concerns were taken into consideration when amending the Rules.

The OSC, as a self-funded agency, is wholly dependent on fees from market participants, and operates on a cost-recovery basis. By not increasing fees from current levels, the OSC will experience a revenue shortfall over the next fiscal year. Any operating deficit experienced by the OSC will be offset by the surplus that was generated as a result of strong performance of the markets in recent years. Over the next year, the OSC will further review issues related to the fee model so it can return to fully recovering its costs in ways that remain fair and transparent to market participants.

The amended Rules are subject to approval by the Ontario Minister of Finance and are available on the OSC website at **www.osc.gov.on.ca**.

For media inquiries:

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& Public Affairs
416-593-8120

Laurie Gillett
Manager, Public Affairs
416-595-8913

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

For investor inquiries:

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

March 13, 2009

BACKGROUNDER

OSC Freezes Fee Levels for Period of One Year

**Revocation and Replacement of
OSC Rules 13-502 Fees
and 13-503 (Commodity Futures Act) Fees**

The Ontario Securities Commission (Commission or OSC) has published OSC Rules 13-502 *Fees* and 13-503 *(Commodity Futures Act) Fees* which set out proposed fees for market participants.

As a self-funded agency, the Commission is wholly dependent on fees from market participants, and operates on a cost-recovery basis. The current fee rates were set in 2006, and the Commission uses a combination of activity fees and participation fees to recover the costs of operation:

> **Participation fees** are designed to cover Commission costs that are not attributable to activities on behalf of a specific participant. Examples include enforcement and market monitoring. These fees are based on the market participant's size, which is used as a proxy for its use of Ontario's capital markets.
>
> **Activity fees** are set at a level to reflect an estimate of the direct cost of OSC staff resources generally used in undertaking activities requested of staff by market participants. Activity fees are charged at flat rates and are designed to cover the average direct costs the Commission incurs in reviewing documents, such as prospectuses, registration applications and applications for discretionary relief.

The Commission's revenues have exceeded forecasts for fiscal 2006 to 2008, and are expected to exceed forecasts for fiscal 2009, producing a surplus that is forecast to be approximately $45 million at March 31, 2009. This surplus is due to higher than anticipated growth in the capital markets.

In light of current economic conditions, the Commission has decided not to increase participation fees and activity fees at this time. The Commission intends to maintain current rates for one year and is proposing to use its surplus in order to subsidize fees during this time.

This will result in a period where fee rates do not reflect the actual costs to the Commission of regulating market participants. As a result, future increases to fee rates will need to be sufficient to fully recover the Commission's costs of operations, and market participants should anticipate future increases.

The Commission will continue to take appropriate steps as necessary to pursue its mandate of providing protection to investors and fostering fair and efficient capital markets.

The amended Rules are subject to approval by the Ontario Ministry of Finance and are expected to come into force on June 1, 2009.

1.4 Notices from the Office of the Secretary

1.4.1 FactorCorp Inc. et al.

FOR IMMEDIATE RELEASE
March 5, 2009

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

AND

IN THE MATTER OF
FACTORCORP INC.,
FACTORCORP FINANCIAL INC.,
AND MARK IVAN TWERDUN

TORONTO – The Commission issued an Order today pursuant to section 127 and 144 of the Act, that the Temporary Order, as varied, shall continue for the period expiring on April 8, 2009, unless further extended by the Commission. The hearing is adjourned to April 8, 2009 at 10:00 a.m.

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

OFFICE OF THE SECRETARY
JOHN P. STEVENSON
SECRETARY

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1-877-785-1555 (Toll Free)

1.4.2 Adrian Samuel Leemhuis et al.

FOR IMMEDIATE RELEASE
March 5, 2009

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

AND

IN THE MATTER OF
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.

TORONTO – Following a hearing held on March 3, 2009, the Commission issued an Order in the above noted matter extending the Temporary Orders to June 3, 2009 and adjourning the hearing to June 3, 2009 at 10:00 a.m.

A copy of the Order dated March 3, 2009 is available at **www.osc.gov.on.ca**.

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1-877-785-1555 (Toll Free)

1.4.3 Kwok-On Aloysius Lo

FOR IMMEDIATE RELEASE
March 6, 2009

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

AND

IN THE MATTER OF
KWOK-ON ALOYSIUS LO

TORONTO – Following a hearing held yesterday, the Commission issued an Order approving the Settlement Agreement reached between Staff of the Commission and Kwok-On Aloysius Lo.

A copy of the Order March 5, 2009 and Settlement Agreement dated March 2, 2009 are available at **www.osc.gov.on.ca**.

OFFICE OF THE SECRETARY
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SECRETARY

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1-877-785-1555 (Toll Free)

1.4.4 Uranium308 Resources Inc. et al.

FOR IMMEDIATE RELEASE
March 6, 2009

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

AND

IN THE MATTER OF
URANIUM308 RESOURCES INC.,
URANIUM308 RESOURCES PLC.,
MICHAEL FRIEDMAN, GEORGE SCHWARTZ,
PETER ROBINSON, ALAN MARSH SHUMAN, AND
INNOVATIVE GIFTING INC.

TORONTO – Following a hearing held today, the Commission issued an Order extending the Temporary Order to July 13, 2009 and adjourning the hearing to July 10, 2009 at 10:00 a.m.

A copy of the Order dated March 6, 2009 are available at **www.osc.gov.on.ca**.

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1-877-785-1555 (Toll Free)

1.4.5 Teodosio Vincent Pangia and Transdermal Corp.

FOR IMMEDIATE RELEASE
March 10, 2009

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

AND

IN THE MATTER OF
TEODOSIO VINCENT PANGIA AND
TRANSDERMAL CORP.

TORONTO – Following a hearing held yesterday, the Commission issued an Order which provides that the Temporary Order is continued until April 8, 2009 or further order of the Commission and the matter is adjourned to April 7, 2009 at 2:00 p.m.

A copy of the Order dated March 9, 2009 is available at **www.osc.gov.on.ca**.

OFFICE OF THE SECRETARY
JOHN P. STEVENSON
SECRETARY

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Chapter 2

Decisions, Orders and Rulings

2.1. Decisions

2.1.1 Amisco Industries Ltd. – s. 1(10)

Headnote

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

Ontario Statutes

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

February 28, 2009

Heenan Blaikie Aubut
900 boul. René-Lévesque Est
Québec (Québec) G1R 2B5

Attention: Mr. Guy Plante

Re: Amisco Industries Ltd. (the "Applicant") application for a decision under the securities legislation of Québec and Ontario (the "Jurisdictions") that the Applicant is not a reporting issuer

The Applicant bas applied to the local securities regulatory authority or regulator (the "Decision Maker") in each of the Jurisdictions for a decision under the securities legislation (the "Legislation") of the Jurisdictions that the Applicant is not a reporting issuer.

As the Applicant bas 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 Regulation 21-101 respecting Marketplace Operation;

(e) 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's status as a reporting issuer is revoked.

"Alexandra Lee"
Manager, Continuous Disclosure
Investment Funds and Continuous Disclosure
Autorité des marchés financiers

2.1.2 Sprott Asset Management Inc. and Sprott All Cap Fund

Headnote

NP 11-203 – relief to permit investment of up to 20% of the Fund's net assets in gold, permitted gold certificates, silver, certain silver certificates, and/or specified derivatives of which the underlying interest is gold or silver, as part of a defensive strategy for when equity markets are uncertain or volatile – National Instrument 81-102 Mutual Funds.

Applicable Legislative Provisions

National Instrument 81-102 Mutual Funds, ss. 2.3(e), (f) and (h), 19.1.

February 23, 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
SPROTT ASSET MANAGEMENT INC.
(the Filer)

AND

SPROTT ALL CAP FUND
(the Fund)

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 an exemption, pursuant to section 19.1 of National Instrument 81-102 *Mutual Funds* (NI 81-102) from clauses 2.3(e), (f) and (h) of NI 81-102 to permit the Fund to invest up to 20% in total of its net assets, taken at market value at the time of the purchase, directly in gold, permitted gold certificates, silver, certain silver certificates and/or specified derivatives of which the underlying interest is gold or silver (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, Québec, Nova Scotia, New Brunswick, Prince Edward Island, Newfoundland and Labrador, Northwest Territories, the Yukon Territory and Nunavut Territory, where applicable.

Interpretation

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

Representations

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

1. The Filer is a corporation incorporated under the laws of Ontario with its head office in Toronto, Ontario. The Filer is the manager and portfolio adviser for the Fund.

2. The Fund is an open-end mutual fund trust established pursuant to a Trust Agreement governed under the laws of Ontario.

3. Neither the Filer nor the Fund is in default of securities legislation in any province or territory of Canada.

4. A simplified prospectus and annual information form, each dated June 19, 2008, have been filed in each province and territory of Canada.

5. The Fund is a reporting issuer under the securities legislation of each province and territory of Canada.

6. The investment objective of the Fund is to achieve long-term capital growth by investing primarily in equities and equity related securities of small, medium and large capitalized companies that have the potential to produce above average growth.

7. The simplified prospectus of the Fund discloses that one of the risks that the Fund is exposed to is commodity risk.

8. The Filer believes that the markets in gold and silver are highly liquid, and there are no liquidity concerns with permitting the Fund to invest, up to 20% in total of its net assets, taken at market value at the time of the purchase, directly in gold, permitted gold certificates, silver, certain silver certificates and/or specified derivatives of which the underlying interest is gold or silver.

9. The Filer is well known in Canadian capital markets for its expertise and investment strategies

involving gold and silver, and does a substantial amount of research in this area. The Filer believes that this expertise and research would be beneficial to the unitholders of the Fund.

10. The Filer intends to invest in gold and silver as a defensive strategy in adverse market, economic, political or other circumstances. The Filer considers gold and silver to be a viable alternative to holding cash or cash equivalents in such markets. Permitting the Fund to invest in silver, along with gold, will permit the portfolio adviser of the Fund additional flexibility to increase gains for the Fund in certain market conditions, which may have otherwise caused the Fund to have significant cash positions and therefore deter from its ability to achieve its investment objective of providing long term capital growth.

11. The Filer believes that the potential volatility or speculative nature of silver (or the equivalent in certificates or specified derivatives of which the underlying interest is silver) is no greater than that of gold, or of equity securities of issuers in which the Fund invests and, in the portfolio context of the Fund, can provide additional diversification to the Fund.

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 silver certificates that the Fund invests in will be certificates that represent silver that is:

(i) available for delivery in Canada, free of charge, to or to the order of the holder of the certificate;

(ii) of a minimum fineness of 999 parts per 1,000;

(iii) held in Canada;

(iv) in the form of either bars or wafers; and

(v) if not purchased from a bank listed in Schedule I, II or III of the Bank Act (Canada), fully insured against loss and bankruptcy by an insurance company licensed under the laws of Canada or a province or territory of Canada;

(b) the Investment Strategies section in the Fund's simplified prospectus includes disclosure that the Fund:

(i) may invest in gold and silver when deemed appropriate by the portfolio adviser; and

(ii) has received approval of the Canadian securities regulators to permit the Fund to invest directly in gold, permitted gold certificates, silver, certain silver certificates and/or specified derivatives of which the underlying interest is gold or silver, up to 20% in total of its net assets, taken at the market value at the time of the purchase; and

(c) the risks section in the Fund's simplified prospectus includes disclosure explaining the risks associated with the Fund being over-weighted in certain industry sectors or asset classes, including the risks of investing directly in gold and silver.

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

2.1.3 Mackenzie Financial Corporation and Counsel Group of Funds Inc.

Headnote

National Policy 11-203 – Process for Exemptive Relief Applications in Multiple Jurisdictions – Variation of representations in prior relief granted to two fund managers, each as a "company providing services to the mutual fund" under section 11.1(1)(b) of NI 81-102 – Each fund manager is not a member of the Mutual Fund Dealers' Association – Representations of the Decision speak to the safeguarding of client assets – Prior relief is aimed at allowing each fund manager to commingle client cash related to the fund manager's open-ended mutual funds in the same trust account as client cash temporarily received by the fund manager for investment in deposits offered by an affiliate – Variation required to include additional facts concerning client investments in both nominee and client name.

Applicable Legislative Provisions

Securities Act (Ontario), R.S.O. 1990, s. S.5, as am., s. 144.
National Instrument 81-102 Mutual Funds, ss. 11.1(1)(b), 19.1.

March 3, 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
MACKENZIE FINANCIAL CORPORATION AND
COUNSEL GROUP OF FUNDS INC.
(the "Filers")**

DECISION

Background

The principal regulator in the Jurisdiction has received an application from the Filers (the "**Application**") for a decision under the securities legislation of the jurisdiction of the principal regulator (the "**Legislation**") varying the decision issued to the Filers on December 3, 2008 (the "**Prior Decision**"). The Prior Decision is attached as Schedule "A". The variation of the Prior Decision is being requested to include additional facts in Representations 16 and 17 of the Prior Decision (collectively, the "**Exemption Sought**").

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

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

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

Interpretation

Defined terms contained in National Instrument 14-101 – *Definitions* and in NI 81-102 have the same meaning in this decision document unless they are otherwise defined in this decision.

Representations

1. This Decision is based on the facts set out in paragraphs 1 to 25 under "Representations" in the Prior Decision, except to the extent modified in paragraphs 2 and 3 below with respect to the inclusion of nominee dealer accounts used by investors.

Client Name and Nominee Name

2. Paragraph 17 of the Prior Decision provides that "[i]n the absence of the Requested Relief, the commingling of the Mutual Fund Trust Monies with the Non-Mutual Fund Client Trust Monies would contravene the Commingling Prohibition and would require the Filers to establish separate trust accounts for the Funds and the Deposits. This would effectively not permit the offering of CDIC eligible deposits to Investors alongside mutual fund investments within the same client-name accounts, which the Filers believe to be of significant value to investors".

3. The Filers wish to vary the Prior Decision to specify that investments may be held by Investors (as defined in the Prior Decision) in either client name or nominee name, depending on whether the Dealer operates in a client name and/or a nominee name environment. Accordingly, the Filers seek to revise Representations 16 and 17 of the Prior Decision to read as follows:

   "16. The temporary commingling of Non Mutual Fund Trust Monies with Mutual Fund Trust Monies in the Trust Accounts will permit a seamless method to move funds from Dealers to the Funds and M.R.S. Trust, and in reverse, and will facilitate significant administrative and systems economies that will enable the Filers to enhance their levels of service to

their clients *and clients of Dealers*." [emphasis added].

"17. In the absence of the Requested Relief, the commingling of the Mutual Fund Trust Monies with the Non-Mutual Fund Client Trust Monies would contravene the Commingling Prohibition and would require the Filers to establish separate trust accounts for the Funds and the Deposits. This would effectively not permit the offering of CDIC eligible deposits to Investors alongside mutual fund investments within the same client-name *account* which the Filers believe to be of significant value to investors. *Where investors utilize nominee Dealer accounts, the commingling of the Mutual Fund Trust Monies with the Non-Mutual Fund Client Trust Monies affords significant operational cost savings which the Filers believe will enhance the ability for M.R.S. Trust to offer more favourable interest rates to investors which the Filers believe to be of value to investors*." [emphasis added]

4. All remaining facts and representations in the Prior Decision continue to apply to the Exemption Sought.

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.

"Rhonda Goldberg"
Manager, Investment Funds Branch
Ontario Securities Commission

Schedule A

December 3, 2008

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

AND

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

AND

IN THE MATTER OF MACKENZIE FINANCIAL CORPORATION AND COUNSEL GROUP OF FUNDS INC. (the "Filers")

DECISION

Background

The principal regulator in the Jurisdiction has received an application from the Filers (the "**Application**") for a decision under the securities legislation of the jurisdiction of the principal regulator (the "**Legislation**") under section 19.1 of National Instrument 81-102 – *Mutual Funds* ("**NI 81-102**") for relief (the "**Exemption Sought**") from the requirements of section 11.1(1)(b) of National Instrument 81-102 *Mutual Funds* ("**NI 81-102**") that cash received by a person or company providing services to a mutual fund, for investment in, or on the redemption of, securities of the mutual fund ("**Mutual Fund Trust Monies**" as further defined below) may be commingled only with cash received by the service provider for the sale or on the redemption of other mutual fund securities (the "**Commingling Prohibition**").

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

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

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

Interpretation

Defined terms contained in National Instrument 14-101 – *Definitions* and in NI 81-102 have the same meaning in this decision document unless they are otherwise defined in this decision.

Representations

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

1. Mackenzie Financial Corporation ("**Mackenzie**") is the manager of various open-end mutual funds (the "**Mackenzie Funds**").

2. Mackenzie is registered in the categories investment counsel and portfolio manager, commodity trading manager and limited market dealer in the Province of Ontario, in the categories investment counsel and portfolio manager in the Province of Alberta, and in the category portfolio manager in Newfoundland and Labrador.

3. Counsel Group of Funds Inc. ("**Counsel**") is the manager of various open-end mutual funds (the "**Counsel Funds**", the Mackenzie Funds and the Counsel Funds are sometimes referred to herein as the "**Funds**").

4. Counsel is registered in the categories of investment counsel and portfolio manager in the Province of Ontario.

5. The Filers do not sell mutual fund securities directly to the public and are not members of the Mutual Fund Dealers Association of Canada.

6. Securities of the Funds are sold through registered dealers (the "**Dealers**").

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

8. Each Filer maintains clearing accounts on behalf of the Funds managed by it (the "**Trust Accounts**") with major Canadian financial institutions into which all monies ("**Mutual Fund Trust Monies**") invested by securityholders in the Funds managed by it ("**Investors**") are paid by way of cheque, wire transfer, electronic funds transfer and the FundServ electronic order entry system ("**Industry Standard Settlement Processes**") and from which redemption proceeds or assets to be distributed are paid. The Trust Accounts are interest bearing and all of the interest earned on the cash in the Trust Accounts is paid to the Funds on a pro rata basis in compliance with subsection 11.1(4) of NI 81-102. The Filers ensure compliance with section 11.3 of NI 81-102 in the way in which the Trust Accounts are maintained.

9. Each Trust Account is held on behalf of the Funds. Each Filer, as manager of the Mackenzie Funds or Counsel Funds, as applicable, has access to the applicable Trust Account and has control over which of its employees have access to the applicable Trust Account.

10. M.R.S. Trust Company ("**M.R.S. Trust**") is a federally regulated trust company. M.R.S. Trust is an indirect wholly-owned subsidiary of Mackenzie and is an affiliate of Counsel.

11. M.R.S. Trust intends to accept deposits from Investors via Dealers (such investments the "**Deposits**") by way of Industry Standard Settlement Processes.

12. The Filers intend to provide the administrative infrastructure necessary to permit M.R.S. Trust to offer the Deposits to Investors via Dealers, specifically including the operational means by which Investors' funds will be moved from the Dealers to M.R.S. Trust.

13. The Deposits offered by M.R.S. Trust are or will be savings accounts eligible for deposit insurance from the Canada Deposit Insurance Corporation ("**CDIC**") subject to maximum coverage limitations. Investors who wish to invest cash in the Deposits may also purchase units of the Funds from their Dealer at the same time.

14. Dealers who accept cash from Investors for investment in the Deposits ("**Non-Mutual Fund Trust Monies**") and for investment in the Funds (as noted above, "**Mutual Fund Trust Monies**"), will forward such cash to the Filers via Industry Standard Settlement Processes. Once received, the Filers propose to hold both Non-Mutual Fund Trust Monies and Mutual Fund Trust Monies temporarily in the Trust Accounts. Investors' Non-Mutual Fund Trust Monies will then be forwarded by the Filers from their Trust Accounts to M.R.S. Trust, while Investors' Mutual Fund Trust Monies will be forwarded by the Filers from the Trust Accounts to individual Fund accounts in the name of the Funds' custodian. For a brief time then, the Filers anticipate that Non-Mutual Fund Trust Monies and Mutual Fund Trust Monies will be temporarily commingled in the Trust Accounts.

15. As managers of the Funds, the Filers are subject to the statutory standard of care set forth in section 116 of the *Securities Act* (Ontario) and to similar provisions contained in the legislation of the Jurisdictions. As a federally regulated trust company, M.R.S. Trust accepts the Deposits as guaranteed trust money and the Filers, acting as agents of M.R.S. Trust, will comply with the fiduciary standard of care and applicable customer protection legislation and regulations which apply to M.R.S. Trust in respect of the Deposits. Investors' Non Mutual Fund Trust Monies will be eligible for deposit insurance from CDIC subject to maximum coverage limitations.

16. The temporary commingling of Non Mutual Fund Trust Monies with Mutual Fund Trust Monies in the Trust Accounts will permit a seamless method to move funds from Dealers to the Funds and

M.R.S. Trust, and in reverse, and will facilitate significant administrative and systems economies that will enable the Filers to enhance their levels of service to their clients.

17. In the absence of the Requested Relief, the commingling of the Mutual Fund Trust Monies with the Non-Mutual Fund Client Trust Monies would contravene the Commingling Prohibition and would require the Filers to establish separate trust accounts for the Funds and the Deposits. This would effectively not permit the offering of CDIC eligible deposits to Investors alongside mutual fund investments within the same client-name accounts, which the Filers believe to be of significant value to investors.

18. Commingled Mutual Fund Trust Monies and Non Mutual Fund Trust Monies will be forwarded to individual Fund accounts in the name of the Funds' custodian and to M.R.S. Trust, as applicable, no less frequently than following overnight processing of Fund purchase and Deposit orders. Commingled Mutual Fund Trust Monies and Non Mutual Fund Trust Monies will be forwarded from the Trust Account to the relevant dealers or dealer trust accounts which redeem Funds or order withdrawals from the Deposits no less frequently than following overnight processing of redemption or withdrawal orders, subject to the time it may take for an Investor to redeem a cheque issued in respect of redeemed Fund units or withdrawn Deposits. Accordingly, all monies held in the Trust Account will be cleared no less frequently than on a daily basis at the beginning of each business day following the previous business day's overnight processing of all purchase and deposit transactions involving the Funds and Deposits and most redemptions from the Funds and withdrawals from the Deposits.

19. The Filers do not believe that the interests of the Investors will be prejudiced in any way by the commingling of Mutual Fund Trust Monies with Non-Mutual Fund Client Trust Monies.

20. Each Filer is a "company providing services to the mutual fund" under the provisions of section 11.1(1)(b) of NI 81-102. Accordingly, the Commingling Prohibition prohibits the Filers from commingling Mutual Fund Trust Monies with Non-Mutual Fund Trust Monies.

21. In providing services, each Filer is able to account for all monies received into and all monies that are to be paid out of its Trust Account in order to meet the policy objectives of sections 11.1 and 11.2 of NI 81-102.

22. The Filers will ensure that proper records with respect to client cash in a commingled account are kept, and will ensure that its respective Trust Account is reconciled, and that Mutual Fund Trust Monies and Non-Mutual Fund Trust Monies are properly accounted for daily.

23. Each Filer will ensure that all transactions in its Trust Account are manually reviewed on a daily basis in order to monitor the Trust Account for discrepancies in the handling of Mutual Fund Trust Monies and Non-Mutual Fund Trust Monies in the Trust Account.

24. Any error in the handling of monies in a Filer's Trust Account as a result of the commingling of funds identified through such daily review process will promptly be corrected by the applicable Filer.

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

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.

"Rhonda Goldberg"
Manager, Investment Funds Branch
Ontario Securities Commission

2.1.4 McLean Budden Limited

Headnote

NP 11-203 Process for Exemptive Relief Applications in Multiple Jurisdictions – Coordinated Review – The relief provides an exemption, pursuant to section 233 of Regulation 1015 (the Regulation) made under the Securities Act (Ontario) from the prohibition in section 227(2)(b)(ii) of the Regulation. The prohibition prevents a registrant, when acting as a portfolio manager with discretionary authority, from providing advice with respect to a client's account to purchase and/or sell the securities of a related issuer or a connected issuer of the registrant, unless the registrant (i) secures the specific and informed written consent of the client once in each twelve month period and (ii) provides the client with its statement of policies.

Statutes Cited

Regulation 1015 made under the Securities Act (Ontario), ss. 227(2)(b)(ii), 233.

March 4, 2009

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

AND

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

AND

**IN THE MATTER OF
MCLEAN BUDDEN LIMITED
(the Filer)**

DECISION

Background

The securities regulatory authority or regulator in each of the Jurisdictions (**Decision Maker**) has received an application from the Filer for a decision (the **Exemptive Relief Sought**) under the securities legislation of the Jurisdictions (the **Legislation**) exempting the Filer from the prohibition that a registrant shall not act as an adviser in respect of securities of the registrant or of a related issuer of the registrant or, in the course of a distribution, in respect of securities of a connected issuer of the registrant (the **Related/Connected Issuer Prohibition**) unless, before acquiring discretionary authority and once within each twelve month period thereafter, (i) a statement of policies of the registrant is provided to the client (the **Statement of Policies Requirement**), and (ii) the specific and informed written consent of the client to invest in related or connected issuers of the registrant has been obtained (the **Annual Consent Requirement**) in the case of the Filer acting as a portfolio manager where the Filer purchases or sells, under its discretionary authority in connection with its managed account programs, securities of Sun Life Financial Inc. (**Sun Life**) and its affiliates for the client's managed account.

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

(a) the Ontario Securities Commission (the **OSC**) 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 a corporation incorporated under the laws of Canada. The head office of the Filer is located in Ontario.

2. The Filer is registered under the *Securities Act* (Ontario) (the **Act**) as an adviser in the categories of investment counsel and portfolio manager (and in equivalent categories in the Non-Principal Jurisdictions). In addition, the Filer is registered under the Act as a dealer in the category of limited market dealer.

3. As part of its portfolio management business, the Filer manages, on a fully discretionary basis, assets of institutional and high net worth clients who enter into an investment management agreement (the **Management Agreement**) with the Filer (the **Managed Accounts Program**).

4. The Management Agreement authorizes the Filer to exercise discretion in managing the client's investments by investing in a variety of securities, which may include mutual or pooled funds managed by the Filer and securities of Sun Life and its affiliates. Under the Management Agreement, clients have the ability to set constraints regarding the securities that may or may not be purchased by the Filer for the client's account.

5. The Related/Connected Issuer Prohibition prohibits a registrant, such as the Filer, from acting as an adviser of securities of the registrant, or of a related issuer of the registrant, or in the

course of a distribution in respect of securities of a connected issuer of the registrant.

6. The Annual Consent Requirement and the Statement of Policies Requirement, to the extent applicable, exempts a registrant from the Related/Connected Issuer Prohibition.

7. Sun Life and its affiliates are related issuers to the Filer by virtue of the fact that the Filer is an indirect subsidiary of Sun Life through the direct holding by Sun Life Global Investments Inc. of 14,483 of the class B voting shares (representing 64.5% of the outstanding voting shares) of the Filer.

8. As a result of this relationship, the Filer is prohibited from including securities of Sun Life and its affiliates in client accounts under the Managed Accounts Program, unless the Filer complies with the Annual Consent Requirement and the Statement of Policies Requirement. Clients thereby may be prevented from investing in securities of Sun Life and its affiliates, even where the inclusion of these securities would be in the best interests of the client.

9. All clients in the Managed Accounts Program receive a statement of policies that lists the related issuers of the Filer when the client enters into the Management Agreement. In the event of a significant change in its statement of policies, the Filer will provide each of its clients a copy of the revised version of, or amendment to, its statement of policies.

10. The Filer will disclose, in writing, to each of its clients in the Managed Accounts Program, the relationship between the Filer and Sun Life and its affiliates.

11. Under the Management Agreement, clients who participate in the Managed Accounts Program specifically authorize the Filer to invest in securities of Sun Life and its affiliates.

Decision

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

The decision of the Decision Makers under the Legislation is that the Exemptive Relief Sought is granted to the Filer provided that:

(a) the Filer has secured the specific and informed written consent of the client in advance of the exercise of discretionary authority on behalf of the client in respect of securities of Sun Life and its affiliates;

(b) the Filer has previously provided the client with a statement of policies or equivalent document of the Filer, which identified the relationship between the Filer, Sun Life and its affiliates; and

(c) all investment decisions of the Filer to invest in securities of Sun Life or its affiliates are uninfluenced by considerations other than the best interest of the client.

"Suresh Thakrar"
Commissioner
Ontario Securities Commission

"Paul K. Bates"
Commissioner
Ontario Securities Commission

2.1.5 TDK 2008 Flow-Through Limited Partnership and First Asset Investment Management Inc.

Headnote

NP 11-203 – Exemptions granted to flow-through limited partnerships from the requirements in National Instrument 81-106 Investment Fund Continuous Disclosure to file an annual information form, to maintain and prepare an annual proxy voting record, to post the proxy voting record on its website, and to provide it to securityholders upon request. Flow-through limited partnerships have a short lifespan and do not have a readily available secondary market.

Applicable Legislative Provisions

National Instrument 81-106 Investment Fund Continuous Disclosure, ss. 9.2, 10.3, 10.4, 17.1.

February 9, 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
TDK 2008 FLOW-THROUGH LIMITED PARTNERSHIP
(the Partnership)**

AND

**FIRST ASSET INVESTMENT MANAGEMENT INC.
(First Asset) (collectively, the Filers)**

DECISION

Background

The principal regulator in the Jurisdiction has received an application from the Filers on behalf of the Partnership and each future limited partnership promoted by First Asset or its affiliates that is identical to the Partnership in all respects which are material to this decision (**Future Partnerships**, and together with the Partnership, the **Partnerships**) for a decision under the securities legislation of the Jurisdiction of the principal regulator (the **Legislation**) for relief from the requirement to:

(a) prepare and file an annual information form (the **AIF**) pursuant to Section 9.2 of National Instrument 81-106 – *Investment Funds Continuous Disclosure* (**NI 81-106**) for each financial year;

(b) maintain a proxy voting record (the **Proxy Voting Record**) pursuant to Section 10.3 of NI 81-106; and

(c) prepare and make available to limited partners of the Partnerships (the **Limited Partners**) the Proxy Voting Record on an annual basis for the period ending on June 30 of each year pursuant to Section 10.4 of NI 81-106 (collectively, **Requested Relief**)

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

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

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

Interpretation

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

Representations

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

1. The Partnership was formed pursuant to the provisions of the *Limited Partnerships Act* (Ontario) on December 5, 2007.

2. On January 18, 2008, the Partnership filed a final prospectus relating to its initial public offering in each of the provinces of Canada and became a reporting issuer in all of the provinces of Canada where the concept of “reporting issuer” exists. Any Future Partnership will be a reporting issuer in some or all of the provinces of Canada.

3. TDK General Partner Inc. is the general partner (the **General Partner**) of the Partnership. The General Partner has retained First Asset to provide management, administrative and other services to the Partnership. The General Partner is an affiliate of First Asset.

4. First Asset is a promoter and manager of the Partnership and it or its affiliates will be the promoter of the Future Partnerships. As a promoter and manager of the Partnership, First Asset provides or will cause to be provided all of the administrative services required by the Partnership Filers.

5. The principal office address and the registered office address of the Filers are located in Toronto, Ontario.

6. The Partnership was formed, and any future partnership will be formed, to invest in certain common shares (**Flow-Through Shares**) of companies that operate, as their principal business, in any of the oil and gas, mining, energy production, pulp or paper, or forestry development industries or in related resource industries (**Resource Issuers**) pursuant to agreements (**Investment Agreements**) between the Partnership and the Resource Issuer. Under the terms of each Investment Agreement, the Partnership will subscribe for Flow-Through Shares of the Resource Issuer and the Resource Issuer will agree to incur and renounce to the Partnership, in amounts equal to the subscription price of the Flow-Through Shares, expenditures in respect of resource exploration and development that qualify as Canadian exploration expense and that may be renounced as Canadian exploration expense to the Partnership.

7. Prior to July 1, 2010, the Partnership will be dissolved and the Limited Partners of the Partnership will receive their *pro rata* share of the net assets of the Partnership.

8. It is the current intention of the General Partner that the Partnership will transfer its assets to TDK Resource Fund Inc., an open-end mutual fund corporation managed by an affiliate of First Asset, in exchange for shares of a class of shares of such mutual fund corporation. Upon dissolution, the Limited Partners would receive their *pro rata* share of the shares of that mutual fund. Any future partnership will be terminated approximately two years after it is formed on the same basis as the Partnership.

9. The Partnerships are not, and will not be, operating businesses. Rather, each Partnersip is, or will be, a short-term special purpose vehicle that will be dissolved within approximately two years of its formation. The primary investment purpose of the Partnerships is not to achieve capital appreciation, although this is a secondary benefit, but rather to obtain for the Limited Partners the significant tax benefits that accrue when Resource Issuers renounce resource exploration and development expenditures to the Partnerships through Flow-Through Shares.

10. The units of the Partnerships (the **Units**) are not, and will not be, listed or quoted for trading on any stock exchange or market. The Units are not redeemable by the Limited Partners. Generally, Units are not transferred by Limited Partners, since Limited Partners must be holder of the Units on the last day of each fiscal year of the Partnership in order to obtain the desired tax deduction.

11. It is, and will be, a term of the partnership agreement governing the Partnerships that the manager or general partner of the of Partnership has, and will have, the authority to manage, control, administer and operate the business and affairs of Partnerships, including the authority to take all measures necessary or appropriate for the business, or ancillary thereto, and to ensure that the Partnerships comply with all necessary reporting and administrative requirements. Under its general authority, the manager or general partner may apply on behalf of the Partnerships for relief.

12. Each of the Limited Partners of the Partnerships has, or will be expected to be, by subscribing for units of the Partnerships, agreed to the irrevocable power of attorney contained in the partnership agreement and has thereby, in effect, consented to the making of this Application.

13. Given the limited range of business activities to be conducted by the Partnerships, the short duration of their existence and the nature of the investment of the Limited Partners, the preparation and distribution of an AIF by the Partnerships would not be of any benefit to the Limited Partners and may impose a material financial burden on the Partnership. Upon the occurrence of any material change to a Partnership, Limited Partners would receive all relevant information from the material change reports the Partnership is required to file in the Jurisdictions.

14. As a result of the implementation of NI 81-106, investors purchasing Units of the Partnerships were, or will be, provided with a prospectus containing written policies on how the Flow-Through Shares or other securities held by the Partnership are voted (the **Proxy Voting Policies**), and had, or will have, the opportunity to review the Proxy Voting Policies before deciding whether to invest in Units.

15. Generally, the Proxy Voting Policies require that the securities of companies held by a Partnership Filer be voted in a manner most consistent with the economic interests of the Limited Partners of the Partnership Filer.

16. Given a Partnership's short lifespan, the production of a Proxy Voting Record would provide Limited Partners with very little opportunity for recourse if they disagreed with the manner in which the Partnership exercised or failed to exercise its proxy voting rights, as the Partnership would likely be dissolved by the time any potential change could materialize.

17. Preparing and making available to Limited Partners a Proxy Voting Record will not be of any benefit to Limited Partners and may impose a material financial burden on the Partnerships.

18. The Filers are of the view that the Requested Relief is not against the public interest, is in the best interests of the Partnerships and their Limited Partners and represents the business judgment of responsible persons uninfluenced by considerations other than the best interest of the Partnerships and their Limited Partners.

Decision

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

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

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

2.1.6 Sentry Select Capital Inc. et al.

Headnote

National Policy 11-203 – Process for Exemptive Relief Applications in Multiple Jurisdictions – Exemptive relief granted to mutual funds allowing a 52-day extension of the prospectus lapse date – Extension of lapse date granted to facilitate consolidation of mutual funds' prospectus with prospectus of other mutual funds under common management.

Applicable Legislative Provisions

Securities Act, R.S.O. 1990, c. S.5 as am., s. 62(5).

March 6, 2009

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

AND

IN THE MATTER OF
SENTRY SELECT CAPITAL INC.
(the Manager)

AND

IN THE MATTER OF
SENTRY SELECT CORPORATE CLASS LTD.
(the Corporation)

AND

IN THE MATTER OF
THE MUTUAL FUNDS LISTED IN SCHEDULE A
(the Corporate Funds)

(collectively, the Filers)

DECISION

Background

The securities regulatory authority or regulator in each of the Jurisdictions (the **Decision Maker**) has received an application from the Filers for a decision under the securities legislation of the Jurisdictions (the **Legislation**) that the time limits for the renewal of the simplified prospectus and annual information form of the Corporate Funds dated April 14, 2008, as amended (the **Corporate Prospectus**) be extended to those time limits that would be applicable if the lapse date of the simplified prospectus was June 5, 2009 (the **Exemptive Relief Sought**).

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

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

1. The Manager is a corporation incorporated under the *Business Corporations Act* (Ontario), with its head office in Toronto, Ontario.

2. The Manager is the manager of the Corporate Funds, the Trust Funds and the Closed-End Funds (both defined below) and is also the trustee of the Trust Funds and the Closed-End Funds.

3. The Corporation is a mutual fund corporation incorporated under the *Business Corporations Act* (Ontario), with its head office in Toronto, Ontario.

4. The securities of the Corporate Funds are currently qualified for distribution in each of the provinces and territories of Canada under the Corporate Prospectus.

5. Securities of the mutual fund trusts listed in Schedule B (the **Trust Funds**) are currently qualified for distribution in each of the provinces and territories of Canada under a simplified prospectus and annual information form dated August 20, 2008 (the **Trust Prospectus**).

6. Securities of the Corporate Funds may be distributed in each province and territory of Canada without interruption throughout its prospectus renewal period, provided a pro forma simplified prospectus is filed 30 days before April 14, 2009, a final version of the simplified prospectus is filed by April 24, 2009 and a receipt for the simplified prospectus is issued by the securities regulatory authorities by May 4, 2009.

7. Securities of the Trust Funds may be distributed in each province and territory of Canada without interruption throughout its prospectus renewal period, provided a pro forma simplified prospectus is filed 30 days before August 20, 2009, a final version of the simplified prospectus is filed by August 30, 2009 and a receipt for the simplified prospectus is issued by the securities regulatory authorities by September 9, 2009.

8. Sentry Select Lazard Global Listed Infrastructure Fund and Sentry Select China Fund (the **Closed-End Funds**) are closed-end funds currently listed on the Toronto Stock Exchange which are, based on their prospectuses and declarations of trust, scheduled to be converted to open-ended mutual funds on April 1, 2009 and May 1, 2009, respectively.

9. The Manager wishes to consolidate the Corporate Funds, the Trust Funds and the Closed-End Funds into a single simplified prospectus with the intention of filing a preliminary and pro forma simplified prospectus by May 6, 2009 and a final simplified prospectus by no later than June 15, 2009 (the **Consolidated Prospectus**).

10. A preliminary receipt for a fund cannot be issued when it is still a closed-end fund listed on a stock exchange. Therefore, the prospectuses for the Closed-End Funds cannot be incorporated into the Consolidated Prospectus until their respective conversion dates.

11. The filing of a Consolidated Prospectus will eliminate the costs of renewing the Corporate Prospectus in March 2009 and reduce on-going printing and related costs, and avoid having to incur additional costs associated with adding the Corporate Funds to the Trust Prospectus at the time of filing the pro forma Trust Prospectus in July 2009.

12. The granting of the Exemptive Relief Sought would also allow for the Closed-End Funds to be incorporated into the Consolidated Prospectus following their conversion to open-ended mutual funds, which would avoid the costs of having to qualify the Closed-End Funds in a separate simplified prospectus and then subsequently having to incur the additional cost associated with adding the Closed-End Funds to the Trust Prospectus at the time of renewing the Trust Prospectus in July 2009.

13. If the Exemptive Relief Sought was not granted, it would be necessary to renew the Corporate Prospectus and the simplified prospectus for the Closed-End Funds twice within a short period of time in order to consolidate the Corporate Funds and the Closed-End Funds in the Consolidated Prospectus with the Trust Funds, which may also cause potential confusion to investors.

14. There would be a substantial savings in costs achieved by filing a Consolidated Prospectus including legal fees, auditors' fees, printing costs and related expenses and accordingly, it would be to the benefit of investors.

15. Since April 14, 2008, the date of the Corporate Prospectus, no undisclosed material change in respect of the Corporate Funds has occurred. Accordingly, the Corporate Prospectus continues to provide accurate information regarding the Corporate Funds. The Exemptive Relief Sought will not affect the currency or the accuracy of the information contained in the Corporate Prospectus and accordingly, will not be prejudicial to the public interest.

16. The Corporation, the Corporate Funds, the Trust Funds and the Closed-End Funds are each reporting issuers under the laws of each of the provinces and territories of Canada, and are each not in default of securities legislation in any jurisdiction.

Decision

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

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

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

SCHEDULE A

List of Corporate Funds

Sentry Select Balanced Class
Sentry Select Canadian Energy Growth Class
Sentry Select Canadian Income Class
Sentry Select Canadian Resource Class
Sentry Select Mining Opportunities Class
Sentry Select Money Market Class
Sentry Select Precious Metals Growth Class

SCHEDULE B

List of Trust Funds

Sentry Select Balanced Fund
Sentry Select Canadian Energy Growth Fund
Sentry Select Canadian Income Fund
Sentry Select Diversified Total Return Fund
Sentry Select Dividend Fund
*Sentry Select Global Small Cap Fund
*Sentry Select Global Value Fund
Sentry Select Growth & Income Fund
Sentry Select Money Market Fund
Sentry Select Precious Metals Growth Fund
Sentry Select REIT Fund
Sentry Select Small Cap Income Fund

* It is anticipated that these funds will be terminated on or about February 18, 2009

2.1.7 ALSTOM

Headnote

National Policy 11-203 Process For Exemptive Relief Applications in Multiple Jurisdictions – Application for relief from the prospectus and registration requirements for certain trades made in connection with an employee share offering by a French issuer – The offering involves the use of collective employee shareholding vehicles, each a fonds communs de placement d'entreprise (FCPE) – The Filer cannot rely on the employee exemption in section 2.24 of National Instrument 45-106 Prospectus and Registration Exemptions as the shares are not being offering to Canadian employees directly by the issuer but through the FCPEs – Canadian employees will receive disclosure documents – The FCPEs are subject to the supervision of the French Autorité des marches financiers – Relief granted, subject to conditions.

Applicable Legislative Provisions

Securities Act, R.S.O. 1990, c. S.5, as am. ss.25, 53, 74.
National Instrument 45-106 Prospectus and Registration Exemptions, s. 2.24.
National Instrument 45-102 Resale of Securities, s. 2.14.

