

The Ontario Securities Commission

# OSC Bulletin

September 18, 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)

**The Ontario Securities Commission**

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# Table of Contents

<b>Chapter 1 Notices / News Releases .....7319</b>	
<b>1.1 Notices .....7319</b>	
1.1.1 Current Proceedings Before The Ontario Securities Commission .....7319	
1.1.2 Notice of Ministerial Approval of NI 31-103 Registration Requirements and Exemptions and Consequential Amendments to Related Instruments .....7325	
1.1.3 Notice of Ministerial Approval of Repeal and Replacement of NI 45-106 Prospectus and Registration Exemptions, Amendments to NI 45-102 Resale of Securities and Repeal and Replacement of OSC Rule 45-501 Ontario Prospectus and Registration Exemptions.....7332	
<b>1.2 Notices of Hearing.....7333</b>	
1.2.1 M P Global Financial Ltd. and Joe Feng Deng – ss. 127(1), 127.1 .....7333	
1.2.2 Mega-C Power Corporation et al .....7338	
<b>1.3 News Releases .....7338</b>	
1.3.1 Canadian Securities Regulators Announce Results of Certification Compliance Review.....7338	
<b>1.4 Notices from the Office of the Secretary .....7340</b>	
1.4.1 Abel Da Silva.....7340	
1.4.2 Shallow Oil & Gas Inc. et al. ....7340	
1.4.3 M P Global Financial Ltd. and Joe Feng Deng.....7341	
1.4.4 M P Global Financial Ltd. and Joe Feng Deng.....7341	
1.4.5 MI Developments Inc. ....7342	
1.4.6 Sextant Capital Management Inc. et al.....7342	
1.4.7 Mega-C Power Corporation et al. ....7343	
<b>Chapter 2 Decisions, Orders and Rulings .....7345</b>	
<b>2.1 Decisions .....7345</b>	
2.1.1 CIBC Asset Management Inc. et al. ....7345	
2.1.2 Canadian Medical Discoveries Fund Inc. – s. 1(10) .....7350	
2.1.3 Global Telecom Split Share Corp. ....7351	
2.1.4 CI Investments Inc.....7353	
2.1.5 Scotia Securities Inc. and the Funds Listed in Schedule A.....7355	
2.1.6 Harvest Pegasus Inc. – s. 1(10) .....7359	
2.1.7 Hammerson plc .....7360	
2.1.8 Kinross Gold Corporation .....7362	
2.1.9 Bullion Management Services Inc. et al. ....7364	
2.1.10 Sanu Resources Ltd. – s. 1(10).....7368	
2.1.11 Gerdau Ameristeel Corporation.....7369	
<b>2.2 Orders.....7371</b>	
2.2.1 Abel Da Silva – ss. 127, 127.1 .....7371	
2.2.2 Shallow Oil & Gas Inc. et al. – ss. 127(1), 127(8) .....7372	
2.2.3 M P Global Financial Ltd. and Joe Feng Deng – ss. 127(1), 127(8).....7375	
2.2.4 MI Developments Inc. – ss. 104(1), 127 .....7376	
2.2.5 ICE Futures U.S., Inc. – s. 147 of the Act and ss. 38, 80 of the CSA .....7378	
2.2.6 Sextant Capital Management Inc. et al. – s. 127 .....7386	
<b>2.3 Rulings.....(nil)</b>	
<b>Chapter 3 Reasons: Decisions, Orders and Rulings .....7387</b>	
<b>3.1 OSC Decisions, Orders and Rulings.....7387</b>	
3.1.1 Goldbridge Financial Inc. et al. ....7387	
3.1.2 Global Petroleum Strategies, LLC et al.....7389	
<b>3.2 Court Decisions, Order and Rulings .....(nil)</b>	
<b>Chapter 4 Cease Trading Orders .....7391</b>	
4.1.1 Temporary, Permanent & Rescinding Issuer Cease Trading Orders.....7391	
4.2.1 Temporary, Permanent & Rescinding Management Cease Trading Orders .....7391	
4.2.2 Outstanding Management & Insider Cease Trading Orders .....7393	
<b>Chapter 5 Rules and Policies .....(nil)</b>	
<b>Chapter 6 Request for Comments .....(nil)</b>	
<b>Chapter 7 Insider Reporting.....7393</b>	
<b>Chapter 8 Notice of Exempt Financings.....7485</b>	
Reports of Trades Submitted on Forms 45-106F1 and 45-501F1 .....7485	
<b>Chapter 9 Legislation.....(nil)</b>	
<b>Chapter 11 IPOs, New Issues and Secondary Financings.....7489</b>	
<b>Chapter 12 Registrations.....7499</b>	
12.1.1 Registrants.....7499	
<b>Chapter 13 SRO Notices and Disciplinary Proceedings .....7501</b>	
13.1.1 MFDA Hearing Panel Issues Reasons for Decision with Respect to De Thomas Financial Corp. Settlement Hearing .....7501	
13.1.2 Technical Amendments to CDS Procedures – New Extended Failed Trades File for IIROC Members – Notice of Effective Date .....7502	
13.1.3 MFDA Hearing Panel Issues Decision and Reasons with Respect to Tony Tung-Yuan Lin .....7504	
13.1.4 MFDA Issues Notice of Settlement Hearing Regarding Bick Financial Security Corporation .....7505	

---

**Table of Contents**

---

13.1.5	Technical Amendments to CDS Procedures – SWIFT Message Instructions for Euroclear France – Notice of Effective Date .....	7506
13.1.6	Technical Amendments to CDS Procedures – Company Name Change (FMC to SS&C) on Service Eligibility Details – Unit Functions Form (CDSX799) – Notice of Effective Date .....	7508
13.1.7	MFDA Confirms Next Appearance in the Matter of ASL Direct Inc. and Adrian S. Leemhuis .....	7510
13.1.8	MFDA Issues Notice of Settlement Hearing Regarding Douglas Malech .....	7511
13.1.9	TSX Notice of Approval – Amendments to Part VI of the TSX Company Manual .....	7512
13.1.10	Material Amendments to CDS Procedures – DTC Direct Link and New York Link Services – Additional Material Amendments to Participant Procedures for the DTC Direct Link (DDL) and New York Link (NYL) – Request for Comments .....	7529
<b>Chapter 25</b>	<b>Other Information .....</b>	<b>7535</b>
<b>25.1</b>	<b>Approvals .....</b>	<b>7535</b>
25.1.1	Les Placements Louisbourg Inc. – Louisbourg Investments Inc. – s. 213(3)(b) of the LTCA .....	7535
<b>Index</b> .....		<b>7537</b>

## Chapter 1

# Notices / News Releases

1.1	Notices	<u>SCHEDULED OSC HEARINGS</u>	
1.1.1	Current Proceedings Before The Ontario Securities Commission	September 21, 2009	Goldbridge Financial Inc., Wesley Wayne Weber and Shawn C. Lesperance
	SEPTEMBER 18, 2009	9:00 a.m.	s. 127
	CURRENT PROCEEDINGS		J. Feasby in attendance for Staff
	BEFORE		Panel: CSP
	ONTARIO SECURITIES COMMISSION		
	-----	September 21, 2009	Prosporex Investments Inc., Prosporex Forex SPV Trust, Anthony Diamond, Diamond+Diamond, and Diamond+Diamond Merchant Banking Bank
Unless otherwise indicated in the date column, all hearings will take place at the following location:		10:00 a.m.	s. 127
	The Harry S. Bray Hearing Room Ontario Securities Commission Cadillac Fairview Tower Suite 1700, Box 55 20 Queen Street West Toronto, Ontario M5H 3S8		H. Daley in attendance for Staff
Telephone: 416-597-0681 Telecopier: 416-593-8348			Panel: MGC/CSP
CDS	TDX 76	September 21, 2009	Goldpoint Resources Corporation, Lino Novielli, Brian Moloney, Evanna Tomeli, Robert Black, Richard Wylie and Jack Anderson
Late Mail depository on the 19 <sup>th</sup> Floor until 6:00 p.m.		11:30 a.m.	
	-----	September 22-28, September 30 – October 2, 2009	s. 127(1) and 127(5) M. Boswell in attendance for Staff
	THE COMMISSIONERS	10:00 a.m.	Panel: MGC/DLK
W. David Wilson, Chair	—	September 22, 2009	Berkshire Capital Limited, GP Berkshire Capital Limited, Panama Opportunity Fund and Ernest Anderson
James E. A. Turner, Vice Chair	—	10:00 a.m.	s. 127
Lawrence E. Ritchie, Vice Chair	—		E. Cole in attendance for Staff
Sinan Akdeniz	—		Panel: PJL
James D. Carnwath	—	September 24, 2009	Lyndz Pharmaceuticals Inc., Lyndz Pharma Ltd., James Marketing Ltd., Michael Eatch and Rickey McKenzie
Mary G. Condon	—	9:30 a.m.	s. 127(1) and (5)
Margot C. Howard	—		J. Feasby in attendance for Staff
Kevin J. Kelly	—		Panel: MGC
Paulette L. Kennedy	—		
David L. Knight, FCA	—		
Patrick J. LeSage	—		
Carol S. Perry	—		
Charles Wesley Moore (Wes) Scott	—		

September 25, 2009	<b>Oversea Chinese Fund Limited Partnership, Weizhen Tang and Associates Inc., Weizhen Tang Corp., and Weizhen Tang</b>	October 6, 2009	<b>IMG International Inc., Investors Marketing Group International Inc., and Michael Smith</b>
10:00 a.m.		2:30 p.m.	
	s. 127 and 127.1		s. 127
	M. Britton in attendance for Staff		C. Price in attendance for Staff
	Panel: TBA		Panel: TBA
September 29, 2009	<b>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.</b>	October 7, 2009	<b>Paul Iannicca</b>
2:30 p.m.		10:00 a.m.	
	s. 127(5)		s. 127
	K. Daniels in attendance for Staff		H. Craig in attendance for Staff
	Panel: TBA		Panel: TBA
September 29, 2009	<b>Paladin Capital Markets Inc., John David Culp and Claudio Fernando Maya</b>	October 7, 2009	<b>MRS Sciences Inc. (formerly Morningside Capital Corp.), Americo DeRosa, Ronald Sherman, Edward Emmons and Ivan Cavric</b>
2:30 p.m.		10:00 a.m.	
	s. 127		s. 127 and 127(1)
	C. Price in attendance for Staff		D. Ferris in attendance for Staff
	Panel: TBA		Panel: PJL/CSP
September 30 – October 23, 2009	<b>Rene Pardo, Gary Usling, Lewis Taylor Sr., Lewis Taylor Jr., Jared Taylor, Colin Taylor and 1248136 Ontario Limited</b>	October 8, 2009	<b>Hollinger Inc., Conrad M. Black, F. David Radler, John A. Boulton and Peter Y. Atkinson</b>
10:00a.m.		9:30 a.m.	
	s. 127		s. 127
	M. Britton in attendance for Staff		J. Superina in attendance for Staff
	Panel: JDC/KJK		Panel: TBA
October 6, 2009	<b>Nest Acquisitions and Mergers and Caroline Frayssignes</b>	October 8, 2009	<b>Global Energy Group, Ltd. And New Gold Limited Partnerships</b>
2:30 p.m.		10:00 a.m.	
	s. 127(1) and 127(8)		s. 127
	C. Price in attendance for Staff		H. Craig in attendance for Staff
	Panel: TBA		Panel: DLK
		October 9, 2009	<b>Gold-Quest International, Health and Harmony, Iain Buchanan and Lisa Buchanan</b>
		10:00 a.m.	
			s. 127
			H. Craig in attendance for Staff
			Panel: CSP

October 9, 2009	<b>Gold-Quest International, 1725587 Ontario Inc. carrying on business as Health and Harmony, Harmony Club Inc., Donald Iain Buchanan, Lisa Buchanan and Sandra Gale</b>	October 20, 2009	<b>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</b>
10:00 a.m.		10:00 a.m.	
	s. 127		
	H. Craig in attendance for Staff		
	Panel: CSP		s. 127 and 127.1
October 14, 2009	<b>Axxess Automation LLC, Axxess Management, LLC, Axxess Fund, L.P., Gordon Alan Driver and David Rutledge</b>		Y. Chisholm in attendance for Staff
10:00 a.m.			Panel: TBA
	s. 127	November 11, 2009	<b>Imagin Diagnostic Centres Inc., Patrick J. Rooney, Cynthia Jordan, Allan McCaffrey, Michael Shumacher, Christopher Smith, Melvyn Harris and Michael Zelyony</b>
	M. Adams in attendance for Staff	12:00 p.m.	
	Panel: TBA		s. 127 and 127.1
October 19 – November 10; November 12-16, 2009	<b>Irwin Boock, Stanton Defreitas, 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</b>		J. Feasby in attendance for Staff
10:00 a.m.			Panel: MGC/MCH
		November 16, 2009	<b>Maple Leaf Investment Fund Corp. and Joe Henry Chau</b>
		10:00 a.m.	s. 127
			A. Sonnen in attendance for Staff
			Panel: TBA
	s. 127 and 127.1	November 16 – December 11, 2009	<b>Sulja Bros. Building Supplies, Ltd. (Nevada), Sulja Bros. Building Supplies Ltd., Kore International Management Inc., Petar Vucicevich and Andrew DeVries</b>
	H. Craig in attendance for Staff	10:00 a.m.	s. 127 & 127.1
	Panel: MGC/CSP		M. Britton in attendance for Staff
			Panel: TBA