February 6, 2009

TRANSLATION

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

AND

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

AND

IN THE MATTER OF
ALSTOM (the "Filer")

DECISION

Background

The securities regulatory authority or regulator in each of the Jurisdictions (the "**Decision Makers**") has received an application from the Filer for a decision under the securities legislation of the Jurisdictions (the "**Legislation**") for:

1. an exemption from the prospectus requirements of the Legislation[1] (the "**Prospectus Relief**") and the dealer registration requirements of the Legislation[2] (the "**Registration Relief**") so that such requirements do not apply to:

   (a) trades in units ("**Units**") of

      (i) ALSTOM Sharing Classic (the "**Principal Classic Compartment**"), a compartment of ALSTOM FCPE (the "**Fund**", which is a *fonds communs de placement d'entreprise* or "**FCPE**"); and

      (ii) ALSTOM Relais 2009 FCPE (the "**Temporary Fund**", and together with the Principal Classic Compartment, the "**Compartments**") made pursuant to the global employee share offering of the Filer (the "**Employee Share Offering**") to or with Qualifying Employees (as defined below) resident in the Jurisdictions who elect to participate in the Employee Share Offering (the "**Canadian Participants**");

[1] Section 53 of the *Securities Act* (Ontario) (the "OSA") and sections 11 and 12 of the *Securities Act* (Québec) (the "QSA").
[2] Section 25(1)(a) of the OSA and sections 148 and 149 of the QSA.

(b) trades of ordinary shares of the Filer (the "**Shares**") by the Compartments to Canadian Participants upon the redemption of Units by Canadian Participants;

2. an exemption from the adviser registration requirements and dealer registration requirements of the Legislation[3] so that such requirements do not apply to the manager of the Funds, BNP Paribas Asset Management SAS (the "**Management Company**"), to the extent that its activities described in paragraphs 17 and 18 of the Representations require compliance with the adviser registration requirements and dealer registration requirements (collectively, with the Prospectus Relief and the Registration Relief, the "**Initial Requested Relief**"); and

3. an exemption from the dealer registration requirements of the Legislation[4] so that such requirements do not apply to the first trade in any Units or Shares acquired by Canadian Participants under the Employee Share Offering (the "**First Trade Relief**").

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

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

(b) the 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, New Brunswick, Nova Scotia and Newfoundland and Labrador (the "**Additional Alstom Jurisdictions**"), and

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

Interpretation

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

Representations

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

1. The filer is a corporation formed under the laws of France.

2. The Shares are listed on Eurolist by Euronext Paris and are subject to the rules and regulations of such foreign exchange. The head office of the Filer is located in Levallois Perret, France.

3. The Filer is a reporting issuer under the Legislation and has continuous disclosure obligations in all Jurisdictions, the Additional Alstom Jurisdictions and in Saskatchewan, Manitoba and Prince Edward Island (together with the Jurisdictions and the Additional Alstom Jurisdictions, the "**Reporting Jurisdictions**"). The Filer has no current intention of becoming a reporting issuer in any other Canadian jurisdiction in which it is not currently a reporting issuer.

4. The Filer is a designated foreign issuer within the meaning of National Instrument 71-102 – *Continuous Disclosure and Other Exemptions Relating to Foreign Issuers* ("**NI 71-102**") and is subject to the foreign regulatory requirements of the French Autorité des marchés financiers. Pursuant to NI 71-102, the Filer satisfies its Canadian continuous disclosure requirements by filing the disclosure documents it is required to file under securities laws in France with the applicable Canadian securities regulatory authorities.

5. To the Filer's knowledge, it is not in default of the securities legislation of the Reporting Jurisdictions.

6. The Filer carries on business in Canada through the following affiliated companies: ALSTOM Canada Inc., ALSTOM Hydro Canada Inc., ALSTOM Transportation Information and Security Inc. and General Railway Signal of Canada Ltd. (collectively, the "**Canadian Affiliates**," together with the Filer and other affiliates of the Filer, the "**ALSTOM Group**"). Each of the Canadian Affiliates is a directly or indirectly controlled subsidiary of the Filer and is not, and has no current intention of becoming, a reporting issuer under the Legislation. The Canadian Affiliates are not in default of the Legislation.

7. The head office of the Alstom Group in Canada is located in Montréal, Québec, and the greatest number of employees of Canadian Affiliates are employed in Québec.

[3] Section 25(1)(a) and (c) of the OSA and sections 148 and 149 of the QSA.
[4] Section 25(1)(a) of the OSA and sections 148 and 149 of the QSA.

8. As of the date hereof and after giving effect to the Employee Share Offering, Canadian residents do not and will not beneficially own (which term, for the purposes of this paragraph, is deemed to include all Shares held by the Compartments on behalf of Canadian Participants) more than 10% of the Shares and do not and will not represent in number more than 10% of the total number of holders of the Shares as shown on the books of the Filer.

9. Only persons who are employees of a member of the ALSTOM Group during the subscription period for the Employee Share Offering and who meet other employment criteria (the "**Qualifying Employees**") will be allowed to participate in the Employee Share Offering.

10. As set forth above, the Temporary Fund is and the Principal Classic Compartment is a compartment of a FCPE, which is a shareholding vehicle of a type commonly used in France for the conservation or custodianship of shares held by employee investors, which must be registered with and approved by the Autorité des marchés financiers in France (the "**French AMF**") at the time of its creation. The Compartments are established for the purpose of implementing the Employee Share Offering. There is no current intention for the Compartments to become reporting issuers under the Legislation. Only Qualifying Employees will be allowed to purchase Units of the Compartments and such holdings will be in an amount reflecting the number of Shares held by the Compartments on their behalf.

11. Qualifying Employees will be invited to participate in the Employee Share Offering under the terms of two subscription options: the Classic Plan (the "**Classic Plan**") and the **Two For One Plan** (the "**Free Share Plan**").

12. Under the Classic Plan:

    (a) The Temporary Fund will subscribe for Shares on behalf of the Canadian Participants at a subscription price that is equal to the price calculated as the average of the opening price of the Shares on the 20 trading days preceding the date of the fixing of the subscription price by the Filer's Chief Executive Officer (the "**Chief Executive Officer**") acting upon delegation of authority of the Board of Directors of the Filer (the "**Reference Price**"), less a 20% discount (the "**Subscription Price**").

    (b) The Shares will be held in the Temporary Fund and the Canadian Participant will receive Units in the Temporary Fund.

    (c) After completion of the Employee Share Offering, the Temporary Fund will be merged with the Principal Classic Compartment (subject to the French AMF's approval). Units of the Temporary Fund held by Canadian Participants will be replaced with Units of the Principal Classic Compartment on a *pro rata* basis and the Shares subscribed for under the Classic Plan will be held in the Principal Classic Compartment (the "**Merger**"). The term "**Classic Compartment**" used herein means, prior to the Merger, the Temporary Fund, and following the Merger, the Principal Classic Compartment.

    (d) The Units will be subject to a hold period of approximately five years (the "**Lock-Up Period**"), subject to certain exceptions prescribed by French law (such as a release on death or termination of employment).

    (e) At the end of the Lock-Up Period, a Canadian Participant may:

        (i) redeem his or her Units under the Classic Plan in consideration for the underlying Shares or a cash payment equal to the then market value of such Shares, or

        (ii) continue to hold his or her Units and redeem those Units at a later date.

    (f) In the event of an early unwind resulting from the Canadian Participant exercising one of the exceptions to the Lock-Up Period prescribed by French law and meeting the applicable criteria, a Canadian Participant may redeem Units in consideration for a cash payment equal to the then market value of such Shares.

13. Under the Free Share Plan:

    (a) A Canadian Participant may choose to subscribe for Shares in an amount corresponding to a multiple of 1, 4, 8, 12, 16 or 20 times the Reference Price (such investment amount, the "**Personal Contribution**").

    (b) The Temporary Fund will use the Personal Contribution to subscribe for Shares on behalf of the Canadian Participants at the Subscription Price. Because the Subscription Price reflects a 20% discount on the Reference Price, while the Personal Contribution reflects the Reference Price with no discount, the number of Shares which will be initially contributed to the Classic Compartment under the Free Share Plan will be greater than the multiple corresponding to the Canadian Participant's Personal Contribution.

(c) The Shares will be held in the Temporary Fund and the Canadian Participant will receive Units in the Temporary Fund. After the Merger, the Units in the Temporary Fund will be replaced with Units of the Principal Classic Compartment on a *pro rata* basis and will continue to be subject to the Lock-Up Period.

(d) The Filer will grant to the Canadian Participant the right to receive Shares for free ("**Free Shares**") at the end of the Lock-Up Period, if the Canadian Participant has satisfied the continued employment condition set by the Filer (with certain exceptions such as death, retirement, disability or, subject to approval of the Chief Executive Officer, change of control, sale of business or negotiated termination process). The total number of Shares to which the Canadian Participant would be entitled at the end of the Lock-Up Period (including Shares subscribed with the Personal Contribution and, subject to the employment condition, the Free Shares) will be two times the multiple corresponding to the Canadian Participant's Personal Contribution. The number of Free Shares granted to the Canadian Participant will be the difference between the total number of Shares to which the Canadian Participant would be entitled at the end of the Lock-Up Period and the number of Shares subscribed at the Subscription Price with the Canadian Participant's Personal Contribution.

(e) To reduce negative consequences in the event of a decline in the price of Shares, the employer of the Canadian Participant (the "**Employer**") will provide an indemnity ("**Indemnity**") to the Canadian Participant via the grant of a stock protection right with respect to each Share financed by the Canadian Participant's Personal Contribution and each Free Share granted by ALSTOM to the Canadian Participant. The effect of this Indemnity is that the Canadian Participant is entitled to an indemnity payment by the Employer corresponding to an amount equal to the difference (provided such difference is negative) between (i) the total value of the Shares (including Free Shares) in Euros received by the Canadian Participant at the end of the Lock-Up Period, and (ii) the Canadian Participant's Personal Contribution in Euros. The application of the Indemnity is subject to certain exceptions and special terms, and in such situations, the calculations used to determine the Indemnity may result in a partial instead of full indemnity for the Personal Contribution.

(f) At the end of the Lock-Up Period, a Canadian Participant will be entitled to:

(i) the Units subscribed for under the Free Share Plan, which the participant may (A) redeem in consideration for the underlying Shares or a cash payment equal to the then market value of such Shares, or (B) continue to hold and redeem at a later date,

(ii) the Free Shares granted to the Canadian Participant by the Filer, subject to the continued employment condition, and

(iii) a payment under the Indemnity, if applicable.

(g) In the event of an early unwind resulting from the Canadian Participant exercising one of the exceptions to the Lock-Up Period prescribed by French law and meeting the applicable criteria, a Canadian Participant may redeem Units in consideration for a cash payment equal to the then market value of such Shares. Such participant may remain entitled to the Free Shares to be delivered after the end of the Lock-Up Period, subject to the continued employment condition, and a payment under the Indemnity.

14. Any dividends paid on the Shares held in the Classic Compartment will be contributed to the Classic Compartment and used to purchase additional Shares. To reflect this reinvestment, new Units (or fractions thereof) will be issued. For greater clarity, as the Free Shares will not be delivered until the end of the Lock-Up Period, no dividends will be distributed with respect to the Free Shares during the Lock-Up Period.

15. The Classic Compartment's portfolio will consist almost entirely of Shares of the Filer, but may also consist, from time to time, of cash in respect of dividends paid on the Shares which will be reinvested in Shares as discussed above. The Classic Compartment's portfolio may also include cash or cash equivalents pending investments in the Shares and for the purposes of Unit redemptions.

16. The Management Company is a portfolio management company governed by the laws of France. The Management Company is registered with the French AMF to manage French investment funds. The Management Company is not a reporting issuer under the Legislation.

17. The Management Company's portfolio management activities in connection with the Employee Share Offering and the Classic Compartment is limited to subscribing for Shares from the Filer on behalf of the Canadian Participants and selling such Shares as necessary in order to fund redemption requests.

18. The Management Company is also responsible for preparing accounting documents and publishing periodic informational documents as provided by the rules of the Compartments. The Management Company's activities in no

way affect the underlying value of the Shares and the Management Company will not be involved in providing advice to any Canadian Participants.

19. Shares issued in the Employee Share Offering will be deposited in the Temporary Fund through BNP Paribas Securities Services (the "**Depositary**"), a large French commercial bank subject to French banking legislation.

20. Under French law, the Depositary must be selected by the Management Company from among a limited number of companies identified on a list by the French Minister of the Economy, Finance and Industry and its appointment must be approved by the French AMF. The Depositary carries out orders to purchase, trade and sell securities in the portfolio and takes all necessary action to allow the Classic Compartment to exercise the rights relating to the securities held in its portfolio.

21. Participation in the Employee Share Offering is voluntary, and the Canadian resident Qualifying Employees will not be induced to participate in the Employee Share Offering by expectation of employment or continued employment.

22. The total amount invested by a Canadian Participant in the Employee Share Offering cannot exceed 25% of his or her gross annual remuneration for the 2008 calendar year.

23. None of the Filer, the Management Company, the Canadian Affiliates or any of their employees, agents or representatives will provide investment advice to the Canadian Participants with respect to an investment in the Shares or the Units.

24. The Shares are not currently listed for trading on any stock exchange in Canada and there is no intention to have the Shares so listed. As there is no market for the Shares in Canada, and as none is expected to develop, first trades of Shares by Canadian Participants will be effected through the facilities of, and in accordance with, the rules and regulations of the Euronext Paris.

25. Canadian Participants will be provided with a summary of the terms of the Employee Share Offering and the information notices for the Temporary Fund, the Principal Classic Compartment and the stock protection right (which provides the Indemnity), as applicable. Canadian Participants will also receive a tax notice relating to the Classic Compartment containing a description of Canadian income tax consequences of subscribing to and holding the Units in the Classic Compartment and redeeming Units for cash or Shares at the end of the Lock-Up Period as well as a description of the tax consequences relating to the Free Shares and payments under the Indemnity. This information will be provided in the French or English language, as applicable.

26. Upon request, Canadian Participants may receive copies of the Filer's annual report and/or the French *Document de Référence* filed with the French AMF and a copy of the Classic Compartment's rules (which are analogous to company by-laws). The Canadian Participants will also have access to copies of the continuous disclosure materials relating to the Filer that are furnished to holders of Shares generally.

27. Canadian Participants will receive an initial statement of their holdings under the Classic Plan and Free Share Plan, as well as periodic statements.

28. There are approximately 981 Qualifying Employees resident in Canada, with the largest number of Qualifying Employees in the Province of Québec (719) and the second largest in Ontario (120). Employees are also located in British Columbia, Alberta, New Brunswick, Nova Scotia, and Newfoundland and Labrador. The Qualifying Employees represent in the aggregate less than 1.5% of the number of employees in the ALSTOM Group worldwide.

29. The Filer is not, and none of the Canadian Affiliates are, in default under the Legislation.

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 Initial Requested Relief is granted provided that

1. the first trade in any Units or Shares acquired by Canadian Participants pursuant to this Decision in a Jurisdiction is deemed a distribution or a primary distribution to the public under the Legislation of such Jurisdiction unless the following conditions are met:

(a) the Compartments

(i) were not reporting issuers in any jurisdiction of Canada at the distribution date, or

(ii) are not reporting issuers in any jurisdiction of Canada at the date of the trade;

(b) at the distribution date, after giving effect to the issue of the security and any other securities of the same class or series that were issued at the same time as or as part of the same distribution as the security, residents of Canada

(i) did not own directly or indirectly more than 10% of the outstanding securities of the class or series, and

(ii) did not represent in number more than 10% of the total number of owners directly or indirectly of securities of the class or series; and

(c) the trade is made

(i) through an exchange, or a market, outside of Canada, or

(ii) to a person or company outside of Canada;

2. in Québec, the required fees are paid in accordance with Section 271.6(1.1) of the *Securities Regulation* (Québec); and

It is further the decision of the Decision Makers under the Legislation that the First Trade Relief is granted provided that the conditions set out in paragraphs 1(a), 1(b) and 1(c) under this decision granting the Initial Requested Relief are satisfied.

"Josée Deslauriers"
Director, Corporate Finance
Autorité des marchés financiers

"Mario Albert"
Superintendent, Distribution
Autorité des marchés financiers

2.1.8 ADS inc. – 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).

Montréal, March 6, 2009

Stein Monast s.e.n.c.r.l.
70, rue Dalhousie
Bureau 300
Québec (Québec) G1K 4B2

Attention: Mrs Odette St-Laurent

Re: ADS inc. (the "Applicant") – Application for a decision under the securities legislation of Ontario and Québec (the "Jurisdictions") that the Applicant is not a reporting issuer

Dear Madam:

The Applicant has applied to the local securities regulatory authority or regulator (the "Decision Maker") in each of the Jurisdictions for a decision under the securities legislation (the "Legislation") of the Jurisdictions that the Applicant is not a reporting issuer.

As the Applicant has represented to the Decision Makers that:

(a) the outstanding securities of the Applicant, including debt securities, are beneficially owned, directly or indirectly, by fewer than 15 security holders in each of the Jurisdictions in Canada and fewer than 51 security holders in total in Canada;

(b) no securities of the Applicant are traded on a marketplace as defined in National Instrument 21-101 *Marketplace Operation*;

(c) the Applicant is applying for a decision that 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's status as a reporting issuer is revoked.

"Alexandra Lee"
Manager, Continuous Disclosure
Investment Funds and Continuous Disclosure

2.1.9 Rodocanachi Capital Inc.

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).

March 9, 2009

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

AND

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

AND

IN THE MATTER OF
RODOCANACHI CAPITAL INC.
(the "Filer")

DECISION

Background

The securities regulatory authority or the 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 Part 1A of the *Companies Act* (Quebec) on March 5, 2008 under the name Rodocanachi Capital Inc. / Capital Rodocanachi Inc.

2. The head office of the Filer is located at 1002 Sherbrooke Street, West, 28th Floor, Montreal, Quebec.

3. In connection with its initial public offering (the "Offering"), the Filer filed a final prospectus dated September 24, 2008 (the "Prospectus") with the securities regulatory authorities of the Jurisdictions and British Columbia.

4. Upon issuance of a receipt for the Prospectus on September 25, 2008, the Filer became a reporting issuer in the Jurisdictions and in British Columbia.

5. The Filer is authorized to issue an unlimited number of shares without par value, of which 2,800,000 class A common shares are currently outstanding.

6. The receipt for the Prospectus expired on December 24, 2008. The Filer has discontinued the Offering and has not distributed its securities pursuant to the Prospectus.

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

8. The outstanding securities of the Filer have not changed since it filed the Prospectus.

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

10. The outstanding securities of the Filer, including debt securities, are beneficially owned, directly or indirectly, by 9 security holders all located in Quebec, except for 1, where the Filer has a security holder located in Main, United States.

11. The outstanding securities of the Filer, including debt securities, are beneficially owned, directly or indirectly, by less than 50 security holders in total in Canada.

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

13. The Filer is not in default of any of its obligations under the Legislation as a reporting issuer, except that the Filer has not filed its interim MD&A for the period ended November 30, 2008 as required under *National Instrument 51-102 respecting Continuous Disclosure Obligations*.

14. On February 6, 2009, the Filer issued on news wire a news release announcing that it decided to

discontinue the Offering and that an application was filed with the Jurisdictions to cease to be a reporting issuer.

15. On February 6, 2009, 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 February 16, 2009.

16. On February 20, 2009, the Filer filed through SEDAR a news release announcing that it decided to discontinue the Offering.

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

2.1.10 Acuity Funds Ltd. et al.

Headnote

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

Applicable Legislative Provisions

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

March 6, 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
ACUITY FUNDS LTD.
(the "Filer")**

AND

**IN THE MATTER OF
ACUITY PURE CANADIAN EQUITY FUND AND
ACUITY GLOBAL EQUITY FUND
(the "Terminating Funds") AND
ACUITY CANADIAN EQUITY FUND AND
ACUITY GLOBAL DIVIDEND FUND
(the "Continuing Funds", together with the
Terminating Funds, the "Funds")**

DECISION

Background

The principal regulator in the Jurisdiction has received an application from the Filer for a decision under the securities legislation of the Jurisdiction of the principal regulator (the "**Legislation**") granting approval under section 5.5(1)(b) of National Instrument 81-102 *Mutual Funds* ("**NI 81-102**") to merge each Terminating Fund into the Continuing Fund opposite its name below (the "**Mergers**") (the "**Merger Approval**"):

Terminating Fund	Continuing Fund
Acuity Pure Canadian Equity Fund	Acuity Canadian Equity Fund
Acuity Global Equity Fund	Acuity Global Dividend Fund

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 all of the other provinces and territories of Canada except Nunavut.

Interpretation

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

Representations

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

The Filer

1. The Filer is a corporation governed by the laws of Ontario and is the manager and trustee of the Funds. The head office of the Filer is located in Toronto, Ontario.

2. Acuity Investment Management Inc. ("**AIMI**"), an affiliate of the Filer, is the portfolio adviser of the Funds. AIMI is registered in Ontario as an adviser in the category of investment counsel and portfolio manager.

The Funds

3. Each Fund is:

   (a) an open-end mutual fund trust created under the laws of Ontario and is governed by the terms of a master declaration of trust dated September 1, 2002, as amended (the "**Declaration of Trust**");

   (b) a reporting issuer offering class A and class F units in all provinces and territories of Canada except Nunavut under a simplified prospectus and annual information form dated August 22, 2008, as amended, prepared in accordance with National Instrument 81-101 *Mutual Fund Prospectus Disclosure*; and

   (c) not in default of the securities legislation in any jurisdiction in which the relief is being sought.

4. Each Fund also offers class I units on a private placement basis. Class I units of the Terminating Funds are held exclusively by other investment funds managed by the Filer (the "**Acuity Top Funds**").

5. Unless an exemption has been obtained, each of the Funds follows the standard investment restrictions and practices applicable to the Fund.

6. The net asset value for each class of units of each of the Funds is calculated on a daily basis on each day that The Toronto Stock Exchange is open for trading.

7. As of December 31, 2008, the nets assets under management of the Funds ("AUM") was as set out below:

Terminating Fund	AUM (000s)	Continuing Fund	AUM (000s)
Acuity Pure Canadian Equity Fund	$8,116	Acuity Canadian Equity Fund	$41,853
Acuity Global Equity Fund	$12,124	Acuity Global Dividend Fund	$32,524

The Mergers

8. The Filer believes that, having regard to the relatively small asset base of the Terminating Funds, the Mergers will be beneficial to unitholders of both the Terminating Funds and the Continuing Funds for the following reasons:

   (a) unitholders of both the Terminating Funds and Continuing Funds will enjoy increased economies of scale as part of a larger continuing fund;

   (b) the Mergers will eliminate the administrative and regulatory costs of operating the Terminating Funds each as a separate mutual fund;

   (c) each Continuing Fund will have a portfolio of greater value allowing for increased portfolio diversification opportunities; and

   (d) each Continuing Fund, as a result of its greater size, will benefit from a larger profile in the marketplace.

9. Unitholders of the Terminating Funds will be asked to approve the Mergers at a special meeting of unitholders scheduled to be held on March 12, 2009. The Filer will refrain from voting the class I units of the Terminating Funds held by the Acuity Top Funds as contemplated under section 2.5(6)(a) of NI 81-102. The investment objectives and strategies of the Acuity Top Funds permit them to invest in the applicable Continuing Fund.

10. Implicit in the approval being sought from unitholders of the Terminating Funds for the Mergers is their approval of the corresponding Continuing Fund's fundamental investment objectives, as unitholders of each Terminating Fund will become unitholders of the corresponding Continuing Fund as a result of the Mergers.

11. In relation to the Mergers, each Terminating Fund has complied with its continuous disclosure obligations set forth in Part 11 of National Instrument 81-106 *Investment Fund Continuous Disclosure* by filing on SEDAR a press release, material change report and an amendment to the Terminating Fund's current simplified prospectus.

12. In accordance with the provisions of National Instrument 81-107 *Independent Review for Investment Funds*, the Filer has referred the Mergers to the Funds' Independent Review Committee ("**IRC**") for its review. The IRC has advised the Filer that, after reasonable inquiry, it has concluded that the Mergers do not create any conflict of interest issues that have not been adequately addressed and, on this basis, achieve a fair and reasonable result for the Funds.

13. A management information circular was sent to unitholders of the Terminating Funds on or about February 19, 2009 accompanying the notice of special meeting dated February 12, 2009 (the "**Circular**") which described:

    (a) the tax implications of each Merger;

    (b) the differences between each Terminating Fund and its corresponding Continuing Fund;

    (c) the various ways in which investors can obtain a copy of the annual information form and the management reports of fund performance for the Continuing Funds; and

    (d) the Funds' IRC's conclusion, after reasonable inquiry, that the Mergers do not create any conflict of interest issues that have not been adequately addressed and, on this basis, achieve a fair and reasonable result for the Funds.

14. A copy of the current simplified prospectus and the most recent annual and interim financial statements made public for the Funds were included with the Circular.

15. If approved, each Merger will be structured as follows:

    (a) It is anticipated that substantially all the assets of the Terminating Fund will be transferred to its corresponding Continuing Fund. However, immediately prior to the date of a Merger, if there are any securities in the underlying portfolio of assets attributable to the Terminating Fund that do not meet the investment objectives and investment strategies of its corresponding Continuing Fund (as determined by AIMI), such securities will be sold and converted to cash or cash equivalents. In this limited circumstance, the Terminating Fund may temporarily hold cash or money market instruments and may not be fully invested in accordance with its investment objectives for a brief period of time prior to the relevant Merger.

    (b) The balance of the Terminating Fund's investment portfolio and other assets will be valued and determined at the close of business on the effective date of the relevant Merger in accordance with the Declaration of Trust.

    (c) The Continuing Fund will acquire the investment portfolio and cash and/or cash equivalents referred to above in exchange for units of its corresponding Terminating Fund.

    (d) The Continuing Fund will not assume the liabilities of its corresponding Terminating Fund, and the Terminating Fund will retain sufficient assets to satisfy its estimated liabilities, if any, as of the date of the relevant Merger.

    (e) The units of the Continuing Fund received by its corresponding Terminating Fund under the relevant Merger will have an aggregate net asset value equal to the value of that Terminating Fund's portfolio assets and other assets that the Continuing Fund is acquiring and will be issued at the applicable class net asset value per unit as of the close of business on the effective date of the applicable Merger.

    (f) Each Terminating Fund will distribute to its unitholders a sufficient amount of its net income and net realized capital gains

so that it will not be subject to tax under Part I of the *Income Tax Act* (Canada) for its current taxation year.

(g) The units of the Continuing Fund received by its corresponding Terminating Fund under a Merger will be distributed to unitholders of that Terminating Fund on a dollar-for-dollar and class-by-class basis in exchange for their units in the Terminating Fund.

(h) As soon as reasonably possible following a Merger, the applicable Terminating Fund will be wound up.

16. Upon completion of the Mergers, unitholders of each class of units of a Terminating Fund will hold units of the same class of the corresponding Continuing Fund collectively having the same value as, and having the same sales charge option and remaining deferred sales charge schedule that applied to, their units of the Terminating Fund held prior to the Merger.

17. The portfolio assets of a Terminating Fund to be acquired by its corresponding Continuing Fund will be acceptable to AIMI, the portfolio adviser of that Continuing Fund, and consistent with the Continuing Fund's fundamental investment objective.

18. The cost of effecting the Mergers, consisting primarily of legal, proxy solicitation, brokerage fees (including fees incurred on any required sale of portfolio assets of the Terminating Funds), printing, mailing and regulatory fees, will be borne by the Filer.

19. Unitholders of a Terminating Fund will continue to have the right to redeem units of that Terminating Fund for cash at any time up to the close of business on the business day immediately preceding the effective date of the Merger.

20. Subject to receipt of the Merger Approval and to unitholder approval, each Merger is expected to occur as soon as possible following the special meeting of unitholders scheduled to be held on March 12, 2009.

21. The Merger Approval is required because the Mergers do not satisfy all of the criteria for pre-approved reorganizations and transfers set out in section 5.6 of NI 81-102 because:

(a) contrary to section 5.6(1)(a)(ii), a reasonable person could conclude that the fundamental investment objective of each Terminating Fund is not substantially similar to the fundamental investment objective of its corresponding Continuing Fund; and

(b) contrary to section 5.6(1)(b), the Mergers will not be effected as a "qualifying exchange" or as a tax-deferred transaction as such terms are defined or understood under the *Income Tax Act* (Canada).

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

Decision

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

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

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

2.1.11 Mackenzie Financial Corporation and Counsel Group of Funds Inc.

Headnote

NP 11-203 Process for Exemptive Relief Applications in Multiple Jurisdictions – mutual fund managers granted exemption to pay a participating dealer direct costs incurred relating to a sales communication, investor conference or investor seminar prepared or presented by the participating dealer which has a primary purpose of providing educational information concerning tax or estate planning matters – exemption will also permit a participating dealer to solicit and accept payments of direct costs relating to such sales communications, investor conferences or investor seminars in accordance with subsection 2.2(2) of NI 81-105.

Applicable Legislative Provisions

National Instrument 81-105 Mutual Fund Sales Practices, ss. 5.1(a), 9.1.

March 10, 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
MACKENZIE FINANCIAL CORPORATION
(Mackenzie)

AND

COUNSEL GROUP OF FUNDS INC.
(Counsel)
(collectively, the Filers)

DECISION

Background

The principal regulator in the Jurisdiction has received an application from the Filers for a decision under the securities legislation of the Jurisdiction (the **Legislation**) for relief from subsection 5.1(a) of National Instrument 81-105 *Mutual Fund Sales Practices* (**NI 81-105**) to permit the Filers to pay a participating dealer direct costs incurred by the participating dealer relating to a sales communication, investor conference or investor seminar prepared or presented by the participating dealer (each individually referred to as a **Cooperative Marketing Initiative** and collectively as **Cooperative Marketing Initiatives**) if the primary purpose of the Cooperative Marketing Initiative is to provide educational information concerning tax or estate planning matters (the **Exemption Sought**).

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

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

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

Interpretation

Defined terms contained in National Instrument 14-101 *Definitions*, MI 11-102 and NI 81-105 have the same meaning in this decision unless they are defined in this decision.

Representations

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

1. Mackenzie is a corporation organized under the laws of the Province of Ontario with its head office based in Toronto, Ontario.

2. Counsel is a corporation organized under the laws of the Province of Ontario with its head office based in Mississauga, Ontario.

3. Mackenzie is an indirect wholly-owned subsidiary of IGM Financial Inc. (**IGM**). Counsel is an indirect wholly-owned subsidiary of Investment Planning Counsel Inc. (**IPCI**), and IPCI is majority owned by IGM. Mackenzie and Counsel are affiliates of each other as each of them is an indirect subsidiary of IGM.

4. Mackenzie manages a number of retail mutual funds (the **Mackenzie Funds**) that are qualified for distribution to investors in each of the provinces and territories of Canada (the **Jurisdictions**).

5. Counsel manages a number of retail mutual funds (the **Counsel Funds**, and together with the Mackenzie Funds, the **Funds**) that are qualified for distribution to investors in the Jurisdictions (except for the Province of Quebec).

6. Each of Mackenzie and Counsel is a “member of the organization” (as that term is defined in NI 81-105) of the Funds as each is the manager of the Mackenzie Funds and the Counsel Funds, respectively.

7. The Funds are distributed by participating dealers that are not related to the Filers and by participating dealers that are affiliates of the Filers (the **Affiliated Dealers**).

8. The Affiliated Dealers include: Investors Group Securities Inc., M.R.S Securities Services Inc. and IPC Securities Corporation (each an investment dealer) and IPC Investment Corporation, Investors Group Financial Services Inc., M.R.S. Inc. and M.R.S. Correspondent Corporation (each a mutual fund dealer). The Affiliated Dealers are affiliates of the Filers as they are also indirect subsidiaries of IGM. The Affiliated Dealers may hold, sell, and/or recommend securities of the Funds in their capacity as participating dealers of the Funds.

9. The Filers and other "members of the organization" (as that term is defined in NI 81-105) of the Funds do not encourage the Affiliated Dealers and their representatives to recommend the Funds over unrelated mutual funds.

10. The Filers comply with NI 81-105, in particular Part 5 of NI 81-105, in respect of their marketing and educational practices. Other than as permitted by NI 81-105, the Filers do not provide any participating dealers and their representatives with any incentive for recommending the Funds to investors.

11. Under subsection 5.1(a) of NI 81-105, the Filers are currently permitted to pay a participating dealer direct costs incurred by the participating dealer relating to a Cooperative Marketing Initiative if the primary purpose of the Cooperative Marketing Initiative is to promote, or provide educational information concerning, a mutual fund, the mutual fund family of which the mutual fund is a member, or mutual funds generally.

12. Under subsection 5.2(a) of NI 81-105, the Filers are permitted to sponsor events attended by representatives of participating dealers which have the provision of educational information about, among other things, financial planning, investing in securities or mutual fund industry matters as their primary purpose.

13. Subsection 5.1(a) prohibits the Filers from paying to a participating dealer direct costs incurred by the participating dealer relating to a Cooperative Marketing Initiative where the primary purpose is to provide educational information about tax or estate planning matters.

14. The Filers have expertise in tax and estate planning matters or may retain others with such expertise. In addition to the topics currently permitted under subsection 5.1(a) of NI 81-105, the Filers wish to sponsor Cooperative Marketing Initiatives where the primary purpose of the Cooperative Marketing Initiatives is to provide educational information concerning tax or estate planning matters. The Filers will comply with subsections 5.1(b) – (e) of NI 81-105 in respect of such Cooperative Marketing Initiatives they sponsor.

15. The Filers are of the view that sponsoring Cooperative Marketing Initiatives where the primary purpose is to provide educational information about tax or estate planning matters will benefit investors.

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 in respect of a Cooperative Marketing Initiative the primary purpose of which is to provide educational information concerning tax or estate planning matters:

(i) the Filers do not require any participating dealer to sell any of the Funds or other financial products to investors;

(ii) other than as permitted by NI 81-105, the Filers do not provide participating dealers and their representatives with any financial or other incentives for recommending any of the Funds to investors;

(iii) the materials presented in a Cooperative Marketing Initiative concerning tax or estate planning matters contain only general educational information about tax or estate planning matters;

(iv) each Filer prepares or approves the content of the general educational information about tax or estate planning matters presented in a Cooperative Marketing Initiative it sponsors and selects or approves an appropriately qualified speaker for each presentation about tax or estate planning matters delivered in a Cooperative Marketing Initiative;

(v) any general educational information about tax or estate planning matters presented in a Cooperative Marketing Initiative contains an express statement that the content presented is for information purposes only, and is not providing advice to the attendees of the investor conference or investor seminar or the recipients of the sales communication, as applicable;

(vi) any general educational information about tax or estate planning matters presented in a Cooperative Marketing Initiative contains an indication of the types of professionals who may generally be qualified to provide advice on the subject matter of the information presented; and

(vii) this Decision shall cease to be operative two years from the date of this Decision.

"Suresh Thakrar"
Commissioner
Ontario Securities Commission

"Paul Bates"
Commissioner
Ontario Securities Commission

2.1.12 Sprott Asset Management Inc. and Sprott Gold Bullion Fund

Headnote

MI 11-102 and NP 11-203 – exemption granted to gold bullion fund from s. 2.3(e) of NI 81-102 – exemption granted because fund will be a gold bullion fund whose investment objective is to invest directly in gold – fund's prospectus will not be consolidated with prospectuses of manager's other funds – fund will not invest in securities of other issuers other than non-redeemable investment funds that invest directly in gold – fund's prospectus discloses risks associated with investing in a gold bullion fund.

Applicable Legislative Provisions

National Instrument 81-102 Mutual Funds, ss. 2.3(e), 19.1.

March 10, 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
SPROTT ASSET MANAGEMENT INC.
(the Filer)**

AND

**SPROTT GOLD BULLION FUND
(the Fund)**

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 an exemption, pursuant to section 19.1 of National Instrument 81-102 *Mutual Funds* (**NI 81-102**), from clause 2.3(e) of NI 81-102 to permit the Fund to invest up to 100% of its net assets, taken at the market value at the time of purchase, in gold and/or permitted gold certificates (as such term is defined in NI 81-102) (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, Québec, Nova Scotia, New Brunswick, Prince Edward Island, Newfoundland and Labrador, Northwest Territories, the Yukon Territory and Nunavut Territory, where applicable.

Interpretation

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

Representations

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

The Fund

1. The Filer is a corporation incorporated under the laws of Ontario with its head office in Toronto, Ontario. The Filer will act as the manager and portfolio adviser for the Fund.

2. The Fund will be an open-end mutual fund trust established pursuant to a Trust Agreement governed under the laws of Ontario.

3. Neither the Filer nor the Fund is in default of securities legislation in any province or territory of Canada.

4. A preliminary simplified prospectus in respect of the Fund was filed via SEDAR under project No. 1369472 on January 28, 2009. Once a final prospectus for the Fund is filed and receipt is obtained, the Fund will be a "reporting issuer" under the Legislation or equivalent in each province and territory of Canada.

5. The investment objective of the Fund is to seek to provide a secure convenient alternative for investors seeking to hold gold for long-term appreciation and portfolio diversification. The Fund will invest primarily in unencumbered, fully allocated gold bullion, permitted gold certificates, and/or closed-end funds, the underlying interest of which is gold. The Fund may also invest a portion of its assets in cash, money market instruments, and/or treasury bills.

6. The Fund will not invest in securities of issuers that produce gold.

7. The Filer will include units of the Fund held by other funds that it manages when assessing such other funds' compliance with s. 2.3(e) of NI 81-102 or conditions contained in a decision granting such other funds an exemption from s. 2.3(e).

Bullion Held by the Fund

8. All gold bullion purchased by the Fund will be certified either "London Good Delivery", "COMEX Good Delivery" or "Zurich Good Delivery", and will be insured by the custodian or the sub-custodian to the full market value against destruction, disappearance or misappropriation, other than destruction, disappearance or misappropriation caused by war, nuclear incident, or government confiscation.

9. Pursuant to a sub-custodian agreement between Royal Trust Corporation of Canada and Bank of Nova Scotia dated October 8, 2003, as amended, The Bank of Nova Scotia will be the sub-custodian of the Fund responsible for storage and handling of gold bullion for the Fund.

10. All bullion held by the Fund in bar form will be physically held in the vaults of the Fund's custodian or sub-custodian in a location in Canada.

11. The Fund's auditors will perform a physical count once every year of all bullion held by the Fund in bar form.

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, so long as:

(a) the simplified prospectus of the Fund contains disclosure regarding the unique risks associated with an investment in the Fund including the risk that direct purchases of gold by the Fund may generate higher transaction and custody costs than other types of investments, which may impact the performance of the Fund; and

(b) the simplified prospectus of the Fund, including each renewal, will not be combined with the simplified prospectus and annual information form of any other mutual fund that the Filer manages.

"Rhonda Goldberg"
Manager, Investment Funds

2.2 Orders

2.2.1 FactorCorp Inc. et al. – ss. 127, 144

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

AND

IN THE MATTER OF
FACTORCORP INC.,
FACTORCORP FINANCIAL INC.,
AND MARK IVAN TWERDUN

TEMPORARY ORDER
(Sections 127 and 144 of the Act)

WHEREAS FactorCorp Inc. ("FactorCorp") was an Ontario corporation registered under Ontario securities law as a Limited Market Dealer ("LMD");

AND WHEREAS FactorCorp Financial Inc. ("FactorCorp Financial") was an Ontario corporation that was not a reporting issuer and was not registered with the Commission;

AND WHEREAS Mark Twerdun ("Twerdun") was the controlling shareholder and sole director and officer of both FactorCorp and FactorCorp Financial;

AND WHEREAS the Commission issued an order on July 6, 2007 (the "Temporary Order");

AND WHEREAS on July 27, 2007 the Commission varied the Temporary Order and ordered pursuant to subsection 127(1) of the *Securities Act*, R.S.O. 1990, c. S.5 (as amended) (the "Act") that:

(a) pursuant to paragraph 127(1)2, all trading in any securities by and of the respondents cease except that Twerdun is permitted to trade, in his name only, in securities that have not been issued by FactorCorp or FactorCorp Financial, for his own account or for the account of a registered retirement savings plan or registered retirement income fund (as defined in the *Income Tax Act* (Canada)) in which he has legal and beneficial ownership and interest;

(b) pursuant to paragraph 127(1)3 of the Act, but subject to paragraph (a) above, all exemptions contained in Ontario securities law do not apply to the respondents; and

(c) pursuant to paragraph 127(1)1 of the Act, the following terms and conditions are imposed on the registration of FactorCorp and Twerdun, effective immediately:

   (i) Twerdun, FactorCorp and any company controlled, directly or indirectly, by Twerdun, and FactorCorp including but not limited to FactorCorp Financial, are prohibited from making repayments and participating in or acquiescing to any act, directly or indirectly, in furtherance of a redemption of securities of FactorCorp and FactorCorp Financial;

   (ii) Twerdun and FactorCorp are prohibited from transferring their controlling interest in any company including but not limited to FactorCorp Financial; and

   (iii) Twerdun and FactorCorp shall cause FactorCorp and FactorCorp Financial to retain a monitor (the "Monitor"), selected by Staff, by 5:00 p.m. Eastern Time on August 1, 2007. The Monitor's primary objective will be to review the business, operations and affairs of FactorCorp Financial, FactorCorp and any company controlled, directly or indirectly, by Twerdun, FactorCorp and FactorCorp Financial involved with the issuance of securities and related proceeds. The Monitor shall be retained on terms to be established by Staff.