November 24, 2009	<b>W.J.N. Holdings Inc., MSI Canada Inc., 360 Degree Financial Services Inc., Dominion Investments Club Inc., Leveragepro Inc., Prosporex Investment Club Inc., Prosporex Investments Inc., Prosporex Ltd., Prosporex Inc., Networth Financial Group Inc., Networth Marketing Solutions, Dominion Royal Credit Union, Dominion Royal Financial Inc., Wilton John Neale, Ezra Douse, Albert James, Elnonieth "Noni" James, David Whitely, Carlton Ivanhoe Lewis, Mark Anthony Scott, Sedwick Hill, Trudy Huynh, Dorlan Francis, Vincent Arthur, Christian Yeboah, Azucena Garcia and Angela Curry</b>	January 12, 2010	<b>Shallow Oil &amp; Gas Inc., Eric O'Brien, Abel Da Silva, Gurdip Singh Gahunia aka Michael Gahunia and Abraham Herbert Grossman aka Allen Grossman</b>
2:30 p.m.		10:00 a.m.	
	s. 127		s. 127(7) and 127(8)
	H. Daley in attendance for Staff		M. Boswell in attendance for Staff
	Panel: TBA		Panel: TBA
November 30, 2009	<b>Uranium308 Resources Inc., Uranium308 Resources PLC., Michael Friedman, George Schwartz, Peter Robinson, Alan Marsh Shuman and Innovative Gifting Inc.</b>	January 12, 2010	<b>Abel Da Silva</b>
2:00 p.m.		10:30 a.m.	
	s. 127		s. 127
	M. Boswell in attendance for Staff		M. Boswell in attendance for Staff
	Panel: TBA		Panel: TBA
		January 18, 2010	<b>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</b>
		10:00 a.m.	
		January 19, 2010	
		2:30 p.m.	s. 127
			S. Kushneryk in attendance for Staff
		January 20-29, 2010	Panel: TBA
		10:00 a.m.	
		January 25-26, 2010	<b>Lehman Cohort Global Group Inc., Anton Schnedl, Richard Unzer, Alexander Grundmann and Henry Hehlsinger</b>
December 11, 2009	<b>Tulsiani Investments Inc. and Sunil Tulsiani</b>	10:00 a.m.	
9:00 a.m.			s. 127
	s. 127		H. Craig in attendance for Staff
	A. Sonnen in attendance for Staff		Panel: TBA
	Panel: TBA		
January 11, 2010	<b>Firestar Capital Management Corp., Kamposse Financial Corp., Firestar Investment Management Group, Michael Ciavarella and Michael Mitton</b>	February 5, 2010	<b>Hillcorp International Services, Hillcorp Wealth Management, Suncorp Holdings, 1621852 Ontario Limited, Steven John Hill, John C. McArthur, Daryl Renneberg and Danny De Melo</b>
10:00 a.m.		10:00 a.m.	
	s. 127		s. 127
	H. Craig in attendance for Staff		A. Clark in attendance for Staff
	Panel: TBA		Panel: TBA



February 8-12, 2010	<b>Goldbridge Financial Inc., Wesley Wayne Weber and Shawn C. Lesperance</b>	TBA	<b>Microsourceonline Inc., Michael Peter Anzelmo, Vito Curalli, Jaime S. Lobo, Sumit Majumdar and Jeffrey David Mandell</b>
10:00 a.m.	s. 127		s. 127
	J. Feasby in attendance for Staff		J. Waechter in attendance for Staff
	Panel: TBA		Panel: TBA
February 17 – March 1, 2010	<b>M P Global Financial Ltd., and Joe Feng Deng</b>	TBA	<b>Frank Dunn, Douglas Beatty, Michael Gollogly</b>
10:00 .m.	s. 127(1)		s. 127
	M. Britton in attendance for Staff		K. Daniels in attendance for Staff
	Panel: TBA		Panel: TBA
March 1-8, 2010	<b>Teodosio Vincent Pangia</b>	TBA	<b>Juniper Fund Management Corporation, Juniper Income Fund, Juniper Equity Growth Fund and Roy Brown (a.k.a. Roy Brown-Rodrigues)</b>
10:00 a.m.	s. 127		s. 127 and 127.1
	J. Feasby in attendance for Staff		D. Ferris in attendance for Staff
	Panel: TBA		Panel: TBA
March 3, 2010	<b>Brilliante Brasilcan Resources Corp., York Rio Resources Inc., Brian W. Aidelman, Jason Georgiadis, Richard Taylor and Victor York</b>	TBA	<b>Merax Resource Management Ltd. carrying on business as Crown Capital Partners, Richard Mellon and Alex Elin</b>
10:00 a.m.	s. 127		s. 127
	S. Horgan in attendance for Staff		H. Craig in attendance for Staff
	Panel: TBA		Panel: TBA
May 3-28, 2010	<b>Sextant Capital Management Inc., Sextant Capital GP Inc., Sextant Strategic Opportunities Hedge Fund L.P., Otto Spork, Robert Levack and Natalie Spork</b>	TBA	<b>Gregory Galanis</b>
10:00 a.m.	s. 127		s. 127
	S. Kushneryk in attendance for Staff		P. Foy in attendance for Staff
	Panel: TBA		Panel: TBA
TBA	<b>Yama Abdullah Yaqeen</b>		
	s. 8(2)		
	J. Superina in attendance for Staff		
	Panel: TBA		

TBA **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: TBA

TBA **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: TBA

TBA **Global Partners Capital, Asia Pacific Energy Inc., 1666475 Ontario Inc. operating as "Asian Pacific Energy", Alex Pidgeon, Kit Ching Pan also known as Christine Pan, Hau Wai Cheung, also known as Peter Cheung, Tony Cheung, Mike Davidson, or Peter McDonald, Gurdip Singh Gahunia also known as Michael Gahunia or Shawn Miller, Basis Marcellinius Toussaint also known as Peter Beckford, and Rafique Jiwani also known as Ralph Jay**

s. 127

M. Boswell in attendance for Staff

Panel: TBA

TBA **FactorCorp Inc., FactorCorp Financial Inc. and Mark Twerdun**

s. 127

A. Sonnen in attendance for Staff

Panel: TBA

TBA **Shane Suman and Monie Rahman**

s. 127 and 127(1)

C. Price in attendance for Staff

Panel: TBA

TBA **Global Petroleum Strategies, LLC, Petroleum Unlimited, LLC, Roger A. Kimmel, Jr.**

s. 127

E. Cole in attendance for Staff

Panel: PJL

#### ADJOURNED SINE DIE

**Global Privacy Management Trust and Robert Cranston**

**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**

**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**

**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**

**1.1.2 Notice of Ministerial Approval of NI 31-103 Registration Requirements and Exemptions and Consequential Amendments to Related Instruments**

**NOTICE OF MINISTERIAL APPROVAL OF  
NATIONAL INSTRUMENT 31-103 *REGISTRATION REQUIREMENTS AND EXEMPTIONS*  
  
AND  
  
CONSEQUENTIAL AMENDMENTS  
TO RELATED INSTRUMENTS**

On August 28, 2009, the Minister of Finance approved National Instrument 31-103 *Registration Requirements and Exemptions* (NI 31-103) made by the Ontario Securities Commission (the Commission or OSC) and consequential amendments to related instruments (the Rules and Amendments). The final Rules and Amendments are set out in Appendix A.

The Rules and Amendments were made by the Commission on July 14, 2009. On August 26, 2009, a quorum of the Commission approved changes to the Rules and Amendments previously made by the Commission to correct two typographical errors:

- (i) The definition of “market intermediary” in OSC Rule 14-501 *Definitions* now includes “, or” between clauses (c) and (d); and
- (ii) Section 19 of the amending instrument to OSC Rule 35-502 *Non-Resident Advisers* now includes section 11 of the amending instrument. Section 11 sets out definitions which are used in provisions that relate to the category of international dealer, which will remain in force during the one-year transition period in which existing international dealers may continue to operate under this category.

The Rules and Amendments have an effective date of **September 28, 2009**, assuming that the requisite provisions of the *Budget Measures Act, 2009* are proclaimed in force by then. The Rules and Amendments were previously published in a Supplement to the Bulletin on July 17, 2009.

On July 14, 2009, the Commission also adopted policies related to NI 31-103 (the Policies and Policy Amendments). The Policies and Policy Amendments are set out in Appendix B. The Policies and Policy Amendments become effective on the same date as the Rules and Amendments. The Policies and Policy Amendments were previously published in a Supplement to the Bulletin on July 17, 2009.

Effective the same date as the Rules and Amendments, the Commission is also revoking or rescinding the instruments and policies set out in Appendix C and withdrawing the notices listed in Appendix D. The revocations, rescissions and/or withdrawals were previously published in a Supplement to the Bulletin on July 17, 2009.

Ministry of Finance staff have recommended September 28, 2009 as the date on which the requisite provisions of the *Budget Measures Act, 2009* be proclaimed in force. In which case, the Rules and Amendments would take effect on September 28, 2009.

**September 18, 2009**

## APPENDIX A

### RULES AND AMENDMENTS

Rules and Amendments approved by the Minister of Finance on August 28, 2009:

- National Instrument 31-103 *Registration Requirements and Exemptions*
- Amendments to National Instrument 14-101 *Definitions*
- Amendments to National Instrument 24-101 *Institutional Trade Matching and Settlement*
- Amendments to National Instrument 31-102 *National Registration Database*
- Amendments to National Instrument 33-105 *Underwriting Conflicts*
- Amendments to National Instrument 81-102 *Mutual Funds*
- Amendments to National Instrument 81-104 *Commodity Pools*
- Amendments to National Instrument 81-105 *Mutual Fund Sales Practices*
- Amendments to National Instrument 81-107 *Independent Review Committee for Investment Funds*
- Amendments to Ontario Securities Commission Rule 13-502 *Fees*
- Amendments to Ontario Securities Commission Rule 13-503 *(Commodity Futures Act) Fees*
- Amendments to Ontario Securities Commission Rule 14-501 *Definitions*
- Amendments to Ontario Securities Commission Rule 31-505 *Conditions of Registration*
- Amendments to Ontario Securities Commission Rule 31-509 *(Commodity Futures Act) National Registration Database*
- Amendments to Ontario Securities Commission Rule 35-502 *Non-Resident Advisers*
- Amendments to Ontario Securities Commission Rule 91-501 *Strip Bonds*
- Amendments to Ontario Securities Commission Rule 91-502 *Trades in Recognized Options*
- Repeal of National Instrument 31-101 *National Registration System*
- Repeal and replacement of National Instrument 33-109 *Registration Information*
- Revocation of National Instrument 33-102 *Regulation of Certain Registrant Activities*
- Revocation of Ontario Securities Commission Rule 31-501 *Registrant Relationships*
- Revocation of Ontario Securities Commission Rule 31-502 *Proficiency Requirements for Registrants*
- Revocation of Ontario Securities Commission Rule 31-503 *Limited Market Dealers*
- Revocation of Ontario Securities Commission Rule 31-504 *Dealer and Adviser Applications for Registrations*
- Revocation of Ontario Securities Commission Rule 31-506 *SRO Membership – Mutual Fund Dealers*
- Revocation of Ontario Securities Commission Rule 31-507 *SRO Membership – Securities Dealers and Brokers*
- Revocation of Ontario Securities Commission Rule 33-501 *Surrender of Registration*

- Revocation of Ontario Securities Commission Rule 33-502 *Exceptions to Conflict Rules in the Sale of Mutual Fund Securities*
- Revocation and restatement of Ontario Securities Commission Rule 33-506 *(Commodity Futures Act) Registration Information*

## APPENDIX B

### POLICIES AND POLICY AMENDMENTS

Policies and Policy Amendments adopted by the Commission on June 23, 2009:

- Companion Policy 31-103CP *Registration Requirements and Exemptions*
- National Policy 11-204 *Process for Registration in Multiple Jurisdictions*
- Amendments to National Policy 11-202 *Process for Prospectus Reviews in Multiple Jurisdictions*
- Amendments to National Policy 11-203 *Process for Exemptive Relief Applications in Multiple Jurisdictions*
- Amendments to Companion Policy 24-101CP *Institutional Trade Matching and Settlement*
- Amendments to Companion Policy 31-102CP *National Registration Database*
- Amendments to Companion Policy 33-105CP *Underwriting Conflicts*
- Amendments to Multilateral Policy 34-202 *Registrants Acting As Corporate Directors*
- Amendments to Companion Policy 81-105CP *Mutual Fund Sales Practices*
- Amendments to Companion Policy 13-502CP *Fees*
- Amendments to Companion Policy 31-509CP *(Commodity Futures Act) National Registration Database*
- Amendments to Companion Policy 91-501CP *Strip Bonds*
- Rescission and replacement of Companion Policy 33-109CP *Registration Information*
- Rescission and restatement of Companion Policy 33-506CP *(Commodity Futures Act) Registration Information*

**APPENDIX C**

**REVOKED OR RESCINDED POLICIES**

Policies the Commission is revoking or rescinding:

- Companion Policy 33-102CP *Regulation of Certain Registrant Activities*
- National Policy 34-201 *Breach of Requirements of Other Jurisdictions*
- Companion Policy 31-501CP *Registrant Relationships*
- Companion Policy 31-502CP *Proficiency Requirements for Registrants*
- Ontario Securities Commission Policy 34-601 *Registration – Declaration of Personal Bankruptcy*
- Ontario Securities Commission Policy 34-602 *Suspension of Registration-Criminal Charges Pending*
- Ontario Securities Commission Policy 35-601 *Registration of Non-Resident Salesmen, Partners or Officers of Registered Dealers*

**APPENDIX D**  
**STAFF NOTICES**

Staff Notices the Commission is withdrawing:

- CSA Staff Notice 31-309 *Proposed National Instrument 31-103 Registration Requirements and Proposed Companion Policy 31-103CP Registration Requirements* (2008) 31 OSCB 10988
- CSA Staff Notice 31-310 *Proposed National Instrument 31-103 Registration Requirements and Proposed Companion Policy 31-103CP Registration Requirements* (2009) 32 OSCB 2892
- CSA Staff Notice 31-402 *Registration Forms Relating to the National Registration Database* (2001) 24 OSCB 4039
- Ontario Securities Commission Staff Notice 31-702 *Ontario Securities Commission Designation Of Courses Under Rule 31-502 Proficiency Requirements For Registrants* (2000) 23 OSCB 4390
- Registration Section Clarification Note 31-706 *Telemarketing Activities of Certain Employees or Independent Agents of Registered Dealers* (1992) 15 OSCB 4775, replaced 12 OSCB 2178; assigned number (2003) 26 OSCB 2319
- OSC Notice 31-707 *Labour Sponsored Investment Fund Course* (1995) 18 OSCB 3616; assigned number (2003) 26 OSCB 2319
- Ontario Securities Commission Staff Notice 31-708 *National Registration Database (NRD) Filing Deadlines Extended* (2003) 26 OSCB 3495
- OSC Staff Notice 31-711 *Ontario Securities Commission Rule 31-502 – Proficiency Requirements for Registrants and Ontario Securities Commission Rule 31-505 – Conditions of Registration* (2004) 27 OSCB 724
- OSC Staff Notice 32-702 *Applications for Exemption from the Time Limits on Completion of Courses and Previous Registrations* (2001) 24 OSCB 5762
- CSA Staff Notice 33-307 *List of Canadian Registrant and Non-Registrant Firms that Completed the CSA STP Readiness Assessment Survey* (2003) 26 OSCB 5473
- CSA Staff Notice 33-308 *The CSA STP Readiness Assessment Survey Report (Survey Report) is Now Available on the OSC website* (2003) 26 OSCB 6429
- CSA Staff Notice 33-309 *The CSA STP Infrastructure Survey Report is Now Available on the OSC Website* (2003) 26 OSCB 8149
- CSA Staff Notice 33-311 *List Of Canadian Registrant and Non-Registrant Firms that Completed the CSA STP Readiness Assessment Survey* (2004) 27 OSCB 6603
- CSA Staff Notice 33-312 *The CSA STP Readiness Assessment Survey is Now Available on the OSC Website* (2004) 27 OSCB 8953
- Ontario Securities Commission Staff Notice 33-701 *Calculation of Regulatory Capital* (1997) 20 OSCB 3363
- Staff Notice 33-718 *Networking Applications* (2000) 22 OSCB 245
- OSC Staff Notice 33-719 *Registration Renewal and Permanent Registration* (2001) 24 OSCB 4514
- Ontario Securities Commission Staff Notice 33-722 *Registration Renewal Procedure and Payment of Annual Participation Fees* (2003) 26 OSCB 6893
- OSC Staff Notice 33-726 *IOSCO Publishes Final Report on Compliance Function at Market Intermediaries* (2006) 29 OSCB 7003



- OSC Staff Notice 33-727 *IOSCO Published Consultation Report on Market Intermediary Management of Conflicts that arise in Securities Exchange Offerings* (2007) 30 OSCB 1800
- Request for Comment Notice #33-901 *The Fair Dealing Model: Concept Paper of the Ontario Securities Commission – January 2004* (2004) 27 OSCB 1334
- Notice of Proposed Rule 35-501 *Registration of Non-Residents* (1998) 21 OSCB. 6248
- Registration Section Clarification Note 4 *New Procedures for Approving and Recording Amendments to Registration of Dealers and Advisers* (1989) 12 OSCB 4651; as amended by 15 OSCB 3470

**1.1.3 Notice of Ministerial Approval of Repeal and Replacement of NI 45-106 Prospectus and Registration Exemptions, Amendments to NI 45-102 Resale of Securities and Repeal and Replacement of OSC Rule 45-501 Ontario Prospectus and Registration Exemptions**

**NOTICE OF MINISTERIAL APPROVAL OF  
REPEAL AND REPLACEMENT OF  
NATIONAL INSTRUMENT 45-106 *PROSPECTUS AND REGISTRATION EXEMPTIONS*  
AMENDMENTS TO NATIONAL INSTRUMENT 45-102 *RESALE OF SECURITIES*  
REPEAL AND REPLACEMENT OF  
OSC RULE 45-501 *ONTARIO PROSPECTUS AND REGISTRATION EXEMPTIONS*  
AND  
CONSEQUENTIAL AMENDMENTS TO RELATED INSTRUMENTS**

On August 28, 2009, the Minister of Finance approved the following rules and consequential rule amendments (collectively, the Rules) made by the Ontario Securities Commission (the Commission):

- amended and restated National Instrument 45-106 *Prospectus and Registration Exemptions*, including Forms 45-106F1 *Report of Exempt Distribution*, 45-106F2 *Offering Memorandum for Non-Qualifying Issuers*, 45-106F3 *Offering Memorandum for Qualifying Issuers*, 45-106F4 *Risk Acknowledgement* and 45-106F5 *Risk Acknowledgement – Saskatchewan Close Personal Friends and Close Business Associates* (NI 45-106);
- an amendment instrument amending National Instrument 45-102 *Resale of Securities*, including Form 45-102F1 *Notice of Intention to Distribute Securities under Section 2.8 of NI 45-102 Resale of Securities* (NI 45-102);
- amended and restated OSC Rule 45-501 *Ontario Prospectus and Registration Exemptions*, including Form 45-501F1 *Report of Exempt Distribution* (Rule 45-501); and
- consequential amendment instruments amending each of National Instrument 33-105 *Underwriting Conflicts*, National Instrument 51-102 *Continuous Disclosure Obligations*, OSC Rule 45-801 *Implementing Multilateral Instrument 45-105 Trades to Employees, Senior Officers, Directors, and Consultants*, and OSC Rule 48-501 *Trading During Distributions, Formal Bids and Share Exchange Transactions*.

The Rules were made by the Commission on July 7, 2009.

The Rules have an effective date of **September 28, 2009**, assuming that the requisite provisions of the *Budget Measures Act, 2009* are proclaimed in force by then. The Rules were previously published in a Supplement to the Bulletin on July 17, 2009.

On July 7, 2009, the Commission also adopted amended and restated policies related to NI 45-106, NI 45-102 and Rule 45-501 (the Policies). The Policies become effective on the same date as the Rules. The Policies were previously published in a Supplement to the Bulletin on July 17, 2009.

Effective on the same date as the Rules and Policies, the Commission is also withdrawing CSA Staff Notice 45-302 *Frequently Asked Questions Regarding the Resale Rules* and CSA Staff Notice 45-305 *Frequently Asked Questions Regarding National Instrument 45-106 Prospectus and Registration Exemptions*. Notice of the proposed withdrawal of these items was previously published in a Supplement to the Bulletin on July 17, 2009.

The Rules and Policies are published in a Supplement to this Bulletin.

Ministry of Finance staff have recommended September 28, 2009 as the date on which the requisite provisions of the *Budget Measures Act, 2009* be proclaimed in force. In which case, the Rules and Policies would take effect on September 28, 2009.

**September 18, 2009**

**1.2 Notices of Hearing**

**1.2.1 M P Global Financial Ltd. and Joe Feng Deng – ss. 127(1), 127.1**

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

**AND**

**IN THE MATTER OF  
M P GLOBAL FINANCIAL LTD. AND  
JOE FENG DENG**

**NOTICE OF HEARING  
(Section 127(1) and Section 127.1)**

**TAKE NOTICE** that the Ontario Securities Commission will hold a hearing pursuant to section 127 and section 127.1 of the Ontario *Securities Act*, R.S.O. 1990, c. S.5, as amended (the “Act”), at the offices of the Commission located at 20 Queen Street West, Toronto, 17th Floor Hearing Room on Friday, September 11, 2009 at 10:00 a.m. or so soon thereafter as the hearing can be held to consider:

- (i) whether, in the opinion of the Commission, it is in the public interest, pursuant to ss. 127(1) and 127.1 of the Act to order that:
  - (a) trading in any securities of M P Global Financial Ltd. (“MP Global”) or trading in any securities by MP Global or Joe Feng Deng also known as Feng Deng and Yue Wen Deng (“Deng”), (collectively the “Respondents”) cease permanently or for such period as is specified by the Commission;
  - (b) the acquisition of any securities by the Respondents is prohibited permanently or for such period as is specified by the Commission;
  - (c) any exemptions contained in Ontario securities law do not apply to the Respondents permanently as for such other period as is specified by the Commission;
  - (d) each Respondent disgorge to the Commission any amounts obtained as a result of non-compliance by that respondent with Ontario securities law;
  - (e) the Respondents be reprimanded;
  - (f) Deng resign one or more positions that he holds as a director or officer of any issuer, registrant, and investment fund manager;
  - (g) Deng be prohibited from becoming or acting as a director or officer of any issuer, registrant, and investment fund manager;
  - (h) the Respondents be prohibited from becoming or acting as a registrant, as an investment fund manager, and as a promoter;
  - (i) the Respondents each pay an administrative penalty of not more than \$1 million for each failure by that respondent to comply with Ontario securities law;
  - (j) the Respondents be ordered to pay the costs of the Commission investigation and the hearing; and
- (ii) whether to make such further orders as the Commission considers appropriate.

**BY REASON OF** the allegations set out in the Statement of Allegations of Staff of the Commission dated September 10, 2009 and such additional allegations as counsel may advise and the Commission may permit;

**AND BY REASON OF** the evidence filed with the Commission and the testimony heard by the Commission;

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

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

**DATED** at Toronto, this 10th day of September , 2009.

“John Stevenson”  
Secretary to the Commission

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

**AND**

**IN THE MATTER OF  
M P GLOBAL FINANCIAL LTD. AND  
JOE FENG DENG**

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

Staff of the Ontario Securities Commission make the following allegations:

**I. THE RESPONDENTS**

1. M P Global Financial Ltd. ("MP Global") is an Ontario Corporation. It was incorporated on February 8, 2006 and is located in Markham, Ontario. Its business is the delivery of financial services. It is not a reporting issuer in Ontario. It has never been a registrant pursuant to the Ontario *Securities Act*, R.S.O. 1990, c. S.5, as amended (the "Act").

2. Joe Feng Deng also known as Feng Deng and Yue Wen Deng ("Deng") is an individual who sells investment and insurance products. He resides in the Province of Ontario. He is the sole owner and director of MP Global. From May 27, 2004 to June 20, 2006, he was registered as a salesperson under the category of Mutual Fund Dealer with Excel Financial Growth Inc. He was also registered as a salesperson, effective July 25, 2006, and as a branch manager, effective July 18, 2007, under the categories of Mutual Fund Dealer and Limited Market Dealer until July 31, 2008 with Info Financial Consulting Group Inc. ("Info Financial").

**II. ALLEGATIONS**

3. Staff allege that MP Global and Deng (collectively "the Respondents"):

- (a) acted as an adviser without the proper registration or an appropriate exemption from the registration requirement contrary to section 25(1)(c) of the Act;
- (b) traded in securities without the proper registration or an appropriate exemption from the registration requirement contrary to section 25(1)(a) of the Act; and
- (c) traded securities which were distributions of securities without having filed a preliminary prospectus and a prospectus or having an appropriate exemption from the prospectus requirement contrary to section 53(1) of the Act.

4. Staff allege that Deng, as a director of MP Global, authorized, permitted or acquiesced in the conduct of MP Global contrary to Ontario securities law.

**III. PARTICULARS OF ALLEGATIONS**

**(a) Unregistered Advising and Trading and Illegal Distribution**

5. Between 2006 and February 28, 2009, the Respondents traded Guarantee Corporation Debentures issued in the name of MP Global to more than 150 individuals. By these trades, the Respondents raised at least CAD 17,827,567 and at least USD 2,210,788. Investors paid for the Debentures primarily by cheques or bank drafts made payable to MP Global.

6. The Respondents advised investors that, depending on the amount of money they invested, they could expect a monthly return of 1% to 4% (12% to 48% annually).

7. MP Global maintained an online website at [www.mpgf.com](http://www.mpgf.com). As at April 1, 2009, the "about us" section stated:

*Who are we?*

*MP Global Financial is a fully integrated wealth management organization that focuses on building financial prosperity. Founded in 2004, MP Global Financial is one of Canada's fastest growing*

*wealth management companies and our sound history is complemented by a proven track record of accomplishment. We strive to achieve global recognition with branches in Toronto Canada, California USA, and Hong Kong China.*

*Over the years, we have built trust within the communities and successfully launched our own product, the MP Global Corporate Bond, which promises a definite percentage of return and provides protection against lost of wealth accumulation. We are now managing more than \$100 million USD and over \$1 billion of assets under management.*

*What do we do?*

*We offer tailored products that meet the independent financial needs of our investors. We are devoted to provide [sic] a safeguard and protection of capital for those seeking for short or long term financial plans. We provide a broad range of investment services to investors through mutual funds, insurance, fixed income equities, and segregated funds.*

8. Through the website, through the promotional material they distributed to the public and through the discretionary manner in which they invested funds raised from investors, the Respondents engaged in or were holding themselves out to be engaged in the business of advising others as to investing in or the buying or selling of securities without being registered to act as an adviser.

9. During the period of time that MP Global raised the monies by the sale of the Debentures to investors, it was not registered to trade securities and did not qualify for an exemption from the registration requirement.

10. Until July 31, 2008, Deng was registered as a Mutual Fund Dealer and Limited Market Dealer with Info Financial.

11. The trades of the Debentures were not processed through Info Financial. Furthermore, Deng traded the Debentures after July 31, 2008 when he was not registered to trade securities in any capacity.

12. The Respondents traded the Debentures which were distributions of securities without having filed a preliminary prospectus and a prospectus and without an appropriate exemption from the prospectus requirement.