AND WHEREAS the Temporary Order, as varied on July 27, 2007, was further varied on October 26, 2007 to apply to Twerdun only;

AND WHEREAS the Temporary Order, as varied, was extended by Orders of the Commission dated: August 27, 2007, September 26, 2007, October 26, 2007, December 6, 2007, February 13, 2008, April 15, 2008, June 16, 2008, August 29, 2008

and January 5, 2009. Pursuant to the January 5, 2009 Order, the Temporary Order, as varied, was extended to expire on March 5, 2009, unless further extended by the Commission;

AND WHEREAS on August 1, 2007 KPMG Inc. ("KPMG") was appointed Monitor by FactorCorp and FactorCorp Financial pursuant to the Temporary Order, as varied;

AND WHEREAS by Order of the Superior Court of Justice dated October 17, 2007, KPMG was appointed Receiver and Manager (the "Receiver") over the assets, undertakings and properties of FactorCorp and FactorCorp Financial and by Order of the Superior Court of Justice dated October 30, 2007, the appointment of the Receiver was confirmed and extended until further Order of the Court;

AND WHEREAS by Order of the Superior Court of Justice dated March 25, 2008, FactorCorp and FactorCorp Financial were adjudged bankrupt, a Bankruptcy Order was made against FactorCorp and FactorCorp Financial and KPMG Inc. was appointed Trustee of the Estates of FactorCorp and FactorCorp Financial (the "Trustee");

AND WHEREAS the Commission has previously considered various Reports of the Receiver acting as Monitor and in its capacity as Receiver, pleadings and the endorsements of the Honourable Justice Mossip, dated September 21, 2007, in Court File No. CV-06-00227-00, and the endorsement of the Honourable Justice Morawetz, dated March 25, 2008, in Court File No. 31-OR-207506 T, as previously filed, and the submissions of the parties;

AND WHEREAS on March 5, 2009, the Commission considered the Report of the Trustee's Preliminary Administration of the Estates of FactorCorp and FactorCorp Financial dated April 24, 2008, the Trustee's First Report dated December 4, 2008 and a Brief of Correspondence dated March 4, 2009 and has heard submissions from counsel for Staff and Twerdun;

AND WHEREAS Staff of the Commission consent to, and Twerdun, through counsel, does not oppose, the making of this Order;

AND WHEREAS the Commission is of the opinion that it is in the public interest to continue the Temporary Order, as previously varied, for the period expiring on April 8, 2009, unless further extended by the Commission;

AND WHEREAS at the return of this matter on April 8, 2009 at 10:00 a.m., Staff will advise as to their intention to proceed in this matter;

AND WHEREAS by Authorization Order made April 1, 2008, pursuant to subsection 3.5(3) of the Act, any one of W. David Wilson, James E. A. Turner, Lawrence E. Ritchie, Paul K. Bates or David L. Knight, acting alone, is authorized to exercise the powers of the Commission under the Act, subject to subsection 3.5(4) of the Act, to make orders under section 17 of the Act;

IT IS ORDERED that the Temporary Order, as varied on October 26, 2007, be continued for the period expiring on April 8, 2009 at 10:00 a.m., unless further extended by the Commission, as follows:

(a) pursuant to paragraph 127(1)2, all trading in any securities by Twerdun cease except that Twerdun is permitted to trade, in his name only, in securities that have not been issued by FactorCorp or FactorCorp Financial, for his own account or for the account of a registered retirement savings plan or registered retirement income fund (as defined in the Income Tax Act (Canada)) in which he has legal and beneficial ownership and interest; and

(b) pursuant to paragraph 127(1)3 of the Act, but subject to paragraph (a) above, all exemptions contained in Ontario securities law do not apply to Twerdun; and

(c) pursuant to paragraph 127(1)1 of the Act, the following terms and conditions are imposed on the registration of Twerdun, effective immediately:

   (i) Twerdun, and any company controlled, directly or indirectly, by him, are prohibited from making repayments and participating in or acquiescing to any act, directly or indirectly, in furtherance of a redemption of securities of FactorCorp and FactorCorp Financial without the prior written consent of the Receiver and/or Trustee; and

   (ii) Twerdun is prohibited from transferring his controlling interest in any company including but not limited to FactorCorp and FactorCorp Financial.

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

"Lawrence E. Ritchie"
Vice-Chair

2.2.2 Adrian Samuel Leemhuis et al. – s. 127(8)

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

AND

**IN THE MATTER OF
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.**

**ORDER
(s. 127(8))**

WHEREAS on April 22, 2008, the Ontario Securities Commission (the “Commission”) issued a Temporary Order pursuant to section 127(5) of the *Securities Act*, R.S.O. 1990, c. S.5, as amended (the “Act”) that all trading in securities of and all trading of securities by Future Growth Group Inc., Future Growth Fund Limited, Future Growth Global Fund Limited, Future Growth Market Neutral Fund Limited, and Future Growth World Fund (“The Funds”) shall cease, that all trading of securities by Adrian Leemhuis shall cease and that any exemptions contained in Ontario securities law do not apply to the Respondents;

AND WHEREAS on May 1, 2008, the Commission issued a Temporary Order pursuant to section 127(5) of the Act that all trading in securities by ASL Direct Inc. (“ASL”) shall cease and that any exemptions contained in Ontario securities law do not apply to ASL;

AND WHEREAS on May 2, 2008, the Commission issued an Amended Notice of Hearing to consider the extension of the Temporary Orders dated April 22, 2008 and May 1, 2008 (collectively the “Temporary Orders”) to be held on May 6, 2008 at 2:30 p.m.;

AND WHEREAS on May 6, 2008 the Commission held a hearing and counsel for Staff and counsel for the Respondents attended before the Commission and confirmed there was no objection to adjourning until May 16, 2008, and the Commission ordered that pursuant to section 127(8) the Temporary Orders be extended to May 16, 2008 and the hearing to consider the extension of these orders be adjourned to May 16, 2008;

AND WHEREAS the Commission held a hearing on May 16, 2008 and counsel for Staff and counsel for the Respondents attended before the Commission and at that time the Commission made an order continuing the Temporary Orders until May 26, 2008;

AND WHEREAS the Commission held a hearing on May 26, 2008 and counsel for Staff and counsel for the Respondents attended before the Commission and the Commission made an order continuing the Temporary Orders until June 17, 2008;

AND WHEREAS on June 16, 2008 the Commission made an Order that: continued the Temporary Orders until July 10, 2008; adjourned the hearing of the matter until July 9, 2008; and, varied the Temporary Order made April 22, 2008 to permit trading of the securities held by The Funds by Marvin & Palmer;

AND WHEREAS the Commission held a hearing on July 9, 2008 and counsel for Staff and counsel for the Respondents attended before the Commission and the Commission made an order continuing the Temporary Orders until October 27, 2008;

AND WHEREAS the Commission held a hearing on October 27, 2008 and counsel for Staff and counsel for the Respondents attended before the Commission and the Commission made an order continuing the Temporary Orders until December 1, 2008;

AND WHEREAS, pursuant to an Order of the Honourable Mr. Justice Morawetz of the Ontario Superior Court of Justice (Commercial Court) dated November 4, 2008, KPMG Inc. was appointed as Receiver and Manager over the property and affairs of ASL;

AND WHEREAS the Commission held a hearing on December 1, 2008 and the Commission was advised that counsel for Staff and counsel for KPMG Inc., in its capacity as Receiver and Manager of ASL, consented to the making of the order with respect to ASL and counsel for the remaining Respondents did not oppose the making of this Temporary Order; the Commission made an order continuing the Temporary Orders until March 3, 2009;

AND WHEREAS the Commission held a hearing on March 3, 2009 and counsel for Staff and counsel for the Respondents attended before the Commission and the Respondents, having confirmed that they were not objecting to the Order, the Commission made an order continuing the Temporary Order made on April 22, 2008, as varied, by the Order of June 16, 2008, until June 3, 2009 at 10 a.m.;

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 Temporary Order dated April 22, 2008, as amended, extended on May 6, 2008, on May 26, 2008, June 16, 2008, July 9, 2008, October 27, 2008 and December 1, 2008 is further extended to June 3, 2009 at 10 a.m.;

AND IT IS FURTHER ORDERED that the Temporary Order against ASL dated May 1, 2008, extended on May 6, 2008, on May 26, 2008, June 16, 2008 and October 27, 2008 and December 1, 2008 is no longer extended;

AND IT IS FURTHER ORDERED that the hearing to consider the extension of the Temporary Order dated April 22, 2008 is adjourned to June 3, 2009 at 10 a.m.

DATED at Toronto this 3rd day of March, 2009.

"Suresh Thakrar"

"Margot C. Howard"

2.2.3 Goldman, Sachs & Co. – s. 6.1 of OSC Rule 91-502 Trades in Recognized Options

Headnote

Application to the Director for an exemption, pursuant to section 6.1 of OSC Rule 91-502 – Trades in Recognized Options (Rule 91-502), exempting the Applicant and its Representatives from the proficiency requirements in section 3.1 of Rule 91-502 for trades in commodity futures options. It is a condition of the exemption that the Applicant and its Representatives maintain their respective registrations permitting them to trade as agent in, or give advice in respect of equity options in the United States.

Rules Cited

Ontario Securities Commission Rule 91-502 Trades in Recognized Options, ss. 3.1, 6.1.

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

AND

IN THE MATTER OF
GOLDMAN, SACHS & CO.

ORDER
(Section 6.1 of OSC Rule 91-502)

UPON the application (the **Application**) of Goldman, Sachs & Co. (the **Applicant**) to the Ontario Securities Commission (the **Commission**) for an order pursuant to section 6.1 of OSC 91-502 *Trades in Recognized Options* (**OSC Rule 91-502**) exempting the Applicant and its directors, officers and employees that comply with the proficiency requirements to trade as agent in, or give advice in respect of equity options under United States securities laws, have passed the options proficiency examination administered by the Financial Industry Regulatory Authority (**FINRA**) and trade as agent in, or give advice in respect of equity options in the United States (the **Representatives**) from the proficiency requirement in section 3.1 of OSC Rule 91-502 in connection with the Applicant's registration as a dealer in the category of limited market dealer;

AND UPON the Applicant having represented to the Director that:

1. The Applicant is a partnership formed under the laws of the state of New York in the United States. The head office of the Applicant is located in New York, New York.

2. The Applicant is a wholly-owned subsidiary of The Goldman Sachs Group, Inc. (**Goldman Sachs**) and is the principal U.S. broker-dealer affiliate of Goldman Sachs in the United States.

3. The Applicant is registered with the Commission as a dealer in the categories of limited market dealer and international dealer and as an international adviser. The Applicant is also registered as an international adviser or the equivalent thereof in Alberta, British Columbia, Manitoba, Quebec, Saskatchewan and Prince Edward Island.

4. The Applicant is registered with the United States Securities and Exchange Commission (the **SEC**) as a broker-dealer and as an investment adviser and is a member of FINRA. The Applicant is also registered as a futures commission merchant with the United States Commodity Futures Trading Commission and is a member of the United States National Futures Association. The Applicant is a direct member of all stock exchanges and commodity futures exchanges in the United States.

5. The Applicant and its Representatives are authorized by the SEC and FINRA trade as agent in, or give advice in respect of equity options in the United States.

6. The Applicant executes, clears, and advises in respect of trades in securities, futures and options on behalf of customers on exchanges globally either directly or through affiliated or unaffiliated member firms.

7. The Applicant proposes to, among other things, execute and clear trades in respect of recognized options and act as agent on behalf of accredited investors and institutional clients in Ontario and to its permitted clients as defined in OSC Rule 35-502 *Non-Resident Registrants*.

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

AND UPON the Director being satisfied it would not be prejudicial to the public interest to do so,

IT IS ORDERED that the Applicant and its Representative be exempt from the requirements in section 3.1 of OSC Rule 91-502 provided that the Applicant and its Representatives maintain their respective registration in good standing with the SEC and FINRA which permit the Applicant and its Representative to trade as agent in, or give advice in respect of equity options in the United States.

February 10, 2008

"Susan Silma"
Director, Compliance and Registrant Regulation

2.2.4 Kwok-On Aloysius Lo – 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
KWOK-ON ALOYSIUS LO**

**ORDER
(Sections 127 and 127.1)**

WHEREAS on March 2, 2009 the Commission issued a Notice of Hearing pursuant to sections 127 and 127.1 of the *Securities Act* (the "Act") in respect of Kwok-On Aloysius Lo's trading in the shares of 8 listed securities;

AND WHEREAS on March 2, 2009, Staff of the Commission filed a Statement of Allegations;

AND WHEREAS Kwok-On Aloysius Lo and Staff of the Ontario Securities Commission entered into a settlement agreement dated March 2, 2009 (the "Settlement Agreement") in relation to the matters set out in the Statement of Allegations;

AND WHEREAS the Commission issued a Notice of Hearing dated March 2, 2009 setting out that it proposed to consider the Settlement Agreement;

UPON reviewing the Settlement Agreement, the Notice of Hearing, the Statement of Allegations, and upon considering submissions of Staff of the Commission and of counsel for Kwok-On Aloysius Lo;

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

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

(a) the settlement agreement is approved;

(b) the Respondent is prohibited from becoming a registrant under Ontario securities law for a period of 10 years commencing on the date of the Commission's order;

(c) the Respondent is prohibited from trading or acquiring securities for a period of 5 years commencing on the date of the Commission's order, subject to the exception that the Respondent will be permitted to trade in one RRSP account in his own name (which he will identify in writing to the Staff of the Commission), provided that the trades in the RRSP account are limited to trades in mutual fund units, guaranteed investment certificates, treasury bills, debt instru-

ments that cannot be converted (directly or indirectly) into shares or securities listed on the Toronto Stock Exchange or New York Stock Exchange;

(d) the exemptions contained in Ontario securities law do not apply to the Respondent for a period of 5 years commencing on the date of the Commission's order;

(e) the Respondent pay disgorgement of $18,641.00, to be allocated to or for the benefit of third parties under s. 3.4(2)(b) of the Act; and

(f) the Respondent pay the Commission's costs of the investigation in the amount of $5,000.00.

Dated at Toronto, Ontario this 5th day of March 2009

"Lawrence E. Ritchie"

"Carol S. Perry"

2.2.5 Uranium308 Resources Inc. 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
URANIUM308 RESOURCES INC.,
URANIUM308 RESOURCES PLC.,
MICHAEL FRIEDMAN, GEORGE SCHWARTZ,
PETER ROBINSON, ALAN MARSH SHUMAN, AND
INNOVATIVE GIFTING INC.

ORDER
(Section 127)

WHEREAS on February 20, 2009, the Ontario Securities Commission (the "Commission") issued a temporary cease trade order pursuant to subsections 127(1) and 127(5) of the *Securities Act*, R.S.O. 1990, c. S.5, as amended (the "Act") ordering: that all trading in securities by Uranium308 Resources Inc. shall cease and that all trading in Uranium308 Resources Inc. securities shall cease; that all trading in securities by Uranium308 Resources Plc. shall cease and that all trading in Uranium308 Resources Plc. securities shall cease; that all trading in securities by Innovative Gifting Inc. shall cease; and, that Michael Friedman, Peter Robinson, George Schwartz, and Alan Marsh Shuman cease trading in all securities (the "Temporary Order");

AND WHEREAS, on February 20, 2009, the Commission ordered that the Temporary Order shall expire on the 15th day after its making unless extended by order of the Commission;

AND WHEREAS on February 23, 2009 the Commission issued a Notice of Hearing to consider, among other things, the extension of the Temporary Order, to be held on March 6, 2009 at 10:00 a.m;

AND WHEREAS the Notice of Hearing sets out that the Hearing is to consider, inter alia, whether, in the opinion of the Commission, it is in the public interest, pursuant to subsections 127 (7) and (8) of the Act, to extend the Temporary Order until the conclusion of the hearing, or until such further time as considered necessary by the Commission;

AND WHEREAS on March 6, 2009, a hearing was held before the Commission and Michael Friedman and Innovative Gifting Inc. were represented by counsel and counsel advised the Commission that they were not opposed to the extension of the Temporary Order;

AND WHEREAS on March 6, 2009, Uranium308 Resources Inc., Uranium308 Resources Plc., Alan Marsh Shuman, Peter Robinson, and George Schwartz did not appear before the Commission to oppose Staff of the Commission's ("Staff") request for the extension of the Temporary Order;

AND WHEREAS the Commission is satisfied that Staff has taken reasonable efforts to serve all of the respondents with copies of the Temporary Order, the Notice of Hearing, and the Evidence Brief of Staff as evidenced by the Affidavit of Kathleen McMillan, sworn on March 5, 2009, and filed with the Commission;

AND WHEREAS the Panel considered the evidence and submissions before it;

AND WHEREAS the Commission is of the opinion that, in the absence of a continuing cease-trade order, the length of time required to conclude a hearing could be prejudicial to the public interest;

AND WHEREAS the Commission is of the opinion that it is in the public interest to extend the Temporary Order;

IT IS HEREBY ORDERED, pursuant to subsection 127 (8) of the Act that the Temporary Order is extended to July 13, 2009; and,

IT IS FURTHER ORDERED that the hearing in this matter is adjourned to July 10, 2009, at 10:00 a.m.

DATED at Toronto this 6th day of March, 2009

"Suresh Thakrar"

"Carol S. Perry"

2.2.6 Teodosio Vincent Pangia and Transdermal Corp. – s. 127(7)

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

AND

IN THE MATTER OF
TEODOSIO VINCENT PANGIA
AND TRANSDERMAL CORP.

TEMPORARY ORDER
Section 127(7)

WHEREAS on February 23, 2009, the Ontario Securities Commission (the "Commission") ordered pursuant to sections 127(1) and 127(5) of the *Securities Act*, R.S.O. 1990, c. S.5, as amended (the "Act") that immediately for a period of 15 days from the date thereof: (a) all trading in securities by Transdermal Corp. ("Transdermal") shall cease and that all trading in securities of Transdermal shall cease; and (b) all trading in securities by Teodosio Vincent Pangia ("Pangia") shall cease (the "Temporary Order");

AND WHEREAS on February 25, 2009, the Commission issued a Notice of Hearing and Statement of Allegations in this matter;

AND WHEREAS Transdermal does not oppose the continuation of the Temporary Order until April 7, 2009;

AND WHEREAS Pangia was aware of Staff's motion to extend the Temporary Order but did not appear;

AND UPON HEARING submissions from counsel for Staff of the Commission and from counsel for Transdermal;

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

IT IS ORDERED THAT the Temporary Order is continued until April 8, 2009, or until further order of the Commission;

AND IT IS FURTHER ORDERED THAT this matter is adjourned until April 7, 2009 at 2:00 pm.

DATED at Toronto this 9th day of March, 2009.

"Lawrence E. Ritchie"

"Carol S. Perry"

2.2.7 CoolBrands International Inc. et al. – s. 144

Headnote

Section 144 – Revocation of a cease trade order – Issuer subject to a cease trade order as a result of its failure to file.

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
CERTAIN DIRECTORS, OFFICERS AND INSIDERS
OF COOLBRANDS INTERNATIONAL INC.
(BEING THE PERSONS LISTED IN
SCHEDULE "A" HERETO)
(the Applicants)**

**ORDER
(Section 144)**

WHEREAS, on December 13, 2006 the Ontario Securities Commission (the Commission) made an order under paragraph 2 and paragraph 2.1 of subsection 127(1) of the Act that all trading in and acquisitions of securities of CoolBrands International Inc. (the Corporation) whether direct or indirect, by any of the persons listed in Schedule A annexed thereto, shall cease until two full business days following the receipt by the Commission of all filings the Corporation is required to make under Ontario securities law, or until further order of the Director (the MCTO);

AND WHEREAS the Corporation and the Applicants have applied to the Commission for a revocation of the MCTO pursuant to section 144 of the Act;

AND UPON the Corporation and the Applicants having represented to the Commission that:

1. The Corporation, formerly a Nova Scotia company, was continued under the *Canada Business Corporations Act* on March 27, 2006;

2. The Corporation is a reporting issuer or the equivalent under the securities legislation of the Provinces of Ontario, British Columbia, Alberta, Manitoba, Saskatchewan, Quebec, New Brunswick, Nova Scotia, Prince Edward Island and Newfoundland and Labrador. The Corporation is not a reporting issuer in any other jurisdiction in Canada;

3. Pursuant to articles of amendment filed by the Coporation on May 31, 2007, the authorized capital of the Corporation consists of an unlimited number of common shares, of which 56,075,433 common shares have been issued and are outstanding;

4. The Corporation's common shares are listed for trading on The Toronto Stock Exchange;

5. The MCTO was issued by the Commission because the Corporation failed to file the following continuous disclosure materials required by Ontario securities law (the Initial Default):

   a. Audited annual financial statements for the year ended August 31, 2006 (the 2006 annual statements);

   b. Management's discussion and analysis relating to the audited annual financial statements for the year ended August 31, 2006; and

   c. Annual information form for the year ended August 31, 2006;

6. The Corporation filed its audited annual financial statements for the year ended August 31, 2006 and Management's Discussion and Analysis (MD&A) as required by National Instrument 51-102 *Continuous Disclosure Obligations* (NI 51-102) on the System for Electronic Document Analysis and Retrieval (SEDAR) on January 29, 2007. The Corporation also filed on SEDAR its annual information form as required by NI 51-102 for the year ended August 31, 2006 on February 28, 2007;

7. However, the Corporation filed and subsequently withdrew the annual certificates required by Multinational Instrument 52-109 *Certification of Disclosure in Issuers' Annual and Interim Filings* (MI 51-102) for the financial year ended August 31, 2006. The Corporation advised that the annual certificates had been filed in error;

8. The Corporation subsequently also failed to file the interim certificates required by MI 52-109 relating to the following interim periods: (i) the three months ended November 30, 2006; (ii) the six months ended February 28, 2007 and (iii) the nine months ended May 31, 2007;

9. Since the imposition of the MCTO, the Corporation has filed the following documents on SEDAR:

   (a) audited annual financial statements for the financial years ended August 31, 2007 and 2008; Management's Discussion and Analysis (MD&A) as required by under NI 51-102 for the financial years ended August 31, 2007 and 2008 and all related annual certificates required by MI 52-109 (filed

on November 29, 2007 and October 29, 2008);

(b) annual information forms as required by NI 51-102 for both 2007 and 2008;

(c) interim unaudited financial statements, interim MD&A and related interim certificates as required under MI 52-109 for the following financial periods: the three months ended November 30, 2007 (filed on January 14, 2008); the six months ended February 28, 2008 (filed on April 3, 2008); the nine months ended May 31, 2008 (filed on June 26 2008); and the three months ended November 30, 2008 (filed December 18, 2008); and

(d) 2006, 2007 and 2008 annual reports and management information circulars, respectively filed on March 5, 2007; February 6, 2008; and February 4, 2009;

10. While the Corporation has now filed all documents that were the subject of the Initial Default, the Corporation has not filed on SEDAR: (i) annual certificates required by MI 52-109 for the financial year ended August 31, 2006; and (ii) interim certificates required by MI 52-109 relating to its unaudited interim financial statements for each of the interim periods of fiscal 2007 (the Default Certificates);

11. The Default Certificates were not filed by the Corporation because the Corporation's chief financial officer at that time was concerned about internal control weaknesses pertaining to certain businesses then operated by the Corporation's direct and indirect subsidiaries. Despite these deficiencies, the Corporation's management and audit committee concluded that the Corporation's disclosure controls and procedures were sufficiently effective to ensure that the information required to be disclosed by the Corporation in its regulatory filings was properly recorded, processed, summarized, and reported to the Corporation's management.

12. Before and during fiscal 2007, the Corporation disposed of or closed substantially all of the businesses of its subsidiaries in which the internal control weaknesses had been identified. While historically the Corporation business consisted of marketing and selling a broad range of ice creams and frozen snacks, the Corporation has downsized so that its principal operations today consist of the management of its cash resources, reviewing and considering potential opportunities to invest such cash resources.

13. As a result of the Corporation's downsizing, the internal control weaknesses previously identified are no longer relevant, as they related to businesses that are no longer part of its operations.

14. Due to: (a) the length of time that has elapsed since the date of the MCTO; (b) the significant change in the business of the Corporation outlined above which has resulted in the Corporation no longer owning the businesses which contained the weaknesses which were the cause of the failure to file the certificates; and (c) the fact that the chief financial officer of the Corporation who was employed for the 2006 financial year and for the first and second quarters of the 2007 financial year (the periods relating to three of the unfiled certificates) is no longer employed by the Corporation, it is impractical, and the Corporation feels that it will never be in a position, to file the Default Certificates;

15. The Corporation's annual financial statements for the year ended August 31, 2006 were audited, although officers' certificates were not provided in connection therewith. The auditors provided unqualified opinions for the 2006, 2007 and 2008 financial years, covering the entire period under consideration. The Corporation has not restated any results and is not aware of any material misrepresentations of financial information for the periods for which the certificates were not provided;

16. Except for the Default Certificates, the Corporation is not in default of any of its obligations as a reporting issuer under the Act or the rules and regulations made pursuant thereto;

17. The Corporation is now substantially up-to-date with its continuous disclosure obligations and has paid all outstanding participation fees, filing fees and late fees owing to the Commission;

18. The Corporation believes that, given the fact that the Corporation has filed on SEDAR all annual and interim financial statements required by NI 51-102 and related certificates as required by MI 52-109 since the filing of its audited annual financial statements for the year ended August 31, 2007, there is sufficient information available to investors to understand the financial position of the Corporation;

19. The Corporation's SEDAR and SEDI profiles are up-to-date;

20. Due to the factors identified in representation 14, the Corporation is unable to file the Default Certificates;

21. Given that the Corporation is unable to provide the Default Certificates, the Applicants cannot rely on the MCTO to expire pursuant to its terms.

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

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

AND WHEREAS the Director is satisfied that it would not be prejudicial to the public interest to revoke the MCTO;

IT IS ORDERED, pursuant to section 144 of the Act, that the MCTO is revoked.

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

"Jo-Anne Matear"
Assistant Manager, Corporate Finance

APPENDIX A

MICHAEL SERRUYA
DAVID J. STEIN
AARON SERRUYA
ROMEO DEGASPERIS
GARRY MACDONALD
RONALD W. BINNS
ROBERT E. BAKER
BETH L. BRONNER
L. JOSHUA SOSLAND
WILLIAM MCMANAMAN
GARY P. STEVENS
TIMOTHY TIMM
JOHN R. LESAUVAGE
CRAIG HETTRICH
THOMAS J. LAVAN
DAN HESCHKE
FRANCIS ORFANELLO
MATTHEW SMITH
DAVID M. SMITH

2.2.8 Société Générale S.A. et al. – ss. 3.1(1), 80 of the CFA

Headnote

Non-resident advisers exempted from adviser registration requirement in subsection 22(1)(b) of the Commodity Futures Act (CFA) where the non-resident acts as an adviser to mutual funds or non-redeemable investment funds in respect of trading in certain commodity futures contracts and commodity futures options – Contracts and options are primarily traded on commodity futures exchanges outside of Canada and primarily cleared outside of Canada – Funds are established outside of Canada, but may distribute their securities to certain Ontario residents.

Exemption subject to conditions corresponding to the requirements for the exemption from the adviser registration requirement in the Securities Act contained in section 7.10 of OSC Rule 35-502 Non-Resident Advisers – Exemption also subject to requirements relating to the registration or licensing status of the non-resident adviser in its principal jurisdiction and disclosure to Ontario resident securityholders of the corresponding fund – Exemption order has a five-year “sunset date”.

Assignment by Commission to the Director of the powers and duties vested in the Commission under subsection 78(1) of the CFA to vary the exemption order by specifically naming affiliates of the initial applicants as named applicants for the purposes of the exemption, following an affiliate notice and Director consent procedure specified in the decision.

Statutes Cited

Commodity Futures Act, R.S.O. 1990, c. C.20, as am., ss. 1(1), 3.1(1), 22, 22(1)(b), 78(1), 80.
Securities Act (Ontario), R.S.O. 1990, c. S.5, as am., s. 25.

National Instruments Cited

National Instrument 45-106 Prospectus and Registration Exemptions.

OSC Rules Cited

OSC Rule 35-502 Non Resident Advisers, s. 7.10.

OSC Notices Cited

Notice of Proposed Rule 35-502 International Advisers, (1998) 21 OSCB 62583.

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

AND

IN THE MATTER OF
SOCIÉTÉ GÉNÉRALE S.A., SG HAMBROS FUND MANAGERS (JERSEY) LIMITED, LYXOR ASSET MANAGEMENT S.A. AND LYXOR ASSET MANAGEMENT LUXEMBOURG S.A.

AND

IN THE MATTER OF
THE ASSIGNMENT OF
CERTAIN POWERS AND DUTIES OF THE
ONTARIO SECURITIES COMMISSION

ORDER AND ASSIGNMENT
(Section 80 and Subsection 3.1(1) of the CFA)

UPON the application (the **Application**) to the Ontario Securities Commission (the **Commission**) by Société Générale S.A. (**Société Générale**), SG Hambros Fund Managers (Jersey) Limited (**SG Hambros**), Lyxor Asset Management S.A. (**Lyxor**) and Lyxor Asset Management Luxembourg S.A. (**Lyxor Luxembourg**) (collectively, the **SG Applicants**), on their own behalf,

and on behalf of SG Affiliates (as defined below) that file an Identifying Notice (as defined below) to become a Named Applicant (as defined below), for:

(a) an order of the Commission, pursuant to section 80 of the CFA (the **Order**), that each of the SG Applicants, and each of the SG Affiliates that file an Identifying Notice to become a Named Applicant for the purposes of this Order (including their respective directors, partners, officers, employees or other individual representatives, acting on their behalf), is exempt from the adviser registration requirement in the CFA (as defined below) in connection with the Named Applicant acting as an adviser to one or more Funds (as defined below), in respect of Contracts (as defined below); and

(b) an assignment by the Commission, pursuant to subsection 3.1(1) of the CFA (the **Assignment**), to each Director (acting individually) of the powers and duties vested in the Commission under subsection 78(1) of the CFA, to vary the above order, from time to time, by specifically naming one or more of the SG Affiliates, that file an Identifying Notice, as a Named Applicant for the purposes of this Order;

AND WHEREAS for the purposes of this Order and Assignment (collectively, this **Decision**);

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

"adviser registration requirement in the CFA" means the provisions of section 22 of the CFA that prohibit a person or company from acting as an adviser unless the person or company satisfies the applicable provisions of section 22 of the CFA;

"adviser registration requirement in the OSA" means the provisions of section 25 of the OSA that prohibit a person or company from acting as an adviser, as defined in the OSA, unless the person or company satisfies the applicable provisions of section 25 of the OSA;

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

"Director's Consent" means, for an SG Affiliate, the Director's Consent referred to in paragraph 3, below;

"Fund" means an investment fund;

"Identifying Notice" means, for an SG Affiliate, the Identifying Notice referred to in paragraph 6, below;

"Named Applicants" means:

(a) the SG Applicants; and

(b) SG Affiliates that have filed an Identifying Notice, to become a Named Applicant for the purposes of this Order, and for which the Director has issued a Director's Consent;

"Objection Notice" means, for an SG Affiliate, an objection notice, as described in paragraph 4, below, that is issued by the Director, following the filing by the SG Affiliate of an Identifying Notice, as described in paragraph 2, below;

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

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

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

"SG Affiliate" means an entity, other than the SG Applicants, that is an affiliate of one of the SG Applicants; and

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

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

AND UPON the SG Applicants having represented to the Commission that:

1. Each SG Applicant is, and any SG Affiliate that files an Identifying Notice for the purpose of becoming a Named Applicant in accordance with this Decision will, at the relevant time, be an entity organized under the laws of a jurisdiction outside of Canada. In particular:

   (a) Société Générale is a French bank, incorporated as a public limited company (société anonyme) under the laws of France, the registered office of which is at 29, boulevard Hausmann, 75009 Paris, France. Société Générale acts an investment adviser to certain of the Funds;

   (b) SG Hambros is a limited liability company, incorporated under the laws of Jersey, Channel Islands on 8th March 1974 for an unlimited duration and is indirectly a wholly owned subsidiary of Société Générale. SG Hambros acts as manager or investment manager for certain of the Funds;

   (c) Lyxor is a limited company ("société anonyme") organized under the laws of France and registered on 19 May, 1998 and is majority owned by Société Générale. Lyxor acts as sub-manager or sub-investment manager for certain of the Funds; and

   (d) Lyxor Luxembourg is a company incorporated under the laws Luxembourg and is indirectly a wholly owned subsidiary of Société Générale. Lyxor Luxembourg acts as manager for certain of the Funds.

2. An SG Affiliate, that is not a Named Applicant, that proposes to rely on the exemption from the adviser registration requirement in the CFA provided in this Order will complete and file with the Commission (Attention: Manager, Registrant Regulation) two copies of a notice (the **Identifying Notice**, in the form of Part A of Schedule A to this Decision), applying to the Director, acting on behalf of the Commission under the below Assignment, to vary this Order to specifically name the SG Affiliate as a Named Applicant for the purposes of the Order. The Identifying Notice will be filed not less than ten (10) days before the date the SG Affiliate proposes to rely on the exemption set out in the Order.

3. If, in the Director's opinion, it would not be prejudicial to the public interest to specifically name an SG Affiliate as a Named Applicant for the purposes of this Order, the Director will, within ten (10) days after receiving an Identifying Notice from the SG Affiliate, issue to the SG Affiliate a written consent (the **Director's Consent**, in the form of Part B of the attached Schedule). However, an SG Affiliate will not be a Named Applicant for the purposes of this Order unless and until the corresponding Director's Consent is issued by the Director.

4. If, after reviewing an Identifying Notice for an SG Affiliate, the Director is *not* of the opinion that it would not be prejudicial to the public interest to specifically name such SG Affiliate as a Named Applicant for the purposes of this Order, the Director will issue to the SG Affiliate a written notice of objection (the **Objection Notice**), in which case the SG Affiliate will not be permitted to rely on the exemption from the adviser registration requirement in the CFA provided to Named Applicants in this Order, but may, by notice in writing sent by registered mail to the Secretary of the Commission within 30 days after receiving the Objection Notice, request and be entitled to a hearing and review by the Commission of the Director's objection.

5. Subsection 78(1) of the CFA provides that the Commission may, on the application of a person or company affected by the decision, make an order revoking or varying a decision of the Commission if, in the Commission's opinion, the order would not be prejudicial to the public interest. Further, subsection 3.1(1) of the CFA provides that a quorum of the Commission may assign any of its powers and duties under the CFA (except powers and duties under section 4 and Part IV) to the Director.

6. Any Funds in respect of which a Named Applicant may act as adviser (under the CFA) pursuant to this Order will be established outside of Canada. Securities of the Funds are and will be primarily offered outside of Canada to institutional investors and high net worth individuals. To the extent the securities of the Funds will be offered to Ontario residents, such investors will qualify as "accredited investors" for the purposes of National Instrument 45-106 *Prospectus and Registration Exemptions*.

7. None of the Funds in respect of which a Named Applicant may act as an adviser (under the CFA) pursuant to this Order has any intention of becoming a reporting issuer under the OSA or under the securities legislation of any other jurisdiction in Canada.

8. Paragraph 22(1)(b) of the CFA prohibits a person or company from acting as an adviser unless the person or company is registered as an adviser under the CFA, or is registered as a representative or as a partner or an officer of a registered adviser and is acting on behalf of such registered adviser, and otherwise satisfies the applicable

requirements specified in section 22 of the CFA. Under the CFA, "adviser" means a person or company engaging in or holding himself, herself or itself out as engaging in the business of advising others as to trading in "contracts", and "contracts" is defined in subsection 1(1) of the CFA to mean "commodity futures contracts" and "commodity futures options" (with these latter terms also defined in subsection 1(1) of the CFA).

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

10. None of the SG Applicants is registered in any capacity under the CFA, and none of the Named Applicants will be registered under the CFA so long as the particular Named Applicant remains a Named Applicant for the purposes of this Order. If a Named Applicant advises any Funds (that has distributed its securities to any Ontario residents) as to investing in or the buying or selling securities, it will comply with the adviser registration requirement in the OSA. Currently, the SG Applicants are not registered in any capacity under the OSA.

11. There is currently no rule or other regulation under the CFA that provides an exemption from the adviser registration requirement in the CFA for a person or company acting as an adviser, in respect of commodity futures options or commodity futures contracts, that corresponds to the exemption from the adviser registration requirement in the OSA for acting as an adviser, as defined in the OSA, in respect of securities, that is contained in section 7.10 of OSC Rule 35-502.

12. Section 7.10 of OSC Rule 35-502 provides that the adviser registration requirement in the OSA does not apply to a person or company acting as a portfolio adviser (as defined in the Rule) to a Fund (as defined in the Rule), if the securities of the Fund are:

    (a) primarily offered outside of Canada;

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

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

13. The SG Applicants are or will be appropriately registered or licensed or are or will be entitled to rely on appropriate exemptions from such registrations or licences to provide advice to the Funds pursuant to the applicable legislation of its principal jurisdiction. In particular:

    (a) Société Générale is a French bank, incorporated with limited liability under the laws of France;

    (b) SG Hambros is registered in Jersey with, and regulated by, the Jersey Financial Services Commission to conduct "fund services business" under the Financial Services (Jersey) Law 1998;

    (c) Lyxor Luxembourg) is registered in Luxembourg with, and regulated by, the Commission de Surveillance du Secteur Financier; and

    (d) Lyxor is registered in France with, and regulated by, the Autorité des Marchés Financiers as an asset management company ("société de gestion").

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

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

A. the Named Applicant is not ordinarily resident of Ontario;

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

C. securities of the Funds are:

(i) primarily offered outside of Canada,

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

(iii) distributed in Ontario in reliance on an exemption from the prospectus requirement in the OSA;

D. prior to their purchasing any securities of the Funds, all investors in the Funds who are resident in Ontario shall have received disclosure that includes:

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

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

E. this Order shall expire five years after the date hereof;

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

PURSUANT to subsection 3.1(1) of the CFA, the Commission hereby assigns to each Director, acting individually, the powers and duties vested in the Commission under subsection 78(1) of the CFA to:

(i) vary the above Order, from time to time, by specifically naming any one or more SG Affiliates that has filed an Identifying Notice, as described in paragraph 2, above, as a Named Applicant for the purposes of the Order, by issuing a Director's Consent, as described in paragraph 3, to the SG Affiliate; and

(ii) object, from time to time, to varying the above Order to specifically name any one or more SG Affiliates that has filed an Identifying Notice, as described in paragraph 2, above, as a Named Applicant, by issuing to the SG Affiliate an Objection Notice, as described in paragraph 4, above, provided, however, that, in the event of any such objection, the corresponding SG Affiliate may, by notice in writing sent by registered mail to the Secretary of the Commission, within 30 days after receiving the Objection Notice, request and be entitled to a hearing and review of the objection by the Commission.

March 10, 2009

"Suresh Thakrar"
Commissioner
Ontario Securities Commission

"Paul K. Bates"
Commissioner
Ontario Securities Commission

SCHEDULE A

FORM OF IDENTIFYING NOTICE
AND
DIRECTOR'S CONSENT

Part A: Identifying Notice to the Commission

To: Ontario Securities Commission (the **Commission**)
Attention: Manager, Registrant Regulation

From: [Insert name and address] (the **SG Affiliate**)

Re: ***In the Matter of Société Générale S.A., SG Hambros Fund Managers (Jersey) Limited, Lyxor Asset Management S.A., Lyxor Asset Management Luxembourg S.A.*** **(collectively, the SG Applicants)**
OSC File No.: 2008/0740

The undersigned, being an authorized representative of the above SG Affiliate, hereby represents to the Commission that:

1. On March ___, 2009, the Commission issued an order (the **Order**), pursuant to section 80 of the *Commodity Futures Act* (Ontario) (the **CFA**), that each of the Named Applicants (as defined in the Decision containing the Order) is exempt from the adviser registration requirement in paragraph 22(1)(b) of the CFA in respect of the Named Applicant acting as an adviser to one or more of the Funds (as defined in the Decision), in respect of Contracts (as defined in the Decision), subject to certain terms and conditions specified in the Order.

2. The SG Affiliate has attached a copy of the Decision to this Identifying Notice.

3. The SG Affiliate is an affiliate of Applicant.

4. The SG Affiliate (whose name does not specifically appear in the Order) hereby applies to the Director, acting on behalf of the Commission under the Assignment in the Decision, to vary the Order to specifically name the SG Affiliate as a Named Applicant for the purposes of the Order, pursuant to section 78 of the CFA.

5. The SG Affiliate confirms the truth and accuracy of all the information set out in the Decision.

6. This Identifying Notice has been filed with the Commission not less than ten (10) days prior to the date on which the SG Affiliate proposes to rely on the exemption from the adviser registration requirement in the CFA provided to Named Applicants in the Order, subject to the terms and conditions specified in the Order.

7. The SG Affiliate has not, and will not, rely on such exemption unless and until it has received from the Director, a written Director's Consent, as provided in the form of Part B of Schedule A attached to the Decision.

Dated at ____________________ this ____ day of ____________, 20___.

____
Name:

____
Title:

Part B: Director's Consent

To: ___________________________________ (the **SG Affiliate**)

From: Director
Ontario Securities Commission

Re: ***In the Matter of Société Générale S.A., SG Hambros Fund Managers (Jersey) Limited, Lyxor Asset Management S.A., Lyxor Asset Management Luxembourg S.A.*** **(collectively, the SG Applicants)**
OSC File No.: 2008/0740

I acknowledge receipt from the SG Affiliate of its Identifying Notice, dated _______________, 20___, by which the SG Affiliate has applied to the Director, acting on behalf of the Commission under the Assignment in the Decision attached to Identifying Notice, to specifically name the SG Affiliate as a Named Applicant for the purposes of the Order contained in the Decision.

Based on the representations contained in the Decision and in the Identifying Notice, and my being of the opinion that to do so would not be prejudicial to the public interest, on behalf of the Commission, as a Director for the purposes of the Commodity Futures Act (Ontario), I hereby vary the Order to specifically name the SG Affiliate as a Named Applicant for the purposes of the Order.

Dated at _______________ this ____ day of ____________, 20___.

ONTARIO SECURITIES COMMISSION

By:

____
Name of Signatory:

____
Position of Signatory:

Chapter 3

Reasons: Decisions, Orders and Rulings

3.1 OSC Decisions, Orders and Rulings

3.1.1 Kwok-On Aloysius Lo

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

AND

IN THE MATTER OF
KWOK-ON ALOYSIUS LO

SETTLEMENT AGREEMENT

PART I – INTRODUCTION

1. By Notice of Hearing to be issued, the Ontario Securities Commission (the "Commission") will announce that it will hold a hearing to consider whether, pursuant to section 127 of the *Securities Act*, R.S.O. 1990, c. S.5, as amended (the "*Act*"), it is in the public interest for the Commission to make certain orders in respect of Kwok-On Aloysius Lo (the "Respondent").

PART II – JOINT SETTLEMENT RECOMMENDATION

2. Staff of the Commission ("Staff") agree to recommend settlement of the proceeding against the Respondent in accordance with the terms and conditions set out below. The Respondent consents to the making of an order against him in the form attached as Schedule "A" on the basis of the facts set out below.

PART III – AGREED FACTS

3. For the purposes of this settlement hearing, and any proceeding commenced by another Canadian securities regulator, the Respondent agrees with the facts in Part III and the conclusion in Part IV of this Settlement Agreement.

Minimum Guaranteed Fill Background

4. A market maker is assigned to certain stocks traded on the Toronto Stock Exchange ("TSX") in order to maintain a fair, orderly and continuous two-sided market for the stocks. The participation of a market maker serves to enhance liquidity of, and reduce volatility in, the market for the shares. The market maker commits to trade all orders of a certain size (known as a minimum guaranteed fill or MGF) within a spread goal (the price difference between buy and sell orders). The MGF and spread goal will vary by company, depending on the size of the issuer and trading activity.

5. When there is insufficient stock in the order book to fill an order, the market maker is required to guarantee an automatic and immediate "one price" execution of MGF eligible orders.

Respondent's Trading related to Minimum Guaranteed Fill

6. The Respondent is a resident of Ontario. He has never been registered in any capacity under the *Act*.

7. In the period May 1, 2006 to September 30, 2006, the Respondent executed trades in a manner that repeatedly invoked the minimum guarantee fill ("MGF") facility of the TSX for the shares of 8 listed stocks and resulted in trades at artificial prices. Particulars of that trading activity are set out below.