**(b) Use of Funds**

13. The funds raised by the Respondents were used as follows:

- (a) CAD 8,957,667 and USD 2,503,288 were paid to investors (the funds of investors were used to make interest payments or to return capital to other investors);
- (b) CAD 2,053,784 and USD 5,283,442 were paid to Forex.com for foreign exchange trading;
- (c) CAD 595,133 and USD 1,428,099 were paid to Deng or to his personal benefit,
- (d) CAD 383,044 and USD 108,900 were spent on credit card payments; and
- (d) CAD 2,928,673 and USD 737,135 were used for unknown purposes.

14. The funds received by the Respondents through the sales of the Debentures were not used exclusively for the purposes which had been represented to investors.

15. MP Global did not have the "\$100 million USD and over \$1 billion of assets under management" as advertised on its website.

16. MP Global no longer appears to have assets sufficient to repay investors.

**IV. CONDUCT CONTRARY TO ONTARIO SECURITIES LAW AND CONTRARY TO THE PUBLIC INTEREST**

17. Staff allege that the Respondents:

- (a) acted as an adviser without the proper registration or an appropriate exemption from the registration requirement contrary to section 25(1)(c) of the Act;

- (b) traded in securities without the proper registration and without an appropriate exemption from the registration requirement contrary to section 25(1)(a) of the Act; and
- (c) traded securities which trades were distributions of securities without filing and obtaining a receipt for a preliminary prospectus and prospectus and without an appropriate exemption from the prospectus requirement contrary to section 53(1) of the Act.

18. Staff allege that Deng, as a director of MP Global, authorized, permitted or acquiesced in the conduct of MP Global contrary to Ontario securities law.

19. Staff allege that the conduct of the Respondents was contrary to Ontario securities law and thereby contrary to the public interest.

20. Such additional allegations that Staff may make and the Commission may permit.

Dated at the City of Toronto, this      day of September, 2009

**1.2.2 Mega-C Power Corporation et al.**

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

**AND**

**IN THE MATTER OF  
MEGA-C POWER CORPORATION, RENE PARDO,  
GARY USLING, LEWIS TAYLOR SR.,  
LEWIS TAYLOR JR., JARED TAYLOR,  
COLIN TAYLOR AND 1248136 ONTARIO LIMITED**

**NOTICE OF HEARING**

**TAKE NOTICE** that the Ontario Securities Commission will hold a hearing at the offices of the Commission located at 20 Queen Street West, Toronto, 17th Floor, Hearing Room B, on Thursday, September 17, 2009 at 10:00 a.m. to consider whether to approve a settlement agreement entered into by Staff of the Commission and Gary Usling.

**DATED** at Toronto, this 15th day of September , 2009.

"John Stevenson"  
Secretary to the Commission

**1.3 News Releases**

**1.3.1 Canadian Securities Regulators Announce Results of Certification Compliance Review**

**FOR IMMEDIATE RELEASE  
September 11, 2009**

**CANADIAN SECURITIES REGULATORS  
ANNOUNCE RESULTS OF  
CERTIFICATION COMPLIANCE REVIEW**

**Montréal** – The Canadian Securities Administrators (CSA) today published CSA Staff Notice 52-325 *Certification Compliance Review*, which summarizes the results of a compliance review with the requirements in National Instrument 52-109 Certification of Disclosure in Issuers' Annual and Interim Filings, in force since December 15, 2008.

"We encourage certifying officers and issuers to use this notice and to thoroughly review National Instrument 52-109 and its Companion Policy to ensure compliance with the certification requirements," said Jean St-Gelais, CSA Chair and President & Chief Executive Officer of the Autorité des marchés financiers. "This compliance review is important in promoting confidence in our marketplace and ensuring quality and reliability of disclosure to investors."

The CSA selected a sample of 198 non-venture issuers and 53 venture issuers with December 31, 2008 year-ends in order to assess their compliance with NI51-109.

Of the total 251 reporting issuers reviewed, only 94 appeared to substantively comply with the requirements of NI 52-109 and required no further action by regulators. This includes 70 non-venture issuers and 24 venture issuers reviewed.

The remaining 157 issuers reviewed, including 128 non-venture issuers and 29 venture issuers, were not in compliance in all material respects with NI 52-109. As a result:

- 39 non-venture issuers and 2 venture issuers reviewed were required to refile their Management Discussion & Analysis and certificates. In most instances, the issuers did not fully disclose their conclusions about the effectiveness of disclosure controls and procedures (DC&P) and internal control over financial reporting (ICFR) or had qualified their conclusions.
- 31 non-venture issuers and 5 venture issuers reviewed were required to refile their certificates. In most instances, the issuer's certifying officers made significant amendments to the certificate's prescribed wording or certified the existence of a material weakness relating to ICFR in the certificates when one did not exist.



- 58 non-venture issuers and 22 venture issuers reviewed were asked to make prospective changes to enhance future filings.

Donn MacDougall  
Northwest Territories  
Securities Office  
867-920-8984

CSA Staff Notice 52-325 *Certification Compliance Review* is available on various CSA members' websites.

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

**For more information:**

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867-667-5225

Louis Arki  
Nunavut Securities Office  
867-975-6587

**1.4 Notices from the Office of the Secretary**

**1.4.1 Abel Da Silva**

**FOR IMMEDIATE RELEASE  
September 10, 2009**

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

**AND**

**IN THE MATTER OF  
ABEL DA SILVA**

**TORONTO** – Following a hearing held today, the Commission issued an Order today which provides that the hearing with respect to the Notice of Hearing dated October 21, 2008 and Staff's Statement of Allegations dated October 20, 2008 is adjourned to January 12, 2010 at 10:30 a.m.

A copy of the Order dated September 10, 2009 is available at [www.osc.gov.on.ca](http://www.osc.gov.on.ca).

OFFICE OF THE SECRETARY  
JOHN P. STEVENSON  
SECRETARY

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

**1.4.2 Shallow Oil & Gas Inc. et al.**

**FOR IMMEDIATE RELEASE  
September 10, 2009**

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

**AND**

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

**TORONTO** – Following a hearing held today, the Commission issued an Order in the above noted matter which provides that the hearing with respect to the Notice of Hearing dated June 11th, 2008 and Staff's Statement of Allegations dated June 10th, 2008 is adjourned to January 12th, 2010 at 10:00 a.m.

A copy of the Order dated September 10, 2009 is available at [www.osc.gov.on.ca](http://www.osc.gov.on.ca).

OFFICE OF THE SECRETARY  
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**1.4.3 M P Global Financial Ltd. and Joe Feng Deng**

**FOR IMMEDIATE RELEASE  
September 10, 2009**

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

**AND**

**IN THE MATTER OF  
M P GLOBAL FINANCIAL LTD.,  
AND JOE FENG DENG**

**TORONTO** – The Office of the Secretary issued a Notice of Hearing on September 10, 2009 setting the matter down to be heard on September 11, 2009, at 10:00 a.m. or as soon thereafter as the hearing can be held in the above named matter.

A copy of the Notice of Hearing dated September 10, 2009 and Statement of Allegations of Staff of the Ontario Securities Commission dated September 10, 2009 are available at [www.osc.gov.on.ca](http://www.osc.gov.on.ca).

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1-877-785-1555 (Toll Free)

**1.4.4 M P Global Financial Ltd. and Joe Feng Deng**

**FOR IMMEDIATE RELEASE  
September 11, 2009**

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

**AND**

**IN THE MATTER OF  
M P GLOBAL FINANCIAL LTD.,  
AND JOE FENG DENG**

**TORONTO** – Following a hearing held today, the Commission issued an Order which provides that (1) the Temporary Order be extended until the completion of the hearing on the merits in this matter; and (2) the hearing on the merits in this matter commence on February 17, 2010 and continue to March 1, 2010.

A copy of the Order dated September 11, 2009 is available at [www.osc.gov.on.ca](http://www.osc.gov.on.ca).

OFFICE OF THE SECRETARY  
JOHN P. STEVENSON  
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1-877-785-1555 (Toll Free)

**1.4.5 MI Developments Inc.**

**FOR IMMEDIATE RELEASE  
September 14, 2009**

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

**AND**

**IN THE MATTER OF  
MI DEVELOPMENTS INC. ("MID")**

**TORONTO** – The Commission issued an Order in the above named matter which provides that (1) the Farallon Application and the Greenlight Application are hereby dismissed; and (2) MID is hereby unconditionally released from its undertaking provided to Staff on May 11, 2009 relating to transactions with MEC.

A copy of the Order dated September 14, 2009 is available at [www.osc.gov.on.ca](http://www.osc.gov.on.ca).

OFFICE OF THE SECRETARY  
JOHN P. STEVENSON  
SECRETARY

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

Laurie Gillett  
Manager, Public Affairs  
416-595-8913

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

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

**1.4.6 Sextant Capital Management Inc. et al.**

**FOR IMMEDIATE RELEASE  
September 15, 2009**

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

**AND**

**IN THE MATTER OF  
SEXTANT CAPITAL MANAGEMENT INC.,  
SEXTANT CAPITAL GP INC.,  
SEXTANT STRATEGIC OPPORTUNITIES  
HEDGE FUND L.P., OTTO SPORK,  
ROBERT LEVACK AND NATALIE SPORK**

**TORONTO** – The Commission issued an Order which provides that (1) the hearing on the merits in this matter is scheduled for the four week period from May 3 to 28, 2010; and (2) the Temporary Order is continued until the conclusion of the hearing on the merits in this matter.

A copy of the Order dated September 15, 2009 is available at [www.osc.gov.on.ca](http://www.osc.gov.on.ca).

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**1.4.7 Mega-C Power Corporation et al.**

**FOR IMMEDIATE RELEASE  
September 16, 2008**

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

**AND**

**IN THE MATTER OF  
MEGA-C POWER CORPORATION, RENE PARDO,  
GARY USLING, LEWIS TAYLOR SR.,  
LEWIS TAYLOR JR., JARED TAYLOR,  
COLIN TAYLOR AND 1248136 ONTARIO LIMITED**

**TORONTO** – The Office of the Secretary issued a Notice of Hearing for a hearing to consider whether it is in the public interest to approve a settlement agreement entered into by Staff of the Commission and Gary Usling. The hearing will be held on September 17, 2009 at 10:00 a.m. in Hearing Room B on the 17th floor of the Commission's offices located at 20 Queen Street West, Toronto.

A copy of the Notice of Hearing dated September 15, 2009 is available at [www.osc.gov.on.ca](http://www.osc.gov.on.ca).

OFFICE OF THE SECRETARY  
JOHN P. STEVENSON  
SECRETARY

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## Chapter 2

# Decisions, Orders and Rulings

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### 2.1 Decisions

#### 2.1.1 CIBC Asset Management Inc. et al.

##### Headnote

National Policy 11-203 – Process for Exemptive Relief Applications in Multiple Jurisdictions – Relief granted to permit pooled funds managed by the same manager, to purchase certain related debt securities in the primary market and to purchase related exchange-traded securities in the secondary market – debt securities purchased by the pooled funds in the primary market must be non-exchange traded debt securities, other than asset-backed commercial paper securities, with a term to maturity of 365 days or more, the issuer of which has been given and continues to have, at the time of purchase, an approved credit rating by an approved credit rating organization and will be purchased in a Primary Offering where the terms, such as the size and the pricing, will be a matter of public record as evidenced in a prospectus, offering memorandum, press release or other public document.

##### Applicable Legislative Provisions

Securities Act (Ontario), ss. 111(2)(a), 111(2)(c)(ii), 113, 118(2)(a), 121(2)(a)(ii).

National Instrument 81-107 Independent Review Committee for Investment Funds, ss. 6.1, 6.2.

September 2, 2009

IN THE MATTER OF  
THE SECURITIES LEGISLATION OF  
ONTARIO AND NEWFOUNDLAND  
AND LABRADOR

AND

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

AND

IN THE MATTER OF  
CIBC ASSET MANAGEMENT INC. AND  
CIBC GLOBAL ASSET MANAGEMENT INC.  
(the Filers)

AND

THE POOLED FUNDS (as defined below)

DECISION

##### Background

- A. The securities regulatory authority or regulator in Ontario has received an application (the **Application**) from the Filers under the securities legislation of the principal regulator (the **Legislation**) for
- (i) a decision (the **First Related Issuer Securities Exemption Sought**) providing an exemption (the **First Passport Exemption**) from the requirements (the **First Related Issuer Securities Prohibition**) that prohibit a mutual fund from making or holding an investment in any person or company who is a substantial security holder of the mutual fund, its management company or distribution company or in any issuer in which any person or company who is a substantial security holder of the mutual fund, its management company or its

distribution company has a significant interest, in order to permit existing mutual funds and future mutual funds to which National Instrument 81-102 – *Mutual Funds* (**NI 81-102**) does not apply (each, a **Pooled Fund** and, collectively the **Pooled Funds**) managed by a Filer, or an affiliate of a Filer, to:

- A. make and hold an investment in the debt securities of the Canadian Imperial Bank of Commerce (**CIBC**) which is or may be a substantial security holder of the Pooled Fund, its management company or its distribution company in a primary distribution or treasury offering (a **Primary Offering**);
  - B. make and hold an investment in an issuer (a **Related Issuer**) in which CIBC has a significant interest, in the case of exchange traded securities, in the secondary market and, in the case of debt securities, in the secondary market or in a Primary Offering; and
- (ii) a decision (the **Second Related Issuer Securities Exemption Sought**) providing an exemption (the **Second Passport Exemption**) from the requirement (the **Second Related Issuer Securities Prohibition**) that prohibits a portfolio manager from causing any investment portfolio managed by it to invest in any issuer in which a responsible person or an associate of a responsible person is an officer or director, or where his or her own interest might distort his or her judgment, unless the specific fact is disclosed to the client and the written consent of the client to the investment is obtained, in order to permit the portfolio manager on behalf of a Pooled Fund to invest in the debt securities of CIBC or another issuer (also, a **Related Issuer**) in which a responsible person or an associate of a responsible person is an officer or director, or where his or her own interest might distort his or her judgment, in a Primary Offering.
- B. The securities regulatory authority or regulator (the **Coordinated Exemptive Relief Decision Makers**) in each of Ontario and Newfoundland and Labrador (the **Coordinated Jurisdictions**) have received an application from the Filers for a decision (the **Coordinated Exemptive Relief**) under the securities legislation of the Coordinated Jurisdictions (also, the **Legislation**) for the Second Related Issuer Securities Exemption Sought to permit the transactions described in paragraph A(ii) above.

The First Passport Exemption, the Second Passport Exemption and the Coordinated Exemptive Relief, together, are the Exemptions Sought.

Under the Process for Exemptive Relief Applications in Multiple Jurisdictions:

- (a) the Ontario Securities Commission is the principal regulator for the Application;
- (b) the Filers have provided notice that Section 4.7 of Multilateral Instrument 11-102 – *Passport System* (**MI 11-102**) is intended to be relied upon in respect of the First Related Issuer Securities Exemption Sought in Alberta and in respect of the Second Related Issuer Securities Exemption Sought in Alberta, Saskatchewan, Quebec, New Brunswick and Nova Scotia (the **Passport Jurisdictions**);
- (c) the decision is the decision of the principal regulator;
- (d) the decision evidences the decision of each Coordinated Exemptive Relief Decision Maker.

### Interpretation

Terms defined in the securities legislation of Ontario and the Passport Jurisdictions (the **Jurisdictions**), MI 11-102, National Instrument 14-101 – *Definitions*, NI 81-102 or in National Instrument 81-107 – *Independent Review Committee for Investment Funds* (**NI 81-107**), have the same meaning in this Decision. Certain other defined terms have the meanings given to them above or below under “Representations”.

### Representations

- 1. The head office of each of the Filers is in Ontario.
- 2. None of the Filers nor the Pooled Funds is in default of securities legislation in any of the Jurisdictions.
- 3. Each of the Pooled Funds is, or will be, an open-ended mutual fund trust or mutual fund corporation that is a mutual fund in Ontario because it is established under the laws of the Province of Ontario.
- 4. A Filer, or an affiliate of a Filer, is, or will be, the manager and/or portfolio adviser of each of the Pooled Funds.



5. A responsible person, or an associate of a responsible person, of a Filer, or an affiliate of a Filer, may be an officer or a director of CIBC or another Related Issuer.
6. CIBC is a substantial securityholder of each Filer and may be a substantial securityholder of an affiliate of a Filer.
7. CIBC and Related Issuers are significant issuers of securities.
8. A Filer, or an affiliate of a Filer, has established or will establish an independent review committee (**IRC**) in respect of a Pooled Fund seeking to rely on the Exemptions Sought. The mandate of the IRC of a Pooled Fund includes or will include the approval of purchases by a Pooled Fund of securities of CIBC or a Related Issuer. The IRC of the Pooled Funds will be composed by a Filer, or an affiliate of a Filer, in accordance with section 3.7 of NI 81-107 and will be expected to comply with the standard of care set out in section 3.9 of NI 81-107. Further, the IRC of the Pooled Funds will not approve purchases unless it has made the determination set out in section 5.2(2) of NI 81-107.
9. If the IRC of a Pooled Fund becomes aware of an instance where a Filer or an affiliate a Filer, as manager of the Pooled Fund, did not comply with the terms of this Decision or a condition imposed by securities legislation or the IRC in its approval, the IRC of the Pooled Fund will, as soon as practicable, notify in writing the securities regulatory authority or regulator in the jurisdiction under which the Pooled Fund is organized.
10. The Filers received relief from the prohibition in the securities legislation of the Jurisdictions which prohibits a mutual fund from making or holding an investment in any person or company who is a substantial security holder of the mutual fund, its management company or distribution company on July 8, 2008 in respect of the Pooled Funds to purchase and hold securities of CIBC in the secondary market.
11. The Filers received relief from the Second Related Issuer Securities Prohibition on July 8, 2008 in respect of the Pooled Funds, to permit the Pooled Funds to purchase securities of CIBC or another Related Issuer in the secondary market.
12. Section 6.2(2) of NI 81-107 provides relief from the First Related Issuer Securities Prohibition and from the Second Related Issuer Securities Prohibition in respect of existing mutual funds and future mutual funds to which NI 81-102 applies, managed by the Filers or any affiliates of the Filers, (the **NI 81-102 Funds**), to purchase exchange-traded securities of CIBC or another Related Issuer in the secondary market.
13. The Filers received relief from the First Related Issuer Securities Prohibition and from the Second Related Issuer Securities Prohibition in respect of the NI 81-102 Funds on May 22, 2008 to permit the NI 81-102 Funds to purchase debt securities of CIBC or another Related Issuer in the secondary market..
14. The Filers received relief from the First Related Issuer Securities Prohibition and from the Second Related Issuer Securities Prohibition in respect of the NI 81-102 Funds on December 23, 2008 to permit the NI 81-102 Funds to purchase certain debt securities of CIBC or another Related Issuer in a Primary Offering.
15. The Exemptions Sought will result in the Pooled Funds and the NI 81-102 Funds having the same relief in respect of the purchase of debt and equity securities of CIBC and other Related Issuers in the secondary market and in respect of the purchase of certain debt securities in a Primary Offering.
16. The debt securities of CIBC or another Related Issuer that are purchased by a Pooled Fund in a Primary Offering will be non-exchange traded debt securities, other than asset backed commercial paper securities, with a term to maturity of 365 days or more, the issuer of which has been given and continues to have, at the time of purchase, an approved credit rating by an approved credit rating organization and will be purchased in a Primary Offering where the terms, such as the size and the pricing, will be a matter of public record as evidenced in a prospectus, offering memorandum, press release or other public document.

## Decision

Each of the principal regulator and the Coordinated Exemptive Relief Decision Makers is satisfied that the decision meets the test set out in the Legislation for the relevant regulator or securities regulatory authority to make the decision.

The decision of the principal regulator under the Legislation is that the First Passport Exemption is granted:

1. to permit a Pooled Fund to make and hold an investment in the securities of a Related Issuer in the secondary market on the following conditions:

- (i) the IRC of the Pooled Fund has approved the transaction in respect of the Pooled Fund on the same terms as are required under section 5.2(2) of NI 81-107;
  - (ii) the transaction is consistent with, or is necessary to meet, the investment objective of the Pooled Fund;
  - (iii) the manager of the Pooled Fund complies with section 5.1 of NI 81-107 and the manager and the IRC of the Pooled Fund comply with section 5.4 of NI 81-107 for any standing instructions the IRC provides in connection with the transactions;
  - (iv) if the security is listed and traded, the purchase is made on an exchange on which the securities are listed and traded;
  - (v) if the security is not listed on an exchange:
    - A. the security is a debt security that has been given, and continues to have, at the time of the purchase, an "approved credit rating" by an "approved credit rating organization", within the meaning of those terms in NI 81-102;
    - B. the price payable for the security is not more than the ask price of the security;
    - C. the ask price of the security is determined as follows:
      - (1) if the purchase occurs on a marketplace, the price payable is determined in accordance with the requirements of that marketplace; or
      - (2) if the purchase does not occur on a marketplace,
        - I. the Pooled Fund may pay the price for the security at which an independent, arm's-length seller is willing to sell the security; or
        - II. if the Pooled Fund does not purchase the security from an independent arm's-length seller, the Pooled Fund must pay the price quoted publicly by an independent marketplace or obtain, immediately before the purchase, at least one quote from an independent, arm's-length purchaser or seller and not pay more than that quote;
  - (vi) the transaction complies with any applicable "market integrity requirements" as defined in NI 81-107;
  - (vii) a Filer, or an affiliate of a Filer, as manager of the Pooled Fund, files with the OSC particulars of any transactions, annually, on or before the 90th day after the financial year end of the Pooled Fund;
2. to permit a Pooled Fund to make and hold an investment in the debt securities of CIBC or a Related Issuer in a Primary Offering on the following conditions:
- (a) the purchase or holding is consistent with, or is necessary to meet, the investment objective of the Pooled Fund;
  - (b) at the time of the purchase, the IRC of the Pooled Fund has approved the transaction in accordance with Section 5.2(2) of NI 81-107;
  - (c) the manager of the Pooled Fund complies with section 5.1 of NI 81-107 and the manager and the IRC of the Pooled Fund comply with section 5.4 of NI 81-107 for any standing instructions the IRC provides in connection with the transactions;
  - (d) the size of the Primary Offering is at least \$100 million;
  - (e) at least 2 purchasers who are independent, arm's-length purchasers, which may include "independent underwriters" within the meaning of National Instrument 33-105 – Underwriting Conflicts, collectively purchase at least 20% of the Primary Offering;
  - (f) no Pooled Fund shall participate in the Primary Offering if following its purchase the Pooled Fund would have more than 5% of its net assets invested in non-exchange traded debt securities of CIBC or the Related Issuer, as the case may be;

- (g) no Pooled Fund shall participate in the Primary Offering if following its purchase the Pooled Fund together with related Pooled Funds will hold more than 20% of the securities issued in the Primary Offering;
- (h) the price paid for the securities by a Pooled Fund in the Primary Offering shall be no higher than the lowest price paid by any of the arm's-length purchasers who participate in the Primary Offering; and
- (i) no later than the 90th day after the financial year-end of the Pooled Fund, a Filer, or an affiliate of a Filer, as manager of the Pooled Fund, files with the securities regulatory authority or regulator the particulars of any such investments.

The decision of the principal regulator and the Coordinated Exemptive Relief Decision Makers under the Legislation is that the Coordinated Exemptive Relief is granted to permit a Pooled Fund to make and hold an investment in the debt securities of CIBC or a Related Issuer in a Primary Offering on the following conditions:

- (a) the purchase or holding is consistent with, or is necessary to meet, the investment objective of the Pooled Fund;
- (b) at the time of the purchase, the IRC of the Pooled Fund has approved the transaction in accordance with Section 5.2(2) of NI 81-107;
- (c) the manager of the Pooled Fund complies with section 5.1 of NI 81-107 and the manager and the IRC of the Pooled Fund comply with section 5.4 of NI 81-107 for any standing instructions the IRC provides in connection with the transactions;
- (d) the size of the Primary Offering is at least \$100 million;
- (e) at least 2 purchasers who are independent, arm's-length purchasers, which may include "independent underwriters" within the meaning of National Instrument 33-105 – Underwriting Conflicts, collectively purchase at least 20% of the Primary Offering;
- (f) no Pooled Fund shall participate in the Primary Offering if following its purchase the Pooled Fund would have more than 5% of its net assets invested in non-exchange traded debt securities of CIBC or the Related Issuer, as the case may be;
- (g) no Pooled Fund shall participate in the Primary Offering if following its purchase the Pooled Fund together with related Pooled Funds will hold more than 20% of the securities issued in the Primary Offering;
- (h) the price paid for the securities by a Pooled Fund in the Primary Offering shall be no higher than the lowest price paid by any of the arm's-length purchasers who participate in the Primary Offering; and
- (i) no later than the 90th day after the financial year-end of the Pooled Fund, a Filer, or an affiliate of a Filer, as manager of the Pooled Fund, files with the securities regulatory authority or regulator the particulars of any such investments.

"David L. Knight"  
Commissioner  
Ontario Securities Commission

"Mary G. Condon"  
Commissioner  
Ontario Securities Commission

**2.1.2 Canadian Medical Discoveries Fund Inc. – s. 1(10)**

**Headnote**

National Policy 11-203 Process for Exemptive Relief Applications in Multiple Jurisdictions – Fund deemed to have ceased to be a reporting issuer – Fund merged into another fund and will be wound up – Fund meets requirements set out in CSA Staff Notice 12-307.

**Applicable Legislative Provisions**

Securities Act, R.S.O. 1990, c. S.5, as am., s. 1(10).  
CSA Staff Notice 12-307 – Applications for a Decision that an Issuer is not a Reporting Issuer.

September 9, 2009

Canadian Medical Discoveries Fund Inc.  
26 Wellington Street East, Suite 700  
Toronto, Ontario M5E 1S2

Dear Sirs/Mesdames:

**Re: Canadian Medical Discoveries Fund Inc. (the “Applicant”) – Application for a decision under the securities legislation of Ontario, Alberta, Saskatchewan, Manitoba, Quebec, New Brunswick, Newfoundland and Labrador, Nova Scotia, Prince Edward Island, Yukon, Northwest Territories and Nunavut (the “Jurisdictions”) that the Applicant is not a reporting issuer**

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

As the Applicant has represented to the Decision Makers that,

1. 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;
2. no securities of the Applicant are traded on a marketplace as defined in National Instrument 21-101 *Marketplace Operation*;
3. 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

4. the Applicant is not in default of any of its obligations under the Legislation as a reporting issuer,
5. the Applicant cannot be wound up and dissolved immediately because certain post-closing ancillary steps need to be completed by the Applicant, as more particularly set out below;
6. it is expected that the wind-up and dissolution of the Applicant will occur within the next 18 months, however, if contingent liabilities arise, the wind-up and dissolution may be delayed;
7. until the time that the Applicant is wound up and dissolved, the only activities anticipated to be undertaken by the Applicant will be: (i) filing of final pricing and tax returns; (ii) re-registering of all of its securities transferred to GrowthWorks Canadian Fund Ltd. under the merger of the Applicant and GrowthWorks Canadian Fund Ltd. on May 22, 2009; (iii) making all filings and taking all steps required to conclude the ongoing Ontario Ministry of Finance audit review of the Applicant; (iv) dealing with contingent liabilities, if any, that arise; (v) effecting its wind-up and dissolution in accordance with the *Canada Business Corporations Act*; and (vi) examining the possibility of a tax loss sale; and
8. in the event that a tax loss sale becomes possible from a commercial perspective, the Applicant will seek all necessary regulatory approvals including that of the Canada Revenue Agency and will concurrently notify the Ontario Securities Commission;

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 makes an order that the Applicant is not a reporting issuer.