8. The Respondent executed sets of trades in quick succession with the following pattern:

   (a) From one account, he placed an order to purchase a small number of shares at a price slightly below the posted offer;

(b) Through another account, he entered an order to sell a larger number of shares at the new bid (which was established in his first order described above); and

(c) The account that placed the sell order had its order filled, in part by the first order and in part by the market maker's account because the MGF facility was invoked.

As a result of this trading pattern, trades were executed at artificial prices because the fill of the order described in (b) above took place at a higher price than the prevailing market (as represented by the posted bid and offer) immediately before the first order was entered by the Respondent.

9. Through ninety trades of this nature ("MGF Trades"), the Respondent generated a profit of $12,086.00 among the accounts described below.

10. In carrying out the MGF trades, the Respondent executed 5 wash trades which involved no change in beneficial ownership of the shares.

Registration requirement

11. In carrying out the MGF Trades, the Respondent traded in his own discount brokerage account and in the discount brokerage accounts of two other individuals.

12. The two individual account holders were not sophisticated investors. They authorized the Respondent to select and implement a trading strategy for their accounts and had knowledge of the trading in their accounts by the Respondent. To execute trades, the Respondent accessed the two individuals' accounts online, after he requested and received their account numbers and passwords. The Respondent ought to have been registered under the *Act* to carry out this trading activity. According to brokerage firm records, the Respondent did not have trading authority in the accounts of the two individuals.

13. The trading among his own account and the accounts of the other two individuals resulted in a transfer of economic wealth from the accounts of the two individuals to the Respondent's account. The total transfer of economic wealth from the accounts of the two individuals to the Respondent's account was $6,555.00.

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

14. By engaging in the conduct described above, the Respondent has breached Ontario securities law by contravening s. 25 [by trading without registration] and 126.1(a) [by conduct that resulted in or contributed to an artificial price for securities] of the *Act* and has acted contrary to the public interest.

PART V – TERMS OF SETTLEMENT

15. The Respondent agrees to the terms of settlement listed below.

16. The Commission will make an order pursuant to s. 127(1) and s. 127.1 of the *Act* that:

(a) the settlement agreement is approved;

(b) the Respondent is prohibited from becoming a registrant under Ontario securities law for a period of 10 years commencing on the date of the Commission's order;

(c) the Respondent is prohibited from trading or acquiring securities for a period of 5 years commencing on the date of the Commission's order, subject to the exception that the Respondent will be permitted to trade in one RRSP account in his own name (which he will identify in writing to the Staff of the Commission), provided that the trades in the RRSP account are limited to trades in mutual fund units, guaranteed investment certificates, treasury bills, debt instruments that cannot be converted (directly or indirectly) into shares or securities listed on the Toronto Stock Exchange or New York Stock Exchange;

(d) the exemptions contained in Ontario securities law do not apply to the Respondent for a period of 5 years commencing on the date of the Commission's order;

(e) the Respondent pay disgorgement of $18,641.00, to be allocated under s. 3.4(2)(b) of the *Act* to or for the benefit of third parties; and

(f) the Respondent pay the Commission's costs of the investigation in the amount of $5,000.00.

17. Any payments ordered above will be made by certified cheque at the time of the Commission's approval of this Settlement Agreement and shall be made by the Respondent personally and the Respondent will not be reimbursed for or receive a contribution towards this payment from any other person or company.

18. The Respondent undertakes that he will consent to an Order made by any provincial or territorial securities regulatory authority in Canada containing any or all of the prohibitions set out in sub-paragraphs 14(b) to (d) above. These prohibitions may be modified to reflect the provisions of the relevant provincial or territorial securities law.

PART VI – STAFF COMMITMENT

19. If this Settlement Agreement is approved by the Commission, Staff will not initiate any proceeding under Ontario securities law in relation to the facts set out in Part III herein, subject to the provisions of paragraph 18 below.

20. If this Settlement Agreement is approved by the Commission and at any subsequent time the Respondent fails to honour the terms of the Settlement Agreement, Staff reserve the right to bring proceedings under Ontario securities law against the Respondent based on, but not limited to, the facts set out in Part III herein as well as the breach of the Settlement Agreement.

PART VII – PROCEDURE FOR APPROVAL OF SETTLEMENT

21. Approval of this Settlement Agreement will be sought at a public hearing before the Commission scheduled for March 5, 2009, or such other date as may be agreed to by Staff and the Respondent, in accordance with the procedures set out herein and the Commission's Rules of Practice.

22. Staff and the Respondent agree that this Settlement Agreement will constitute the entirety of the agreed facts to be submitted at the settlement hearing regarding the Respondent's conduct, unless the parties agree that further facts should be submitted at the settlement hearing.

23. If this Settlement Agreement is approved by the Commission, the Respondent agrees to waive all rights to a full hearing, judicial review, or appeal of this matter under the *Act*.

24. If this Settlement Agreement is approved by the Commission, the Respondent will not make any public statement that is inconsistent with this Settlement Agreement or inconsistent with any additional agreed facts submitted at the settlement hearing.

25. Whether or not this Settlement Agreement is approved by the Commission, the Respondent agrees that he will not, in any proceeding, refer to or rely upon 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 VIII – DISCLOSURE OF SETTLEMENT AGREEMENT

26. If, for any reason whatsoever, this Settlement Agreement is not approved by the Commission or the order attached as Schedule "A" to this Settlement Agreement is not made by the Commission:

    i. this Settlement Agreement and its terms, including all discussions and negotiations between Staff and the Respondent prior to the settlement hearing, shall be without prejudice to Staff and the Respondent; and

    ii. each of Staff and the Respondent will be entitled to all available proceedings, remedies and challenges, including proceeding to a hearing of the allegations contained in the Statement of Allegations, unaffected by the Settlement Agreement or the settlement discussions/negotiations.

27. The terms of the Settlement Agreement will be treated as confidential by both parties until approved by the Commission. Any obligations of confidentiality will terminate upon approval of the Settlement Agreement by the Commission. The terms of the Settlement Agreement will be treated as confidential forever if the Settlement Agreement is not approved for any reason whatsoever by the Commission, except with the written consent of both the Respondent and Staff or as may be required by law.

PART IX – EXECUTION OF SETTLEMENT AGREEMENT

28. This agreement may be signed in one or more counterparts which together will constitute a binding agreement.

29. A facsimile copy of any signature will be as effective as an original signature.

Dated this 2nd day of March, 2009.

STAFF OF THE ONTARIO SECURITIES COMMISSION

"Tom Atkinson"
Tom Atkinson
Director, Enforcement Branch

"Kwok-On Aloysius Lo"
Kwok-On Aloysius Lo

"Yadis Vasquez"
Witness

SCHEDULE A

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

AND

IN THE MATTER OF
KWOK-ON ALOYSIUS LO

ORDER
(Section 127 and 127.1)

WHEREAS on March , 2009 the Commission issued a Notice of Hearing pursuant to sections 127 and 127.1 of the *Securities Act* (the "Act") in respect of Kwok-On Aloysius Lo's trading in the shares of 8 listed securities;

AND WHEREAS on March , 2009, Staff of the Commission filed a Statement of Allegations;

AND WHEREAS Kwok-On Aloysius Lo and Staff of the Ontario Securities Commission entered into a settlement agreement dated February , 2009 (the "Settlement Agreement") in relation to the matters set out in the Statement of Allegations;

AND WHEREAS the Commission issued a Notice of Hearing dated March 2, 2009 setting out that it proposed to consider the Settlement Agreement;

UPON reviewing the Settlement Agreement, the Notice of Hearing, the Statement of Allegations, and upon considering submissions of Staff of the Commission and of counsel for Kwok-On Aloysius Lo;

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

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

(a) the settlement agreement is approved;

(b) the Respondent is prohibited from becoming a registrant under Ontario securities law for a period of 10 years commencing on the date of the Commission's order;

(c) the Respondent is prohibited from trading or acquiring securities for a period of 5 years commencing on the date of the Commission's order, subject to the exception that the Respondent will be permitted to trade in one RRSP account in his own name (which he will identify in writing to the Staff of the Commission), provided that the trades in the RRSP account are limited to trades in mutual fund units, guaranteed investment certificates, treasury bills, debt instruments that cannot be converted (directly or indirectly) into shares or securities listed on the Toronto Stock Exchange or New York Stock Exchange;

(d) the exemptions contained in Ontario securities law do not apply to the Respondent for a period of 5 years commencing on the date of the Commission's order;

(e) the Respondent pay disgorgement of $18,641.00, to be allocated under s. 3.4(2)(b) of the Act to or for the benefit of third parties; and

(f) the Respondent pay the Commission's costs of the investigation in the amount of $5,000.00.

Dated at Toronto, Ontario this day of March 2009

____

____

3.1.2 Devendranauth Misir – 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
DEVENDRANAUTH MISIR

HEARING HELD PURSUANT TO SECTIONS 127 AND 127.1 OF THE ACT

SETTLEMENT HEARING RE: DEVENDRANAUTH MISIR

HEARING:	Monday February 23, 2009		
PANEL:	Wendell S. Wigle	–	Commissioner and Chair of the Panel
	Margot C. Howard	–	Commissioner
APPEARANCES:	Ian Smith Kathryn Daniels	–	for Staff of the Ontario Securities Commission
	David Steinberg John Adair	–	for Devendranauth Misir

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 a proposed Settlement Agreement between Staff of the Commission ("Staff") and the respondent Devendranauth Misir ("Misir").

[2] We have considered the submissions of Staff and counsel for Misir, and we have decided to approve the Settlement Agreement as being in the public interest. These are our oral reasons in this matter.

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

[4] This proceeding concerns Misir's conduct in connection with advising on trades without being registered under section 25(1)(c) of the Act.

[5] Misir, a Toronto businessman and a lawyer, who has never been registered with the Commission in any capacity, was retained by two Lottery Winners. Misir acted as an "adviser" (as that word is defined in section 1(1) of the Act) to the Lottery Winners, giving advice to them with respect to the buying and selling of securities. As an adviser, the respondent was required to be registered under section 25(1)(c) of the Act unless his advising was "solely incidental" to his "principal occupation" as a lawyer under section 34 of the Act. Misir's work as an adviser to the Lottery Winners did not fit within the language of the exemption and, as a result, the exemption available under section 34 of the Act did not apply.

[6] As set out in the Settlement Agreement, a civil action commenced by the Lottery Winners against Misir has been dismissed by Order of the Superior Court of Justice of Ontario, which order was made on consent without costs.

[7] We have been informed by Staff and counsel for Misir that the parties involved in the civil proceeding, which settled, take no issue with the Settlement Agreement brought before the Commission.

[8] By entering into the Settlement Agreement, Misir has recognized the seriousness of his conduct and that he breached section 25(1)(c) of the Act. He has accepted sanctions, including a reprimand, prohibition from acting as a director or officer, prohibition from acting as a registrant, an administrative penalty and costs.

[9] Before we go to our order, we would like to briefly refer to the law as it applies to the consideration of settlement agreements before the Panel.

[10] 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.

[11] The role of the Commission is set out in *Re Mithras Management Ltd.* (1990), 13 O.S.C.B. 1600 at 1610-1611:

> … the role of this Commission is to protect the public interest by removing from the capital markets – wholly or partially, permanently or temporarily, as the circumstances may warrant – those whose conduct in the past leads us to conclude that their conduct in the future may well be detrimental to the integrity of those capital markets. We are not here to punish past conduct; that is the role of the courts, particularly under section 118 [now 122] of the Act. We are here to restrain, as best we can, future conduct that is likely to be prejudicial to the public interest in having capital markets that are both fair and efficient. In so doing, we must, of necessity, look to past conduct as a guide to what we believe a person's future conduct might reasonably be expected to be. …

[12] 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 to in their submissions.

[13] In addition, appropriate sanctions need to take into account the specific circumstances of each case (*Re M.C.J.C. Holdings and Michael Cowpland*, *supra* at 1134-1135).

[14] In this case, we took into account the following mitigating factors as set out in the Settlement Agreement:

(a) no issue is raised by the Commission with the nature or quality of the respondent's advice; and

(b) a civil action commenced by the Lottery Winners has been dismissed by Order of the Superior Court of Justice for Ontario, which order was made on consent without costs.

[15] It was also established in *Re Sohan Singh Koonar et al.* (2002), 25 O.S.C.B. 2691, that the role of a 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.

[16] This is what we as a Panel have done in approving this Settlement Agreement. In considering the respondent's position as stated in the Settlement Agreement, we are of the view that the sanctions set out in the Settlement Agreement are within the acceptable parameters.

[17] Therefore, we order that:

(1) the Settlement Agreement attached to this Order is hereby approved;

(2) pursuant to section 127 of the Act:

(a) Misir shall be reprimanded;

(b) Misir shall be prohibited for a period of one year from becoming or acting as a director or officer of a registrant;

(c) Misir shall be prohibited for a period of one year from becoming or acting as a registrant; and,

(d) Misir shall pay an administrative penalty in the amount of $3,000 to be paid to or for the benefit of third parties designated by the Commission, pursuant to section 3.4(2) of the Act and,

(3) pursuant to section 127.1 of the Act:

(a) Misir shall pay costs of the investigation in the amount of $3,000.

[18] In conclusion, we find that together, all the sanctions imposed in this matter 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). The sanctions strike a balance between the mitigating factors present in this case and the need for an order which will serve the preventive and protective objectives of the Act.

[19] We also note that both sides worked together to negotiate and narrow the issues in dispute.

[20] Though the regulatory sanctions agreed to in the Settlement Agreement may be below what we might have imposed after a hearing on the merits, we note this was not a hearing on the merits, this is a negotiated Settlement Agreement. We also recognize that Misir should be given credit for cooperation with Staff and that by settling, Commission resources have been conserved. Therefore, we find that the sanctions are acceptable and fall within acceptable parameters.

[21] Therefore, we approve the Settlement Agreement as being in the public interest.

[22] Mr. Misir would you please stand. Mr. Misir, by entering into the Settlement Agreement you have recognized that your conduct breached Ontario securities law by contravening section 25(1)(c) of the Act, and this is serious conduct that must not be repeated in the future.

[23] Mr. Misir you are hereby reprimanded by the Commission for your conduct.

Approved by the Chair of the Panel on March 5, 2009.

"Wendell S. Wigle"

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
International Road Dynamics Inc.	06 Mar 09	18 Mar 09		
Fulcrum Resources Inc.	10 Mar 09	20 Mar 09		
Syscan International Inc.	11 Mar 09	23 Mar 09		
Minco Base Metals Corporation	11 Mar 09	23 Mar 09		
Northern Sun Exploration Company Inc.	11 Mar 09	23 Mar 09		

4.2.1 Temporary, Permanent & Rescinding Management Cease Trading Orders

Company Name	Date of Order or Temporary Order	Date of Hearing	Date of Permanent Order	Date of Lapse/ Expire	Date of Issuer Temporary Order
CoolBrands International Inc.	30 Nov 06	13 Dec 06	13 Dec 06	10 Mar 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	10 Mar 09	
Brainhunter Inc.	28 Jan 09	10 Feb 09	10 Feb 09		
Coalcorp Mining Inc.	18 Feb 09	03 Mar 09	03 Mar 09		

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Chapter 5

Rules and Policies

5.1.1 OSC Rule 13-502 Fees and Companion Policy 13-502CP Fees

NOTICE OF
REVOCATION AND REPLACEMENT OF
OSC RULE 13-502 *FEES*
AND COMPANION POLICY 13-502CP *FEES*

Introduction

On March 10, 2009, the Ontario Securities Commission (OSC, Commission or we) made OSC Rule 13-502 *Fees* and adopted Companion Policy 13-502CP *Fees* (collectively, the Proposed Materials) under the *Securities Act* (the Act). An earlier version of the Proposed Materials was published for a 90-day comment period on October 3, 2008. The Proposed Materials are intended to replace the rule and policy currently in force under the same number.

This notice includes information on the Proposed Materials and the Commission's budget and fee-setting processes. The key substantive change from the earlier version of the Proposed Materials reflects the implementation of the Commission's decision to defer increasing activity and participation fees.

Under section 143.3 of the Act, the proposed Rule was delivered to the Minister of Finance on March 12, 2009. If the Minister approves the proposed Rule, it will come into force on June 1, 2009.

Freeze of participation fee and activity fee levels

The earlier version of the Proposed Materials contained increases in the levels of participation fees and activity fees to fund the Commission's costs. As reflected in the Proposed Materials, in light of economic conditions, the Commission has decided not to increase participation fees and activity fees. The Commission intends to maintain the current fees for one year.

The OSC, as a self-funded agency, is wholly dependent on fees from market participants, and operates on a cost-recovery basis. Current fee rates were set in 2006 to cover anticipated operating costs in the fiscal 2007 to 2009 period. Fees paid by market participants reflected the application of the OSC's forecast surplus at March 31, 2006. Due to higher than anticipated growth in the capital markets, the OSC's revenues are expected to exceed forecasts for the fiscal 2006 to 2009 period by approximately $48 million, producing a surplus at March 31, 2009 that is currently forecast to be approximately $45 million.

By its decision to not increase fees from the levels set in 2006, the OSC anticipates a significant revenue shortfall over the next fiscal year, resulting in an operating deficit for the year. This deficit will be offset by the surplus that was generated as a result of the stronger than expected performance of the markets, as noted above. The Commission will continue to take appropriate steps as necessary to pursue its mandate of providing protection to investors and fostering fair and efficient capital markets.

The current fees do not reflect the actual growth in Commission operating costs since 2006 or any growth anticipated for fiscal 2010. As a result of the decision to defer fee increases, future increases to the OSC's fees will need to be sufficient to fully recover the Commission's costs of operations at that time and may be significant. Over the next year, we will further review issues related to the fee model so that we can return to fully recovering our costs in ways that remain fair and transparent to market participants.

The Commission has also decided not to incorporate the use of pre-2008 reference fiscal years at this time. Further discussion on these matters is contained in Appendix A of this notice.

Substance and purpose of the Proposed Materials

The Proposed Materials are consistent with the basic framework under the current rule and policy. The proposed Companion Policy sets out the Commission's interpretation of key elements of the proposed Rule and provides additional background information. As with the current rule, fees under the proposed Rule fall into two categories: participation fees and activity fees.

Participation fees

Participation fees are designed to cover Commission costs that are not attributable to activities on behalf of a specific participant. Examples include enforcement and market monitoring. These fees are based on the market participant's size, which is used as a proxy for its use of Ontario's capital markets.

Activity fees

Activity fees are set at a level to reflect an estimate of the direct cost of OSC staff resources generally used in undertaking activities requested of staff by market participants. Activity fees are charged at flat rates and are designed to cover the average direct costs the Commission incurs in reviewing documents, such as prospectuses, registration applications and applications for discretionary relief. Appendix C of the proposed Rule sets out the activities that are used to determine these fees.

Changes in the Proposed Materials

While the basic framework of the current rule and policy remain, the Proposed Materials include a number of proposed changes to the current OSC Rule 13-502, all of which were reflected in the earlier version of the Proposed Materials. The following is a summary of these changes:

- Special participation fees for those becoming or ceasing to be reporting issuers are eliminated.

- The method for calculating late fees has changed, and relief from late fees is provided in certain circumstances to unregistered investment fund managers.

- The exemption from participation fees for reporting issuers that are subsidiaries has been expanded.

- The calculation of a market participant's Ontario percentage has been clarified. This is relevant in determining the market participant's size for the capital markets participation fee.

- Relief is provided in the calculation of the capital markets participation fee when a market participant ceases to be an unregistered investment funds manager and becomes registered.

- Individuals registering as both dealers and advisers will be required to pay only one registration fee, rather than two.

- The calculation of activity fees charged for an application for relief, approval or recognition under the Act is combined with the calculation of those activity fees under the *Commodity Futures Act*, where the application covers provisions in both statutes.

For a more detailed description of the above changes, see the October 3, 2008 request for comments.

Comments received

We received comment letters from the nine respondents listed below. We would like to thank everyone who took the time to provide comments. We have carefully considered the comments and have provided a summary of the comments and our responses in Appendix A to this notice. Copies of the comment letters are available on the Commission's website at www.osc.gov.on.ca.

- The Investment Counsel Association of Canada (letter dated January 9, 2009)

- Fidelity Investments Canada (letter dated January 6, 2009)

- Borden Ladner Gervais (letter dated January 6, 2009)

- Invesco Trimark ((letter dated January 2, 2009)

- The Investment Funds Institute of Canada (letter dated December 30, 2008)

- Alternative Investment Management – Canada Inc. (letter dated December 23, 2008)

- Investment Industry Association of Canada (letter dated December 19, 2008)

- IGM Financial Inc. (letter dated December 12, 2008)

- B. White (letter dated November 17, 2008)

Additional technical changes

The following technical changes have been made to the proposed Rule relative to the earlier version of the Proposed Materials:

- Because of the decision not to use a pre-2008 “reference fiscal year”, the existing measure in OSC Rule 13-502 allowing Class 2 reporting issuers to pay participation fees on a provisional basis has been retained, together with Form 13-502F2A.
- References to Ont. Reg. 1015 have been replaced by the term “Regulation” because this term is defined as such in OSC Rule 14-501.
- A reference to Form 33-109F1 has been added in Appendix D of the proposed Rule to make it more explicit that fees apply to the late filings of that form.

Status of proposed consequential amendments to OSC Rule 13-502 published in February 2008

Proposed changes to OSC Rule 13-502 and its Companion Policy were in material published for comment in February 2008. The proposed changes were largely consequential to the proposals on registration reform reflected in proposed National Instrument 31-103 – *Registration Requirements* (NI 31-103). A number of variations to these consequential changes were described in the notice to October 3, 2008 version of the proposed Rule.

If NI 31-103 is implemented, the February 2008 changes to OSC Rule 13-502 and its Companion Policy will need to be updated to reflect the text of the Proposed Materials. This updating would not be characterized as a material change requiring a further publication for comment, given that the updating would be necessitated by the text of the Proposed Materials.

Text of the Proposed Materials

The text of the Proposed Materials follows. The Proposed Materials are also available on the Commission’s website along with a blackline showing the changes made to the proposed Rule relative to the version published for comment on October 3, 2008.

Questions

Please refer your questions to any of the following:

Noulla Antoniou
Senior Accountant, Compliance
(416) 595-8920
nantoniou@osc.gov.on.ca

Meenu Joshi
Accountant, Investment Funds
(416) 593-8139
mjoshi@osc.gov.on.ca

Ritu Kalra
Senior Accountant, Corporate Finance
(416) 593-8063
rkalra@osc.gov.on.ca

Gina Sugden
Project Manager, Registrant Regulation
(416) 593-8162
gsugden@osc.gov.on.ca

Felicia Tedesco
Assistant Manager, Compliance
(416) 593-8273
ftedesco@osc.gov.on.ca

March 13, 2009

Appendix A

Item	Notable comments	Commission's response
1.1	**Magnitude of fee increases** A number of respondents noted concern about the magnitude of the proposed fee increases.	Following a careful review of the comments from respondents, and in light of current market conditions, we propose not to increase participation fees and activity fees for one year. We are not proposing any changes to the 2006 tiers used in determining participation fees. These tiers were set out in the Companion Policy to OSC Rule 13-502 when it was last revised, effective April 1, 2006. The Commission is a self-funded agency, operating on a cost-recovery basis. Current participation fees payable do not cover our costs of operation because the fee levels set in 2006 were reduced by applying our surplus at that time. Also, current fee rates do not reflect actual growth in Commission operating costs since 2006. To keep rates at current levels we will use our forecasted surplus at March 31, 2009 to subsidize fee rates. As a result of the decision to defer fee increases, future increases to fees will need to be sufficient to fully recover the OSC's costs of operation at that time, and may be significant.
1.2	**Change to timing of payment of participation fee for registrants** It was anticipated that a portion of the surplus would be used to offset the reduction of Commission revenues that would occur if the payment for participation fees was changed from December to May as part of the implementation of proposed NI 31-103. One respondent asked about the Commission's plans if the implementation of proposed NI 31-103 is delayed or does not occur.	The Canadian Securities Administrators decided not to change the timing of payment of participation fees by registrants from December to May. As a result, we will not require approximately $23 million to offset the reduction of Commission revenues that would have occurred. These funds will be part of the surplus used to offset the revenue shortfall in fiscal 2010, arising from the decision the defer fee increases at this time.
1.3	**Use of Commission's surplus** A number of respondents supported returning a greater portion of any surplus. Respondents favoured returning the surplus as quickly as practical and did not support the Commission retaining any portion of its surplus. One respondent noted that it would be preferable to use the surplus to reduce the fee bands or to provide a discount on the participation fees rather than to issue a refund.	We currently expect to have an accumulated surplus of approximately $45 million at March 31, 2009. This is due to the performance of the markets in recent years, which has been stronger than expected when the fees were set in 2006. The OSC's revenues in the fiscal 2006 to 2009 period are currently anticipated to exceed forecasts by approximately $48 million, resulting in the forecast surplus. However, the surplus is currently expected to be lower than forecasted when the earlier version of the proposed Rule was published for comment in October 2008, because deteriorating market conditions have resulted in lower-than-anticipated revenues. When the Rule was published for comment, our plan was to allocate the surplus in three ways: • Approximately $4 million was to be used to keep issuer participation fees at the base fee levels set in 2006. • Approximately $23 million was to be used to offset the reduction of Commission revenues resulting from the proposed change in the timing of

Item	Notable comments	Commission's response
		payment of participation fees by registrants from December to May (as noted in 1.2 above). • The remainder was be refunded directly to participants as a rebate of fees paid. As noted in 1.2, the timing of payment of participation fees by registrants will not change from December to May. As a result, we no longer need approximately $23 million to offset a reduction in our revenues. In response to the comments, we now propose to use our surplus to defer any fee increases from current levels payable under our current fee rule. As a result, changes in an issuer's or registrant's participation fee rate will only occur if the issuer or registrant moves to another fee tier. This will result in a revenue shortfall for the year ending March 31, 2010. As noted, the surplus as at March 31, 2009 will be used to offset the deficit that arises as a result.
1.4	**Reference year – impact on surplus** A number of respondents expressed concern about the proposed reference year. In particular, they were concerned that basing fees on the higher historical values would be unfair, given the decline in market capitalization or revenues that has occurred recently. Some of these respondents also noted that use of the proposed reference year would result in larger surpluses in the future. Respondents suggested the following as alternatives to the proposed reference year: • Use the market participant's last fiscal year ending before January 1, 2009. • Use a two-year trailing average as the reference point. • Continue the current OSC fee rules until the capital markets recover.	We continue to believe that the rationale for basing participation fees on historic information is sound and would allow us to set fees that more closely match our costs, reduce the potential for surpluses, provide greater stability for market participants and reduce our exposure to market volatility. However, given current market conditions and the declines in market capitalization or revenues that have occurred, the Commission has decided to maintain the current basis for calculating participation fees at this time.
1.5	**Cost-saving opportunities** Respondents expressed concerns about the current state of the economy and suggested that they should have an opportunity to review and comment on draft budgets and that the Commission needs to review cost-saving opportunities.	We recognize the difficulties associated with recent declines in market values and revenues and their impact on market participants. We have intensified ongoing efforts in our own operations to refocus priorities, seek efficiencies and redeploy resources to priority areas. Although the activity levels in some areas, such as prospectus reviews, are lower, we are facing increasing workload in other areas, including additional compliance, enforcement and market regulation activities to address current market conditions. Other issues related to current market turmoil include disclosure and valuation issues, derivatives regulation and the potential for increased merger and acquisition activity. Our 2009-10 budget preparations will reflect current market

Item	Notable comments	Commission's response
		conditions and the range of regulatory issues that will need to be addressed. We will continue to seek comments on our priorities through the Statement of Priorities comment process and to report to our stakeholders on all aspects of our operations through documents, such as our annual report (including the management's discussion and analysis).
1.6	**Transparent statement of fee philosophy** A respondent suggested that the Commission needs to add a transparent statement of fee philosophy.	The Commission's fee philosophy and methodology are set out in the Companion Policy to the proposed Rule, the Commission's annual reports and other responses in this comment summary. The Commission is a self-funded agency, operating on a cost-recovery basis. The fee rules require the payment of "participation fees" and "activity fees". Participation fees are charged annually based on a measure of the market participant's size. This is a proxy for its use of Ontario's capital markets. About 80% of the Commission's annual revenues are generated through participation fees. Activity fees are charged to market participants for undertaking certain activities, such as reviewing a prospectus, evaluating an application for discretionary relief or processing registration documents. The current participation fees payable do not cover our costs of operation because the fee levels set in 2006 were reduced by applying our surplus at that time. Current fee rates do not reflect actual growth in Commission operating costs since 2006. To keep rates at current levels we will need to use our forecasted surplus at March 31, 2009 to subsidize fee rates. As a result of our decision to defer fee increases, future increases to our fees will need to be sufficient to fully recover our costs of operation at that time. Over the next year, the OSC will further review issues related to the fee model so that it can return to fully recovering its costs in ways that remain fair and transparent to market participants.
1.7	**Clarification on Commission process for allocating costs and how they relate to fees** Some respondents expressed concerns that some participants may potentially be paying a disproportionate burden of the Commission's operating costs.	Our objective is to have a fee structure that is fair, sustainable and transparent. The Commission has decided to defer any fee increases for one year. As a result our fees may not reflect our current costs to regulate registrants and issuers. Generally, we use a fee model that allocates costs as fairly as possible among market participants. In order to calculate fees for reporting issuers and for registrants, we forecast our anticipated costs for the upcoming fee cycle and attempt to match revenues with those costs. These anticipated costs are allocated among reporting issuers and registrants as follows: • Costs incurred to directly oversee the activities of a category are charged to that category. • Costs that are general in nature and not attributable to any one category are charged based on the ratio of the direct costs generated by each category.

Item	Notable comments	Commission's response
1.8	**Participation fees of unregistered fund managers** One respondent questioned the proposed requirement that *non-Canadian* "unregistered investment fund managers" that distribute investment funds *not established in Canada* must pay participation fees under the rule. The respondent requested that the Commission change this requirement so that participation fees are not payable by non-Canadian "unregistered investment fund managers" that manage investment funds not established in Canada, in circumstances where those funds are distributed in Ontario pursuant to prospectus and registration exemptions. Activity fees established by Item B of Appendix C to the proposed Rule would instead be payable in respect of those exempt distributions.	We considered the application of fees to non-Canadian unregistered investment fund managers when we were preparing the earlier version of the proposed Rule for publication for comment. Relief from late fees has been provided to unregistered investment fund managers under section 4.3(2) of the proposed Rule. We will consider the issue of the imposition of participation fees on investment fund managers as the registration reform proposals under proposed NI 31-103 are finalized.
1.9	**Duplication with other fees** One respondent expressed concern that member dealers of the Mutual Fund Dealers Association of Canada (MFDA) currently pay fees to both the Commission and the MFDA. The respondent asked the Commission to review its participation fees to eliminate any duplication with MFDA membership fees.	We continue to be mindful of the regulatory burden, in particular for integrated entities that operate in various market segments. We recover our costs related to the oversight of the MFDA through participation fees. These oversight activities, which are provided by the Commission and other recognizing jurisdictions, do not duplicate any MFDA activities.
1.10	**Fees payable by smaller firms relative to those paid by larger firms** One respondent requested that the Commission seek a better balance between the fees payable by smaller firms relative to those paid by larger firms in order to more clearly reflect the disproportionately higher costs associated with regulating smaller firms.	We recognize that fees for smaller firms relative to those paid by larger firms do not always reflect the associated costs of regulating smaller firms. As a public agency, we have to consider public interest goals, such as support for small business (which includes assessing ability to pay). As smaller firms grow, they bear an increasing share of the costs of the regulatory system. Imposing higher fees on new, smaller market entrants could also be a barrier to entry and contrary to our broader goal of achieving more accessible capital markets. Participation fees reflect a market participant's size as a proxy for its use of Ontario's capital markets. These fees are not directly cost based and are intended to distribute the fee burden proportionately among market participants.

Item	Notable comments	Commission's response
1.11	**Fees should be more risk based** One respondent suggested that fees should be more risk based and reflect a market participant's levels of compliance and its systems.	As noted above, the Commission uses a combination of activity fees and participation fees to recover its costs of operation. Participation fees are not directly cost based and reflect a market participant's size as a proxy for their use of Ontario's capital markets. We believe that this model best meets our objective to have a fee structure that is fair, sustainable and transparent. If fees were based on a risk assessment of participants by the Commission, the publication of these fees could be misinterpreted as a rating of participants for investment or other purposes.
1.12	**Prospectus fees – multiple funds** One respondent suggested that where a participant has filed a single prospectus on behalf of more than one fund, the fee payable for additional funds in the same prospectus should decrease after a certain number of funds (e.g., 15 funds).	Our per fund fee takes into account cost and resource efficiencies in reviewing the same document for multiple funds. In our experience, most preliminary or *pro forma* fund prospectuses include multiple funds. Accordingly, the average cost of a fund prospectus review, which is the basis of the fee, assumes multiple funds per filing.
1.13	**Late fees** One respondent suggested that the Commission should reduce market participation fees, not late fees. Reducing late fees effectively means that market participants that pay their fees on time are subsidizing firms that do not.	Late fees represent a very small percentage of the Commission's revenue. We made relieving changes to the late fee rule to ensure that the late fee charged is based on the portion of the fee that is past due. These changes were to reflect existing administrative practice and to improve fairness in calculating late fees. A substantial reduction in the daily late fee charged also improves the fairness of the late fee rule.

ONTARIO SECURITIES COMMISSION
RULE 13-502 *FEES*

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ONTARIO SECURITIES COMMISSION
RULE 13-502 FEES

PART 1 — INTERPRETATION

1.1 Definitions — In this Rule

"capitalization" means the amount determined in accordance with section 2.7, 2.8, 2.9 or 2.10;

"capital markets activities" means

(a) activities for which registration under the Act or an exemption from registration is required,

(b) acting as an investment fund manager, or

(c) activities for which registration under the *Commodity Futures Act*, or an exemption from registration under the *Commodity Futures Act*, is required;

"Class 1 reporting issuer" means a reporting issuer that is incorporated or organized under the laws of Canada or a jurisdiction in Canada and that, at the end of its previous fiscal year, has securities listed or quoted on a marketplace in Canada or the United States of America;

"Class 2 reporting issuer" means a reporting issuer that is incorporated or organized under the laws of Canada or a jurisdiction in Canada other than a Class 1 reporting issuer;

"Class 3A reporting issuer" means

(a) a reporting issuer that is not incorporated or organized under the laws of Canada or a jurisdiction in Canada and that, at the end of its previous fiscal year, has no securities listed or quoted on a marketplace located anywhere in the world, or

(b) a reporting issuer that is not incorporated or organized under the laws of Canada or a jurisdiction in Canada and that, at the end of its previous fiscal year,

(i) has securities listed or quoted on a marketplace anywhere in the world,

(ii) has securities registered in the names of persons or companies resident in Ontario representing less than 1% of the market value of all outstanding securities of the reporting issuer for which the reporting issuer or its transfer agent or registrar maintains a list of registered owners,

(iii) reasonably believes that persons or companies who are resident in Ontario beneficially own less than 1% of the market value of all its outstanding securities,

(iv) reasonably believes that none of its securities traded on a marketplace in Canada during its previous fiscal year, and

(v) has not issued any of its securities in Ontario in the last 5 years, other than

(A) to its employees or to employees of one or more of its subsidiary entities, or

(B) pursuant to the exercise of a right previously granted by it or its affiliate to convert or exchange its previously issued securities without payment of any additional consideration;

"Class 3B reporting issuer" means a reporting issuer

(a) that is not incorporated or organized under the laws of Canada or a jurisdiction in Canada,

(b) that is not a Class 3A reporting issuer, and

(c) whose trading volume in its previous fiscal year of securities listed or quoted on marketplaces in Canada was less than the trading volume in its previous fiscal year of its securities listed or quoted on marketplaces outside Canada;

"Class 3C reporting issuer" means a reporting issuer

(a) that is not incorporated or organized under the laws of Canada or a jurisdiction in Canada, and

(b) whose trading volume in its previous fiscal year of securities listed or quoted on marketplaces in Canada was greater than the trading volume in its previous fiscal year of its securities listed or quoted on marketplaces outside Canada;

"IIROC" means the Investment Industry Regulatory Organization of Canada and, where context requires, includes the Investment Dealers Association of Canada;

"marketplace" has the meaning ascribed to that term in National Instrument 21-101 *Marketplace Operation*;

"MFDA" means the Mutual Fund Dealers Association of Canada;

"Ontario allocation factor" has the meaning that would be assigned by the first definition of that expression in subsection 1(1) of the *Taxation Act, 2007* if that definition were read without reference to the words "ending after December 31, 2008";

"Ontario percentage" means, for a fiscal year of a participant

(a) if the participant is a company that has a permanent establishment in Ontario in the fiscal year, the participant's Ontario allocation factor for the fiscal year expressed as a percentage and determined on the assumption that the participant had a taxation year that coincided with the fiscal year and is resident in Canada for the purposes of the ITA,

(b) if paragraph (a) does not apply and the participant would have a permanent establishment in Ontario in the fiscal year if the participant were a company, the participant's Ontario allocation factor for the fiscal year expressed as a percentage and determined on the assumption that the participant is a company, had a taxation year that coincided with the fiscal year and is resident in Canada for the purposes of the ITA, and

(c) in any other case, the percentage of the participant's total revenues for the fiscal year attributable to capital markets activities in Ontario;

"parent" means a person or company of which another person or company is a subsidiary entity;

"participant" means a person or company;

"permanent establishment" has the meaning provided in Part IV of the regulations under the ITA;

"previous fiscal year" of a participant in respect of a participation fee means,

(a) where the participation fee is payable by a reporting issuer under section 2.2 and the required date of payment is determined with reference to the required date or actual date of filing of financial statements for a fiscal year under Ontario securities law, that fiscal year,

(b) where the participation fee becomes payable by a firm under subsection 3.1(1) on December 31 of a calendar year, the last fiscal year of the participant ending in the calendar year, and

(c) where the participation fee is payable by an unregistered investment fund manager under subsection 3.1(2) no more than 90 days after the end of a fiscal year, that fiscal year;

"registrant firm" means a person or company registered as a dealer or an adviser under the Act;

"specified Ontario revenues" means, for a registrant firm or an unregistered investment fund manager, the revenues determined under section 3.3, 3.4 or 3.5;

"subsidiary entity" has the meaning ascribed to "subsidiary" or "variable interest entity" under the accounting standards pursuant to which the entity's financial statements are prepared under Ontario securities law; and

"unregistered investment fund manager" means an investment fund manager that is not registered under the Act.

1.2 **Interpretation of "listed or quoted"** — In this Rule, a reporting issuer is deemed not to have securities listed or quoted on a marketplace that lists or quotes the reporting issuer's securities unless the reporting issuer or an affiliate of the reporting issuer applied for, or consented to, the listing or quotation.

PART 2 — CORPORATE FINANCE PARTICIPATION FEES

Division 1: General

2.1 **Application** — This Part does not apply to an investment fund if the investment fund has an investment fund manager.

2.2 **Participation Fee**

(1) A reporting issuer must pay the participation fee shown in Appendix A opposite the capitalization of the reporting issuer for its previous fiscal year, as its capitalization is determined under section 2.7, 2.8 or 2.10.

(2) Despite subsection (1), a Class 3A reporting issuer must pay a participation fee of $600.

(3) Despite subsection (1), a Class 3B reporting issuer must pay a participation fee equal to the greater of

(a) $600, and

(b) 1/3 of the participation fee shown in Appendix A opposite the capitalization of the reporting issuer for its previous fiscal year, as its capitalization is determined under section 2.9.

(4) Despite subsections (1) to (3), a participation fee is not payable by a participant under this section if the participant became a reporting issuer in period that begins immediately after the time that would otherwise be the end of the previous fiscal year in respect of the participation fee and ends at the time the participation fee would otherwise required to be paid under section 2.3.

2.3 **Time of Payment** — A reporting issuer must pay the participation fee required under section 2.2 by the earlier of

(a) the date on which its annual financial statements are required to be filed under Ontario securities law, and

(b) the date on which its annual financial statements are filed.

2.4 **Disclosure of Fee Calculation** — At the time that it pays the participation fee required by this Part,

(a) a Class 1 reporting issuer must file a completed Form 13-502F1,

(b) a Class 2 reporting issuer must file a completed Form 13-502F2,

(c) a Class 3A reporting issuer must file a completed Form 13-502F3A,

(d) a Class 3B reporting issuer must file a completed Form 13-502F3B, and

(e) a Class 3C reporting issuer must file a completed Form 13-502F3C.

2.5 **Late Fee**

(1) A reporting issuer that is late in paying a participation fee under this Part must pay an additional fee of one-tenth of one percent of the unpaid portion of the participation fee for each business day on which any portion of the participation fee remains due and unpaid.

(2) The amount determined under subsection (1) in respect of the late payment of a participation fee by a reporting issuer is deemed to be nil if the amount otherwise determined under subsection (1) in respect of the late payment of participation fee is less than $10.

2.6 Participation Fee Exemption for Subsidiary Entities

(1) Section 2.2 does not apply to a reporting issuer that is a subsidiary entity in respect of a participation fee determined with reference to the subsidiary entity's capitalization for the subsidiary entity's previous fiscal year if

(a) at the end of that previous fiscal year, a parent of the subsidiary entity was a reporting issuer,

(b) the accounting standards pursuant to which the parent's financial statements are prepared under Ontario securities law require the consolidation of the parent and the subsidiary entity,

(c) the parent has paid a participation fee applicable to the parent under section 2.2 determined with reference to the parent's capitalization for the parent's previous fiscal year,

(d) the capitalization of the subsidiary entity for its previous fiscal year was included in the capitalization of the parent for the parent's previous fiscal year, and

(e) the net assets and gross revenues of the subsidiary entity for its previous fiscal year represented more than 90 percent of the consolidated net assets and gross revenues of the parent for the parent's previous fiscal year.

(2) Section 2.2 does not apply to a reporting issuer that is a subsidiary entity in respect of a participation fee determined with reference to the subsidiary entity's capitalization for the subsidiary entity's previous fiscal year if

(a) at the end of that previous fiscal year, a parent of the subsidiary entity was a reporting issuer,

(b) the accounting standards pursuant to which the parent's financial statements are prepared under Ontario securities law require the consolidation of the parent and the subsidiary entity,

(c) the parent has paid a participation fee applicable to the parent under section 2.2 determined with reference to the parent's capitalization for the parent's previous fiscal year,

(d) the capitalization of the subsidiary entity for its previous fiscal year was included in the capitalization of the parent for the parent's previous fiscal year, and

(e) throughout the previous fiscal year of the subsidiary entity, the subsidiary entity was entitled to rely on an exemption, waiver or approval from the requirements in subsections 4.1(1), 4.3(1) and 5.1(1) and sections 5.2 and 6.1 of National Instrument 51-102 *Continuous Disclosure Obligations*.

(3) If, under subsection (1) or (2), a reporting issuer has not paid a participation fee, the reporting issuer must file a completed Form 13-502F6 at the time it is otherwise required to pay the participation fee under section 2.3.

2.6.1 Participation Fee Estimate for Class 2 Reporting Issuers

(1) If the annual financial statements of a Class 2 reporting issuer are not available by the date referred to in section 2.3, the Class 2 reporting issuer must, on that date,

(a) file a completed Form 13-502F2 showing a good faith estimate of the information required to calculate its capitalization as at the end of the previous fiscal year, and

(b) pay the participation fee shown in Appendix A opposite the capitalization estimated under paragraph (a).

(2) A Class 2 reporting issuer that estimated its capitalization under subsection (1) must, when it files its annual financial statements for the previous fiscal year,

(a) calculate its capitalization under section 2.8,

(b) pay the participation fee shown in Appendix A opposite the capitalization calculated under section 2.8, less the participation fee paid under subsection (1), and

(c) file a completed Form 13-502F2A.

(3) If a reporting issuer paid an amount paid under subsection (1) that exceeds the participation fee calculated under section (2), the issuer is entitled to a refund from the Commission of the amount overpaid.

Division 2: Calculating Capitalization

2.7 Class 1 reporting issuers — The capitalization of a Class 1 reporting issuer for its previous fiscal year is the total of

(a) the average market value over the previous fiscal year of each class or series of the reporting issuer's securities listed or quoted on a marketplace, calculated by multiplying

(i) the total number of securities of the class or series outstanding at the end of the previous fiscal year, by

(ii) the simple average of the closing prices of the class or series on the last trading day of each month of the previous fiscal year in which the class or series were listed or quoted on the marketplace

(A) on which the highest volume in Canada of the class or series was traded in the previous fiscal year, or

(B) if the class or series was not traded in the previous fiscal year on a marketplace in Canada, on which the highest volume in the United States of America of the class or series was traded in the previous fiscal year, and

(b) the market value at the end of the previous fiscal year, as determined by the reporting issuer in good faith, of each class or series of securities of the reporting issuer not valued under paragraph (a), if any securities of the class or series

(i) were initially issued to a person or company resident in Canada, and

(ii) trade over the counter or, after their initial issuance, are otherwise generally available for purchase or sale by way of transactions carried out through, or with, dealers.

2.8 Class 2 reporting issuers

(1) The capitalization of a Class 2 reporting issuer for its previous fiscal year is the total of all of the following items, as shown in its audited balance sheet as at the end of the previous fiscal year:

(a) retained earnings or deficit;

(b) contributed surplus;

(c) share capital or owners' equity, options, warrants and preferred shares;

(d) long term debt, including the current portion;

(e) capital leases, including the current portion;

(f) minority or non-controlling interest;

(g) items classified on the balance sheet between current liabilities and shareholders' equity, and not otherwise referred to in this subsection;

(h) any other item forming part of shareholders' equity not otherwise referred to in this subsection.

(2) Despite subsection (1), a reporting issuer may calculate its capitalization using unaudited annual financial statements if it is not required to prepare, and does not ordinarily prepare, audited annual financial statements.

(3) Despite subsection (1), a reporting issuer that is a trust that issues only asset-backed securities through pass-through certificates may calculate its capitalization using the monthly filed distribution report for the last month

of its previous fiscal year, if the reporting issuer is not required to prepare, and does not ordinarily prepare, audited annual financial statements.

2.9 Class 3B reporting issuers — The capitalization of a Class 3B reporting issuer for its previous fiscal year is the total of each value of each class or series of securities of the reporting issuer listed or quoted on a marketplace, calculated by multiplying

(a) the number of securities of the class or series outstanding at the end of the previous fiscal year, by

(b) the simple average of the closing prices of the class or series on the last trading day of each month of the previous fiscal year in which the class or series were quoted on the marketplace on which the highest volume of the class or series was traded in the previous fiscal year.

2.10 Class 3C reporting issuers — The capitalization of a Class 3C reporting issuer is determined under section 2.7, as if it were a Class 1 reporting issuer.

2.11 Reliance on Published Information

(1) Subject to subsection (2), in determining its capitalization for purposes of this Part, a reporting issuer may rely on information made available by a marketplace on which securities of the reporting issuer trade.

(2) If a reporting issuer reasonably believes that the information made available by a marketplace is incorrect, subsection (1) does not apply and the issuer must make a good faith estimate of the information required.

PART 3 — CAPITAL MARKETS PARTICIPATION FEES

3.1 Participation Fee

(1) On December 31, a registrant firm must pay the participation fee shown in Appendix B opposite the registrant firm's specified Ontario revenues for its previous fiscal year, as that revenue is calculated under section 3.3, 3.4 or 3.5.

(2) Not later than 90 days after the end of its fiscal year, if at any time in the fiscal year a person or company was an unregistered investment fund manager, the fund manager must pay the participation fee shown in Appendix B opposite the fund manager's specified Ontario revenues for the fiscal year, as those revenues are calculated under section 3.4.

(3) Subsection (2) does not apply to require the payment of a participation fee by a person or company 90 days after the end of its fiscal year if the person or company

(a) ceased at any time in the fiscal year to be an unregistered investment fund manager, and

(b) the person or company did not become a registrant firm at that time.

(4) Despite subsection (2), where a person or company ceases at any time in a calendar year to be an unregistered investment fund manager and at that time becomes a registrant firm, the participation fee payable under subsection (2) not later than 90 days after the end of its last fiscal year ending in the calendar year is deemed to be the amount determined by the formula

$$A \times B/365$$

in which,

"A" is equal to the amount, if any, that would be the participation fee payable under subsection (2) not later than 90 days after the end of that fiscal year if this section were read without reference to this subsection, and

"B" is equal to the number of days in that calendar year ending after the end of that fiscal year.

3.2 Disclosure of Fee Calculation

(1) By December 1, a registrant firm must file a completed Form 13-502F4 showing the information required to determine the participation fee due on December 31.

(2) At the time that it pays any participation fee required under subsection 3.1(2), an unregistered investment fund manager must file a completed Form 13-502F4 showing the information required to determine the participation fee.

3.3 Specified Ontario Revenues for IIROC and MFDA Members

(1) The specified Ontario revenues for its previous fiscal year of a registrant firm that was an IIROC or MFDA member at the end of the previous fiscal year is calculated by multiplying

(a) the registrant firm's total revenue for its previous fiscal year, less the portion of that total revenue not attributable to capital markets activities, by

(b) the registrant firm's Ontario percentage for its previous fiscal year.

(2) For the purpose of paragraph (1)(a), "total revenue" for a previous fiscal year means,

(a) for a registrant firm that was an IIROC member at the end of the previous fiscal year, the amount shown as total revenue for the previous fiscal year on Statement E of the Joint Regulatory Financial Questionnaire and Report filed with IIROC by the registrant firm, and

(b) for a registrant firm that was an MFDA member at the end of the previous fiscal year, the amount shown as total revenue for the previous fiscal year on Statement D of the MFDA Financial Questionnaire and Report filed with the MFDA by the registrant firm.

3.4 Specified Ontario Revenues for Others

(1) The specified Ontario revenues of a registrant firm for its previous fiscal year that was not a member of IIROC or the MFDA at the end of the previous fiscal year is calculated by multiplying

(a) the registrant firm's gross revenues, as shown in the audited financial statements prepared for the previous fiscal year, less deductions permitted under subsection (3), by

(b) the registrant firm's Ontario percentage for the previous fiscal year.

(2) The specified Ontario revenues of an unregistered investment fund manager for its previous fiscal year is calculated by multiplying

(a) the fund manager's gross revenues, as shown in the audited financial statements for the previous fiscal year, less deductions permitted under subsection (3), by

(b) the fund manager's Ontario percentage for the previous fiscal year.

(3) For the purpose of paragraphs (1)(a) and (2)(a), a person or company may deduct the following items otherwise included in gross revenues for the previous fiscal year:

(a) revenue not attributable to capital markets activities;

(b) redemption fees earned on the redemption of investment fund securities sold on a deferred sales charge basis;

(c) administration fees earned relating to the recovery of costs from investment funds managed by the person or company for operating expenses paid on behalf of the investment fund by the person or company;

(d) advisory or sub-advisory fees paid during the previous fiscal year by the person or company to a registrant firm, as "registrant firm" is defined in this Rule or in Rule 13-503 *(Commodity Futures Act) Fees*;

(e) trailing commissions paid during the previous fiscal year by the person or company to a registrant firm described in paragraph (d).

(4) Despite subsection (1), a registrant firm that is registered only as one or more of a limited market dealer, an international dealer or an international adviser may calculate its gross revenues using unaudited financial statements if it is not required to prepare, and does not ordinarily prepare, audited financial statements.

(5) Despite subsection (2), an unregistered investment fund manager may calculate its gross revenues using unaudited financial statements if it is not required to prepare, and does not ordinarily prepare, audited financial statements.

3.5 Estimating Specified Ontario Revenues for Late Fiscal Year End

(1) If the annual financial statements of a registrant firm for the previous fiscal year have not been completed by December 1 in the calendar year in which the previous fiscal year ends, the registrant firm must,

(a) on December 1 in that calendar year, file a completed Form 13-502F4 showing a good faith estimate of the information required to calculate its specified Ontario revenues as at the end of the previous fiscal year, and

(b) on December 31 in that calendar year, pay the participation fee shown in Appendix B opposite the specified Ontario revenues estimated under paragraph (a).

(2) A registrant firm that estimated its specified Ontario revenues under subsection (1) must, when its annual financial statements for the previous fiscal year have been completed,

(a) calculate its specified Ontario revenues under section 3.3 or 3.4, as applicable,

(b) determine the participation fee shown in Appendix B opposite the specified Ontario revenues calculated under paragraph (a),

(c) complete a Form 13-502F4 reflecting the annual financial statements, and

(d) if the participation fee determined under paragraph (b) differs from the corresponding participation fee paid under subsection (1), the registrant firm must, not later than 90 days after the end of the previous fiscal year,

(i) pay the amount, if any, by which

(A) the participation fee determined without reference to this section,

exceeds

(B) the corresponding participation fee paid under subsection (1),

(ii) file the Form 13-502F4 completed under paragraph (c), and

(iii) file a completed Form 13-502F5.

(3) If a registrant firm paid an amount paid under subsection (1) that exceeds the corresponding participation fee determined without reference to this section, the registrant firm is entitled to a refund from the Commission of the excess.

3.6 Late Fee

(1) A participant that is late in paying a participation fee under this Part must pay an additional fee of one-tenth of one percent of the unpaid portion of the participation fee for each business day on which any portion of the participation fee remains due and unpaid.

(2) The amount determined under subsection (1) in respect of the late payment of a participation fee by a participant is deemed to be nil if

(a) the participant pays an estimate of the participation fee in accordance with subsection 3.5(1), or

(b) the amount otherwise determined under subsection (1) in respect of the late payment of participation fee is less than $10.

PART 4 — ACTIVITY FEES

4.1 Activity Fees — A person or company that files a document or takes an action listed in Appendix C must, concurrently with filing the document or taking the action, pay the activity fee shown in Appendix C opposite the description of the document or action.

4.2 Investment Fund Families — Despite section 4.1, only one activity fee must be paid for an application made by or on behalf of two or more investment funds that have

(a) the same investment fund manager, or

(b) investment fund managers that are affiliates of each other.

4.3 Late Fee

(1) A person or company that files a document listed in item A of Appendix D after the document was required to be filed must, concurrently with filing the document, pay the late fee shown in Appendix D opposite the description of the document.

(2) Subsection (1) does not apply to the late filing of Form 13-502F4 by an unregistered investment fund manager.

(3) A person or company that files a Form 55-102F2 *Insider Report* after it was required to be filed must pay the late fee shown in item B of Appendix D upon receiving an invoice from the Commission.

PART 5 — CURRENCY CONVERSION

5.1 Canadian Dollars — If a calculation under this Rule requires the price of a security, or any other amount, as it was on a particular date and that price or amount is not in Canadian dollars, it must be converted into Canadian dollars using the daily noon exchange rate for that date as posted on the Bank of Canada website.

PART 6 — EXEMPTION

6.1 Exemption — The Director may grant an exemption from the provisions of this Rule, in whole or in part, subject to such conditions or restrictions as may be imposed in the exemption.

PART 7 — REVOCATION AND EFFECTIVE DATE

7.1 Revocation — Rule 13-502 Fees, which came into force on April 1, 2006, is revoked.

7.2 Effective Date — This Rule comes into force on June 1, 2009.

APPENDIX A — CORPORATE FINANCE PARTICIPATION FEES

Capitalization for the Previous Fiscal Year	Participation Fee
under $25 million	$600
$25 million to under $50 million	$1,300
$50 million to under $100 million	$3,200
$100 million to under $250 million	$6,700
$250 million to under $500 million	$14,700
$500 million to under $1 billion	$20,500
$1 billion to under $5 billion	$29,700
$5 billion to under $10 billion	$38,300
$10 billion to under $25 billion	$44,700
$25 billion and over	$50,300

APPENDIX B — CAPITAL MARKETS PARTICIPATION FEES

Specified Ontario Revenues for the Previous Fiscal Year	Participation Fee
under $500,000	$800
$500,000 to under $1 million	$2,500
$1 million to under $3 million	$5,600
$3 million to under $5 million	$12,600
$5 million to under $10 million	$25,500
$10 million to under $25 million	$52,000
$25 million to under $50 million	$78,000
$50 million to under $100 million	$156,000
$100 million to under $200 million	$259,000
$200 million to under $500 million	$525,000
$500 million to under $1 billion	$678,000
$1 billion to under $2 billion	$855,000
$2 billion and over	$1,435,000

APPENDIX C - ACTIVITY FEES

Document or Activity	Fee
A. Prospectus Filing	
1. Preliminary or Pro Forma Prospectus in Form 41-101F1 (including if PREP procedures are used) *Notes:* *(i) This applies to most issuers.* *(ii) Each named issuer should pay its proportionate share of the fee in the case of a prospectus for multiple issuers (other than in the case of investment funds).*	$3,000
2. Additional fee for Preliminary or Pro Forma Prospectus in Form 41-101F1 of a resource issuer that is accompanied by engineering reports	$2,000
3. Preliminary Short Form Prospectus in Form 44-101F1 (including if shelf or PREP procedures are used) or a Registration Statement on Form F-9 or F-10 filed by an issuer that is incorporated or that is organized under the laws of Canada or a jurisdiction in Canada in connection with a distribution solely in the United States under MJDS as described in the companion policy to NI 71-101 *The Multijurisdictional Disclosure System*.	$3,000
4. Prospectus Filing by or on behalf of certain investment funds	
(a) Preliminary or Pro Forma Simplified Prospectus and Annual Information Form in Form 81-101F1 and Form 81-101F2 *Note: Where a single prospectus document is filed on behalf of more than one investment fund, the applicable fee is payable for each investment fund.*	$400
(b) Preliminary or Pro Forma Prospectus in Form 41-101F2 *Note: Where a single prospectus document is filed on behalf of more than one investment fund and the investment funds do not have similar investment objectives and strategies, $3,000 is payable for each investment fund.*	The greater of (i) $3,000 per prospectus, and (ii) $600 per investment fund in a prospectus.

Document or Activity	Fee
B. Fees relating to exempt distributions under OSC Rule 45-501 *Ontario Prospectus and Registration Exemptions* and NI 45-106 *Prospectus and Registration Exemptions*	
1. Application for recognition, or renewal of recognition, as an accredited investor	$500
2. Forms 45-501F1 and 45-106F1 (a) Filing of a Form 45-501F1 or Form 45-106F1 for a distribution of securities of an issuer that is not an investment fund and is not subject to a participation fee (b) Filing of a Form 45-501F1 or Form 45-106F1 for a distribution of securities of an issuer that is an investment fund, unless the investment fund has an investment fund manager that is subject to a participation fee	$500
3. Filing of a rights offering circular in Form 45-101F	$2,000 (plus $2,000 if neither the applicant nor an issuer of which the applicant is a wholly owned subsidiary is subject to, or is reasonably expected to become subject to, a participation fee under this Rule)
C. Provision of Notice under paragraph 2.42(2)(a) of NI 45-106 *Prospectus and Registration Exemptions*	$2,000
D. Filing of Prospecting Syndicate Agreement	$500
E. Applications for Relief, Approval or Recognition	
1. Any application for relief, approval or recognition under an eligible securities section, being for the purpose of this item any provision of the Act or any Regulation or OSC Rule made under the Act not listed in item E(2), E(3) or E(4) below *Note: The following are included in the applications that are subject to a fee under this item:* *(i) recognition of an exchange under section 21 of the Act, a self-regulatory organization under section 21.1 of the Act, a clearing agency under section 21.2 of the Act or a quotation and trade reporting system under section 21.2.1 of the Act;* *(ii) approval of a compensation fund or contingency trust fund under section 110 of the Regulation;* *(iii) approval of the establishment of a council, committee or ancillary body under section 21.3 of the Act;* *(iv) deeming an issuer to be a reporting issuer under subsection 1(11) of the Act;* *(v) except as listed in item E.4(b), applications by a person or company under subsection 144(1) of the Act; and*	$3,000 for an application made under one eligible securities section and $5,000 for an application made under two or more eligible securities sections (plus $2,000 if none of the following is subject to, or is reasonably expected to become subject to, a participation fee under this Rule or OSC Rule 13-503 (*Commodity Futures Act*) *Fees*: (i) the applicant; (ii) an issuer of which the applicant is a wholly owned subsidiary; (iii) the investment fund manager of the applicant).

Document or Activity	Fee
(vi) exemption applications under section 147 of the Act.	
2. An application for relief from any of the following: (a) this Rule; (b) OSC Rule 31-506 *SRO Membership – Mutual Fund Dealers*; (c) OSC Rule 31-507 *SRO Membership – Securities Dealers and Brokers*; (d) NI 31-102 *National Registration Database*; (e) NI 33-109 *Registration Information*; (f) Part 3 of OSC Rule 31-502 *Proficiency*.	$1,500
3. An application for relief from Part 1 or Part 2 of OSC Rule 31-502 *Proficiency*	$800
4. Application (a) under clause 1(10)(b), section 27 or subsection 38(3) of the Act or subsection 1(6) of the *Business Corporations Act*; (b) under section 144 of the Act for an order to partially revoke a cease-trade order to permit trades solely for the purpose of establishing a tax loss, as contemplated under section 3.2 of National Policy 12-202 *Revocation of a Compliance-related Cease Trade Order*; and (c) other than a pre-filing, where the discretionary relief or regulatory approval is evidenced by the issuance of a receipt for the applicants' final prospectus (such as certain applications under NI 41-101 or NI 81-101).	Nil
5. Application for approval under subsection 213(3) of the *Loan and Trust Corporations Act*	$1,500
6. (a) Application made under subsection 46(4) of the *Business Corporations Act* for relief from the requirements under Part V of that Act (b) Application for consent to continue in another jurisdiction under paragraph 4(b) of Ont. Reg. 289/00 made under the *Business Corporations Act* *Note*: *These fees are in addition to the fee payable to the Minister of Finance as set out in the Schedule attached to the Minister's Fee Orders relating to applications for exemption orders made under the Business Corporations Act to the Commission*.	$400

Document or Activity	Fee
F. Pre-Filings *Note: The fee for a pre-filing will be credited against the applicable fee payable if and when the formal filing (e.g., an application or a preliminary prospectus) is actually proceeded with; otherwise, the fee is non-refundable.*	$3,000
G. Take-Over Bid and Issuer Bid Documents	
1. Filing of a take-over bid or issuer bid circular under subsection 94.2(2),(3) or (4) of the Act	$3,000 (plus $2,000 if neither the offeror nor an issuer of which the offeror is a wholly-owned subsidiary is subject to, or reasonably expected to become subject to, a participation fee under this Rule)
2. Filing of a notice of change or variation under section 94.5 of the Act	Nil
H. Registration-Related Activity	
1. New registration of a firm in one or more categories of registration	$600
2. Change in registration category *Note: This includes a dealer becoming an adviser or vice versa, or changing a category of registration within the general categories of dealer or adviser. A dealer adding a category of registration, such as a dealer becoming both a dealer and an adviser, is covered in the preceding item.*	$600
3. Registration of a new director, officer or partner (trading or advising), salesperson or representative *Notes:* *(i) Registration of a new non-trading or non-advising director, officer or partner does not trigger an activity fee.* *(ii) If an individual is registering as both a dealer and an adviser, the individual is required to pay only one activity fee.* *(iii) A registration fee will not be charged if an individual makes an application to register with a new registrant firm within three months of terminating employment with his or her previous registrant firm if the individual's category of registration remains unchanged.*	$200 per individual
4. Change in status from a non-trading or non-advising capacity to a trading or advising capacity	$200 per individual
5. Registration of a new registrant firm, or the continuation of registration of an existing registrant firm, resulting from or following an amalgamation of one or more registrant firms	$2,000

Document or Activity	Fee
6. Application for amending terms and conditions of registration	$500
I. Notice to Director under section 104 of the Regulation	$3,000
J. Request for certified statement from the Commission or the Director under section 139 of the Act	$100
K. Requests to the Commission	
1. Request for a photocopy of Commission records	$0.50 per page
2. Request for a search of Commission records	$150
3. Request for one's own Form 4	$30

APPENDIX D – ADDITIONAL FEES FOR LATE DOCUMENT FILINGS

Document	Late Fee
A. Fee for late filing of any of the following documents: (a) Annual financial statements and interim financial statements; (b) Annual information form filed under NI 51-102 *Continuous Disclosure Obligations* or NI 81-106 *Investment Fund Continuous Disclosure*; (c) Form 45-501F1 or Form 45-106F1 filed by a reporting issuer; (d) Report under section 141 or 142 of the Regulation; (e) Filings for the purpose of amending Form 3 or Form 4 under the Regulation or Form 33-109F4 under NI 33-109 *Registration Information*, including the filing of Form 33-109F1; (f) Any document required to be filed by a registrant firm or individual in connection with the registration of the registrant firm or individual under the Act with respect to (i) terms and conditions imposed on a registrant firm or individual, or (ii) an order of the Commission; (g) Form 13-502F4; (h) Form 13-502F5; (i) Form 13-502F6.	$100 per business day (subject to a maximum aggregate fee of $5,000 (i) per fiscal year, for a reporting issuer, for all documents required to be filed within a fiscal year of the issuer, and (ii) for a registrant firm and an unregistered investment fund manager for all documents required to be filed within a calendar year) *Note: Subsection 4.3(2) of this Rule exempts unregistered investment fund managers from the late filing fee for Form 13-502F4.*
B. Fee for late filing of Form 55-102F2 – *Insider Report*	$50 per calendar day per insider per issuer (subject to a maximum of $1,000 per issuer within any one year beginning on April 1st and ending on March 31st.) The late fee does not apply to an insider if (a) the head office of the issuer is located outside Ontario, and (b) the insider is required to pay a late fee for the filing in a jurisdiction in Canada other than Ontario.

FORM 13-502F1
CLASS 1 REPORTING ISSUERS – PARTICIPATION FEE

Reporting Issuer Name: ____________________________

End date of last completed fiscal year: _____________________

Market value of listed or quoted securities:

Total number of securities of a class or series outstanding as at the end of the issuer's last completed fiscal year __________(i)

Simple average of the closing price of that class or series as of the last trading day of each month in the last completed fiscal year (See clauses 2.7(a)(ii)(A) and (B) of the Rule) __________(ii)

Market value of class or series (i) X (ii) = __________(A)

(Repeat the above calculation for each other class or series of securities of the reporting issuer that was listed or quoted on a marketplace in Canada or the United States of America at the end of the last completed fiscal year) __________(B)

Market value of other securities at end of the last completed fiscal year:(See paragraph 2.7(b) of the Rule)
(Provide details of how value was determined) __________(C)

(Repeat for each other class or series of securities to which paragraph 2.7(b) of the Rule applies) __________(D)

Capitalization for the last completed fiscal year
(Add market value of all classes and series of securities) (A) + (B) + (C) + (D) = __________

Participation Fee
(From Appendix A of the Rule, select the participation fee beside the capitalization calculated above) __________

Late Fee, if applicable
(As determined under section 2.5 of the Rule) __________

FORM 13-502F2
CLASS 2 REPORTING ISSUERS – PARTICIPATION FEE

Reporting Issuer Name: ____________________________

End date of last completed fiscal year: ________________

Financial Statement Values:

(Use stated values from the audited financial statements of the reporting issuer as of the end of its last completed fiscal year)

Retained earnings or deficit	__________(A)
Contributed surplus	__________(B)
Share capital or owners' equity, options, warrants and preferred shares (whether such shares are classified as debt or equity for financial reporting purposes)	_________(C)
Long term debt (including the current portion)	_________(D)
Capital leases (including the current portion)	__________(E)
Minority or non-controlling interest	__________(F)
Items classified on the balance sheet between current liabilities and shareholders' equity (and not otherwise listed above)	_________(G)
Any other item forming part of shareholders' equity and not set out specifically above	_________(H)

Capitalization for the last completed fiscal year

(Add items (A) through (H)) ___________

Participation Fee

(From Appendix A of the Rule, select the participation fee beside the capitalization calculated above) ___________

Late Fee, if applicable

(As determined under section 2.5 of the Rule) ___________

FORM 13-502F2A

ADJUSTMENT OF FEE PAYMENT FOR CLASS 2 REPORTING ISSUERS

Reporting Issuer Name: ____________________________

Fiscal year end date used to calculate capitalization: ____________________

State the amount paid under subsection 2.6.1(1) of Rule 13-502: ______________(i)

Show calculation of actual capitalization based on audited financial statements:

Financial Statement Values:

Retained earnings or deficit	________(A)
Contributed surplus	________(B)
Share capital or owners' equity, options, warrants and preferred shares (whether such shares are classified as debt or equity for financial reporting purposes)	________(C)
Long term debt (including the current portion)	________(D)
Capital leases (including the current portion)	________(E)
Minority or non-controlling interest	________(F)
Items classified on the balance sheet between current liabilities and shareholders' equity (and not otherwise listed above)	________(G)
Any other item forming part of shareholders' equity and not set out specifically above	________(H)

Capitalization
(Add items (A) through (H)) __________

Participation Fee ________(ii)
(From Appendix A of the Rule, select the participation fee beside the capitalization calculated above)

Refund due (Balance owing)
(Indicate the difference between (i) and (ii)) (i) – (ii) = __________

FORM 13-502F3A
CLASS 3A REPORTING ISSUERS – PARTICIPATION FEE

Reporting Issuer Name: ____________________________
(Class 3A reporting issuer cannot be incorporated or organized under the laws of Canada or a province or territory of Canada)

Fiscal year end date: ____________________________

Indicate, by checking the appropriate box, which of the following criteria the issuer meets:

(a) At the fiscal year end date, the issuer has no securities listed or quoted on a marketplace located anywhere in the world; or ☐

(b) at the fiscal year end date, the issuer ☐

(i) has securities listed or quoted on a marketplace anywhere in the world ,

(ii) has securities registered in the names of persons or companies resident in Ontario representing less than 1% of the market value of all outstanding securities of the issuer for which the issuer or its transfer agent or registrar maintains a list of registered owners,

(iii) reasonably believes that persons or companies who are resident in Ontario beneficially own less than 1% of the market value of all its outstanding securities,

(iv) reasonably believes that none of its securities traded on a marketplace in Canada during its previous fiscal year, and

(v) has not issued any of its securities in Ontario in the last 5 years, other than

(A) to its employees or to employees of its subsidiary entities, or

(B) pursuant to the exercise of a right previously granted by it or its affiliate to convert or exchange its previously issued securities without payment of any additional consideration.

Participation Fee __$600
(From subsection 2.2(2) of the Rule)

Late Fee, if applicable
(As determined under section 2.5 of the Rule) ____

FORM 13-502F3B
CLASS 3B REPORTING ISSUERS – PARTICIPATION FEE

Reporting Issuer Name: ____________________________

End date of last completed fiscal year: ________________

Market value of securities:

Total number of securities of a class or series outstanding as at the end of the issuer's last completed fiscal year	________(i)	
Simple average of the closing price of that class or series as of the last trading day of each month of the last completed fiscal year (See section 2.9(b) of the Rule)	________(ii)	
Market value of class or series	(i) X (ii) =	________(A)
(Repeat the above calculation for each other listed or quoted class or series of securities of the reporting issuer)		________(B)
Capitalization for the last completed fiscal year (Add market value of all classes and series of securities)	(A) + (B) =	________
Participation Fee Otherwise Determined (From Appendix A of the Rule, select the participation fee beside the capitalization calculated above)		________(C)
Participation Fee Payable 1/3 of (C) or $600, whichever is greater (See subsection 2.2(3) of the Rule)		________
Late Fee, if applicable (As determined under section 2.5 of the Rule)		________

FORM 13-502F3C
CLASS 3C REPORTING ISSUERS – PARTICIPATION FEE

Reporting Issuer Name: ____________________________

End date of last completed fiscal year: ________________

Section 2.10 of the Rule requires Class 3C reporting issuers to calculate their market capitalization in accordance with section 2.7 of the Rule.

Market value of listed or quoted securities:		
Total number of securities of a class or series outstanding as at the end of the issuer's last completed fiscal year	_________(i)	
Simple average of the closing price of that class or series as of the last trading day of each month of the last completed fiscal year (See clauses 2.7(a)(ii)(A) and (B) of the Rule)	_________(ii)	
Market value of the class or series	(i) X (ii) =	_________(A)
(Repeat the above calculation for each other class or series of securities of the reporting issuer that was listed or quoted on a marketplace in Canada or the United States of America at the end of the last completed fiscal year)		_________(B)
Market value of other securities:		
(See paragraph 2.7(b) of the Rule) (Provide details of how value was determined)		_________(C)
(Repeat for each other class or series of securities to which paragraph 2.7(b) of the Rule applies)		_________(D)
Capitalization for the last completed fiscal year (Add market value of all classes and series of securities)	(A) + (B) + (C) + (D) =	________
Participation Fee (From Appendix A of the Rule, select the participation fee beside the capitalization calculated above)		________
Late Fee, if applicable (As determined under section 2.5 of the Rule)		________

FORM 13-502F4
CAPITAL MARKETS PARTICIPATION FEE CALCULATION

General Instructions

1. IIROC members must complete Part I of this Form and MFDA members must complete Part II. Unregistered investment fund managers and registrant firms that are not IIROC or MFDA members must complete Part III.

2. The components of revenue reported in each Part should be based on accounting standards pursuant to which an entity's financial statements are prepared under Ontario securities law ("Accepted Accounting Standards"), except that revenues should be reported on an unconsolidated basis.

3. IIROC Members may refer to Statement E of the Joint Regulatory Financial Questionnaire and Report for guidance.

4. MFDA members may refer to Statement D of the MFDA Financial Questionnaire and Report for guidance.

5. Participation fee revenue will be based on the portion of total revenue that can be attributed to Ontario for the firm's most recently completed fiscal year, which is generally referred to the Rule as its "previous fiscal year".

6. If a firm's permanent establishments are situated only in Ontario, all of the firm's total revenue for a fiscal year is attributed to Ontario. If permanent establishments are situated in Ontario and elsewhere, the percentage attributed to Ontario for a fiscal year will ordinarily be the percentage of the firm's taxable income that is allocated to Ontario for Canadian income tax purposes for the same fiscal year. For firms that do not have a permanent establishment in Ontario, the percentage attributable to Ontario will be based on the proportion of total revenues generated from capital markets activities in Ontario.

7. All figures must be expressed in Canadian dollars and rounded to the nearest thousand.

8. Information reported on this questionnaire must be certified by two members of senior management in Part IV to attest to its completeness and accuracy.

Notes for Part III

1. Gross revenue is defined as the sum of all revenues reported on a gross basis as per the audited financial statements, except where unaudited financial statements are permitted in accordance with subsection 3.4(4) or (5) of the Rule. Audited financial statements should be prepared in accordance with Accepted Accounting Standards, except that revenues should be reported on an unconsolidated basis. Items reported on a net basis must be adjusted for purposes of the fee calculation.

2. Redemption fees earned upon the redemption of investment fund units sold on a deferred sales charge basis are permitted as a deduction from total revenue on this line.

3. Administration fees permitted as a deduction are limited solely to those that are otherwise included in gross revenue and represent the reasonable recovery of costs from the investment funds for operating expenses paid on their behalf by the registrant firm or unregistered investment fund manager.

4. Where the advisory services of another registrant firm, within the meaning of this Rule or OSC Rule 13-503 (*Commodity Futures Act*) *Fees*, are used by the person or company to advise on a portion of its assets under management, such sub-advisory costs are permitted as a deduction on this line to the extent that they are otherwise included in gross revenues.

5. Trailer fees paid to other registrant firms described in note 4 are permitted as a deduction on this line to the extent they are otherwise included in gross revenues.

Participation Fee Calculation

Firm Name: ________________________________

End date of last completed fiscal year: ______________

	Last Completed Fiscal Year $
Part I — IIROC Members	
1. Total revenue for last completed fiscal year from Statement E of the Joint Regulatory Financial Questionnaire and Report	______
2. Less revenue not attributable to capital markets activities	______
3. Revenue subject to participation fee (line 1 less line 2)	______
4. Ontario percentage for last completed fiscal year (See definition of “Ontario percentage” in the Rule)	%
5. Specified Ontario revenues (line 3 multiplied by line 4)	______
6. Participation fee (From Appendix B of the Rule, select the participation fee opposite the specified Ontario revenues calculated above)	______
Part II — MFDA Members	
1. Total revenue for last completed fiscal year from Statement D of the MFDA Financial Questionnaire and Report	______
2. Less revenue not attributable to capital markets activities	______
3. Revenue subject to participation fee (line 1 less line 2)	______
4. Ontario percentage for last completed fiscal year (See definition of “Ontario percentage” in the Rule)	%
5. Specified Ontario revenues (line 3 multiplied by line 4)	______
6. Participation fee (From Appendix B of the Rule, select the participation fee opposite the specified Ontario revenues calculated above)	______

Part III — Other registrant firms and unregistered investment fund managers

1. Gross revenue for last completed fiscal year (note 1) ______________

Less the following items:

2. Revenue not attributable to capital markets activities ______________

3. Redemption fee revenue (note 2) ______________

4. Administration fee revenue (note 3) ______________

5. Advisory or sub-advisory fees paid to registrant firms (note 4) ______________

6. Trailer fees paid to other registrant firms (note 5) ______________

7. Total deductions (sum of lines 2 to 6) ______________

8. Revenue subject to participation fee (line 1 less line 7) ______________

9. Ontario percentage for last completed fiscal year
(See definition of "Ontario percentage" in the Rule) ______________ %

10. Specified Ontario revenues (line 8 multiplied by line 9) ______________

11. Participation fee
(From Appendix B of the Rule, select the participation fee
beside the specified Ontario revenues calculated above) ______________

Part IV - Management Certification

We have examined the attached statements and certify that, to the best of our knowledge, they present fairly the revenues of the firm for the period ended ________________________ and are prepared in agreement with the books of the firm.

We certify that the reported revenues of the firm are complete and accurate and in accordance with generally accepted accounting principles.

	Name and Title	**Signature**	**Date**
1.	______________________	______________________	______________________
2.	______________________	______________________	______________________

FORM 13-502F5
ADJUSTMENT OF FEE FOR REGISTRANT FIRMS

Registrant firm name: ____________________________

End date of last completed fiscal year: ________________

Note: Subsection 3.5(2) of the Rule requires that this Form must be filed concurrent with a completed Form 13-502F4 that shows the firm's actual participation fee calculation.

1. Estimated participation fee paid under subsection 3.5(1) of the Rule: _____________

2. Actual participation fee calculated under paragraph 3.5(2)(b) of the Rule: _____________

3. Refund due (Balance owing): _____________
   (Indicate the difference between lines 1 and 2)

FORM 13-502F6
SUBSIDIARY ENTITY EXEMPTION NOTICE

Name of Subsidiary Entity: ___________________________

Name of Parent: ____________________________________

End Date of Subsidiary Entity's Last Completed Fiscal Year: ________________________

Indicate below which exemption the subsidiary entity intends to rely on by checking the appropriate box:

1. Subsection 2.6(1) ☐

The reporting issuer (subsidiary entity) meets the following criteria set out under subsection 2.6(1) of the Rule:

a) at the end of the subsidiary entity's last completed fiscal year, the parent of the subsidiary entity was a reporting issuer;

b) the accounting standards pursuant to which the parent's financial statements are prepared under Ontario securities law require the consolidation of the parent and the subsidiary entity;

c) the parent has paid a participation fee required with reference to the parent's market capitalization for the parent's last completed fiscal year;

d) the market capitalization of the subsidiary entity for the last completed fiscal year was included in the market capitalization of the parent for the last completed fiscal year; and

e) the net assets and gross revenues of the subsidiary entity for its last completed fiscal year represented more than 90 percent of the consolidated net assets and gross revenues of the parent for the parent's last completed fiscal year.

	Net Assets for last completed fiscal year	**Gross Revenues for last completed fiscal year**	
Reporting Issuer (Subsidiary Entity)	______________________	______________________	(A)
Reporting Issuer (Parent)	______________________	______________________	(B)
Percentage (A/B)	____________________%	____________________%	

2. Subsection 2.6(2) ☐

The reporting issuer (subsidiary entity) meets the following criteria set out under subsection 2.6(2) of the Rule:

a) at the end of the subsidiary entity's last completed fiscal year, the parent of the subsidiary entity was a reporting issuer;

b) the accounting standards pursuant to which the parent's financial statements are prepared under Ontario securities law require the consolidation of the parent and the subsidiary entity;

c) the parent has paid a participation fee required with reference to the parent's market capitalization for the parent's last completed fiscal year;

d) the market capitalization of the subsidiary entity for the last completed fiscal year was included in the market capitalization of the parent for the last completed fiscal year; and

e) throughout the last completed fiscal year of the subsidiary entity, the subsidiary entity was entitled to rely on an exemption, waiver or approval from the requirements in subsections 4.1(1), 4.3(1) and 5.1(1) and sections 5.2 and 6.1 of NI 51-102 *Continuous Disclosure Obligations*.

ONTARIO SECURITIES COMMISSION
COMPANION POLICY 13-502CP *FEES*

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ONTARIO SECURITIES COMMISSION
COMPANION POLICY 13-502CP *FEES*

PART 1 — PURPOSE OF COMPANION POLICY

1.1 **Purpose of Companion Policy** — The purpose of this Companion Policy is to state the views of the Commission on various matters relating to OSC Rule 13-502 *Fees* (the "Rule"), including an explanation of the overall approach of the Rule and a discussion of various parts of the Rule.

PART 2 — PURPOSE AND GENERAL APPROACH OF THE RULE

2.1 **Purpose and General Approach of the Rule**

(1) The purpose of the Rule is to establish a fee regime that creates a clear and streamlined fee structure.

(2) The fee regime of the Rule is based on the concepts of "participation fees" and "activity fees".

2.2 **Participation Fees**

(1) Reporting issuers, registrant firms and unregistered investment fund managers are required to pay participation fees annually. Participation fees are designed to cover the Commission's costs not easily attributable to specific regulatory activities. The participation fee required of a market participant is based on a measure of the market participant's size, which is used as a proxy for its proportionate participation in the Ontario capital markets.

(2) Participation fees are determined with reference to capitalization or gross revenue from a market participant's "previous fiscal year", which is essentially defined in section 1.1 of the Rule as the last completed fiscal year before the participation fee is required to be paid.

2.3 **Application of Participation Fees** — Although participation fees are determined by using information from a fiscal year of the payor ending before the time of their payment, both corporate finance and capital markets participation fees are applied to the costs of the Commission of regulating the ongoing participation in Ontario's capital markets of the payor and other market participants.

2.4 **Registered Individuals** — The participation fee is paid at the firm level under the Rule. That is, a "registrant firm" is required to pay a participation fee, not an individual who is registered as a salesperson, representative, partner, or officer of the firm.

2.5 **Activity Fees** — Activity fees are generally charged where a document of a designated class is filed. Estimates of the direct cost of Commission resources expended in undertaking the activities listed in Appendix C of the Rule are considered in determining these fees (e.g., reviewing prospectuses, registration applications, and applications for discretionary relief). Generally, the activity fee charged for filing a document of a particular class is based on the average cost to the Commission of reviewing documents of the class.

2.6 **Registrants under the *Securities Act* and the *Commodity Futures Act***

(1) The Rule imposes an obligation to pay a participation fee on registrant firms, defined in the Rule as a person or company registered as a dealer or adviser under the Act. An entity so registered may also be registered as a dealer or adviser under the *Commodity Futures Act*. Given the definition of "capital markets activities" under the Rule, the revenue of such an entity from its *Commodity Futures Act* activities must be included in its calculation of revenues when determining its fee under the Rule. Section 2.8 of OSC Rule 13-503 *(Commodity Futures Act) Fees* exempts such an entity from paying a participation fee under that rule if it has paid its participation fees under the *Securities Act* Rule.

(2) Note that dealers and advisers registered under the *Commodity Futures Act* are subject to activity fees under OSC Rule 13-503 *(Commodity Futures Act) Fees* even if they are not required to pay participation fees under that rule.

2.7 **No Refunds**

(1) Generally, a person or company that pays a fee under the Rule is not entitled to a refund of that fee. For example, there is no refund available for an activity fee paid in connection with an action that is subsequently

abandoned by the payor of the fee. Also, there is no refund available for a participation fee paid by a reporting issuer, registrant firm or unregistered investment fund manager that loses that status later in the fiscal year for which the fee was paid.

(2) An exception to this principle is provided in subsections 2.6.1(3) and 3.5(3) of the Rule. These subsections allow for a refund where a registrant firm overpaid an estimated participation fee.

(3) The Commission will also consider requests for adjustments to fees paid in the case of incorrect calculations made by fee payors.

2.8 Indirect Avoidance of Rule — The Commission may examine arrangements or structures implemented by market participants and their affiliates that raise the suspicion of being structured for the purpose of reducing the fees payable under the Rule. For example, the Commission will be interested in circumstances in which revenues from registrable activities carried on by a corporate group are not treated as revenues of a registrant firm, thereby possibly artificially reducing the firm's specified Ontario revenues and, consequently, its participation fee.

PART 3 — CORPORATE FINANCE PARTICIPATION FEES

3.1 Application to Investment Funds — Part 2 of the Rule does not apply to an investment fund if the investment fund has an investment fund manager. The reason for this is that under Part 3 of the Rule an investment fund's manager must pay a capital markets participation fee in respect of revenues generated from managing the investment fund.