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

### 2.1.3 Global Telecom Split Share Corp.

#### 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 under applicable securities laws – Requested relief granted.

#### Applicable Legislative Provisions

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

September 10, 2009

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

AND

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

AND

IN THE MATTER OF  
GLOBAL TELECOM SPLIT SHARE CORP.  
(the Filer)

#### DECISION

#### Background

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

1. The Filer is an investment fund that was incorporated under the *Business Corporations Act* (Ontario) on May 7, 1998.
2. Mulvihill Fund Services Inc. (the **Manager**) is the manager of the Filer. The head office of the Manager is located at 121 King Street West, Standard Life Centre, Suite 2600, Toronto, Ontario.
3. The Filer filed a final prospectus dated June 18, 1998 (the **Prospectus**) with the securities regulatory authority in each province of Canada.
4. Upon issuance of a receipt for the Prospectus by a Decision Maker, the Filer became a reporting issuer in the Jurisdiction of the Decision Maker.
5. The Filer issued Class A Shares and Preferred Shares (collectively, the **Shares**) to the public on June 30, 1998 under the Prospectus.
6. Since the initial public offering of the Filer, the Filer has accumulated capital losses (the **Capital Losses**) of approximately \$44 million.
7. The Capital Losses have not been considered assets of the Filer for the purposes of its financial statements which are prepared in accordance with generally accepted accounting principles and for the purposes of calculating its net asset value (**NAV**).
8. In accordance with the terms of the Shares, the Shares were redeemed by the Filer on July 2, 2008 (the **Redemption Date**) for a redemption price determined by reference to the NAV of the Filer in accordance with the terms thereof.
9. The Shares were de-listed by the Toronto Stock Exchange at the close of trading on the Redemption Date.
10. The only outstanding securities of the Filer, including debt securities, are 1,000 Class B Shares (the **Class B Shares**) originally issued for \$1.00 per share.
11. All of the outstanding Class B Shares are owned by Mulvihill Capital Management Inc. (**MCM**), the promoter of the Filer and, during the period in which the Shares were outstanding, the investment manager of the Filer. Because MCM was the sole security holder of the Filer prior to the filing of the Prospectus, the Filer currently has the same security holders as it had before it became a reporting issuer.

12. None of the Filer's securities are traded on a marketplace in Canada. The Filer does not intend to have its securities listed for trading on a marketplace in Canada.
13. Prior to filing the Application, the Manager considered various ways to structure a new fund (the **New Fund**) that would enable the New Fund to benefit from the Capital Losses.
14. Counsel advised the Manager that it should not change the status of the Filer as a reporting issuer until a structure and form of offering for the New Fund had been finalized.
15. As a result of market conditions and ongoing structuring issues, the Manager eventually decided not to proceed with the New Fund. However, it continues to evaluate other potential transactions with the Filer and has made no determination either to proceed with a transaction or to dissolve the Filer at this time.
16. While the Filer currently has no intention of seeking public financing by way of an offering of its securities by prospectus, the Filer will provide the Decision Makers with prior written notice of any public or private offerings of, or any future use being made of, the Filer.
17. Once the determination not to pursue a transaction with the Filer which would require the Filer to maintain its status as a reporting issuer had been made, the Filer filed a notice in British Columbia pursuant to the provisions of BC Instrument 11-502 – *Voluntary Surrender of Reporting Issuer Status*. The Filer ceased to be a reporting issuer in British Columbia on April 18, 2009.
18. The Filer then filed the Application. Upon the granting of the relief described therein, the Filer will not be a reporting issuer in any jurisdiction of Canada.
19. The Filer has filed a notice pursuant to Section 2.10 of National Instrument 81-106 – *Investment Fund Continuous Disclosure (NI 81-106)* and annual audited financial statements and an annual management report of fund performance (such financial statements and management report of fund performance being the **Annual Report**) for the year ended June 29, 2008—the last financial year in which the Shares were outstanding. The Filer is not in default of any of its obligations as a reporting issuer under the securities legislation in any Jurisdiction, except that the Filer has not: (a) filed an annual information form in respect of the year ended June 29, 2008 pursuant to Section 9.2 of NI 81-106; (b) filed a report to security holders of the independent review committee in respect of the year ended June 29, 2008 pursuant to Section 4.4 of National Instrument 81-107 – *Independent*

*Review Committee for Investment Funds*; (c) disseminated quarterly portfolio disclosure for the three months ended September 30, 2008 and March 31, 2009 pursuant to Section 6.2 of NI 81-106; and (d) filed interim financial statements and the related management report of fund performance for the six months ended December 31, 2008 pursuant to Section 2.3 of NI 81-106.

20. The Annual Report contains information about the Filer during the period in which it operated as a publicly-offered fund, including the distribution of its net assets to its shareholders in connection with the redemption of the Shares on the Redemption Date.
21. From and since the Redemption Date the Filer has had no material assets and has been inactive. Therefore, the documents required to update the Filer's continuous disclosure record (**Disclosure Documents**) would contain very little information.
22. Preparing and disseminating the Disclosure Documents would impose a financial and administrative burden on the Filer, which liquidated all of its assets (and paid or provided for all of its liabilities) to fund the redemption of the Shares.
23. Because no securities of the Filer have been held by the public since the Redemption Date, the Disclosure Documents would be of no interest to the public.

#### Decision

Each of the Decision Makers is satisfied that the test contained in the Legislation that provides the Decision Maker to make the decision has been met. The decision of the Decision Makers under the Legislation is that the Exemption Sought is granted.

"Carol S. Perry"  
Commissioner  
Ontario Securities Commission

"Mary Condon"  
Commissioner  
Ontario Securities Commission

## 2.1.4 CI Investments Inc.

### Headnote

National Policy 11-203 Process for Exemptive Relief Applications in Multiple Jurisdictions – Pooled mutual funds managed by fund managers owned by CI Financial Corp. prohibited from making and holding investments in listed securities of CI Financial Corp. – Relief granted from mutual fund conflict of interest investment restrictions in the Act to permit pooled mutual funds managed by the fund managers to make and hold investments in securities of related issuers, subject to IRC approval.

### Applicable Legislative Provisions

Securities Act, R.S.O. 1990, c. S.5, as am., ss. 111(2)(a), 111(2)(c)(ii), 111(3), 113, 118(2)(a), 121(2)(a)(ii).

September 10, 2009

**IN THE MATTER OF  
THE SECURITIES LEGISLATION OF  
ONTARIO 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  
CI INVESTMENTS INC.  
(the Filer)**

### DECISION

### Background

The securities regulatory authority or regulator in Ontario (the **Passport Review Decision Maker**) and in each of Ontario and Newfoundland and Labrador (together, the **Coordinated Review Decision Makers**) has received an application from the Filer for a decision under the securities legislation of the Jurisdictions (the **Legislation**) exempting each Pooled Fund (as defined below) from:

1. the investment restrictions in the Legislation which prohibit a mutual fund from knowingly making an investment in any person or company who is a substantial security holder of the mutual fund, its management company, manager or distribution company;
2. the investment restrictions in the Legislation which prohibit a mutual fund from knowingly making an investment in an issuer in which any person or company who is a substantial security holder of the mutual fund, its management company,

manager or distribution company, has a significant interest;

3. the investment restriction in the Legislation which prohibits a mutual fund from knowingly holding an investment described in paragraph 1 or 2 above; and
4. the provisions of the Legislation which prohibit a portfolio manager from knowingly causing any investment portfolio managed by it to invest in any issuer in which a responsible person or an associate of a responsible person is an officer or director unless the specific fact is disclosed to the client and the written consent of the client to the investment is obtained before the purchase,

(together, the **Relief**).

Under the Process for Exemptive Relief Applications in Multiple Jurisdictions:

- (a) the Ontario Securities Commission is the principal regulator for this application;
- (b) the Filer has provided notice that section 4.7 (1) of Multilateral Instrument 11-102 *Passport System* (**MI 11-102**) is intended to be relied upon by each Pooled Fund in British Columbia, Alberta, Saskatchewan, Québec, New Brunswick and Nova Scotia in respect of the Relief;
- (c) this decision is the decision of the principal regulator; and
- (d) this decision evidences the decision of each of the Coordinated Review Decision Makers.

### Interpretation

Defined terms in MI 11-102, National Instrument 81-102 *Mutual Funds*, and 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:

### Facts

1. The head office of the Filer and each Pooled Fund (defined below) is located in Ontario. Neither the Filer nor any Pooled Fund is in default of the securities legislation of any jurisdiction of Canada.
2. The Filer and affiliates of the Filer (together, the **Managers**) are managers of one or more mutual funds and may, in the future, become managers of additional mutual funds (all such present and future mutual funds being hereinafter referred to as the **Funds**). Some Funds are or will be

reporting issuers under the securities legislation of some or all of the jurisdictions of Canada (the **Public Funds**) while other Funds do not or will not have such status (the **Pooled Funds**).

3. Each Manager is directly or indirectly controlled by CI Financial Corp. (**CI Financial**). CI Financial is an independent, Canadian-owned wealth management company, the common shares of which are listed and posted for trading on the Toronto Stock Exchange (the **TSX**).
4. As a result of its holdings, CI Financial currently owns, directly or indirectly, more than 20% of the outstanding voting securities of each Manager and therefore is a "substantial security holder" of each Manager.
5. As a result of its holdings, The Bank of Nova Scotia currently owns (a) indirectly more than 20% of the outstanding voting securities of each Manager and (b) directly or indirectly more than 10% of the outstanding shares of CI Financial, and therefore is a "substantial security holder" of each Manager and has a "significant interest" in CI Financial.
6. Each Pooled Fund is prohibited by the Legislation from making and holding an investment in securities of CI Financial.
7. Each Manager is prohibited by the Legislation from causing a Pooled Fund to invest in securities of CI Financial.
8. The Pooled Funds are unable to rely on the related issuer investment exemption codified in section 6.2(2) of National Instrument 81-107 *Independent Review Committee for Investment Funds* (**NI 81-107**) to invest in listed securities of CI Financial (**CI Listed Securities**) since NI 81-107 does not apply to the Pooled Funds.
9. Each Pooled Fund has established an independent review committee (an **IRC**) that is composed in accordance with the requirements of section 3.7 of NI 81-107. The IRC of each Pooled Fund complies with the standard of care set out in section 3.9 of NI 81-107 as if each Pooled Fund were subject to that rule. The only conflict of interest matter that will be referred by each Pooled Fund to its IRC will be investments made by the Pooled Fund in CI Listed Securities and matters required by other discretionary relief granted to the Pooled Funds.
10. The Filer considers that the Pooled Funds should be permitted to invest in CI Listed Securities because they provide the Pooled Funds with opportunities to broaden their diversification within the financial services sector.

## Decision

Each of the Passport Review Decision Maker and the Coordinated Review Decision Makers is satisfied that the decision meets the test set out in the Legislation for the relevant regulator or securities regulatory authority to make the decision.

The decision of the Passport Review Decision Maker and the Coordinated Review Decision Makers under the Legislation is that the Relief is granted provided that:

1. each purchase and holding by a Pooled Fund of CI Listed Securities is consistent with, or is necessary to meet, the investment objective of the Pooled Fund;
2. the purchase is made on an exchange on which the CI Listed Securities are listed and traded;
3. each Pooled Fund maintains an IRC that is composed in accordance with the requirements of section 3.7 of NI 81-107 and that complies with the standard of care set out in section 3.9 of NI 81-107;
4. the IRC of the Pooled Fund has approved the transaction in the manner contemplated by section 5.2(2) of NI 81-107;
5. the Manager of the Pooled Fund complies with section 5.1 of NI 81-107 and the Manager and the IRC of the Pooled Fund comply with section 5.4 of NI 81-107 for any standing instructions the IRC provides in connection with the transactions;
6. no later than the time the Pooled Fund files its annual financial statements, the Pooled Fund files with the securities regulatory authorities or regulator the particulars of any such investments; and
7. the reporting obligation in section 4.5 of NI 81-107 applies to the Relief granted in this decision and the IRC of the Pooled Funds relying on the Relief complies with section 4.5 of NI 81-107 as if the Pooled Funds were subject to that rule, in connection with any instance that it becomes aware that the Pooled Funds did not comply with any of the conditions of this decision.

"Kevin J. Kelly"  
Commissioner  
Ontario Securities Commission

"Mary J. Condon"  
Commissioner  
Ontario Securities Commission



**2.1.5 Scotia Securities Inc. and the Funds Listed in Schedule A**

**Headnote**

NP 11-203 – Coordinated Review – Exemptive relief granted to mutual funds allowing a 41-day extension of the prospectus lapse date – Extension of lapse date granted to facilitate a single renewal date for all the mutual funds under common management – Securities Act (Ontario).

**Applicable Legislative Provisions**

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

**September 10, 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  
THE PROCESS FOR EXEMPTIVE RELIEF  
APPLICATIONS IN MULTIPLE JURISDICTIONS**

**AND**

**IN THE MATTER OF  
SCOTIA SECURITIES INC.  
(the "Filer")**

**AND**

**THE FUNDS LISTED IN APPENDIX "A"  
(the "Funds")**

**DECISION**

**Background**

The securities regulatory authority or regulator in each of the Jurisdictions (the "**Decision Maker**") has received an application from the Filer for a decision under the securities legislation of the Jurisdictions (the "**Legislation**") that the time limits for the renewal of the simplified prospectuses and annual information form of the Funds be extended to those time limits that would be applicable if the lapse date of the simplified prospectuses and annual information form of the Funds were December 14, 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 Filer:

- a) The Filer is a corporation amalgamated under the laws of Ontario with its head office in Toronto, Ontario. The Filer is wholly-owned by The Bank of Nova Scotia ("**BNS**"). The Filer is currently the manager and trustee of the Funds.
- b) The Funds are open-ended mutual fund trusts established under the laws of Ontario pursuant to a declaration of trust.
- c) Securities of the Funds are currently qualified for distribution in each of the provinces and territories of Canada under a simplified prospectus and annual information form dated November 3, 2008. Certain of the Funds as well as the Scotia Private Client Units offered by certain of the Funds (the "**Private Client Units**") are currently qualified for distribution in each of the provinces and territories of Canada under a separate simplified prospectus dated November 3, 2008 but share the same annual information form as the rest of the Funds. The Advisor Class Units of certain of the Funds (the "**Advisor Class Units**") are currently qualified for distribution in each of the provinces and territories of Canada under a further simplified prospectus and annual information form dated February 2, 2009.
- d) The Funds are reporting issuers under the laws of each of the provinces and territories of Canada. None of the Funds is in default of any of the requirements of the Legislation.
- e) Pursuant to the Legislation, the lapse date for the distribution of securities of the Funds (including the Private Client Units but not including the Advisor Class Units) is currently November 3, 2009. In each Jurisdiction, provided a pro forma simplified prospectus is filed 30 days prior to November 3, 2009 (by October 3, 2009), a final version of the simplified prospectus is filed by November 13, 2009, and a receipt for the simplified prospectus is issued by the securities regulatory authorities by November 23, 2009, securities of the Funds may be distributed without interruption throughout this prospectus renewal period.

- f) The Scotia group of companies ("**Scotia Group**") is planning an internal reorganization of its asset management and investment fund manager businesses (the "**SAM Businesses**") currently conducted by three entities within the Scotia Group (the Filer and two of its affiliates, Scotia Cassels Investment Counsel Limited ("**SCICL**") and Scotia Capital Inc. ("**SCI**")) (the "**Reorganization**"). The effective date of the Reorganization is scheduled for November 1, 2009.
- g) The Reorganization is subject to the approval of the Board of Directors of each of the participating Scotia Group entities, the meetings for which are currently scheduled for September 30, 2009.
- h) The current timing for preparing and filing the pro forma simplified prospectus and final simplified prospectus for the Funds to renew the simplified prospectuses for the Funds by November 3, 2009 falls in the midst of the planning, approval and implementation of the proposed Reorganization.
- i) SCICL is wholly-owned by BNS with its head office in Ontario and currently acts as portfolio adviser in respect of various mutual funds managed by the Filer. SCI is wholly-owned directly or indirectly by BNS with its head office in Ontario, acts as an investment dealer, and is the manager of the Pinnacle Portfolios and the manager and portfolio adviser of the Pinnacle Program Funds (the "**Pinnacle Funds**"). The Filer is also the manager of the Scotia INNOVA Portfolios ("**Innova Funds**"). The Funds, the Pinnacle Funds and the Innova Funds are together referred to as the "**Scotia Investment Funds**".
- j) The Reorganization is structured as an internal consolidation of the existing SAM Businesses currently conducted by the 3 affiliated Scotia Group entities referred to above, each wholly-owned directly or indirectly by BNS, into a single affiliated entity, Scotia Asset Management L.P. ("**SAM LP**"), which is also wholly-owned directly or indirectly by BNS. SAM LP is a limited partnership formed under Ontario law with its head office in Ontario. The General Partner of SAM LP is an Ontario company wholly-owned by BNS with its head office in Ontario. SAM LP is an affiliate of the Filer (based on the definition of "affiliate" in National Instrument 45-106 *Prospectus and Registration Exemptions* and the definition of "affiliate" in the Bank Act, on which the Filer relies).
- k) Upon giving effect to the Reorganization, SAM LP will hold all the assets and liabilities currently comprising the SAM Businesses, and will have substantially the same firm registrations, senior management, registered personnel, the required insurance and capital, and third party portfolio advisors for the Scotia Investment Funds currently employed by the SAM Businesses. SAM LP will also be the manager and trustee of the Scotia Investment Funds.
- l) The Reorganization is an internal transaction designed to achieve efficiencies and eliminate duplication through the consolidation of common business operations and specialized activities within a single entity. The Reorganization does not result in a material change to the Scotia Investment Funds or the SAM Businesses currently conducted by the participating Scotia entities.
- m) Currently, the simplified prospectuses of the Scotia Investment Funds are subject to 5 different lapse dates, resulting in the renewal of simplified prospectuses and annual information forms by the Scotia Group 5 times each year. The first lapse date following the Reorganization is the lapse date applicable to the Funds that occurs on November 3, 2009. The other lapse dates occur on various dates in late December, January, February and April.
- n) Following the effective date of the Reorganization, it is proposed to streamline and consolidate operations so that there is a single renewal date each year for all the simplified prospectuses and annual information forms of the Scotia Investment Funds, reducing costs and creating operational efficiencies.
- o) The Filer proposes to renew early the simplified prospectuses for the Advisor Class Units and all of the Scotia Investment Funds other than the Funds so that their renewals can be coordinated with and occur on a date following the Reorganization that is the same date as the date for renewal of the simplified prospectuses for the Funds.
- p) The proposed single renewal date for all the Scotia Investment Funds is the requested lapse date for the Funds of December 14, 2009. The December 14, 2009 date is requested to allow for the completion of the Reorganization, the implementation of the operational changes required to move to a single annual renewal date for all the Scotia Investment Funds, and to permit the final simplified prospectuses filed on that date to reflect a coordinated change in disclosure about the manager and trustee of the Scotia Investment Funds.
- q) The Filer wishes to extend the lapse date for the Funds to December 14, 2009 in order to reduce the cost of simplified prospectus and annual information form renewals and streamline and coordinate prospectus filings by SAM LP. The Filer proposes to file a pro forma simplified prospectus and annual information form in respect of all the Funds by November 14, 2009, and then

a final simplified prospectus and annual information form in respect of all the Funds on or within 10 days following December 14, 2009, with the final receipt issued by the securities regulatory authorities within twenty days following December 14, 2009. At the same time, the Filer proposes to renew the simplified prospectus and annual information form for each of the other Scotia Investment Funds on or about December 14, 2009.

“Darren McKall”  
Assistant Manager, Investment Funds Branch  
Ontario Securities Commission

- r) Under the Legislation, the Reorganization does not necessitate the filing of any prospectus amendments or require the approval of unitholders or the regulators. A notice to account holders of the Filer and SCICL respecting the Reorganization will be delivered to them in advance of the Reorganization.
- s) Since the most recently filed simplified prospectuses and annual information form for the Funds, no undisclosed material change has occurred in respect of the Funds. Accordingly, such simplified prospectuses and annual information form represent the current information regarding each of the Funds.
- t) In the absence of this order, the Legislation would require the Funds to effect the filing of the pro forma simplified prospectus before, and a final simplified prospectus immediately after, the effective date of the proposed Reorganization and then to re-file these documents as part of the initiative to streamline prospectus filings and common disclosure across all the Scotia Investment Funds. This would lead to increased costs borne by the Funds (and ultimately by investors in the Funds).
- u) The Exemptive Relief Sought is for a limited period, and when combined with the early renewals of the simplified prospectuses and annual information forms of the other Scotia Investment Funds, will result in efficiencies and potential cost savings for the Funds (and ultimately investors in the Funds).
- v) Except for the information related to the Reorganization as described above, the Exemptive Relief Sought will not affect the currency or accuracy of the information contained in the simplified prospectuses and annual information form of the Funds and accordingly will not be prejudicial to the public interest.

#### 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.

**Appendix A**

**The Funds**

- Scotia T-Bill Fund
- Scotia Premium T-Bill Fund
- Scotia Money Market Fund
- Scotia U.S. \$ Money Market Fund
- Scotia Mortgage Income Fund
- Scotia Canadian Income Fund
- Scotia Cassels Canadian Corporate Bond Fund
- Scotia Cassels Short-Mid Government Bond Fund
- Scotia U.S. \$ Bond Fund
- Scotia Global Bond Fund
- Scotia Diversified Monthly Income Fund
- Scotia Canadian Balanced Fund
- Scotia Cassels Advantaged Income Fund
- Scotia Canadian Tactical Asset Allocation Fund
- Scotia Canadian Dividend Fund
- Scotia Cassels Canadian Equity Fund
- Scotia Canadian Blue Chip Fund
- Scotia Canadian Growth Fund
- Scotia Canadian Small Cap Fund
- Scotia Resource Fund
- Scotia Cassels North American Equity Fund
- Scotia Cassels Cyclical Opportunities Fund
- Scotia Cassels U.S. Equity Fund
- Scotia U.S. Growth Fund
- Scotia U.S. Value Fund
- Scotia International Value Fund
- Scotia Cassels International Equity Fund
- Scotia European Fund
- Scotia Pacific Rim Fund
- Scotia Latin American Fund
- Scotia Global Growth Fund
- Scotia Global Small Cap Fund
- Scotia Global Opportunities Fund
- Scotia Global Climate Change Fund
- Scotia Canadian Bond Index Fund
- Scotia Canadian Index Fund
- Scotia U.S. Index Fund
- Scotia CanAm® Index Fund
- Scotia Nasdaq Index Fund
- Scotia International Index Fund
- Scotia Selected Income & Modest Growth Portfolio
- Scotia Selected Balanced Income & Growth Portfolio
- Scotia Selected Moderate Growth Portfolio
- Scotia Selected Aggressive Growth Portfolio
- Scotia Partners™ Income & Modest Growth Portfolio
- Scotia Partners Balanced Income & Growth Portfolio
- Scotia Partners Moderate Growth Portfolio
- Scotia Partners Aggressive Growth Portfolio
- Scotia Vision Conservative 2010 Portfolio
- Scotia Vision Aggressive 2010 Portfolio
- Scotia Vision Conservative 2015 Portfolio
- Scotia Vision Aggressive 2015 Portfolio

- Scotia Vision Conservative 2020 Portfolio
- Scotia Vision Aggressive 2020 Portfolio
- Scotia Vision Conservative 2030 Portfolio
- Scotia Vision Aggressive 2030 Portfolio

**2.1.6 Harvest Pegasus 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).

**Citation:** Harvest Pegasus Inc., Re, 2009 ABASC 457  
Date: 20090911

September 11, 2009

Macleod Dixon LLP  
3700 Canterra Tower  
400 Third Avenue SW  
Calgary, AB T2P 4H2

**Attention: Michael Pedlow**

Dear Sir:

**Re: Harvest Pegasus Inc. (the Applicant) -  
Application for a decision under the securities  
legislation of Alberta and Ontario (the  
Jurisdictions) that the Applicant is not a  
reporting issuer**

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

As the Applicant has represented to the Decision Makers that:

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

each of the Decision Makers is satisfied that the test contained in the Legislation that provides the Decision Maker with the jurisdiction to make the decision has been met and orders that the Applicant is deemed to have ceased to be a reporting issuer and that the Applicant's status as a reporting issuer is revoked.

"Blaine Young"  
Associate Director, Corporate Finance

## 2.1.7 Hammerson plc

### Headnote

NP 11-203 Application for relief from Section 53 and Section 74(1) of the Securities Act (Ontario) – exemption from prospectus requirement in connection with first trade of shares – issuer is not a reporting issuer in any jurisdiction in Canada – conditions of the exemption in section 2.14 of National Instrument 45-102 Resale of Securities not fully met as Canadians held 12.35% of the total issued and outstanding securities of the company – 1.13% of the total number of owners, directly or indirectly of the securities of the company are Canadian – relief granted subject to conditions, including that the first trade must be made through an exchange or market outside of Canada or to a person or company outside of Canada.

### Applicable Legislative Provisions

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

September 11, 2009

**IN THE MATTER OF  
THE SECURITIES LEGISLATION OF  
ONTARIO  
(the “Jurisdiction”)**

**AND**

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

**AND**

**IN THE MATTER OF  
HAMMERSON PLC (THE “FILER”)**

**DECISION**

### Background

The principal regulator in the Jurisdiction has received an application from the Filer for a decision under the securities legislation of the Jurisdiction of the principal regulator (the “**Legislation**”) pursuant to Part 3 of National Instrument 45-102 *Resale of Securities* (“**NI 45-102**”) for an exemption (the “**Requested Relief**”) from prospectus requirements for the first trade of ordinary shares of the Filer expected to be distributed to shareholders of the Filer resident in each of the provinces of Canada under available “dividends and distributions” exemptions in connection with a scrip dividend scheme being launched by the Filer to provide shareholders with the option of selecting ordinary shares (“**Shares**”) of the Filer in lieu of cash in respect of an interim dividend declared by the directors of the Filer on August 3, 2009 (the “**Scrip Scheme**”) and in connection with similar scrip dividend schemes expected to be launched by the Filer from time to time (together with the Scrip Scheme, the “**Scrip Schemes**”).

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, Quebec, New Brunswick, Nova Scotia, Prince Edward Island, Newfoundland and Labrador, Northwest Territories and Nunavut.

### 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 public company incorporated under the laws of England and Wales whose shares are listed on the London Stock Exchange (the “**LSE**”) and Euronext Paris. The Filer is a European property developer and manager, primarily in the shopping centre, retail parks and office space.
2. The Filer is not a reporting issuer in any jurisdiction in Canada and currently has no intention of becoming a reporting issuer. The Filer is in compliance with all securities laws of the United Kingdom and in any other jurisdiction where the Filer is considered a reporting issuer, or equivalent thereof. In addition, the Filer is in good standing with the listing rules of the United Kingdom Listing Authority as well as the rules of the LSE and Euronext.
3. The Filer is not in default under securities legislation of any jurisdiction in Canada.
4. The Filer is currently launching the Scrip Scheme in accordance with the laws of the United Kingdom and the listing rules of the United Kingdom Listing Authority as well as the rules of the London Stock Exchange and Euronext, Paris and in connection therewith will offer cash or Shares in lieu of a cash payment to shareholders in Canada in connection with an interim dividend declared by the directors of the Filer on August 3, 2009.
5. At the date hereof, the Filer has issued and outstanding 696,182,092 Shares. After enquiry, the Filer believes that approximately 12.35% of the Shares are currently held by residents of Canada.