3.2 Late Fees — Section 2.5 of the Rule requires a reporting issuer to pay an additional fee when it is late in paying its participation fee. Reporting issuers should be aware that the late payment of participation fees may lead to the reporting issuer being noted in default and included on the list of defaulting reporting issuers available on the Commission's website.

3.3 Exemption for Subsidiary Entities — Under section 2.6 of the Rule, an exemption from participation fees is available to a reporting issuer that is a subsidiary entity if, among other requirements, the parent of the subsidiary entity has paid a participation fee applicable to the parent under section 2.2 of the Rule determined with reference to the parent's capitalization for the parent's fiscal year. For greater certainty, this condition to the exemption is not satisfied in circumstances where the parent of a subsidiary entity has paid a fixed participation fee in reliance on subsection 2.2(2) or (3) of the Rule in lieu of a participation fee determined with reference to the parent's capitalization for its fiscal year.

3.4 Determination of Market Value

(1) Section 2.7 of the Rule requires the calculation of the capitalization of a Class 1 reporting issuer to include the total market value of classes of securities that may not be listed or quoted on a marketplace, but trade over the counter or, after their initial issuance, are otherwise generally available for sale. Note that the requirement that securities be valued in accordance with market value excludes from the calculation securities that are not normally traded after their initial issuance.

(2) When determining the value of securities that are not listed or quoted, a reporting issuer should use the best available source for pricing the securities. That source may be one or more of the following:

(a) pricing services,

(b) quotations from one or more dealers, or

(c) prices on recent transactions.

(3) Note that market value calculation of a class of securities included in a calculation under section 2.7 of the Rule includes all of the securities of the class, even if some of those securities are still subject to a hold period or are otherwise not freely tradable.

(4) If the closing price of a security on a particular date is not ascertainable because there is no trade on that date or the marketplace does not generally provide closing prices, a reasonable alternative, such as the most recent closing price before that date, the average of the high and low trading prices for that date, or the average of the bid and ask prices on that date is acceptable.

3.5 Owners' Equity — A Class 2 reporting issuer calculates its capitalization on the basis of certain items reflected in its audited balance sheet. One such item is "share capital or owners' equity". The Commission notes that "owners' equity" is designed to describe the equivalent of share capital for non-corporate issuers, such as partnerships or trusts.

PART 4 — CAPITAL MARKETS PARTICIPATION FEES

4.1 Filing Forms under Section 3.5 of the Rule — If the estimated participation fee paid under subsection 3.5(1) of the Rule by a registrant firm does not differ from its true participation fee determined under paragraph 3.5(2)(b) of the Rule, the registrant firm is not required to file either a Form 13-502F4 or a Form 13-502F5 under paragraph 3.5(2)(d) of the Rule.

4.2 Late Fees — Section 3.6 of the Rule prescribes an additional fee if a participation fee is paid late. The Commission and the Director will, in appropriate circumstances, consider tardiness in the payment of fees as a matter going to the fitness for registration of a registrant firm. The Commission may also consider measures in the case of late payment of fees by an unregistered investment fund manager, such as prohibiting the manager from continuing to manage any investment fund or cease trading the investment funds managed by the manager.

4.3 Form of Payment of Fees — Unregistered investment fund managers make filings and pay fees under Part 3 of the Rule by paper copy. The filings and payment should be sent to the Ontario Securities Commission, Investment Funds. Registrant firms pay through the National Registration Database.

4.4 "Capital markets activities"

(1) A person or company must consider its capital markets activities when calculating its participation fee. The term "capital markets activities" is defined in the Rule to include "activities for which registration under the Act or an exemption from registration is required". The Commission is of the view that these activities include, without limitation, trading in securities, providing securities-related advice and portfolio management services. The Commission notes that corporate advisory services may not require registration or an exemption from registration and would therefore, in those contexts, not be capital markets activities.

(2) The definition of "capital markets activities" also includes activities for which registration or an exemption from registration under the *Commodity Futures Act* is required. The Commission is of the view that these activities include, without limitation, trading in commodity futures contracts, providing commodity futures contracts-related advice and portfolio management services involving commodity futures contracts.

4.5 Permitted Deductions — Subsection 3.4(3) of the Rule permits certain deductions to be made for the purpose of calculating specified Ontario revenues for unregistered investment fund managers and certain registrant firms. The purpose of these deductions is to prevent the "double counting" of revenues that would otherwise occur.

4.6 Application to Non-resident Unregistered Investment Fund Managers — For greater certainty, the Commission is of the view that Part 3 of the Rule applies to non-resident unregistered investment fund managers managing investment funds distributed in Ontario on a prospectus exempt basis.

4.7 Change of Status of Unregistered Investment Fund Managers — Subsection 3.1(4) of the Rule reduces the participation fee otherwise payable after the end of a fiscal year under subsection 3.1(2) of the Rule by an unregistered investment fund manager that becomes a registrant firm. The reduction takes into account the imposition of a participation fee payable by registrant firms under subsection 3.1(1) of the Rule on December 31 of a calendar year and generally prevents the imposition of total participation fees in excess of total participation fees that would have been charged had there been no change of registration status.

5.1.2 OSC Rule 13-503 (Commodity Futures Act) Fees and Companion Policy 13-503CP (Commodity Futures Act) Fees

NOTICE OF
REVOCATION AND REPLACEMENT OF
OSC RULE 13-503 *(COMMODITY FUTURES ACT) FEES*
AND COMPANION POLICY 13-503CP *(COMMODITY FUTURES ACT) FEES*

Introduction

On March 10, 2009 the Ontario Securities Commission (OSC, Commission or we) made OSC Rule 13-503 (*Commodity Futures Act*) *Fees* and adopted Companion Policy 13-503CP (*Commodity Futures Act) Fees* (collectively, the Proposed Materials) under the *Commodity Futures Act* (the CFA). An earlier version of the Proposed Materials was published for a 90-day comment period on October 3, 2008. The Proposed Materials are intended to replace the rule and policy currently in force under the same number.

The key substantive change from the earlier version of the Proposed Materials reflects the implementation of the Commission's decision to defer increasing activity and participation fees.

Under section 68 of the CFA, the proposed Rule was delivered to the Minister of Finance on March 12, 2009. If the Minister approves the proposed Rule, it will come into force on June 1, 2009.

Freeze of participation fee and activity fee levels

The earlier version of the Proposed Materials contained increases in the levels of participation fees and activity fees to fund the Commission's costs. As reflected in the Proposed Materials, in light of economic conditions, the Commission has decided not to increase participation fees and activity fees. The Commission intends to maintain current fees for one year.

The Commission has also decided not to incorporate the use of pre-2008 reference fiscal years at this time. Further discussion on these matters is contained in the materials published today on OSC Rule 13-502.

Substance and purpose of the Proposed Materials

The Proposed Materials are consistent with the basic framework under the current rule and policy. The proposed Companion Policy sets out the Commission's interpretation of key elements of the proposed Rule and provides additional background information. As with the current rule, fees under the proposed Rule fall into two categories: participation fees and activity fees.

Participation fees

Participation fees are designed to cover Commission costs that are not attributable to activities on behalf of a specific participant. Examples include enforcement and market monitoring. These fees are based on the CFA registrant's size, which is used as a proxy for its use of Ontario's capital markets. A CFA registrant is not required to pay a participation fee under the current rule or proposed Rule if it is subject to a capital markets participation fee under OSC Rule 13-502 *Fees*.

Activity fees

Activity fees are set at a level to reflect an estimate of the direct cost of OSC staff resources generally used in undertaking activities requested of staff by market participants. Activity fees are charged at flat rates and are designed to cover the average direct costs the Commission incurs in reviewing documents, such as prospectuses, registration applications and applications for discretionary relief. Appendix B of the proposed Rule sets out the activities that are used to determine these fees.

Changes in the Proposed Materials

While the basic framework of the current rule and policy remain, the Proposed Materials include a number of proposed changes to the current OSC Rule 13-503, all of which were reflected in the earlier version of the Proposed Materials. The following is a summary of these changes:

- The method for calculating late fees has changed.

- The calculation of a market participant's Ontario percentage has been clarified. This is relevant in determining the market participant's size for the participation fee.

- The calculation of activity fees charged for an application for relief, approval or recognition under the CFA is combined with the calculation of those activity fees under the *Securities Act*, where the application covers provisions in both statutes.

- The addition of paragraph (d) to item A.3 of Appendix B of the proposed Rule results in an activity fee of $1,500, rather than $3,000, for an application filed under 37(7) of the Regulation to the CFA. This is because the application would no longer be covered by item A.1 of Appendix B of the proposed Rule.

For a more detailed description of the changes to the current rule and policies, see the October 3, 2008 request for comments.

Comments received

We received a comment letter from B. White (letter dated November 17, 2008) on the proposed Rule and proposed OSC Rule 13-502. The issues raised in this letter are addressed in the summary of comments and responses in today's notice on proposed OSC Rule 13-502. This comment letter is available on the Commission's website at www.osc.gov.on.ca.

Summary of additional technical changes

The following technical changes have been made to the proposed Rule relative to the version published for comment on October 3, 2008:

- An obsolete reference to "floor trader" has been eliminated.

- A reference to Form 33-109F1 has been added in Appendix C of the proposed Rule to make it more explicit that fees apply to the late filings of that form.

Text of the Proposed Materials

The text of the Proposed Materials follows. The Proposed Materials are also available on the Commission's website along with a blackline showing the changes made to the proposed Rule relative to the version published for comment on October 3, 2008.

Questions

Please refer your questions to any of the following:

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March 13, 2009

ONTARIO SECURITIES COMMISSION
RULE 13-503 *(COMMODITY FUTURES ACT) FEES*

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Form 13-503F1 (Commodity Futures Act) Participation Fee Calculation
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ONTARIO SECURITIES COMMISSION
RULE 13-503 *(COMMODITY FUTURES ACT) FEES*

PART 1 — DEFINITIONS

1.1 Definitions — In this Rule

"CFA" means the *Commodity Futures Act*;

"CFA activities" means activities for which registration under the CFA or an exemption from registration is required;

"IIROC" means the Investment Industry Regulatory Organization of Canada and, where context requires, includes the Investment Dealers Association of Canada;

"Ontario allocation factor" has the meaning that would be assigned by the first definition of that expression in subsection 1(1) of the *Taxation Act, 2007* if that definition were read without reference to the words "ending after December 31, 2008";

"Ontario percentage" means, for a fiscal year of a registrant firm

(a) if the registrant firm is a company that has a permanent establishment in Ontario in the fiscal year, the registrant firm's Ontario allocation factor for the fiscal year expressed as a percentage and determined on the assumption that the registrant firm had a taxation year that coincided with the fiscal year and is resident in Canada for the purposes of the ITA,

(b) if paragraph (a) does not apply and the registrant firm would have a permanent establishment in Ontario in the fiscal year if the registrant firm were a company, the registrant firm's Ontario allocation factor for the fiscal year expressed as a percentage and determined on the assumption that the registrant firm is a company, had a taxation year that coincided with the fiscal year and is resident in Canada for the purposes of the ITA, and

(c) in any other case, the percentage of the registrant firm's total revenues for the fiscal year attributable to CFA activities in Ontario;

"permanent establishment" has the meaning provided in Part IV of the regulations under the ITA;

"previous fiscal year" of a registrant firm in respect of a participation fee that becomes payable under section 2.2 on December 31 of a calendar year, the last fiscal year of the registrant firm ending in the calendar year;

"registrant firm" means a person or company registered as a dealer or an adviser under the CFA; and

"specified Ontario revenues" means the revenues determined in accordance with section 2.4, 2.5 or 2.6.

PART 2 — PARTICIPATION FEES

2.1 Application — This Part does not apply to a registrant firm that is registered under the *Securities Act* and that has paid its participation fee under Rule 13-502 *Fees* under the *Securities Act*.

2.2 Participation Fee — On December 31, a registrant firm must pay the participation fee shown in Appendix A opposite the registrant firm's specified Ontario revenues for its previous fiscal year, as that revenue is calculated under section 2.4 or 2.5.

2.3 Disclosure of Fee Calculation — By December 1, a registrant firm must file a completed Form 13-503F1 showing the information required to determine the participation fee due on December 31.

2.4 Specified Ontario Revenues for IIROC Members

(1) The specified Ontario revenues for its previous fiscal year of a registrant firm that was an IIROC member at the end of the previous fiscal year is calculated by multiplying

(a) the registrant firm's total revenue for its previous fiscal year, less the portion of that total revenue not attributable to CFA activities, by

(b) the registrant firm's Ontario percentage for its previous year.

(2) For the purpose of paragraph (1)(a), "total revenue" for a previous fiscal year means the amount shown as total revenue for the previous fiscal year on Statement E of the Joint Regulatory Financial Questionnaire and Report filed with IIROC by the registrant firm.

2.5 Specified Ontario Revenues for Others

(1) The specified Ontario revenues of a registrant firm that was not an IIROC member at the end of its previous fiscal year is calculated by multiplying

(a) the registrant firm's gross revenues, as shown in the audited financial statements prepared for the previous fiscal year, less deductions permitted under subsection (2), by

(b) the registrant firm's Ontario percentage for the previous fiscal year.

(2) For the purpose of paragraph (1)(a), a registrant firm may deduct the following items otherwise included in gross revenues:

(a) revenue not attributable to CFA activities,

(b) advisory or sub-advisory fees paid during the previous fiscal year by the registrant firm to a person or company registered as a dealer or an adviser under the CFA or under the *Securities Act*.

2.6 Estimating Specified Ontario Revenues for Late Fiscal Year End

(1) If the annual financial statements of a registrant firm for the previous fiscal year have not been completed by December 1 in the calendar year in which the previous fiscal year ends, the registrant firm must,

(a) on December 1 in that calendar year, file a completed Form 13-503F1 showing a good faith estimate of the information required to calculate its specified Ontario revenues as at the end of the fiscal year, and

(b) on December 31 in that calendar year, pay the participation fee shown in Appendix A opposite the specified Ontario revenues estimated under paragraph (a).

(2) A registrant firm that estimated its specified Ontario revenues under subsection (1) must, when its annual financial statements for the previous fiscal year have been completed,

(a) calculate its specified Ontario revenues under section 2.4 or 2.5, as applicable,

(b) determine the participation fee shown in Appendix A opposite the specified Ontario revenues calculated under paragraph (a),

(c) complete a Form 13-503F1 reflecting the annual financial statements, and

(d) if the participation fee determined under paragraph (b) differs from the participation fee paid under subsection (1), the registrant firm must, not later than 90 days after the end of the previous fiscal year,

(i) pay the amount, if any, by which

(A) the participation fee determined without reference to this section,

exceeds

(B) the corresponding participation fee paid under subsection (1),

(ii) file the Form 13-503F1 completed under paragraph (c), and

(iii) file a completed Form 13-503F2.

(3) If a registrant firm paid an amount paid under subsection (1) that exceeds the corresponding participation fee determined without reference to this section, the registrant firm is entitled to a refund from the Commission of the excess.

2.7 Late Fee

(1) A registrant firm that is late in paying a participation fee under this Part must pay an additional fee of one-tenth of one percent of the unpaid portion of the participation fee for each business day on which any portion of the participation fee remains due and unpaid.

(2) The amount determined under subsection (1) in respect of the late payment of a participation fee by a registrant firm is deemed to be nil if

(a) the registrant firm pays an estimate of the participation fee in accordance with subsection 2.6(1), or

(b) the amount otherwise determined under subsection (1) in respect of the late payment of participation fee is less than $10.

PART 3 — ACTIVITY FEES

3.1 Activity Fees — A person or company that files a document or takes an action listed in Appendix B must, concurrently with filing the document or taking the action, pay the activity fee shown in Appendix B opposite the description of the document or action.

3.2 Late Fee — A person or company that files a document listed in Appendix C after the document was required to be filed must, concurrently with filing the document, pay the late fee shown in Appendix C opposite the description of the document.

PART 4 — CURRENCY CONVERSION

4.1 Canadian Dollars — If a calculation under this Rule requires the price of a security, or any other amount, as it was on a particular date and that price or amount is not in Canadian dollars, it must be converted into Canadian dollars using the daily noon exchange rate for that date as posted on the Bank of Canada website.

PART 5 — EXEMPTION

5.1 Exemption — The Director may grant an exemption from the provisions of this Rule, in whole or in part, subject to such conditions or restrictions as may be imposed in the exemption.

PART 6 — REVOCATION AND EFFECTIVE DATE

6.1 Revocation — Rule 13-503 *(Commodity Futures Act) Fees*, which came into force on April 1, 2006, is revoked.

6.2 Effective Date — This Rule comes into force on June 1, 2009.

APPENDIX A — PARTICIPATION FEES

Specified Ontario Revenues for the Previous Fiscal Year	Participation Fee
under $500,000	$800
$500,000 to under $1 million	$2,500
$1 million to under $3 million	$5,600
$3 million to under $5 million	$12,600
$5 million to under $10 million	$25,500
$10 million to under $25 million	$52,000
$25 million to under $50 million	$78,000
$50 million to under $100 million	$156,000
$100 million to under $200 million	$259,000
$200 million to under $500 million	$525,000
$500 million to under $1 billion	$678,000
$1 billion to under $2 billion	$855,000
$2 billion and over	$1,435,000

APPENDIX B - ACTIVITY FEES

Document or Activity	Fee
A. Applications for relief, approval and recognition	
1. Any application for relief, regulatory approval or recognition under an eligible CFA section, being for the purpose of this item any provision of the CFA or any Regulation or OSC Rule made under the CFA not listed in item A.2 or A.3. *Note: The following are included in the applications that are subject to a fee under this item:* *(i) recognition of an exchange under section 34 of the CFA, a self-regulatory organization under section 16 of the CFA or a clearing house under section 17 of the CFA;* *(ii) registration of an exchange under section 15 of the CFA;* *(iii) approval of the establishment of a council, committee or ancillary body under section 18 of the CFA;* *(iv) applications by a person or company under subsection 78(1) of the CFA; and* *(v) exemption applications under section 80 of the CFA.*	$3,000 for an application made under one eligible CFA section and $5,000 for an application made under two or more eligible CFA sections (plus $2,000 if none of the following is not subject to, or is not reasonably expected to become subject to, a participation fee under this Rule or OSC Rule 13-502 under the *Securities Act*: (i) the applicant; (ii) an issuer of which the applicant is a wholly owned subsidiary; (iii) the investment fund manager of the applicant). Despite the above, if an application is made under at least one eligible securities section described in Appendix C(E) 1 of OSC Rule 13-502 and at least one eligible CFA section, the fee in respect of the application is equal to the amount, if any, by which (a) the fee that would have been charged under Appendix C(E) 1 of OSC Rule 13-502 in respect of the application if each eligible CFA section were an eligible securities section exceeds (b) the fee charged under Appendix C(E) 1 of OSC Rule 13-502 in respect of the application.
2. Application under (a) Section 24 or 40 or subsection 36(1) or 46(6) of the CFA, and (b) Subsection 27(1) of the Regulation to the CFA.	Nil
3. An application for relief from any of the following (a) this Rule; (b) OSC Rule 31-509 *(Commodity Futures Act) National Registration Database*; (c) OSC Rule 33-505 *(Commodity Futures Act) Registration Information*; (d) Subsection 37(7) of the Regulation to the CFA.	$1,500

Document or Activity	Fee
B. Registration-Related Activity	
1. New registration of a firm in one or more categories of registration	$600
2. Change in registration category *Note: This includes a dealer becoming an adviser or vice versa, or changing a category of registration within the general category of adviser. A dealer adding a category of registration, such as a dealer becoming both a dealer and an adviser, is covered in the preceding section.*	$600
3. Registration of a new director, officer or partner (trading or advising), salesperson or representative *Notes:* *(i) Registration of a new non-trading or non-advising director, officer or partner does not trigger an activity fee.* *(ii) If an individual is registering as both a dealer and an adviser, the individual is required to pay only one activity fee.* *(iii) A registration fee will not be charged if an individual makes application to register with a new registrant firm within three months of terminating employment with his or her previous registrant firm if the individual's category of registration remains unchanged.*	$200 per individual
4. Change in status from a non-trading or non-advising capacity to a trading or advising capacity	$200 per individual
5. Registration of a new registrant firm, or the continuation of registration of an existing registrant firm, resulting from or following an amalgamation of one or more registrant firms	$2,000
6. Application for amending terms and conditions of registration	$500
C. Application for Approval of the Director under Section 9 of the Regulation	$1,500
D. Request for Certified Statement from the Commission or the Director under Section 62 of the CFA	$100

Document or Activity		Fee
E.	**Requests of the Commission**	
1.	Request for a photocopy of Commission records	$0.50 per page
2.	Request for a search of Commission records	$150
3.	Request for one’s own Form 7	$30

APPENDIX C – ADDITIONAL FEES FOR LATE DOCUMENT FILINGS

Document	Late Fee
Fee for late filing of any of the following documents: (a) Annual financial statements and interim financial statements; (b) Report under section 15 of the Regulation to the CFA; (c) Report under section 17 of the Regulation to the CFA; (d) Filings for the purpose of amending Form 5 or Form 7 under the Regulation to the CFA or Form 33-506F4 under OSC Rule 33-506, including the filing of Form 33-506F1; (e) Any document required to be filed by a registrant firm or individual in connection with the registration of the registrant firm or individual under the CFA with respect to (i) terms and conditions imposed on a registrant firm or individual, or (ii) an order of the Commission; (f) Form 13-503F1; (g) Form 13-503F2.	$100 per business day (subject to a maximum of $5,000 for a registrant firm for all documents required to be filed within a calendar year)

FORM 13-503F1
(COMMODITY FUTURES ACT)

PARTICIPATION FEE CALCULATION

General Instructions

1. IIROC members must complete Part I of this Form. All other registrant firms must complete Part II. Everyone completes Part III.

2. The components of revenue reported in this Form should be based on accounting standards pursuant to which an entity's financial statements are prepared under Ontario securities law ("Accepted Accounting Standards"), except that revenues should be reported on an unconsolidated basis.

3. IIROC Members may refer to Statement E of the Joint Regulatory Financial Questionnaire and Report for guidance.

4. Participation fee revenue will be based on the portion of total revenue that can be attributed to Ontario for the firm's most recently completed fiscal year, which is generally referred to the Rule as its "previous fiscal year".

5. If a firm's permanent establishments are situated only in Ontario, all of the firm's total revenue for a fiscal year is attributed to Ontario. If permanent establishments are situated in Ontario and elsewhere, the percentage attributed to Ontario for a fiscal year will ordinarily be the percentage of the firm's taxable income that is allocated to Ontario for Canadian income tax purposes for the same fiscal year. For firms that do not have a permanent establishment in Ontario, the percentage attributable to Ontario will be based on the proportion of total revenues generated from CFA activities in Ontario.

6. All figures must be expressed in Canadian dollars and rounded to the nearest thousand.

7. Information reported on this questionnaire must be certified by two members of senior management in Part IV to attest to its completeness and accuracy.

Notes for Part II

1. Gross Revenue is defined as the sum of all revenues reported on a gross basis as per the audited financial statements prepared in accordance with Accepted Accounting Standards, except that revenues should be reported on an unconsolidated basis. Items reported on a net basis must be adjusted for purposes of the fee calculation. Gross revenues are reduced by amounts not attributable to CFA activities.

2. Where the advisory or sub-advisory services of another registrant firm are used by the registrant firm to advise on a portion of its assets under management, such advisory or sub-advisory costs are permitted as a deduction on this line to the extent that they are otherwise included in gross revenues.

Participation Fee Calculation

Firm Name: ________________________________

End date of last completed fiscal year: ________________________________

	Last Completed Fiscal Year $
Part I – IIROC Members	
1. Total revenue for last completed fiscal year from Statement E of the Joint Regulatory Financial Questionnaire and Report	________
2. Less revenue not attributable to CFA activities	________
3. Revenue subject to participation fee (line 1 less line 2)	________
Part II – Other Registrants	
1. Gross revenue for last completed fiscal year as per the audited financial statements (note 1)	________
Less the following items:	
2. Amounts not attributable to CFA activities	________
3. Advisory or sub-advisory fees paid to other registrant firms (note 2)	________
4. Revenue subject to participation fee (line 1 less lines 2 and 3)	________

Part III – Calculating Specified Ontario Revenues

1.	Gross revenue for last completed fiscal year subject to participation fee (line 3 from Part I or line 4 from Part II)	
2.	Ontario percentage for last completed fiscal year (See definition of "Ontario percentage" in the Rule)	________%
3.	Specified Ontario revenues (line 1 multiplied by line 2)	________
4.	Participation fee (From Appendix A of the Rule, select the participation fee opposite the specified Ontario revenues calculated above)	________

Part IV – Management Certification

We have examined the attached statements and certify that, to the best of our knowledge, they present fairly the revenues of the firm for the period ended ________________________ and are prepared in agreement with the books of the firm.

We certify that the reported revenues of the firm are complete and accurate and in accordance with generally accepted accounting principles.

	Name and Title	Signature	Date
1.	____________________	____________________	____________________
2.	____________________	____________________	____________________

FORM 13-503F2
(COMMODITY FUTURES ACT)

ADJUSTMENT OF FEE PAYMENT

Firm Name: ____

Fiscal Year End: ____

Note: Subsection 2.6(2) of the Rule requires that this Form must be filed concurrent with a completed Form 13-503F1 that shows the firm's actual participation fee calculation.

1. Estimated participation fee paid under subsection 2.6(1) of the Rule: ____________

2. Actual participation fee calculated under paragraph 2.6(2)(b) of the Rule: ____________

3. Refund due (Balance owing): ____________
   (Indicate the difference between lines 1 and 2)

ONTARIO SECURITIES COMMISSION
COMPANION POLICY 13-503CP
(COMMODITY FUTURES ACT) FEES

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ONTARIO SECURITIES COMMISSION
COMPANION POLICY 13-503CP
(COMMODITY FUTURES ACT) FEES

PART 1 — PURPOSE OF COMPANION POLICY

1.1 **Purpose of Companion Policy** — The purpose of this Companion Policy is to state the views of the Commission on various matters relating to OSC Rule 13-503 *(Commodity Futures Act) Fees* (the "Rule"), including an explanation of the overall approach of the Rule and a discussion of various parts of the Rule.

PART 2 — PURPOSE AND GENERAL APPROACH OF THE RULE

2.1 Purpose and General Approach of the Rule

(1) The general approach of the Rule is to establish a fee regime that is consistent with the approach of OSC Rule 13-502 (the "OSA Fees Rule"), which governs fees paid under the *Securities Act*. Both rules are designed to create a clear and streamlined fee structure.

(2) The fee regime of the Rule is based on the concepts of "participation fees" and "activity fees".

2.2 Participation Fees

(1) Registrant firms are required to pay participation fees annually. Participation fees are designed to cover the Commission's costs not easily attributable to specific regulatory activities . The participation fee required of each market participant is based on a measure of the market participant's size, which is used as a proxy for its proportionate participation in the Ontario capital markets.

(2) Participation fees are determined with reference to gross revenue from a firm's "previous fiscal year", which is essentially defined in section 1.1 of the Rule as the last completed fiscal year before the participation fee is required to be paid.

2.3 **Application of Participation Fees** — Although participation fees are determined by using information from a fiscal year of a registrant firm ending before the time of the payment, participation fees are applied to the costs of the Commission of regulating the ongoing participation in Ontario's capital markets of the firm and other firms.

2.4 **Registered Individuals** — The participation fee is paid at the firm level under the Rule. That is, a "registrant firm" is required to pay a participation fee, not an individual who is registered as a salesperson, representative, partner, or officer of the firm.

2.5 **Activity Fees** — Activity fees are generally charged where a document of a designated class is filed. Estimates of the direct cost of Commission resources expended in undertaking the activities listed in Appendix B of the Rule are considered in determining these fees (e.g., reviewing registration applications and applications for discretionary relief). Generally, the activity fee charged for filing a document of a particular class is based on the average cost to the Commission of reviewing documents of the class.

2.6 Registrants under the CFA and the *Securities Act*

(1) A registrant firm that is registered both under the CFA and the *Securities Act* is exempted by section 2.1 of the Rule from the requirement to pay a participation fee under the Rule if it is current in paying its participation fees under the OSA Fees Rule. The registrant firm will include revenues derived from CFA activities as part of its revenues for purposes of determining its participation fee under the OSA Fees Rule.

(2) A registrant firm that is registered both under the CFA and the *Securities Act* must pay activity fees under the CFA Rule even though it pays a participation fee under the OSA Fees Rule.

2.7 No Refunds

(1) Generally, a person or company that pays a fee under the Rule is not entitled to a refund of that fee. For example, there is no refund available for an activity fee paid in connection with an action that is subsequently abandoned by the payor of the fee. Also, there is no refund available for a participation fee paid by a registrant firm whose registration is terminated later in the year for which the fee was paid.

(2) An exception to this principle is provided in subsection 2.6(3) of the Rule. This provision allows for a refund where a registrant firm overpaid an estimated participation fee.

(3) The Commission will also consider requests for adjustments to fees paid in the case of incorrect calculations made by fee payors.

2.8 **Indirect Avoidance of Rule** — The Commission may examine arrangements or structures implemented by registrant firms and their affiliates that raise the suspicion of being structured for the purpose of reducing the fees payable under the Rule. For example, the Commission will be interested in circumstances in which revenues from registrable activities carried on by a corporate group are not treated as revenues of a registrant firm, thereby possibly artificially reducing the firm's specified Ontario revenues and, consequently, its participation fee.

PART 3 — PARTICIPATION FEES

3.1 **Filing Forms under Section 2.6** — If the estimated participation fee paid under subsection 2.6(1) by a registrant firm does not differ from its true participation fee determined under subsection 2.6(2), the registrant firm is not required to file either a Form 13-503F1 or a Form 13-503F2 under subsection 2.6(3).

3.2 **Late Fees** — Section 2.7 of the Rule prescribes an additional fee if a participation fee is paid late. The Commission and the Director will, in appropriate circumstances, consider tardiness in the payment of fees as a matter going to the fitness for registration of a registrant firm.

3.3 **"CFA Activities"** — Calculation of the participation fee involves consideration of the CFA activities undertaken by a person or company. The term "CFA activities" is defined in section 1.1 of the Rule to include "activities for which registration under the CFA or an exemption from registration is required". The Commission is of the view that these activities include, without limitation, trading in commodity futures contracts, providing commodity futures contracts-related advice and portfolio management services involving commodity futures contracts.

Chapter 7

Insider Reporting

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

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

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

Chapter 8

Notice of Exempt Financings

REPORTS OF TRADES SUBMITTED ON FORMS 45-106F1 AND 45-501F1

Transaction Date	No. of Purchasers	Issuer/Security	Total Purchase Price ($)	No. of Securities Distributed
01/20/2009	11	Active Control Technology Inc. - Units	130,080.00	2,168,000.00
01/23/2009 to 01/29/2009	32	African Gold Group, Inc. - Units	1,331,050.00	26,621,000.00
01/01/2008 to 12/31/2008	2	AIC Corporate Fund Inc. - AIC Global Premium Dividend Income Corporate Class - Options	5,317.19	N/A
01/01/2008 to 12/31/2008	1	AIC Corporate Fund Inc. - AIC Value Corporate Class - Options	22,726.06	N/A
01/01/2008 to 12/31/2008	2	AIC Global Advantage Fund - Options	29,490.58	N/A
01/01/2008 to 12/31/2008	2	AIC Global Financial Split Corp. - Options	176,161.62	N/A
01/01/2008 to 12/31/2008	3	AIC Global Premium Dividend Income Fund - Options	234,653.33	N/A
01/01/2008 to 12/31/2008	3	AIC Global Wealth Management Fund - Options	73,903.53	N/A
01/01/2008 to 12/31/2008	1	AIC Value Fund - Options	148,415.92	N/A
05/02/2008 to 07/14/2008	2	Artio International Equity II Canada Fund - Units	52,130,240.87	4,893,423.76
02/18/2009	17	Ashburton Ventures Inc. - Units	90,000.00	1,500,000.00
02/23/2009	26	Ashton Woods USA L.L.C. - Notes	122,950,000.00	N/A
01/19/2009	1	Aurizon Mines Ltd. - Common Shares	200,000.00	54,234.00
01/01/2008 to 12/31/2008	34	BluMont Canadian Opportunities Fund - Units	1,607,952.10	10,184.53
01/01/2008 to 12/31/2008	118	BluMont Core Hedge Fund - Units	6,473,554.62	60,874.85
01/01/2008 to 12/31/2008	17	BluMont Hirsch Long/Short Fund - Units	1,098,657.21	6,434.29
01/01/2008 to 12/31/2008	264	BluMont Hirsch Performance Fund - Units	13,574,020.40	531,844.50
03/02/2009	13	Brock Income Trust - Trust Units	751,400.00	88,200.00
04/08/2008 to 08/31/2008	3	Calrossie Partners Fund L.P. - Units	4,512,773.98	N/A
01/01/2008 to 12/31/2008	115	CGO&V Balanced Fund - Units	27,278,480.00	N/A

Transaction Date	No. of Purchasers	Issuer/Security	Total Purchase Price ($)	No. of Securities Distributed
01/01/2008 to 12/31/2008	14	CGO&V Balanced Fund - Units	23,432,831.00	N/A
01/01/2008 to 12/31/2008	12	CGO&V Canadian Equity Fund - Units	1,570,447.00	N/A
01/01/2008 to 12/31/2008	23	CGO&V Canadian Equity Fund - Units	13,280,615.00	N/A
01/31/2008 to 02/13/2008	2	CGO&V Enhanced Yield Fund - Units	3,088,546.00	N/A
01/01/2008 to 12/31/2008	157	CGO&V Equity Fund - Units	34,002,102.00	N/A
01/01/2008 to 12/31/2008	23	CGO&V Equity Fund - Units	13,258,511.00	N/A
01/01/2008 to 12/31/2008	84	CGO&V Equity Income Fund - Units	19,318,737.00	N/A
01/01/2008 to 12/31/2008	8	CGO&V Equity Income Fund - Units	16,963,005.00	N/A
01/01/2008 to 12/31/2008	60	CGO&V Fixed Income Fund - Units	34,638,815.00	N/A
01/01/2008 to 12/31/2008	8	CGO&V Fixed Income Fund - Units	12,083,691.00	N/A
01/01/2008 to 12/31/2008	15	CGO&V Focused 15 Fund - Units	2,418,333.00	N/A
08/21/2008	1	CGO&V Private Equity Fund - Units	21,450.00	2,145.00
12/31/2008	1	Conquest Resources Limited - Units	500,000.00	10,000,000.00
01/01/2008 to 12/31/2008	2	Copernican British Banks Fund - Options	728,793.84	N/A
01/01/2008 to 12/31/2008	3	Copernican International Dividend Income Fund - Options	88,094.51	N/A
01/01/2008 to 12/31/2008	2	Copernican International Financial Split Corp. - Options	453,941.01	N/A
01/01/2008 to 12/31/2008	3	Copernican International Premium Dividend Fund - Options	282,384.83	N/A
01/01/2008 to 12/31/2008	2	Copernican World Banks Income and Growth Trust - Options	271,090.72	N/A
01/01/2008 to 12/31/2008	2	Copernican World Banks Split Inc. - Options	503,618.15	N/A
01/01/2008 to 12/31/2008	3	Copernican World Financial Infrastructure Trust - Options	284,626.93	N/A
01/23/2009	1	Coro Mining Corp. - Units	2,999,999.97	27,272,727.00
11/04/2008	203	Cymbria Corporation - Common Shares	91,824,610.00	9,182,461.00
01/25/2008 to 12/31/2008	32	Deans Knight Equity Growth Fund - Trust Units	7,407,752.24	N/A

Transaction Date	No. of Purchasers	Issuer/Security	Total Purchase Price ($)	No. of Securities Distributed
01/21/2008 to 12/31/2008	19	Deans Knight Equity Growth Fund II - Trust Units	10,273,687.92	N/A
03/14/2008 to 12/31/2008	115	Deans Knight Income Fund - Trust Units	20,245,112.04	N/A
01/31/2008 to 12/31/2008	76	Delaney Capital Equity Fund - Units	4,378,244.61	25,349.69
01/07/2008 to 10/06/2008	5	DGAM EAFE Equity Fund L.P. - Units	93,667,331.31	629,156.27
02/29/2008	1	DGAM Event Risk Equity Fund L.P. - Units	489,900.00	4,123.39
01/04/2008 to 10/14/2008	2	DGAM Synthetic Alternative Fund Series I, L.P. - Units	20,205,900.00	165,785.19
01/09/2008 to 08/01/2008	3	DGAM Synthetic Alternative Investment Fund L.P. - Units	116,704,380.00	1,084,566.73
01/09/2008 to 07/10/2008	2	DGAM Synthetic Long-Short Equity Fund L.P. - Units	22,655,100.00	177,770.71
10/06/2008	1	DGAM World Equity Market Neutral Fund L.P. - Units	5,513,500.00	52,639.87
10/06/2008 to 11/01/2008	6	DKAM Capital Ideas Fund LP - Limited Partnership Units	460,000.00	45,045,471.00
01/18/2008 to 10/01/2008	30	DKAM Financial Services Ventures Fund LP - Limited Partnership Units	12,310,000.00	124,213.87
01/01/2008 to 12/31/2008	15	Duncan Ross Equity Fund - Units	916,896.52	N/A
02/28/2008 to 07/10/2008	11	Duncan Ross Pooled Trust - Units	23,645,041.04	N/A
05/01/2008 to 08/01/2008	12	EcoRock Opportunities Fund - Trust Units	2,342,794.45	234,800.91
01/01/2008 to 12/31/2008	3	European Premium Dividend Fund - Options	518,426.42	N/A
02/25/2009	45	Exploration Orex Inc. - Units	794,700.00	13,245,000.00
02/26/2009	13	Farallon Resources Ltd. - Common Shares	5,000,000.00	25,000,000.00
02/27/2009	1	First Leaside Expansion Limited Partnership - Notes	200,000.00	200,000.00
02/27/2009 to 03/04/2009	9	First Leaside Fund - Trust Units	309,717.00	309,717.00
02/27/2009	10	First Leaside Fund - Trust Units	192,512.00	192,512.00
03/04/2009	1	First Leaside Premier Limited Partnership - Units	32,187.50	25,000.00
01/01/2008 to 12/31/2008	28	Formula Growth Hedge Fund - Units	85,369,169.45	N/A
01/20/2009	1	Franco-Nevada Corporation - Warrants	0.00	316,436.00
01/16/2009	5	GeneNews Limited - Debentures	4,037,282.85	N/A

Transaction Date	No. of Purchasers	Issuer/Security	Total Purchase Price ($)	No. of Securities Distributed
02/23/2009 to 02/27/2009	10	General Motors Acceptance Corporation of Canada, Limited - Notes	3,281,486.71	32,814.87
01/31/2008 to 09/30/2008	13	Giraffe Capital Limited Partnership 1 - Limited Partnership Units	8,282,405.84	6,065.31
03/31/2008 to 09/30/2008	7	Giraffe Capital Limited Partnership III - Limited Partnership Units	1,616,564.41	17,939.00
05/30/2008 to 08/30/2008	8	Giraffe Capital Opportunity Fund - Limited Partnership Units	1,850,000.00	20,309.00
01/01/2008 to 12/31/2008	2	Global Banks Premium Income Trust - Options	284,175.82	N/A
01/01/2008 to 12/31/2008	141	Goodwood Fund - Units	6,477,985.56	600,124.23
02/07/2008 to 12/29/2008	131	HFI Growth Pool - Trust Units	2,905,843.00	306,280.33
01/20/2009	1	Homeland Energy Group Ltd. - Notes	2,500,000.00	N/A
06/13/2008 to 07/11/2008	20	HorizonOne Energy Private Equity Fund L.P. - Units	3,843,750.00	N/A
10/01/2008	1	HorizonOne EnergyPlus Fund L.P. - Units	60,000.00	600.00
12/01/2008	2	HorizonOne IncomePlus Fund - Units	88,613.95	800.00
02/16/2009 to 02/20/2009	22	IGW Real Estate Investment Trust - Trust Units	402,133.28	361,422.73
01/01/2008 to 12/31/2008	40	Integrated Managed Futures Fund - Units	415,000.00	4,123.31
02/27/2009	3	Interface Biologics Inc. - Notes	1,500,000.00	3.00
01/01/2008 to 12/31/2008	2	International Financial Income and Growth Trust - Options	86,676.42	N/A
03/04/2009	30	International Tower Hill Mines Ltd. - Common Shares	10,500,000.00	4,200,000.00
01/01/2008 to 12/31/2008	57	Investeco Global Environmental Sectors Fund - Trust Units	6,703,220.13	691,322.58
01/30/2008 to 12/30/2008	41	JC Clark Focused Opportunities Fund - Units	3,157,782.00	23,478.67
12/31/2008	3	Kingwest Avenue Portfolio - Units	403,540.18	19,523.84
12/31/2008	3	Kingwest Canadian Equity Portfolio - Units	1,002,692.42	118,647.78
12/31/2008	3	Kingwest U.S. Equity Portfolio - Units	256,010.63	29,053.72
01/01/2008 to 12/31/2008	4	LB Equity Fund - Global Investors - Units	3,027,959.29	352,535.11
05/16/2008 to 12/12/2008	16	LB Equity Fund Inc. - CL B (Non-Voting) - Units	4,402,564.67	464,953.51
01/01/2008 to 12/31/2008	520	Letko Brosseau Balanced Fund - Units	94,143,392.89	9,027,723.96

Transaction Date	No. of Purchasers	Issuer/Security	Total Purchase Price ($)	No. of Securities Distributed
01/01/2008 to 12/31/2008	322	Letko Brosseau Equity Fund - Units	91,665,726.58	8,911,029.38
01/01/2008 to 12/31/2008	175	Letko Brosseau International Equity Fund - Units	28,409,813.40	2,912,424.12
01/01/2008 to 12/31/2008	465	Letko Brosseau RSP Balanced Fund - Units	203,913,924.95	19,938,243.68
01/01/2008 to 12/31/2008	64	Letko Brosseau RSP Bond Fund - Units	27,268,848.13	2,714,196.64
01/01/2008 to 12/31/2008	210	Letko Brosseau RSP Equity Fund - Units	50,871,097.33	4,716,282.60
01/01/2008 to 12/31/2008	136	Letko Brosseau RSP International Equity Fund - Units	27,542,706.46	3,031,756.86
01/01/2008 to 12/31/2008	7	Letko Brosseau Social Integrity Fund - Units	28,928,720.39	3,155,293.01
01/01/2008 to 12/31/2008	43	Magna Vista North American Equity Fund - Units	2,479,389.31	280,582.02
01/01/2008 to 12/31/2008	3	MB Balanced Fund - Units	4,937,232.16	442,653.90
01/01/2008 to 12/31/2008	7	MB Balanced Growth Fund - Units	17,344,777.50	747,374.27
01/01/2008 to 12/31/2008	2	MB Canadian Equity Growth Fund - Units	644,000.00	7,020.83
01/01/2008 to 12/31/2008	5	MB Canadian Equity Value Fund - Units	3,001,000.00	254,432.29
01/01/2008 to 12/31/2008	11	MB Canadian Equity (Core) Fund - Units	4,430,000.00	373,835.47
01/01/2008 to 12/31/2008	32	MB Fixed Income Fund - Units	22,007,901.33	395,705.64
01/01/2008 to 12/31/2008	21	MB Global Equity Fund - Units	7,615,387.64	612,665.35
01/01/2008 to 12/31/2008	5	MB Global Equity Value Fund - Units	3,459,000.00	421,784.92
01/01/2008 to 12/31/2008	51	MB Money Market Fund - Units	23,046,039.78	2,304,603.98
01/01/2008 to 12/31/2008	1	MB Private Balanced Fund - Units	300,000.00	28,721.60
01/01/2008 to 12/31/2008	2	MB Short Term Fixed Income Fund - Units	2,583,730.45	260,747.90
12/01/2008	1	Neilas (Shepherd Road) Limited Partnership - Units	100,000.00	100.00
03/31/2008 to 09/30/2008	3	Niagara Discovery Fund - Limited Partnership Interest	697,386.26	57,996.93
03/31/2008 to 10/01/2008	18	Niagara Legacy Class B Fund - Limited Partnership Units	8,744,733.95	502,673.99

Transaction Date	No. of Purchasers	Issuer/Security	Total Purchase Price ($)	No. of Securities Distributed
02/24/2009 to 02/27/2009	5	Northern Star Mining Corp. - Common Shares	772,000.00	1,478,572.00
02/27/2008	2	Octopz Inc. - Notes	268,750.00	2.00
04/01/2008	1	OMERS/AACP Investors, L.P. - Limited Partnership Interest	30,000,000.00	30,000,000.00
01/21/2008 to 12/22/2008	43	Onefund Diversified Plus - Trust Units	1,665,473.17	168,549.79
01/01/2008 to 12/31/2008	55	Palos Majestic Commodity Fund L.P. - Units	2,310,376.49	224,449.92
12/31/2008	8	Paramount Gold and Silver Corp. - Units	2,000,000.00	3,636,362.00
02/01/2008 to 08/01/2008	3	Parkwood Limited Partnership Fund - Limited Partnership Units	1,900,000.00	1,900.00
01/14/2008 to 07/28/2008	19	Peer Diversified Mortgage Fund - Trust Units	1,676,336.39	168,137.87
02/27/2009	4	Pelangio Exploration Inc. - Flow-Through Shares	85,000.00	850,000.00
02/27/2009	41	Pelangio Exploration Inc. - Units	1,065,000.00	10,650,000.00
01/01/2008 to 12/31/2008	7	Picton Mahoney Global Long Short Equity US Dollar Fund - Units	276,946.52	N/A
01/01/2008 to 12/31/2008	271	Picton Mahoney Global Market Neutral Equity Fund - Units	21,558,725.99	N/A
01/01/2008 to 12/31/2008	18	Picton Mahoney Global Market Neutral Equity US Dollar Fund - Units	493,644.26	N/A
01/01/2008 to 12/31/2008	126	Picton Mahoney Long Short Equity Fund - Units	7,757,389.74	N/A
01/01/2008 to 12/31/2008	121	Picton Mahoney Long Short Equity Fund - Units	7,790,754.17	N/A
01/01/2008 to 12/31/2008	107	Picton Mahoney Market Neutral Equity Fund - Units	11,527,886.39	N/A
02/19/2009	1	Probe Resources Ltd. - Warrants	1,750,000.00	7,000,000.00
02/27/2009	25	PSP Capital Inc. - Notes	400,000,000.00	N/A
02/10/2004 to 11/30/2007	2	Pyrford International Equity Fund - Trust Units	173,960,546.54	1,643,111.02
02/27/2009	63	Ressources Robex Inc.	1,000,000.00	20,000,000.00
01/01/2008 to 12/31/2008	660	ROI High Yield Private Placement Fund - Units	45,443,040.00	421,980.04
01/01/2008 to 12/31/2008	1122	ROI Private Placement Fund - Units	85,282,172.00	846,864.98
12/30/2007 to 11/30/2008	10	Rosseau Limited Partnership - Limited Partnership Units	1,671,146.65	176.00
01/04/2008 to 12/03/2008	451	Salida Multi Strategy Hedge Fund - Units	34,627,832.77	1,766,734.78

Transaction Date	No. of Purchasers	Issuer/Security	Total Purchase Price ($)	No. of Securities Distributed
01/04/2008 to 12/03/2008	177	Salida Multi Strategy Hedge Fund - Units	4,530,986.04	483,860.87
01/01/2008 to 12/31/2008	4	Sceptre Pooled Investment Fund- 130/30 Canadian Equity Section - Units	1,708,063.08	167,334.13
01/01/2008 to 12/31/2008	2	Sceptre Pooled Investment Fund- Equity Section - Units	1,243,724.69	1,946.48
01/01/2008 to 12/31/2008	6	Sceptre Pooled Investment Fund- Money market Section - Units	15,781,181.63	111,486.28
01/01/2008 to 12/31/2008	39	Sceptre Pooled Investment Fund - Balanced Section - Units	190,997,443.30	1,778,259.01
01/01/2008 to 12/31/2008	6	Sceptre Pooled Investment Fund - Bond Section - Units	20,512,075.49	35,488.54
01/01/2008 to 12/31/2008	12	Sceptre Pooled Investment Fund - Canadian Equity Section - Units	150,298,437.29	545,599.06
01/01/2008 to 12/31/2008	3	Sceptre Pooled Investment Fund - EFT Section - Units	12,497,004.03	39,629.89
01/01/2008 to 12/31/2008	15	Sceptre Pooled Investment Fund - Foreign Equity Section - Units	253,941,146.50	3,179,032.18
02/01/2008 to 08/01/2008	11	Sevenoaks Opportunities Fund L.P. - Limited Partnership Units	1,115,000.00	1,115.00
01/04/2008 to 11/21/2008	215	Sextant Strategic Opportunities Hedge Fund LP - Units	15,917,861.34	N/A
02/12/2009	1	Sheltered Oak Resources Corp. - Common Shares	467,500.00	5,500,000.00
01/01/2008 to 12/31/2008	23	Sherpa Diversified Returns Fund - Units	7,655,353.27	765,535.00
12/24/2008	2	Skylon Big Three STAR LP - Limited Partnership Units	1,940,970.00	200,100.00
03/02/2009	1	Special Notes Limited Partnership - Units	30,000.00	30,000.00
10/01/2008	1	Stornoway Recovery Fund LP - Limited Partnership Units	500,000.00	500.00
02/25/2009	1	StrataGold Corporation - Warrants	300,000.00	5,000,000.00
01/02/2008 to 12/31/2008	51	The Pembroke Canadian Growth Fund - Units	13,696,438.46	1,842,042.72
01/02/2008 to 12/23/2008	42	The Pembroke U.S. Growth Fund - Units	9,281,652.34	1,388,222.72
02/01/2008 to 12/01/2008	120	The Strategic Retirement Fund - Trust Units	11,266,853.92	114,564.24
02/01/2008 to 12/01/2008	14	Triumph Aggressive Opportunities Fund - Limited Partnership Units	9,809,576.32	9,809.58
02/01/2008 to 11/01/2008	26	Triumph Capital Appreciation Fund L.P. - Limited Partnership Units	11,774,583.49	11,474.58
02/27/2009	28	Underworld Resources Inc. - Common Shares	1,410,250.10	4,029,286.00

Transaction Date	No. of Purchasers	Issuer/Security	Total Purchase Price ($)	No. of Securities Distributed
12/31/2008	5	Upper Canada Explorations Limited - Units	113,000.00	565,000.00
03/01/2009	2	WALLBRIDGE MINING COMPANY LIMITED - Common Shares	4,250.00	50,000.00
01/01/2008 to 12/31/2008	11	Walter Scott & Partners Global Fund - Units	106,541,246.17	8,248,132.00
01/01/2008 to 12/31/2008	2	Walter Scott & Partners International Fund - Units	39.46	2,511.00
03/03/2009	1	Wimberly Apartments Limited Partnership - Units	21,799.76	23,864.00

Chapter 11

IPOs, New Issues and Secondary Financings

Issuer Name:
Brookfield Homes Corporation
Principal Regulator - Ontario
Type and Date:
Amended and Restated Preliminary MJDS Prospectus dated March 6, 2009
Mutual Reliance Review System Receipt dated March 9, 2009
Offering Price and Description:
Rights to purchase up to 10,000,000 Shares of 8% Convertible Preferred Stocks, Series A, at US $25.00 per Share
Underwriter(s) or Distributor(s):
-
Promoter(s):
-
Project #1361017

Issuer Name:
CU Inc.
Principal Regulator - Alberta
Type and Date:
Preliminary Short Form Prospectus dated March 10, 2009
NP 11-202 Receipt dated March 10, 2009
Offering Price and Description:
$160,000,000.00 - 6,400,000 Shares Cumulative Redeemable Preferred Shares Series 2 Price: $25.00 per Share to yield 6.70% per annum
Underwriter(s) or Distributor(s):
BMO Nesbitt Burns Inc.
RBC Dominion Securities Inc.
TD Securities Inc.
Promoter(s):
-
Project #1385219

Issuer Name:
Eurogas International Inc.
Principal Regulator - Ontario
Type and Date:
Amended and Restated Preliminary Non-Offering Long Form Prospectus dated March 9, 2009
NP 11-202 Receipt dated March 10, 2009
Offering Price and Description:
-
Underwriter(s) or Distributor(s):
-
Promoter(s):
Eurogas Corporation
Project #1346961

Issuer Name:
Groupe Aeroplan Inc.
Principal Regulator - Quebec
Type and Date:
Preliminary Base Shelf Prospectus dated February 27, 2009
NP 11-202 Receipt dated March 4, 2009
Offering Price and Description:
Debt Securities
Convertible Securities
Common Shares
and
Preferred Shares
$1,000,000,000.00
Underwriter(s) or Distributor(s):
-
Promoter(s):
-
Project #1380077

Issuer Name:
IAMGOLD Corporation
Principal Regulator - Ontario
Type and Date:
Preliminary Short Form Prospectus dated March 9, 2009
NP 11-202 Receipt dated March 9, 2009
Offering Price and Description:
Approx. $275,000,000.00 - * Common Shares Price: $ * per Offered Share
Underwriter(s) or Distributor(s):
Canaccord Capital Corporation
TD Securities Inc.
CIBC World Markets Inc.
GMP Securities L.P.
Macquarie Capital Markets Canada Ltd.
Scotia Capital Inc.
UBS Securities Canada Inc.
Cormark Securities Inc.
National Bank Financial Inc.
Paradigm Capital Inc.
RBC Dominion Securities Inc.
Thomas Weisel Partners Canada Inc.
Dundee Securities Corporation
Genuity Capital Markets
Goldman Sachs Canada Inc.
Salman Partners Inc.
Promoter(s):
-
Project #1384641

Issuer Name:
IAMGOLD Corporation
Principal Regulator - Ontario
Type and Date:
Amended and Restated Preliminary Short Form Prospectus dated March 10, 2009
NP 11-202 Receipt dated March 10, 2009
Offering Price and Description:
$300,125,000.00 - 34,300,000 Common Shares Price: $8.75 per Share
Underwriter(s) or Distributor(s):
Canaccord Capital Corporation
TD Securities Inc.
CIBC World Markets Inc.
GMP Securities L.P.
Macquarie Capital Markets Canada Ltd.
Scotia Capital Inc.
UBS Securities Canada Inc.
Cormark Securities Inc.
National Bank Financial Inc.
Paradigm Capital Inc.
RBC Dominion Securities Inc.
Thomas Weisel Partners Canada Inc.
Dundee Securities Corporation
Genuity Capital Markets
Goldman Sachs Canada Inc.
Salman Partners Inc.
Promoter(s):
-
Project #1384641

Issuer Name:
Mirabela Nickel Limited
Principal Regulator - British Columbia
Type and Date:
Preliminary Short Form Prospectus dated March 3, 2009
NP 11-202 Receipt dated March 4, 2009
Offering Price and Description:
$ * - Subscription Receipts each representing the right to receive one ordinary share Price: $ * per Subscription Receipt
Underwriter(s) or Distributor(s):
GMP Securities L.P.
Cormark Securities Inc.
Dundee Securities Corporation
Macquarie Capital Markets Canada Limited
Haywood Securities Inc.
Promoter(s):
-
Project #1383195

Issuer Name:
Morneau Sobeco Income Fund
Principal Regulator - Ontario
Type and Date:
Preliminary Short Form Prospectus dated March 10, 2009
NP 11-202 Receipt dated March 10, 2009
Offering Price and Description:
$55,000,275.00 - 6,666,700 Units Price: $8.25 per Unit
Underwriter(s) or Distributor(s):
National Bank Financial Inc.
BMO Nesbitt Burns Inc.
TD Securities Inc.
CIBC World Markets Inc.
GMP Securities L.P.
Scotia Capital Inc.
Promoter(s):
-
Project #1385117

Issuer Name:
Trident Performance Corp. II
Principal Regulator - Ontario
Type and Date:
Preliminary Long Form Prospectus dated March 5, 2009
NP 11-202 Receipt dated March 5, 2009
Offering Price and Description:
Maximum Offering: $ * - * Class A Shares; Minimum Offering: $ * - * Class A Shares Subscription Price: $10.00 per Share Minimum Subscription: $1,000.00
Underwriter(s) or Distributor(s):
TD Securities Inc.
Blackmont Capital Inc.
National Bank Financial Inc.
CIBC World Market Inc.
Scotia Capital Inc.
BMO Nesbitt Burns Inc.
RBC Dominion Securities Inc.
Canaccord Capital Corporation
Dundee Securities Corporation
HSBC Securities (Canada) Inc.
GMP Securities L.P.
Raymond James Ltd.
Richardson Partners Financial Limited
Promoter(s):
CI Investment Inc.
Project #1383935

Issuer Name:
TriStar Oil & Gas Ltd.
Principal Regulator - Alberta
Type and Date:
Preliminary Short Form Prospectus dated March 10, 2009
NP 11-202 Receipt dated March 10, 2009
Offering Price and Description:
$250,000,000.00 - 31,250,000 Subscription Receipts, each representing the right to receive one Common Share Price: $8.00 per Subscription Receipt
Underwriter(s) or Distributor(s):
Macquarie Capital Markets Canada Ltd.
GMP Securities LP
FirstEnergy Capital Corp.
BMO Nesbitt Burns Inc.
CIBC World Markets Inc.
Genuity Capital Markets
National Bank Financial Inc.
Scotia Capital Inc.
TD Securities Inc.
Tristone Capital Inc.
Promoter(s):
-
Project #1385293

Issuer Name:
Vistech Capital Corp.
Principal Regulator - Ontario
Type and Date:
Preliminary CPC Prospectus dated March 4, 2009
NP 11-202 Receipt dated March 4, 2009
Offering Price and Description:
$200,000.00 - 2,000,000 Common Shares Price: $0.10 per Common Share
Underwriter(s) or Distributor(s):
Bolder Investment Partners, Ltd.
Promoter(s):
Adam R. Cegielski
Project #1383460

Issuer Name:
AGF American Growth Class*
(Mutual Fund Series, Series D, Series F, Series G, Series H and Series O Securities)
AGF Asian Growth Class*
(Mutual Fund Series, Series D, Series F and Series O Securities)
AGF Canada Class*
(Mutual Fund Series, Series D, Series F and Series O Securities)
AGF Canadian Large Cap Dividend Class*
(Mutual Fund Series, Series D, Series F and Series O Securities)
AGF Canadian Stock Class*
(Mutual Fund Series, Series D, Series F and Series O Securities)
AGF China Focus Class*
(Mutual Fund Series, Series D, Series F and Series O Securities)
AGF Diversified Dividend Income Fund
(Mutual Fund Series, Series D, Series F, Series G, Series H, Series O and Series T Securities)
AGF Emerging Markets Class*
(Mutual Fund Series, Series D, Series F and Series O Securities)
AGF European Equity Class*
(Mutual Fund Series, Series D, Series F, Series G, Series H and Series O Securities)
AGF Global Equity Class*
(Mutual Fund Series, Series D, Series F, Series G, Series H and Series O Securities)
AGF Global Financial Services Class*
(Mutual Fund Series, Series D, Series F and Series O Securities)
AGF Global Health Sciences Class*
(Mutual Fund Series, Series D, Series F and Series O Securities)
AGF Global Perspective Class*
(Mutual Fund Series, Series D, Series F, Series G, Series H and Series O Securities)
AGF Global Real Estate Equity Class*
(Mutual Fund Series, Series D, Series F and Series O Securities)
AGF Global Resources Class*
(Mutual Fund Series, Series D, Series F and Series O Securities)
AGF Global Technology Class*
(Mutual Fund Series, Series D, Series F and Series O Securities)
AGF Global Value Class*
(Mutual Fund Series, Series D, Series F, Series G, Series H and Series O Securities)
AGF International Stock Class*
(Mutual Fund Series, Series D, Series F, Series G, Series H and Series O Securities)
AGF Japan Class*
(Mutual Fund Series, Series D, Series F and Series O Securities)
AGF Monthly High Income Fund
(Mutual Fund Series, Series D, Series F, Series G, Series H, Series O and Series T Securities)
AGF Short-Term Income Class*

(Mutual Fund Series, Series D, Series F and Series O Securities)
AGF Special U.S. Class*
(Mutual Fund Series, Series D, Series F and Series O Securities)
AGF U.S. Risk Managed Class*
(Mutual Fund Series, Series D, Series F and Series O Securities)
AGF U.S. Value Class*
(Mutual Fund Series, Series D, Series F and Series O Securities)
*Class of AGF All World Tax Advantage Group Limited
Principal Regulator - Ontario
Type and Date:
Amendment #1 dated March 3, 2009 to the Simplified Prospectuses and Annual Information Forms dated April 18, 2008
NP 11-202 Receipt dated March 6, 2009
Offering Price and Description:
Mutual Fund Units Net Asset Value
Underwriter(s) or Distributor(s):
AGF Funds Inc.
Promoter(s):
-
Project #1232639

Issuer Name:
AGF Special U.S. Fund
AGF U.S. Value Fund
Principal Regulator - Ontario
Type and Date:
Amendment #1 dated March 3, 2009 to the Simplified Prospectuses and Annual Information Forms dated December 18, 2008
NP 11-202 Receipt dated March 6, 2009
Offering Price and Description:
Mutual Funds Units Net Asset Value
Underwriter(s) or Distributor(s):
AGF Funds Inc.
Promoter(s):
-
Project #1333030

Issuer Name:
AGF Elements Balanced Portfolio Class
AGF Elements Conservative Portfolio Class
AGF Elements Global Portfolio Class
AGF Elements Growth Portfolio Class
of
AGF All World Tax Advantage Group Limited
(Mutual Fund Series, Series D, Series F and Series O Securities)
Principal Regulator - Ontario
Type and Date:
Amendment #1 dated March 3, 2009 to the Simplified Prospectuses and Annual Information Forms dated December 1, 2008
NP 11-202 Receipt dated March 6, 2009
Offering Price and Description:
Mutual Fund Units Net Asset Value
Underwriter(s) or Distributor(s):
-
Promoter(s):
AGF Funds Inc.
Project #1333526

Issuer Name:
Mutual Fund Units and Class F Units of:
AIC Money Market Fund
AIC U.S. Money Market Fund
Principal Regulator - Ontario
Type and Date:
Amendment #5 dated March 5, 2009 to the Simplified Prospectuses and Annual Information Forms dated April 21, 2008
NP 11-202 Receipt dated March 10, 2009
Offering Price and Description:
-
Underwriter(s) or Distributor(s):
-
Promoter(s):
AIC Limited
Project #1227478

Issuer Name:
AIC Money Market Corporate Class
(Mutual Fund Shares and Series F Shares)
Principal Regulator - Ontario
Type and Date:
Amendment #4 dated March 5, 2009 to the Simplified Prospectuses and Annual Information Forms dated April 1, 2008
NP 11-202 Receipt dated March 10, 2009
Offering Price and Description:
-
Underwriter(s) or Distributor(s):
-
Promoter(s):
AIC Limited
Project #1218448

Issuer Name:
Class, Select-T8 Class, Elite Class, Elite-T4 Class, Elite-T6 Class, Elite-T8 Class, and Class
F Units (unless otherwise noted) of:
AXIOM BALANCED INCOME PORTFOLIO
AXIOM DIVERSIFIED MONTHLY INCOME PORTFOLIO (offers only Class A, Class T6, Class T8, Select Class, Select-T6 Class, Select-T8 Class, Elite
Class, Elite-T6 Class, Elite-T8
Class, and Class F Units)
AXIOM BALANCED GROWTH PORTFOLIO
AXIOM LONG-TERM GROWTH PORTFOLIO
AXIOM CANADIAN GROWTH PORTFOLIO
AXIOM GLOBAL GROWTH PORTFOLIO
AXIOM FOREIGN GROWTH PORTFOLIO
AXIOM ALL EQUITY PORTFOLIO
Principal Regulator - Ontario
Type and Date:
Final Simplified Prospectuses dated March 6, 2009
NP 11-202 Receipt dated March 9, 2009
Offering Price and Description:
Class A, Class T4, Class T6, Class T8, Select Class, Select-T4 Class, Select-T6
Class, Select-T8 Class, Elite Class, Elite-T4 Class, Elite-T6 Class, Elite-T8 Class, and Class
F Units
Underwriter(s) or Distributor(s):
-
Promoter(s):
CIBC Asset Management Inc.
Project #1368423

Issuer Name:
Bank of Nova Scotia, The
Principal Regulator - Ontario
Type and Date:
Amendment No. 2 dated March 6, 2009 to the Short Form Base Shelf Prospectus dated April 16, 2008, as amended by Amendment No . 1 dated December 3, 2008
NP 11-202 Receipt dated March 10, 2009
Offering Price and Description:
-
Underwriter(s) or Distributor(s):
-
Promoter(s):
-
Project #1245918

Issuer Name:
Canadian Imperial Bank of Commerce
CIBC Capital Trust
Principal Regulator - Ontario
Type and Date:
Final Short Form Prospectus dated March 5, 2009
NP 11-202 Receipt dated March 5, 2009
Offering Price and Description:
$1,300,000,000 - 9.976% CIBC Tier 1 Notes - Series A Due June 30, 2108 (CIBC Tier 1 Notes - Series A) and $300,000,000.00 10.25% CIBC Tier 1 Notes - Series B due June 30, 2108 (CIBC Tier 1 Notes - Series B)
Underwriter(s) or Distributor(s):
CIBC World Markets Inc.
Promoter(s):
-
Project #1378884/1378875

Issuer Name:
Global Iman Fund
Principal Regulator - Ontario
Type and Date:
Final Simplified Prospectus dated March 5, 2009
NP 11-202 Receipt dated March 6, 2009
Offering Price and Description:
Series A and F Units @ Net Asset Value
Underwriter(s) or Distributor(s):
Global Prosperata Funds Inc.
Promoter(s):
Global Prosperata Funds Inc.
Project #1320633

Issuer Name:
Great Basin Gold Ltd.
Principal Regulator - British Columbia
Type and Date:
Final Short Form Prospectus dated March 4, 2009
NP 11-202 Receipt dated March 4, 2009
Offering Price and Description:
$130,000,000.00 - 100,000,000 Units Price: $1.30 per Unit
Underwriter(s) or Distributor(s):
BMO Nesbitt Burns Inc.
RBC Dominion Securities Inc.
PI Financial Corp.
Raymond James Ltd.
Promoter(s):
-
Project #1377339

Issuer Name:
RBC Select Very Conservative Portfolio
Principal Regulator - Ontario
Type and Date:
Final Simplified Prospectus dated March 2, 2009
NP 11-202 Receipt dated March 4, 2009
Offering Price and Description:
Mutual fund trust units at net asset value
Underwriter(s) or Distributor(s):
Royal Mutual Funds Inc.
Promoter(s):
RBC Asset Management Inc.
Project #1371947

Issuer Name:
Class A Units and Class O Units (unless otherwise indicated) of:
Sceptre Income & Growth Fund (Class D Units and Class F Units are also available)
Sceptre Bond Fund (Class D Units are also available)
Sceptre High Income Fund (Class D Units and Class F Units are also available)
Sceptre Canadian Equity Fund (Class D Units and Class F Units are also available)
Sceptre Equity Growth Fund (Class D Units and Class F Units are also available)
Sceptre Global Equity Fund (Class D Units are also available)

Principal Regulator - Ontario
Type and Date:
Amendment #1 dated February 26, 2009 to the Simplified Prospectuses and Annual Information Forms dated August 22, 2008
NP 11-202 Receipt dated March 4, 2009
Offering Price and Description:
Class A Units, Class D Units, Class F Units and Class O Units @ Net Asset Value
Underwriter(s) or Distributor(s):
Sceptre Investment Counsel Limited
-
Promoter(s):
Sceptre Investment Counsel Limited
Project #1295939

Issuer Name:
Sentry Select Energy Income Fund
Principal Regulator - Ontario
Type and Date:
Final Simplified Prospectus dated March 6, 2009
NP 11-202 Receipt dated March 9, 2009
Offering Price and Description:
-
Underwriter(s) or Distributor(s):
Sentry Select Capital Inc.
Promoter(s):
Sentry Select Capital Inc.
Project #1367726

Issuer Name:
SILVERCORP METALS INC.
Principal Regulator - British Columbia
Type and Date:
Final Short Form Prospectus dated March 4, 2009
NP 11-202 Receipt dated March 4, 2009
Offering Price and Description:
Cdn$31,000,000.00 - 10,000,000 Common Shares Price: Cdn$3.10 per Common Share
Underwriter(s) or Distributor(s):
Raymond James Ltd.
Salman Partners Inc.
Cormark Securities Inc.
Genuity Capital Markets
Promoter(s):
-
Project #1378638

Chapter 12

Registrations

12.1.1 Registrants

Type	Company	Category of Registration	Effective Date
Consent to Suspension (Rule 33-501 Surrender of Registration)	Rittenhouse Asset Management, Inc.	International Adviser (Investment Counsel & Portfolio Manager)	March 5, 2009
Name Change	From: Harris Alternatives L.L.C. To: Aurora Investment Management L.L.C.	International Adviser	February 18, 2009
Name Change	From: Berrie White Capital Corporation To: White Capital Corporation	Limited Market Dealer	March 10, 2009

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Chapter 13

SRO Notices and Disciplinary Proceedings

13.1.1 MFDA Issues Notice of Hearing Regarding Donald James Cunningham

NEWS RELEASE
For immediate release

MFDA ISSUES NOTICE OF HEARING REGARDING
DONALD JAMES CUNNINGHAM

March 9, 2009 (Toronto, Ontario) – The Mutual Fund Dealers Association of Canada ("MFDA") today announced that it has commenced disciplinary proceedings against Donald James Cunningham (the "Respondent").

MFDA staff alleges in its Notice of Hearing that the Respondent engaged in the following conduct contrary to the By-laws, Rules or Policies of the MFDA:

> **Allegation #1:** Between June 2003 and September 2005, the Respondent failed to fulfill his supervisory responsibilities as branch manager of the London, Ontario branch of Desjardins Financial Security Investments Inc. (formerly known as Optifund Investments Inc.) ("Desjardins"), contrary to MFDA Rules 2.5, 2.5.3 and 2.5.5 and MFDA Policy No. 2.
>
> **Allegation #2:** Between September 2003 and November 2004, the Respondent failed to employ adequate supervision to prevent Anthony McPhail ("McPhail"), an unregistered individual, from engaging in securities related business with clients of Desjardins, contrary to MFDA Rules 2.5 and 2.1.1(c).
>
> **Allegation #3:** Between January 2004 and November 2004, the Respondent failed to conduct reasonable supervisory investigations in response to information that McPhail, an unregistered individual, was engaging in securities related business with clients of Desjardins and to take such supervisory and disciplinary measures as might be warranted by the results of such investigations, contrary to MFDA Rules 1.1.1(c), 2.5 and 2.1.1(c).

The first appearance in this matter will take place by teleconference before a Hearing Panel of the MFDA's Central Regional Council in the Hearing Room located at the offices of the MFDA, 121 King Street West, Suite 1000, Toronto, Ontario on Tuesday, April 7, 2009 at 9:00 a.m. (Eastern) or as soon thereafter as the appearance can be held.

The purpose of the first appearance is to schedule the date for the commencement of the hearing of this matter on its merits and to address any other procedural matters.

The first appearance is open to the public, except as may be required for the protection of confidential matters. Members of the public attending the first appearance will be able to listen to the proceeding by teleconference.

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

The MFDA is the self-regulatory organization for Canadian mutual fund dealers, regulating the operations, standards of practice and business conduct of its 151 Members and their approximately 75,000 Approved Persons with a mandate to protect investors and the public interest.

For further information, please contact:
Shaun Devlin
Vice-President, Enforcement
416-943-4672 or sdevlin@mfda.ca

13.1.2 MFDA Hearing Panel Issues Decision and Reasons with Respect to Kerry Scharfenberg

NEWS RELEASE
For immediate release

**MFDA HEARING PANEL ISSUES DECISION AND REASONS
WITH RESPECT TO KERRY SCHARFENBERG**

March 10, 2009 (Toronto, Ontario) – A Hearing Panel of the Prairie Regional Council of the Mutual Fund Dealers Association of Canada ("MFDA") has issued its Decision and Reasons in connection with the disciplinary hearing held in Edmonton, Alberta on January 6, 2009 in respect of Kerry Scharfenberg.

A copy of the Decision and Reasons 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 151 Members and their approximately 75,000 Approved Persons with a mandate to protect investors and the public interest.

For further information, please contact:
Shaun Devlin
Vice-President, Enforcement
416-943-4672 or sdevlin@mfda.ca

13.1.3 Proposed Amendments to MFDA Policy No. 3 Handling Client Complaints

MUTUAL FUND DEALERS ASSOCIATION OF CANADA

PROPOSED AMENDMENTS TO

MFDA POLICY NO. 3

HANDLING CLIENT COMPLAINTS

I. OVERVIEW

A. Current Rules

MFDA Policy No. 3 *Handling Client Complaints* sets out general requirements with respect to the handling of complaints by Members. Members are currently required to establish policies and procedures to deal effectively with client complaints and address issues that include client communications, record keeping and internal escalation of serious complaints.

On July 13, 2007, the British Columbia Securities Commission and Ontario Securities Commission published proposed amendments to Policy No. 3 for a 30-day public comment period that expired on August 12, 2007. The proposed amendments are now being republished for comment as a result of additional changes made in response to comments received, particularly those in respect of the need for harmonization, and related working group discussions with staff of the Canadian Securities Administrators ("CSA") and the Investment Industry Regulatory Organization of Canada ("IIROC").

B. The Issues

MFDA staff has become aware of a number of procedural issues identified by clients who have filed complaints against Members and their Approved Persons. In order to improve upon the complaint handling process, further guidance is required with respect to the fair and prompt handling of complaints by Members and supervisory investigations to be conducted by Members following the receipt of a complaint.

C. Objectives

The objectives of the proposed amendments to Policy No. 3 are to provide additional guidance with respect to the standards that Members should have in place regarding complaint handling and supervisory investigations, respond to comments received and harmonize the complaint handling requirements of the MFDA with those of IIROC and requirements to be adopted in National Instrument 31-103 *Registration Requirements* ("NI 31-103"). The proposed amendments will replace much of what is contained in the existing Policy No. 3.

D. Effect of Proposed Amendments

The effect of the proposed amendments will be to clarify the obligations of Members, provide guidance as to minimum standards with respect to the fair and prompt handling of client complaints and ensure consistency between MFDA complaint handling requirements and those under IIROC Rules and NI 31-103.

It is not expected that the proposed amendments will have other significant effects on Members, other market participants, market structure or competition or result in significant additional compliance costs.

II. DETAILED ANALYSIS

A. Relevant History

As noted, the British Columbia Securities Commission and Ontario Securities Commission published the proposed amendments to Policy No. 3 on July 13, 2007 for a 30-day public comment period that expired on August 12, 2007. Four submissions were received during the public comment period.

In May 2008, a working group comprised of CSA, MFDA and IIROC staff was established by the CSA for the purpose of developing a complaint handling framework to ensure that the requirements to be adopted by the two self-regulatory organizations ("SROs") and in NI 31-103 were harmonized. This working group met and had discussions over the summer and fall of 2008, during which the complaint handling proposals of the two SROs were reviewed to ensure that they were consistent with this framework, met the same regulatory objectives and minimized differences. The proposed amendments, as noted, are now being republished for comment as a result of additional changes made in response to comments received and related working group discussions with CSA and IIROC staff.

B. Proposed Amendments to Policy No. 3

Definition of "Complaint"

The definition of "complaint" has been amended to separate it from the process by which complaints are to be handled, thereby allowing the Policy to more clearly recognize that not all complaints are subject to the formally prescribed complaint handling procedures, as certain complaints can be adequately and appropriately addressed informally. Complaints subject to informal resolution must be handled fairly and promptly.

"Complaint" is now defined to include any written or verbal statement of grievance from a client or any person acting on their behalf, former client or prospective client, alleging a grievance involving a Member or Approved Person of a Member.

New Sections

Section 3 (Duty to Assess All Complaints) clarifies the Member's obligation to engage in an adequate and reasonable assessment of all complaints, noting that all complaints must be handled in accordance with Part I of the Policy. The Policy has been changed so that only certain complaints are subject to additional formal requirements that have been moved to Part II. Section 3 also provides guidance to Members in respect of how to determine whether a complaint should be addressed informally (only under Part I) or formally (under Parts I and II). Section 4 (Minimum Requirements for Complaints Subject to Informal Resolution) establishes minimum requirements for complaints that can be addressed informally. Section 5 advises Members that they are expected to assist clients in documenting verbal complaints where it is apparent that such assistance is required.

Prompt Handling of Client Complaints

The time period for providing a substantive response to the complaint remains generally as the time period expected of a reasonable Member acting diligently in the circumstances. The time period by which Members must do this "in most cases" has been reduced from six months to three months to reflect the current practices of most Members in the majority of their complaints and to harmonize the timeframe with the requirements of IIROC and those under consideration by the CSA. In addition, where a Member is unable to provide a substantive response within three months, Part I now also includes a requirement for Members to provide their best estimate of the time required for the completion of the substantive response.

Other Changes

- **Part I – Minimum Requirements for Complaints Subject to Informal Resolution**: For the purpose of clarifying obligations in respect of complaints subject to informal resolution, the Policy has been amended with the addition of a requirement that any complaint made in writing must be responded to in writing;

- **Part I – Duty to Assess all Complaints**: A commenter expressed concern that the requirement for Members to handle complaints with respect to investment suitability from individuals who are not clients of the Member is overly broad and should be deleted. In response to this comment, the Policy has been amended to clarify that Members are only required to handle complaints related to unsuitable investments or leveraging when the complaints are from clients;

- **Part I – Fair Handling of Client Complaints**: A Member's obligation to handle complaints in accordance with the Policy has been clarified to note that it is not altered when a complainant engages legal counsel but has not commenced litigation. In addition, where the complainant does initiate litigation, the Member must participate in the process in a timely manner *and* refrain from acting in a way that is clearly unfair;

- **Part I – General Complaint Handling Requirements**: A new section heading has been added to clarify the general requirements applicable to all complaints. The only new provision under this section is in respect of follow-up documentation for complaints. Follow-up documentation for all complaints must be kept in a central location along with the consolidated log of complaints. Alternatively, where a Member has various regional head offices, the Member may keep follow-up documentation at any one regional office, provided information about the handling of complaints is in the Member head office log and the follow-up documentation can be produced in a timely manner;

- **Part II – Additional Complaint Handling Requirements**: This section now contains the requirements for the initial and substantive response letters. If a complaint can be concluded in less than 5 business days of its receipt, there is no longer a requirement to send an initial response letter. In addition, the initial response letter must now include a statement advising clients that each province and territory has a time limit for taking legal action. Commenters expressed the view that the obligation to inform clients several times that each

province or territory has a timeline for taking legal action is excessive and may encourage the client to proceed with such action whether it is merited or not. To address this concern while ensuring that clients receive meaningful and timely disclosure in respect of limitation periods, MFDA staff proposes including reference to all applicable limitation periods in the Client Complaint Information Form ("CCIF"), which is included with the Initial Response Letter. The CCIF will also be amended to outline client options if the client is not satisfied with the Member's substantive response. The Policy has been amended to reduce the frequency with which limitation periods are mentioned in the Initial Response letter by directing complainants to the attached CCIF. Members are not explicitly required to detail the limitation periods in the Initial Response. In addition, the substantive response letter must now include a reminder to complainants that they have a right to consider litigation/civil action or any other applicable options, such as an internal ombudservice provided by an affiliate of the Member;

- **Part III – Supervisory Investigations**: This section retains the same principles as the original but has been redrafted to clarify that: (i) there is a general duty to monitor information regarding potential breaches of applicable requirements, whether the information is received by way of complaint or otherwise; (ii) where necessary, Members must investigate specific breaches of requirements; and (iii) in certain serious case types, the Member will generally always have to conduct a detailed supervisory investigation where the possibility of such conduct has been raised.

Related Amendments to Rule 2.11 (Complaints), Policy No. 6 *Information Reporting Requirements* and Section 24.A.5 (Ombudservice – Member to Provide Written Material to Clients) of MFDA By-law No. 1.

Rule 2.11

Rule 2.11 requires Members to log complaints and establish written policies and procedures for dealing with complaints fairly and promptly. Consequential amendments are required to the Rule to reflect the definition of "complaint" and other requirements contained in proposed MFDA Policy No. 3.

The proposed amendments delete the word "client" from the Rule to reflect the fact that, under the definition of "complaint" in proposed Policy No. 3, a "complaint" is not limited to a client complaint in all circumstances, such as where the allegations are of a serious nature. The requirement to keep a log of client complaints has been removed from the Rule as this requirement is now part of proposed Policy No. 3. The proposed amendments also clarify that the MFDA may set minimum standards for complaint handling which are set out in proposed Policy No. 3.

Policy No. 6

Policy No. 6 sets out information reporting requirements for MFDA Members and Approved Persons upon the occurrence of certain events, including client complaints. Amendments are required to Policy No. 6 to harmonize the treatment of complaints of a serious nature under proposed Policy No. 3 and Policy No. 6. The proposed amendments also clarify some of the reporting obligations under Policy No. 6 and when updates to Member Event Tracking System ("METS") reports are required.

The proposed amendments are intended to ensure that a serious complaint that must be handled pursuant to Policy No. 3 is generally reported pursuant to Policy No. 6. The proposed amendments add "breach of client confidentiality", "engaging in an undeclared occupation outside of the Member" and "personal financial dealings with clients" to the types of allegations that must be reported regardless of the form or source of the complaint. The proposed amendments delete the words "any provision of" and "has contravened" in section 6.1(b) in order to clarify and simplify the sentence.

Several amendments were also made in order to clarify some of the reporting obligations under Policy No. 6. The wording "in any civil court in Canada" relating to the reporting of garnishments under sections 4.1(h) and 6.1(e) has been deleted in order to reflect the fact that not all garnishments, such as those imposed by tax authorities, are rendered in a civil court. The word "declared" is replaced with "deemed" under sections 4.1(g) and 6.1(d) in respect of the requirement to report when an Approved Person becomes insolvent. The use of the word "declared" may have been understood to imply that a person must be declared insolvent by a judicial body before a METS report is required. In practice individuals are not declared insolvent under the *Bankruptcy and Insolvency Act* (the "Act") but are deemed to be insolvent by operation of the Act if the individual meets the requirements of an insolvent person as defined under the Act.

The proposed amendments to section 7.1 are intended to clarify that Members are required to update METS reports upon both the resolution of an event and when there are any updates to the event. The section has also been amended to clarify the MFDA's expectations with respect to timelines for reporting such updates and resolutions.

Section 24.A.5 of By-law No. 1

Section 24.A.5 of By-law No. 1 requires Members to provide to new clients, and to clients who submit written complaints to the Member, a copy of the written material approved by the Corporation which describes the ombudservice approved by the Board of Directors pursuant to By-law 24.A.1. Section 24.A.5 of By-law No. 1 is being repealed as Policy No. 3 now includes this requirement.

Under Policy No. 3, as proposed, Members must, on account opening, provide clients with a copy of the CCIF, as approved by MFDA staff, which describes complaint escalation options, including complaining to the Ombudsman for Banking Services and Investments. Where the CCIF is required to be delivered (i.e. in respect of complaints that must be addressed in accordance with Parts I and II of the Policy), it must be provided to the client along with both the initial and substantive response letters. In addition, the substantive response letter must include a specific reminder to the complainant that they have the right to consider other complaint resolution options, including presenting their complaint to the Ombudsman.

C. Issues and Alternatives Considered

No other alternatives were considered.

D. Comparison with Similar Provisions

The MFDA complaint handling proposal is consistent with and meets the same regulatory objectives as the complaint handling framework and IIROC proposal, while being structured differently. This approach has been adopted to ensure that the MFDA proposal conforms to existing MFDA Rules and the regulatory obligations to which Members are subject and avoids confusion or inconsistent reporting in respect of these existing obligations.

E. Systems Impact of Amendments

It is not anticipated that there will be a significant systems impact on Members as a result of the proposed amendments. However, to allow Members sufficient time to comply with the revised Policy and make any systems changes that may be necessary, a 30-day transition period will be applicable to new requirements under the Policy.

F. Best Interests of the Capital Markets

The Board has determined that the proposed amendments are in the best interests of the capital markets.

G. Public Interest Objective

The proposed amendments are in the public interest, respond to comments received and will assist in the protection of the investing public by providing additional clarity and consistency in the complaint handling processes of Member firms. The proposed amendments also meet the same regulatory objectives as the complaint handling framework and IIROC proposal and minimize differences.

III. COMMENTARY

A. Filing in Other Jurisdictions

The proposed By-law amendments will be filed for approval with the Alberta, British Columbia, Manitoba, New Brunswick, Nova Scotia, and Ontario Securities Commissions and the Saskatchewan Financial Services Commission.

B. Effectiveness

The proposed amendments are simple and effective.

C. Process

The proposed Policy has been prepared in consultation with relevant departments within the MFDA and has been reviewed by the Policy Advisory Committee of the MFDA and the Regulatory Issues Committee of the Board. The MFDA Board of Directors approved the proposed amendments on March 5, 2009.

D. Effective Date

The proposed amendments will be effective on a date to be subsequently determined by the MFDA.

IV. SOURCES

MFDA Policy No. 3
MFDA Member Regulation Notice MR-0059
IDA Member Regulation Notice MR-0441
IIROC Complaint Handling Proposal
Complaint Handling Framework

V. REQUIREMENT TO PUBLISH FOR COMMENT

The MFDA is required to publish for comment the proposed amendments so that the issues referred to above may be considered by the Recognizing Regulators.

The MFDA has determined that the entry into force of the proposed amendments would be in the public interest and is not detrimental to the capital markets. Comments are sought on the proposed amendments. Comments should be made in writing. One copy of each comment letter should be delivered within 60 days of the publication of this notice, addressed to the attention of the Corporate Secretary, Mutual Fund Dealers Association of Canada, 121 King St. West, Suite 1000, Toronto, Ontario, M5H 3T9 and one copy addressed to the attention of Sarah Corrigall-Brown, Senior Legal Counsel, British Columbia Securities Commission, 701 West Georgia Street, P.O. Box 10142, Pacific Centre, Vancouver, British Columbia, V7Y 1L2.

Those submitting comment letters should be aware that a copy of their comment letter will be made publicly available on the MFDA website at www.mfda.ca.

Questions may be referred to:

Shaun Devlin
Vice-President, Enforcement
Mutual Fund Dealers Association of Canada
(416) 943-4672

SCHEDULE A

MUTUAL FUND DEALERS ASSOCIATION OF CANADA

COMPLAINT HANDLING, SUPERVISORY INVESTIGATIONS AND INTERNAL DISCIPLINE (Policy No. 3)

On March 5, 2009, the Board of Directors of the Mutual Fund Dealers Association of Canada made the following amendments to MFDA Policy No. 3:

MFDA POLICY NO. 3
(Amendments to Version Published for Comment on July 13, 2007)

~~HANDLING CLIENT COMPLAINTS~~
COMPLAINT HANDLING, SUPERVISORY INVESTIGATIONS AND INTERNAL DISCIPLINE

~~**Introduction**~~

~~This Policy establishes minimum industry standards for handling client complaints. A "complaint" shall be deemed to mean any written statement of a client or any person acting on behalf of a client alleging a grievance involving the conduct, business or affairs of the Member or any registered salesperson, partner, director or officer of the Member.~~

~~Although the definition of "complaint" refers to only written complaints, there may be instances where a Member receives a verbal complaint from a client which will warrant the same treatment as a written complaint. Such situations depend upon the nature and severity of the client's allegations and require the professional judgement of the Member's supervisory staff handling the complaint.~~

~~**Complaint Procedure**~~

~~Each Member must establish procedures to deal effectively with client complaints, which should include the following:~~

~~1. Each Member must acknowledge all client complaints.~~

~~2. Each Member must convey the results of its investigation of a client complaint in writing to the client in due course.~~

~~3. Client complaints involving the sales practices of a Member, its partners, directors, officers, salespersons or employees or agents must be handled by qualified sales supervisors/compliance staff.~~

~~4. Each Member must ensure that registered salespersons and their supervisors are made aware of all complaints filed by their clients.~~

~~5. Each Member must put procedures in place so that senior management is made aware of complaints of serious misconduct and of all legal actions.~~

~~6. Each Member must maintain in a central place an orderly, up-to-date record of complaints together with follow-up documentation regarding such complaints, for regular internal/external compliance reviews. For each complaint, the record should include the following information:~~
- ~~the date of the complaint;~~
- ~~the complainant's name;~~
- ~~the name of the person who is the subject of the complaint;~~
- ~~the security or services which are the subject of the complaint; and~~
- ~~the date and conclusions of the decision rendered in connection with the complaint.~~

~~This record must be retained for a period of seven years from the date of receipt of the complaint.~~

~~8. Each Member must establish procedures to ensure that breaches of MFDA By-laws, Rules and Policies are subjected to appropriate internal disciplinary procedures.~~

~~9. When a Member finds complaints to be a significant factor, internal procedures and practices should be reviewed, with recommendations for changes to be submitted to the appropriate management level.~~

Settlement Agreements and Dispositions of Securities-Related Claims

No Approved Person shall, without the prior written consent of the Member, enter into any settlement agreement with a client.

No Member or Approved Person of such Member may impose confidentiality restrictions on clients with respect to the MFDA or a securities commission, regulatory authority, law enforcement agency, self-regulatory organization, stock exchange or other trading market as part of a resolution of a dispute or otherwise.

I. Complaints

1. Introduction

MFDA Rule 2.11 requires Members to establish and implement written policies and procedures for dealing with client complaints that ensure that such complaints are dealt with promptly and fairly. This Policy establishes minimum standards for the development and implementation of those procedures.

Compliance with the requirements of MFDA Rule 2.11 and this Policy must be supervised and monitored by the Member and its personnel in accordance with MFDA Rule 2.5.

2. Definition General

A "complaint" shall be deemed to include any written or verbal statement of grievance, including electronic communications, from of a client, former client, or any person who is acting on behalf of a client and has written authorization to so act, or of a prospective client who has dealt with a Member or Approved Person, alleging a grievance involving the Member, Approved Person of the Member or former Approved Person of the Member, if the grievance involves matters that occurred while the Approved Person was an Approved Person of the Member.;

- any written or verbal statement of grievance from a client or any other person relating to:
  - (i) theft, fraud, misappropriation of funds or securities, forgery, money laundering, market manipulation, insider trading, misrepresentation, or unauthorized trading; or
  - (ii) engaging in securities related business outside of the Member; and
- any other verbal statement of grievance from a client for which the nature and severity of the client's allegations will warrant, in the professional judgement of the Member's supervisory staff handling the complaint, the same treatment as a written complaint.

3. Duty to Assess All Complaints

Members have a duty to engage in an adequate and reasonable assessment of all complaints.

All complaints are subject to the complaint handling requirements set out in Part I of this Policy. Certain complaints are subject to additional complaint handling requirements as set out in Part II of this Policy. Complaints must be assessed to determine whether in the reasonable professional judgment of the Member's supervisory staff handling the complaint, that it be treated in accordance with the Additional Complaint Handling Requirements prescribed by Part II of this Policy.

All complaints, including complaints from non-clients in respect of their own affairs, in any way relating to the following must be dealt with in accordance with the Additional Complaint Handling Requirements prescribed by Part II of this Policy:

- a breach of client confidentiality;
- unsuitable investments or leveraging (except for non-clients);
- theft, fraud, misappropriation of funds or securities, forgery, misrepresentation, unauthorized trading;
- engaging in securities related business outside of the Member;
- engaging in an undeclared occupation outside the Member;
- personal financial dealings with a client, money laundering, market manipulation or insider trading.

In determining whether any other complaints not relating to the matters set out above should be subject to the Additional Complaint Handling Requirements prescribed by Part II of this Policy supervisory staff should consider whether the complaint alleges a matter similar in nature or seriousness to those set out above, the complainant's expectation as to how the complaint should be handled and whether the complainant is alleging any financial harm. Where supervisory staff determines that a complaint does not meet any of these criteria the complaint must be handled fairly and promptly but can be concluded through an informal resolution.

4. Minimum Requirements for Complaints Subject to Informal Resolution

Any complaints that are subject to informal resolution must be handled fairly and responded to promptly (i.e. generally in less time than it would take for complaints subject to the Additional Complaint Handling Requirements prescribed by Part II of this Policy). Such complaints must also be resolved in accordance with internal Member complaint handling policies and procedures that clearly describe the process to be followed in the assessment and resolution of such matters. Certain complaints subject to informal resolution must also be reported under Policy No. 6.

Where a complaint subject to informal resolution is received in writing the Member must provide its substantive response in writing.

5. Member Assistance in Documenting Verbal Complaints

Members should be prepared to assist clients in documenting verbal complaints where it is apparent that such assistance is required.

6. Client Access

At the time of account opening, Members must provide to new clients a written summary of the Member's complaint handling procedures, which is clear and can easily be understood by clients. On account opening, the Member must also provide a Client Complaint Information Form ("CCIF"), as approved by MFDA staff, describing complaint escalation options, including complaining to the Ombudsman for Banking Services and Investments ~~(the "Ombudsman")~~ and complaining to the MFDA.

Members must ensure that information about ~~facilitate other access to~~ their complaint handling process is made generally available to clients ~~procedures~~ so that clients are informed as to how to file a complaint and to whom they should address a complaint. For example, Members who maintain a website must post their complaint handling procedures on their website.

Member procedures must provide a specific point of initial contact at head office for complaints or information about the Member's complaint handling process. This contact may be a designated person or may be a general inbox or telephone number that is continuously monitored. Members may also advise clients to address their complaints to the Approved Person servicing their account and ~~or~~ to the Branch Manager supervising the Approved Person.

7. Fair Handling of Client Complaints

To achieve the objective of handling complaints fairly, Members' complaint handling procedures must include standards that allow for a factual investigation and an analysis of the matters specific to the complaint. Members must not have policies that allow for complaints to be dismissed without due consideration of the facts of each case. There must be a balanced approach to the gathering of facts that objectively considers the interests of the complainant, the Approved Person and the Member.

The basis of the Member's analysis must be reasonable. For example, a suitability complaint must be considered in light of the same principles that would be applied by a reasonable Member in conducting a suitability review, which would include an acknowledgement of the complainant's stated risk tolerance. It would not be reasonable for a Member to assess suitability based on a risk level presumed by the Member that is higher than that indicated by the complainant. A further example of an unreasonable analysis is where a Member dismisses a complaint due to a simple uncorroborated denial by the Approved Person notwithstanding evidence in support of the complainant.

A Member's obligation to handle complaints in accordance with this Policy is not altered when a complainant engages legal counsel in the complaint process and where no litigation has commenced. Where litigation has been initiated ~~is commenced~~ by the complainant, the Member is expected to participate in the litigation process in a timely manner in accordance with the rules of procedure of the applicable jurisdiction and to refrain from acting in a way that is clearly unfair.

The Member's review of the complaint must result in the Member's substantive response to the complainant. Examples of an appropriate substantive response include a fair offer to resolve the complaint or a denial of the complaint with reasons. MFDA staff does not require that the complainant accept the Member's offer in order for the offer to be considered fair.

8. Prompt Handling of Client Complaints

~~Upon receipt of a client complaint, each Member must send an initial response letter to the complainant within a reasonable time, and generally within 5 business days of receipt of the complaint.~~

The Member must handle the complaint and provide its substantive response within the time period expected of a Member acting diligently in the circumstances. The time period may vary depending on the complexity of the matter. The Member should determine its substantive response and notify the complainant in writing in most cases within ~~no more than~~ three ~~six~~ months of receipt of the complaint~~, although in most cases the Member will be expected to do so within less time~~.

Further, staff recognizes that, if the complainant fails to co-operate during the complaint resolution process, or if the matter requires an extensive amount of fact-finding or complex legal analysis, time frames for the substantive response may need to be extended. In cases where a substantive response will not be provided within three ~~six~~ months, the Member must advise the complainant as such, ~~and~~ provide an explanation for the delay and also provide the Member's best estimate of the time required for the completion of the substantive response.~~.~~

It is not required that the complainant accept the Member's substantive response. Where the Member has communicated its substantive response, the Member must continue to proactively address further communications from the complainant in a timely manner until no further action on the part of the Member is required.

9. General Complaint Handling Requirements ~~Procedures~~

~~Each Member's procedures for complaint handling must include the following:~~

1~~.~~ ~~**Initial Response** – The initial response letter must include the following information:~~

- ~~A written acknowledgment of the complaint;~~
- ~~The name, job title and full contact information of the individual at the Member handling the complaint;~~
- ~~A statement indicating that the complainant should contact the individual at the Member handling the complaint if he/she would like to inquire about the status of the complaint;~~
- ~~A summary of the Member's internal complaint handling process, including general timelines for providing the Member's response to complaints;~~
- ~~A request to the complainant for any additional reasonable information required to resolve the complaint; and~~
- ~~A reference to the CCIF, a copy of which must be included for the complainant.~~

2~~.~~ ~~**Substantive Response** – The substantive response letter, which Members must provide to the complainant, may be accompanied by a summary of the Member's complaint handling procedures and must include a copy of the CCIF. The substantive response letter to complainants should also include the following information:~~

- ~~An outline of the complaint;~~
- ~~The Member's substantive decision on the complaint, including reasons for the decision; and~~
- ~~A reminder to the complainant that he/she has the right to consider: (i) presenting the complaint to the Ombudsman which will consider complaints brought to it within six months of the substantive response letter; or (ii) making a complaint to the MFDA.~~

~~3~~1. All client complaints and supervisory obligations must be handled by qualified sales supervisors/compliance staff. Generally, individuals who are the subject of a complaint should not handle the complaint unless other qualified supervisory staff is not available.

~~4~~2. Each Approved Person must report certain ~~all~~ complaints and other information relevant to this Policy to the Member as required under MFDA Policy No. 6.

~~5~~3. Each Member must put procedures in place so that senior management is made aware of complaints of serious misconduct and of all legal actions~~Each member must ensure that the relevant Approved Persons and their supervisors and compliance officers are made aware of all complaints~~.

~~6~~4. Members may use the electronic reporting system designated under MFDA Policy No. 6 (the "Member Event Tracking System" or "METS") as their complaint log for those complaints reported on METS. For complaints that are not required to be reported through METS Members must have policies and procedures for the detection of frequent and repetitive complaints made with respect to the same matter which, may, on a cumulative basis indicate a serious problem. ~~However, Members are also reminded that they must maintain a complaint log of their service complaints. Each Member must put procedures in place so that senior management is made aware of complaints of serious misconduct and of all legal actions.~~

75. Each Member must maintain in a central place an orderly, up to date record of complaints together with fFollow-up documentation for all regarding such complaints must be kept in a central location along with the consolidated log of complaints. , Alternatively, where a Member has various regional head offices, the Member may keep follow-up documentation at any one regional head office, so long as information about the handling of the complaint is in the Member head office log and the follow-up documentation can be produced in a timely manner. for regular internal/external compliance reviews. For each complaint, the record should include the following information:

- the date of the complaint;
- the complainant's name;
- the name of the person who is the subject of the complaint;
- the security or services which are the subject of the complaint; and
- the date and conclusions of the decision rendered in connection with the complaint.

Members may use the electronic reporting system designated under MFDA Policy 6 (the "Member Event Tracking System" or "METS") as their complaint log for those complaints reported on METS. However, Members are reminded that they must also maintain a complaint log of their service complaints.

8. Members must monitor information on complaints and supervisory investigations and should note trends in risk, including those related to specific Approved Persons or branches, subject matter, product types and procedures. When a Member finds this activity to indicate material risk, internal procedures and practices must be reviewed and appropriate supervisory or other action must be taken.

96. Where the events relating to a complaint took place in part at another Member or a member of another SRO, Members and Approved Persons must cooperate with other Members or SRO members in the sharing of information necessary to address the complaint.

10. Settlement Agreements

No Approved Person shall, without the prior written consent of the Member, enter into any settlement agreement with, pay any compensation to or make any restitution to a client.

No Member or Approved Person of such Member may impose confidentiality restrictions on clients or a requirement to withdraw a complaint with respect to the MFDA or a securities commission, regulatory authority, law enforcement agency, SRO, stock exchange or other trading market as part of a resolution of a dispute or otherwise.

II. Additional Complaint Handling Requirements Supervisory Investigations

As noted above, a Member must conduct a reasonable investigation into all client complaints. The level of an investigation will in part depend on the severity of the allegation and the complexity of the issues.

Each Member's procedures for handling complaints that are subject to the requirements of this section must include the following:

1. **Initial Response** – An The initial response letter must be sent to the complainant within a reasonable time, and generally within 5 business days of receipt of the complaint. If a complaint can be concluded in less than 5 business days then an initial response letter is not necessary. The initial response letter must include the following information:

- A written acknowledgment of the complaint;
- A request to the complainant for any additional reasonable information required to resolve the complaint;
- The name, job title and full contact information of the individual at the Member handling the complaint;
- A statement indicating that the complainant should contact the individual at the Member handling the complaint if he/she would like to inquire about the status of the complaint;
- A summary of the Member's internal complaint handling process, including general timelines for providing the Member's response to complaints and a statement advising clients that each province and territory has a time limit for taking legal action; and
- A request to the complainant for any additional reasonable information required to resolve the complaint; and

- A reference to an attached copy of the CCIF, and a reference to the fact that the CCIF contains information about applicable limitation periods. ~~a copy of which must be included for the complainant.~~

2. **Substantive Response** – The substantive response letter, which Members must provide to the complainant, may be accompanied by a summary of the Member's complaint handling procedures and must include a copy of the CCIF.

   The substantive response letter to complainants must ~~should~~ also include the following information:

   - An outline of the complaint;

   - The Member's substantive decision on the complaint, including reasons for the decision; and

   - A reminder to the complainant that he/she has the right to consider: (i) presenting the complaint to the Ombudsman for Banking Services and Investments which will consider complaints brought to it within six months of the substantive response letter; ~~or~~ (ii) making a complaint to the MFDA; (iii) litigation/civil action; or (iv) any other applicable options, such as an internal ombudservice provided by an affiliate of the Member.

III. Supervisory Investigations

A Member must monitor, through its supervisory personnel, all information that it receives regarding potential breaches of applicable requirements on the part of the Member and its current and former Approved Persons that raise the possibility of risk to the Member's clients or other investors. Applicable requirements include MFDA By-laws, Rules and Policies, other applicable legal and regulatory requirements and the Member's related internal policies and procedures. This applies to information received from both internal and external sources. For example, such information may come from client complaints, be identified during the Member's routine supervisory activity, or come from other Approved Persons of the Member or individuals outside the Member who are not clients.

For purposes of clarity, where the information is received by way of a client complaint, the supervisory duty goes beyond addressing the relief requested by the complainant and extends to a consideration of general risk at the Member. The duty to deal with the supervisory aspects of the matter continues when a complainant purports to withdraw the complaint or indicates satisfaction with the result of the Member's complaint handling.

Members must take reasonable supervisory action in relation to such information, the extent of which will in part depend on the severity of the allegation and the complexity of the issues. In all cases, the Member must track such information and note trends in risk, including those related to specific Approved Persons or branches, subject matter, product types, procedures and cases, and take necessary action in response to those trends as appropriate. In some cases, it will be necessary to conduct an active supervisory investigation in relation to the information received in specific situations and the level of the investigation must be reasonable in the circumstances.

For example, where the Member identifies unsuitable investment or leveraging recommendations by one if its Approved Persons, the investigation may extend to include determining relevant matters such as the understanding of the Approved Person and applicable supervisory personnel of the Member's policies and procedures and the possibility that such conduct occurred in relation to other clients.

With regard to the type of conduct outlined in Part I, Section 3 of this Policy, other than suitability, the Member has a duty to conduct a detailed investigation in all situations where there is information from any source, written or verbal, whether from an identified source or anonymous, to raise the possibility that such conduct occurred. This duty applies to all conduct by the current or former Approved Person, whether it occurred inside or outside the Member.

~~In the case of certain serious cases outlined below, the Member has a duty to conduct a detailed investigation regardless of how the information came to the attention of the Member. For example, such information may, instead of coming through a complaint, be identified during the Member's routine supervisory activity, or come from other Approved Persons of the Member or individuals outside the Member who are not clients. In addition, this duty arises whether the information comes to the Member in written or verbal form. If the information comes to the attention of the Member through a complaint the duty to conduct the supervisory investigation continues when a complainant purports to withdraw the complaint or indicates satisfaction with the result of the Member's complaint handling.~~

~~A Member has a duty to conduct a detailed investigation where it receives information to suggest the possibility that the Member or any current or former Approved Person has or may have contravened any provision of any law or has contravened any regulatory requirement, relating to:~~

~~(i) theft, fraud, misappropriation of funds or securities, forgery, money laundering, market manipulation, insider trading, misrepresentation, or unauthorized trading; or~~

(ii) engaging in securities related business outside of the Member;

(iii) engaging in an undeclared occupation outside the Member; or

(iv) personal financial dealings with a client.

The investigation must be sufficiently detailed investigation and must include all reasonable steps to determine whether the potential activity occurred. Examples of the activities that the Member may need to take in the circumstances may include:

a) interviewing or otherwise communicating with individuals such as:

- the individuals of concern;
- related supervisory personnel;
- other branch staff;
- head office personnel; or
- the client or other external individuals who brought the information to the Member's attention; or
- other clients who may have been affected by the activity.

b) conducting a review at the branch or sub-branch.

c) reviewing documentation such as:

The detailed investigation may also require:

- conducting a review at the branch or sub branch;
- reviewing files of the Approved Person relating to Member business; or
- reviewing files and other documents in the Approved Person's custody or control that relate to outside business, where there is a reasonable possibility that such information is relevant to the investigation. Members have the right to require such information to meet their supervisory responsibilities and Approved Persons have an obligation to cooperate with such requests.

IV. III. Internal Discipline

Each Member must establish procedures to ensure that breaches of MFDA By-laws, Rules and Policies are subjected to appropriate internal disciplinary measures.

IV. Record Retention

Documentation associated with a Member's activity under this Policy shall be maintained for a minimum of 7 years from termination of the Member's relationship with the client and made available to the MFDA upon request.

SCHEDULE B

MUTUAL FUND DEALERS ASSOCIATION OF CANADA

On March 5, 2009, the Board of Directors of the Mutual Fund Dealers Association of Canada made the following amendments to MFDA Rule 2.11 (Complaints), MFDA Policy No. 6 *Information Reporting Requirements* and section 24.A.5 (Ombudservice – Member to Provide Written Material to Clients) of MFDA By-law No 1:

Rule 2.11 (Complaints)

Every Member ~~shall maintain a log of client complaints and~~ shall establish written policies and procedures for dealing with ~~client~~ complaints which ensure that such complaints are dealt with promptly and fairly, and in accordance with the minimum standards prescribed by the Corporation from time to time.

. . .

Policy No. 6 *Information Reporting Requirements*

4. Approved Person Reporting Requirements

4.1. An Approved Person shall report the following events to his or her current Member in such detail as required by the Member, within 2 business days:

(a) the Approved Person is the subject of a client complaint in writing;

(b) the Approved Person is aware of a complaint from any person, whether in writing or any other form, and with respect to him or herself, or any other Approved Person, involving allegations of:

(i) theft, fraud, misappropriation of funds or securities, forgery, money laundering, market manipulation, insider trading, misrepresentation, or unauthorized trading; ~~or~~

(ii) a breach of client confidentiality;

(iii) engaging in securities related business outside of the Member;

(iv) engaging in an undeclared occupation outside the Member; or

(v) personal financial dealings with a client.

(c) whenever the Approved Person has reason to believe that he or she has or may have contravened, or is named as a defendant or respondent in any proceeding, in any jurisdiction, alleging the contravention of:

(i) any securities law; or

(ii) any regulatory requirements.

(d) the Approved Person is charged with, convicted of, pleads guilty or no contest to, any criminal offence, in any jurisdiction;

(e) the Approved Person is named as a defendant in a civil claim, in any jurisdiction, relating to the handling of client accounts or trading or advising in securities;

(f) the Approved Person is denied registration or a license that allows the Approved Person to deal with the public in any capacity by any regulatory body, or has such registration or license cancelled, suspended or terminated, or made subject to terms and conditions;

(g) the Approved Person becomes bankrupt or suspends payment of debts generally or makes an arrangement with creditors or makes an assignment or is ~~declared~~ deemed insolvent;

(h) there are garnishments outstanding or rendered against the Approved Person ~~in any civil court in Canada~~.

. . .

6. General Events to be Reported

6.1. Members shall report to the MFDA:

(a) all client complaints in writing, against the Member or a current or former Approved Person, relating to member business, except service complaints;

(b) whenever a Member is aware, through a written or verbal complaint or otherwise, that the Member or any current or former Approved Person has or may have contravened ~~any provision of~~ any law or ~~has contravened any~~ regulatory requirement, relating to:

(i) theft, fraud, misappropriation of funds or securities, forgery, money laundering, market manipulation, insider trading, misrepresentation, or unauthorized trading; ~~or~~

(ii) a breach of client confidentiality;

(iii) engaging in securities related business outside of the Member;~~.~~

(iv) engaging in an undeclared occupation outside the Member; or

(v) personal financial dealings with a client.

(c) whenever the Member, or a current or former Approved Person, is:

(i) charged with, convicted of, pleads guilty or no contest to, any criminal offence, in any jurisdiction;

(ii) named as a defendant or respondent in, or is subject of, any proceeding or disciplinary action, in any jurisdiction, alleging contravention of any securities law;

(iii) named as a defendant or respondent in, or is the subject of, any proceeding or disciplinary action, in any jurisdiction, alleging contravention of regulatory requirements;

(iv) denied registration or a license that allows a person to deal with the public in any capacity by any regulatory body, or has such registration or license cancelled, suspended or terminated, or made subject to terms and conditions;

(v) named as a defendant in a civil claim, in any jurisdiction, relating to handling of client accounts or trading or advising in securities.

(d) whenever an Approved Person becomes bankrupt or suspends payment of debts generally or makes an arrangement with creditors or makes an assignment or is ~~declared~~ deemed insolvent;

(e) there are garnishments outstanding or rendered against the Member or an Approved Person ~~in any civil court in Canada~~.

7. Reporting of Updates and Resolution of Events

7.1. Members shall update event reports previously reported to reflect ~~the~~ updates to, or the resolution of, any event that has been reported pursuant to section 6.1 of this Policy within 5 business days of the occurrence of the update or resolution and such update or resolution~~s~~ shall include but not be limited to:

(a) any judgments, awards, arbitration awards or orders and settlements in any jurisdiction;

(b) compensation paid to clients directly or indirectly, or any benefit received by clients from a Member or Approved Person directly or indirectly;

(c) any internal disciplinary action or sanction against an Approved Person by a Member;

(d) the termination of an Approved Person;

(e) the results of any internal investigation conducted.

. . .

Section 24.A.5 (Ombudservice – Member to Provide Written Material to Clients) of By-law No. 1

~~24.A.5 **Member to Provide Written Material to Clients**~~

~~Each Member shall provide to new clients, and to clients who submit written complaints to the Member, a copy of the written material approved by the Corporation which describes the ombudservice approved by the Board of Directors pursuant to By-law 24.A.1~~

13.1.4 Summary of Public Comments Respecting Proposed Amendments to MFDA Policy No. 3 *Handling Client Complaints* and Responses of the MFDA

On July 13, 2007, the British Columbia Securities Commission and Ontario Securities Commission published proposed amendments to MFDA Policy No. 3 *Handling Client Complaints* (the "**Proposed Amendments**") for a 30-day public comment period.

The public comment period expired on August 12, 2007.

Four submissions were received during the public comment period:

1. Desjardins Financial Security Investments Inc. ("Desjardins")

2. The Investment Funds Institute of Canada ("IFIC")

3. Royal Mutual Funds Inc. ("Royal")

4. Worldsource Financial Management ("Worldsource")

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

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

General

Persons acting "on behalf of a client"

Royal noted that the definition of "complaint" includes "*any written statement of a client…or any person acting on behalf of a client*". Royal expressed the view that guidance would be required in response to complaints brought forward by third parties purporting to act on behalf of a client but who have not been given prior authorization in respect of that client's account (e.g. lawyers, accountants, financial planners or Investment Advisors from other financial institutions). Royal recommended that the definition of complaint be amended to read "*any written statement including electronic communications, of a client or any person **legally** acting on behalf of a client*".

MFDA Response

"Any person acting on behalf of a client" was intended to mean and should be understood as meaning any person authorized to act on behalf of a client. We also note that any written authorization to act on behalf of a client will suffice. We will amend the text of the section to clarify the meaning.

Complaints from "Prospective" Clients

Desjardins expressed the view that it would be very difficult to handle complaints from prospective clients because the dealer will probably not have any documentation supporting the allegations that will be put forward. Desjardins suggested that grievances received by a dealer in respect of its Approved Person(s) from potential clients (whether the grievance is made verbally or in writing) should be excluded from the definition of "complaint". Desjardins recommended that "complaint" include only a written statement received by a dealer from a client or the legal representative of a client. Desjardins noted that, at a minimum, the definition of complaint should exclude all verbal allegations that are not sustained or supported by written evidence.

MFDA Response

The general principle with respect to the obligation to address complaints from prospective clients is that the conduct of Approved Persons in the course of any Member business (we regard communications with prospective clients as part of Member business) should be examined, where this conduct leads to a complaint. A Member would be expected to investigate the matter appropriately by obtaining a verbal statement and any relevant written documentation that might be available.

Policy No. 3 is Too Proscriptive

Worldsource expressed the view that the Proposed Amendments render Policy No. 3 too proscriptive, noting that detailed guidance should be provided in Member Regulation Notices and that Members should have flexibility in developing reasonable processes and procedures to comply with Policy No. 3. Policy No. 3 should not stipulate how specific complaints "must" be

handled or stipulate examples of "unreasonable analysis". Worldsource noted that a proscriptive approach is inconsistent with that of other regulators and not an appropriate use of policy.

MFDA Response

The need to amend the complaint handling process in the securities industry was raised as an issue by participants at the Ontario Securities Commission's ("OSC") May 2005, Town Hall meeting. Member Regulation Notice MR-0059 – Complaint Handling Obligations ("MR-0059") and the Proposed Amendments to MFDA Policy No. 3, were both developed based on input that came out of that meeting and subsequent discussions with the OSC, the Investment Industry Regulatory Organization of Canada ("IIROC") (then the the Investment Dealers Association of Canada ("IDA")) and OBSI. The MFDA's Policy Advisory Committee reviewed and approved MR-0059 and the Proposed Amendments to Policy No. 3 prior to its publication for comment in July 2007. The OSC, IDA and Ombudsman for Banking Services and Investment ("OBSI") also reviewed the Proposed Amendments to Policy No. 3 prior to its publication for comment.

In May 2008, a working group comprised of staff of the Canadian Securities Administrators ("CSA"), MFDA and IIROC was established by the CSA for the purpose of developing a complaint handling framework to be used to ensure that the requirements to be adopted by the two self-regulatory organizations ("SROs") and in National Instrument 31-103 Registration Requirements ("NI 31-103") were harmonized. This working group met and had discussions over the summer and fall of 2008, during which the complaint handling proposals of the two SROs were reviewed to ensure that they were consistent with this framework document, met the same regulatory objectives and minimized differences. MFDA staff has proposed additional amendments as a result of these discussions.

The Proposed Amendments to Policy No. 3 are specifically intended to provide guidance as to the minimum standards Members must meet with respect to the fair and prompt handling of client complaints and incorporate much of the guidance provided in MR-0059. The MFDA believes that it is timely and necessary to move this information from guidance that interprets an MFDA Rule (MFDA Rule 2.11) to guidance that clarifies minimum standards of Member conduct with respect to complaint handling.

Harmonization of Complaint Process

Worldsource, Royal and IFIC commented that the MFDA should seek to harmonize its complaint handling regime with the requirements of the IDA, AMF and the *Bank Act* wherever possible.

IFIC suggested that where an SRO establishes a complaint handling process meeting the guiding principles of NI 31-103, Members of that SRO should be exempt from complying with the applicable sections of NI 31-103. IFIC encouraged the MFDA to consider how the spirit of this approach could be incorporated into Policy No. 3.

IFIC and Royal noted that the definition of a complaint reportable to the AMF excludes initial expressions of dissatisfaction by a client, whether in writing or not, where the issue is settled in the ordinary course of business. Only in the event that a client remains dissatisfied and such dissatisfaction is escalated, reviewed and dealt with at a higher level is a complaint subject to reporting requirements. IFIC and Royal encouraged the adoption of this approach so that service related matters are not considered complaints pursuant to Policy No. 3.

IFIC also noted that a complaint should be recognized only if it is submitted in writing; however, the professional judgment of the dealer should continue to be exercised in determining whether a verbal allegation should be escalated and treated as a written complaint.

MFDA Response

As noted, in May 2008, a working group comprised of CSA, MFDA and IIROC staff was established with a view to ensuring that the complaint handling proposals of both SROs meet the same regulatory objectives and minimize differences to the extent possible. CSA, MFDA and IIROC staff met on a number of occasions to engage in such review and MFDA staff has proposed additional amendments to Policy No. 3 as a result of these discussions.

In response to the comment suggesting an exemption from the requirements of NI 31-103 where SROs have developed a complaint handling process that meets the guiding principles of NI 31-103, we note, that the CSA have determined that they will include the complaint handling approach to be adopted in NI 31-103 after the two SROs have finalized their respective proposals and minimized differences to the extent possible. Our understanding is that this approach is intended to ensure that the requirements adopted under NI 31-103 in respect of complaint handling are consistent with those adopted by the SROs.

With respect to excluding initial expressions of dissatisfaction that are resolved in the ordinary course of business, we disagree and note that the CSA has not finalized its position on this matter. As noted, the CSA will adopt a complaint handling approach to be included in NI 31-103 after the two SRO proposals have been finalized so as to ensure that the SRO requirements and those in NI 31-103 are as harmonized as possible.

We believe that investigation of a complaint should not cease simply because the specific issue has been settled in the ordinary course of business. While it is important to address client dissatisfaction in as timely a manner as possible, this, in our view, is not the exclusive purpose of a definition of complaint or a complaint handling process. We believe that an additional and equally important regulatory objective is to discover and address any potential underlying regulatory issues. Indeed, we believe that it would be relatively easy, in most circumstances, to "make a client happy" so that a matter is not escalated. However, addressing the dissatisfaction of a client does not mean that any potential underlying regulatory issues that may have given rise to the complaint (and that may do so again in the future) have been identified and adequately addressed.

In addition, we note that the definition of "complaint" has been amended to separate it from the process by which complaints are to be handled, thereby allowing the Policy to more clearly recognize that not all complaints (e.g. service complaints) are subject to the formally prescribed complaint handling procedures, as certain complaints can be adequately and appropriately addressed informally. The Proposed Amendments to the definition of "complaint" are consistent with the CSA's complaint handling framework and the IIROC proposal.

With respect to the suggestion that Policy No. 3 make provision for the dealer, in its professional judgment, to determine whether a verbal allegation should be escalated and treated as a written complaint, we note, as set out above, that the definition of "complaint" has been amended. Under Policy No. 3 as revised, all complaints, written or verbal, must be addressed in accordance with Part I of the Policy. Certain complaints, must be addressed under Parts I and II of the Policy. In determining whether a complaint should be subject to the Additional Complaint Handling Requirements prescribed by Part II, the Policy provides the supervisory staff of the Member with both discretion and guidance in respect of how to make such a determination.

Client Access

Worldsource commented on the need for flexibility with respect to the delivery of the Client Complaint Information Form ("CCIF"). Members should be able to choose to deliver the CCIF information as part of the account opening forms, in a welcome package sent after account opening or as a separate document. Members should also be able to deliver the CCIF in paper or electronic format.

MFDA Response

We interpret "At the time of account opening" to also include welcome packages that are sent (in a timely manner) after account opening. It is acceptable for the CCIF to be delivered in electronic format, provided that such delivery is made in accordance with Member Regulation Notice MR-0015 (Electronic Delivery of Documents) ("MR-0015").

Fair/Prompt Handling of Client Complaints

Worldsource noted that in matters where there is litigation or anticipated litigation, Members should not be required to handle a complaint in accordance with strict timelines or provide a "substantive response" to the complainant. The Member will respond in a timely fashion in the normal course of litigation. Worldsource expressed the view that it is unfair to require Members to make admissions in the complaint process that may cause prejudice in litigation. Complainants who have chosen to pursue litigation are able to obtain a substantive response and discover the Member's case through the litigation process. Worldsource commented that the complaint handling process should not interfere with the Member's ability to fully and fairly defend itself in litigation.

IFIC, while agreeing with the requirement for a Member's timely participation in the litigation process, sought comfort that the intention of the reference is not to impose a time limit on complaint resolution once it has proceeded to litigation. IFIC also noted that the premature or forced resolution of a complaint simply to comply with pre-determined timelines could prejudice a Member's insurance coverage and ability to fully and fairly defend itself in litigation.

MFDA Response

As a general matter, we note that Members have an ongoing obligation to deal with clients fairly and must, where litigation has been initiated, balance this obligation with strict adherence to their legal rights.

Members and Approved Persons should, thus, in all circumstances, seek to meet their obligations in respect of complaint handling in accordance with the Rule and Policy as fully as possible. Where litigation has been initiated, there is no expectation that Members act in a way that might compromise their ability to make a full and fair defense. However, Members and Approved Persons will, in such circumstances, still be expected to act and respond to clients in a timely manner, fulfill their obligations with respect to complaint handling, to the fullest extent possible and refrain from acting in a way that is clearly unfair. For greater clarity and as set out in Policy No. 3, acting in a timely manner where litigation is commenced, means "in accordance with the rules of procedure of the applicable jurisdiction". In our view, it is possible for Members to deal with clients fairly under this Policy without derogating from their legal rights (e.g. with the use of "without prejudice" offers). We have made amendments to the Policy to provide further clarification on this issue.

General Complaint Handling Requirements

Obligation to Cooperate with Another MFDA Member and to Share Information

Desjardins expressed the view that this requirement would result in privacy issues and infractions of privacy law. Desjardins raised the concern that dealers who are reluctant to share information out of concern for their clients privacy could have complaints made against them to the MFDA for lack of collaboration. Desjardins noted that the requirement to share information with another Member is different from the existing requirement to share information with regulators because regulators have the legal authority to compel dealers to divulge information. Dealers are thus protected in this latter circumstance against allegations of having divulged personal information without having obtained authorization first. Desjardins recommended that the requirement to share information with other Members be redrafted so that the obligation is confined to the limitations imposed by provincial and federal privacy legislation.

Royal echoed this concern, suggesting that it would be better for the MFDA to co-ordinate information sharing and make use of information already available on the Member Event Tracking System ("METS").

MFDA Response

The disclosure and information sharing requirements of this section are to be construed narrowly as they are intended only to facilitate complaint resolution and are, accordingly, limited to information or specific pieces of information that have or might reasonably have a material bearing on events relating to a complaint that took place in part at another Member or a member of another SRO.

Members have a pre-existing obligation to comply with the requirements of provincial and federal privacy legislation. The information sharing contemplated by this proposed section is not intended to derogate from or be in conflict with any limits on disclosure imposed by privacy law. Where Members are in doubt with respect to their obligations pursuant to privacy legislation, they should seek specific client consent prior to sharing client personal information with another Member. We believe that clients will generally be amenable to providing consent for the disclosure of their personal information to another Member when they understand that such disclosure is for the purpose of facilitating the resolution of a complaint that they have raised.

The METS system was specifically established for the reporting of information set out in MFDA Policy No. 6 Information Reporting Requirements and is not intended to be a general resource for information about Members. As noted, irrespective of the existence of the METS system, Members have a pre-existing obligation to comply with the requirements of provincial and federal privacy legislation and resolve any issues that arise. In addition, we note that the information sharing requirements of the section go beyond the information available in METS. Also, the METS system cannot be reasonably reconfigured to allow Members to share the information that it does presently contain.

Initiation of a Complaint File

IFIC recommended that the MFDA adopt a consistent information sharing policy with respect to complaints received directly from investors. Dealers should be given the substance of a complaint filed with the MFDA immediately following the receipt of such a complaint. IFIC noted that the early sharing of the details of a complaint would eliminate lengthy discussions and exchange of documents irrelevant to the complaint that take place because the dealer is unclear as to the specific nature of the complaint and is therefore unable to assist the MFDA in identifying the documentation that might help to resolve a client's complaint more quickly. IFIC went on to recommend that all complaints received by the MFDA first be referred back to the dealer for resolution before a complaint file is opened at the MFDA. IFIC noted that this approach would be consistent with the OBSI and AMF policies.

MFDA Response

Where the MFDA receives a complaint directly from an investor, we seek the investor's consent to refer the matter back to the dealer for initial review and resolution. Members are advised; however, that this information cannot be forwarded to the concerned dealer where the investor has not consented to its disclosure. With respect to the comment that all complaints should first be referred back to the dealer before a complaint file is opened at the MFDA, we disagree and note that this is inconsistent with the practice of most regulators. In addition, we note that the MFDA has a duty to engage in an independent consideration of all complaints to investigate underlying regulatory issues that may have given rise to the complaint and that may continue to exist after the complaint has been resolved.

Obligation to Maintain in "a central place an orderly up-to-date record of complaints"

IFIC and Royal expressed concern with the requirement to maintain a central up-to-date record of complaints including follow-up documentation.

IFIC suggested, as long as the complaint file is readily accessible, that the location of the record of the complaint not be prescribed.

Royal noted that as branch records are subject to internal and external reviews and audits, the obligation to keep duplicate files at a central location would present a significant administrative burden, especially for large financial institutions. Royal suggested that Policy No. 3 allow for internal complaint tracking systems as central record keeping tools, so long as they track the information requested in section 7 (Complaint Procedures).

MFDA Response

We acknowledge the comments and have amended the Policy to provide that where a Member has various regional head offices, the Member may keep follow-up documentation at any one regional head office, so long as information about the handling of the complaint is in the Member head office log and the follow-up documentation can be produced in a timely manner.

Settlement Agreements

IFIC and Worldsource commented that the proposed wording of Policy No. 3 should make it clear that confidentiality restrictions are permitted, except with respect to the MFDA, securities commissions and law enforcement agencies (i.e. while confidentiality restrictions cannot apply to the regulatory bodies listed, dealers are able to include confidentiality restrictions generally). The wording of the draft suggests that the intention is to prohibit confidentiality restrictions generally. Confidentiality restrictions are in the public interest as they promote the resolution of disputes.

MFDA Response

We are of the view that the wording of this section is sufficiently clear. The section sets out a limitation on the imposition of confidentiality restrictions and proceeds to specifically set out the types of organizations subject to that limitation. Any parties not specifically mentioned in the section must be understood as not being subject to the limitation.

Supervisory Investigations

Desjardins commented that formalizing and standardizing the process could result in the loss of clear direction from MFDA Enforcement staff that (presently) is tailored and provided according to the specific circumstances and facts of each complaint. Desjardins noted that the introduction of standardized requirements might result in a loss of flexibility for both the MFDA and dealers in conducting investigations and the collection and analysis of data. Exchanges of information between MFDA Enforcement Staff, through which dealers receive valuable instructions, may become less frequent or almost non-existent. Desjardins raised the concern that, without the benefit of such exchanges for the purpose of determining how far to go in investigating a matter, dealers may feel obliged to achieve a specific result, rather than have an obligation to proceed with due diligence and in good faith (for example, if a dealer does not see fit to interview branch staff in investigating a complaint but the MFDA is of a different view, the dealer could be found not to have proceeded with due diligence in the handling of the complaint).

MFDA Response

The provision of guidance under this section does not preclude Members from having discussions with or seeking more specific guidance from the MFDA. The provision of this information will also not prevent MFDA staff from communicating their expectations or providing Members with specific guidance. Members should bear in mind, when exercising judgment with respect to how to proceed with an investigation (or how detailed to make their inquiries), that they have an obligation to act in good faith by conducting investigations reasonably and with due diligence.

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