6. The Shares are ordinary shares of the Filer, a UK plc. "Ordinary shares" are similar in nature to what would generally be referred to as common shares in Canada. The Shares are not convertible securities.
7. Upon completion of the Scrip Scheme, if all shareholders of the Filer accept Shares instead of cash, the Filer expects to issue approximately 12,221,000 additional Shares (an increase of 1.8% over the current issued share capital). Assuming all Canadian shareholders elect to receive Shares under the Scrip Scheme, approximately 1,509,293 more Shares would be issued to Canadian shareholders. The percentage of Shares held by Canadian shareholders would remain constant at 12.35% assuming all shareholders of the Filer accept Shares instead of cash under the Scrip Scheme. In the unlikely event that only Canadian shareholders elect to receive Shares and all other shareholders elect to receive cash under the Scrip Scheme, the percentage of Shares held by Canadian shareholders would increase to approximately 12.54%. The final figures will not be known until shareholders have elected to receive cash or Shares under the Scrip Scheme.
8. In the absence of an order granting relief, the first trade of Shares acquired in connection with the Scrip Schemes by a shareholder of the Filer resident in any of the Jurisdictions will be deemed to be a distribution pursuant to section 2.6 of NI 45-102 unless, among other things, the Filer has been a reporting issuer for 4 months immediately preceding the trade in one of the jurisdictions set forth in Appendix B to NI 45-102.
9. As a result of the anticipated aggregate number of Shares to be held by resident Canadians, shareholders of the Filer who elect to receive Shares in lieu of cash under the Scrip Schemes are not expected to be able to use the first trade exemption set out at section 2.14 of NI 45-102 since residents of Canada are expected to hold in aggregate more than 10% of the Shares.
10. The directors and officers of the Filer believe, after due inquiry, that approximately 1.13% of the total number of holders, directly or indirectly, of the Shares are resident in Canada. On this basis, the Filer meets the requirements set forth in section 2.14(1)(b)(ii) of NI 45-102.
11. The Filer will apply to the LSE and Euronext Paris to have all of the Shares issued under the Scrip Schemes admitted for trading on the LSE and Euronext, Paris. Upon approval by the LSE and Euronext Paris, such securities will then be publicly traded on the LSE and Euronext Paris.
12. No market for the Shares exists in Canada and none is expected to develop. It is intended that

any resale of the Shares distributed under the Scrip Schemes by Canadian residents be effected through the facilities of the London Stock Exchange or Euronext Paris or any other exchange or market outside of Canada on which the Shares may be quoted or listed at the time that the trade occurs or to a person or company outside of Canada, in accordance with the rules and regulations of such foreign market.

13. The Filer is and will be subject to reporting obligations of the LSE and Euronext Paris. Holders of Shares resident in Canada will receive copies of all shareholder materials provided to all other holders of Shares.

### **Decision**

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

The decision of the principal regulator under the Legislation is that the Requested Relief is granted provided that the trade is made through an exchange, or a market, outside of Canada or to a person or company outside of Canada.

"James Turner"  
Vice-Chair  
Ontario Securities Commission

"Mary Condon"  
Commissioner  
Ontario Securities Commission

## 2.1.8 Kinross Gold Corporation

### Headnote

NP 11-203 – Relief granted from insider reporting requirements for insiders in respect of an automatic share disposal plan.

### Applicable Legislative Provisions

National Instrument 55-101 Insider Reporting Exemptions.  
OSC Staff Notice 55-701 Automatic Disposition Plans and Automatic Securities Purchase Plans.

September 14, 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  
KINROSS GOLD CORPORATION  
(the Filer)**

**DECISION**

### Background

The principal regulator in the Jurisdiction has received an application from the Filer for a decision under the securities legislation of the Jurisdiction of the principal regulator (the **Legislation**) for an exemption pursuant to section 121(2)(a)(ii) of the *Securities Act* (Ontario) (the **Act**) from the requirements set out in section 107(2) of the Act that certain senior executives of the Filer and its subsidiaries (the **Insiders**) file an insider report within 10 days of the disposition of securities pursuant to an automatic securities disposition plan (the **Exemption Sought**), subject to certain conditions.

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

1. the Ontario Securities Commission is the principal regulator for this application; and
2. the Filer has provided notice that section 4.7(1) of Multilateral Instrument 11-102 – *Passport System* (**MI 11-102**) is intended to be relied upon in British Columbia, Alberta, Saskatchewan, Manitoba, Quebec, New Brunswick, Nova Scotia, Prince Edward Island and Newfoundland and Labrador.

### 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 incorporated under the *Business Corporations Act* (Ontario), is a reporting issuer in each of the provinces of Canada and is not in default of securities legislation in any jurisdiction.
2. The Filer's head office is located at 40 King Street West, Toronto, Ontario.
3. The authorized share capital of the Filer consists of an unlimited number of common shares (**Common Shares**). The Common Shares are listed for trading on the Toronto Stock Exchange and the New York Stock Exchange.
4. Restricted share units (**RSUs**) are granted by the board of directors to certain employees of Kinross and its subsidiaries pursuant to the Kinross restricted share plan (the **RSU Plan**). RSUs vest according to a fixed schedule in an amount of one-third of the total grant on the first anniversary of the grant, one-third on the second anniversary of the grant and one-third on the third anniversary of the grant. On vesting of RSUs held by a participant in the RSU Plan, one Common Share is issued by Kinross for each vested RSU without payment of additional consideration.
5. On August 12, 2009, Kinross announced that it had implemented an automatic securities disposition plan (the "**ASDP**"), pursuant to which the Insiders would be permitted to participate in a plan for the automatic sale of Common Shares issued under the RSU Plan.
6. The ASDP is designed to facilitate sales of Common Shares for the Insiders. Absent such an automatic disposition process, the Insiders have a limited number of opportunities to dispose of their Common Share holdings due to insider trading restrictions under securities laws and the Filer's insider trading policies.
7. The parameters of the ASDP and other instructions are set out in a written plan document which outlines the restrictions on sales of Common Shares. The plan document also outlines the mechanics of transfer and sale of the Common Shares by an independent third-party securities broker (the **Broker**).



8. The ASDP has been structured to comply with applicable securities legislation and guidance, including, *inter alia*, clause 175(2) of Regulation 1015 under the Act, Ontario Commission Staff Notice 55-701 – *Automatic Securities Disposition Plans and Automatic Securities Purchase Plans (OSC Notice 55-701)* and similar rules and regulations in other applicable Canadian securities laws, and accordingly, with the intent that sales under the ASDP shall be exempt from subsection 76(1) of the Act and from liability under section 134 of the Act and from the corresponding provisions in other applicable Canadian securities laws.
9. Insiders are required to complete an election to participate and accede to the ASDP including making certain representations to both the Filer and the Broker.
10. Insiders who elect to participate in the ASDP (**Participating Insiders**) will be permitted to sell up to 25% of the Common Shares issuable to them under the RSU Plan in a given year. Sales of Common Shares subject to the ASDP will be effected in accordance with a fixed trading schedule.
11. As part of the ASDP enrolment form required to be provided by an Insider to participate, the Insider is required to elect the amount of Common Shares issuable on vesting of RSUs in a given calendar year to be sold, up to a maximum of 25% of the Common Shares issuable to the Insider in that year. In addition, the Insider is permitted to set a minimum price for their Common Shares, below which the Common Shares will not be sold by the Broker.
12. The ASDP contains meaningful restrictions on the ability of the Insiders to enrol, terminate or modify their participation in the ASDP as provided by OSC Notice 55-701.
13. At the time of enrolment, an Insider must be able to represent that they are not in possession of material undisclosed information about the Filer and that they are not entering the ASDP as part of a plan to evade the prohibitions against trading with material undisclosed information contained in applicable Canadian securities law.
14. If an Insider elects to enrol in the ASDP, once such enrolment is accepted by the Filer, the Participating Insider's instructions will not take effect until 60 days following receipt by the Filer of the Participating Insider's enrolment form and receipt by the Broker of all documentation required to execute sales under the ASDP.
15. A Participating Insider may amend their trading instructions to modify the minimum price in a given year or terminate their participation in the ASDP by submitting a revised enrolment form to the Filer. In order to submit a revised enrolment form, the Participating Insider must represent that they are not in possession of material undisclosed information about the Filer. Any amendment or termination will only become effective at least 30 days following receipt by the Filer and the Broker of the revised ASDP enrolment form. In addition, if the Participating Insider voluntarily terminates their participation in the ASDP, any subsequent enrolment by such Participating Insider will not take effect for at least 60 days following termination of their participation.
16. For any enrolment, amendment or termination by a Participating Insider in the ASDP, the Filer will be required to certify that, to the best of the Filer's knowledge, the Participating Insider is not in possession of material undisclosed information concerning the Filer and is in compliance with the Filer's insider trading policy.
17. On vesting of the Common Shares issuable on conversion of the RSUs, the number of Common Shares issuable on vesting will be transferred to a sole-purpose brokerage account with the Broker. Up to 25% of the Common Shares held in the plan account (as determined by the Participating Insider) will be sold during four trading periods in a given year on a quarterly basis, such that, subject to certain exceptions, Common Shares subject to the ASDP held in the plan account will be fully sold by the year end. The remaining Common Shares (at least 75% of the Common Shares issuable on conversion of the RSUs) may be sold or transferred by the Participating Insider outside of the ASDP, subject to the applicable requirements of securities laws in Ontario and the Passport Jurisdictions.

#### 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 each Participating Insider shall file a report, in the form prescribed for insider trading reports under the Legislation, disclosing on a transaction-by-transaction basis or in acceptable summary form (as such term is defined in National Instrument 55-101 Insider Reporting Exemptions) all dispositions of Common Shares under the ASDP that have not been previously disclosed by or on behalf of the Insider during a calendar year within 90 days of the end of the calendar year.

"James Turner"  
Vice-Chair  
Ontario Securities Commission

"Mary Condon"  
Commissioner  
Ontario Securities Commission

**2.1.9 Bullion Management Services Inc. et al.**

**Headnote**

MP 11-102 and NP 11-203 – application requesting new relief under NP 11-203 which replaces and varies a decision made under the Mutual Reliance Review System for Exemptive Relief Applications before March 17, 2008 – exemption granted from s. 2.3(e) of NI 81-102 to permit a Fund to invest up to 100% of its net assets in gold – National Instrument 81-102 Mutual Funds.

**Applicable Legislative Provisions**

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

**September 14, 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  
BULLION MANAGEMENT SERVICES INC. (BMS),  
BMG BULLIONFUND (the Existing Fund) AND  
BMG GOLD BULLIONFUND (the Gold Fund)  
(collectively the Filers)**

**DECISION**

**MRRS Decision Background**

In September 2000, the local securities regulatory authority or regulator in each of the provinces and territories of Canada (the **MRRS Jurisdictions**) received an application from BMS on behalf of the Existing Fund (then known as The Millennium BullionFund) for an exemption from the following provisions of National Instrument 81-102 *Mutual Funds* (**NI 81-102**):

- (i) paragraph 2.3(e), to permit the Existing Fund to invest in excess of 10% of its net assets, taken at the market value thereof at the time of investment, in gold bullion; and
- (ii) paragraph 2.3(f), to permit the Existing Fund to invest in silver and platinum

(the **MRRS Relief**).

The MRRS Jurisdictions granted the MRRS Relief in the Mutual Reliance Review System Decision Document dated January 8, 2002 (the **MRRS Decision**).

## Application 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**) requesting:

- (i) an exemption to vary the MRRS Decision so as to more closely align the representations provided in the MRRS Decision with the Existing Fund's actual operations and to allow the simplified prospectus and annual information form of the Existing Fund to be combined with other mutual funds managed by BMS that have substantially similar investment objectives of investing substantially all of their assets in physical bullion;
- (ii) exemptive relief from section 2.3(e) of NI 81-102 to permit the Gold Fund to invest substantially all of its assets in gold bullion; and
- (iii) an update to the MRRS Relief and the conditions of the MRRS Decision into a new passport decision under NI 81-102

(the **Current Relief Sought**).

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

- 1. the Ontario Securities Commission is the principal regulator for this application; and;
- 2. 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 each of the other provinces and territories of Canada (collectively, with Ontario, the **Jurisdictions**).

## Interpretation

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

## Representations

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

- 1. The Existing Fund is, and the Gold Fund will be, a mutual fund trust established under the laws of Ontario pursuant to a trust agreement made by BMS as the manager and trustee of the Existing Fund and the Gold Fund.
- 2. The head office of BMS is located in the city of Markham, Ontario.
- 3. The Existing Fund is, and the Gold Fund will be, a reporting issuer under the laws of all of the Jurisdictions.

- 4. The Filers are not in default of securities legislation in any of the Jurisdictions.
- 5. The investment objective of the Existing Fund is to seek to achieve capital preservation and long-term appreciation through investments in equal proportions of gold, silver and platinum bullion (each a **Precious Metal**). The maintenance of equal weightings in each of gold, silver and platinum bullion will be subject to the availability of each of the Precious Metals. Accordingly, where one of the Precious Metals is temporarily unavailable, the Fund may become temporarily overweighted in the remaining Precious Metals on a *pro rata* basis.
- 6. The Existing Fund will maintain a fixed investment policy of investing one third of its assets in each of gold, silver and platinum bullion regardless of market conditions. The Existing Fund may also hold cash in amounts not exceeding more than five percent (5%) of the Existing Fund's net assets in order to pay expenses and to facilitate redemptions. The Existing Fund will not base its investment decisions on changes in the prices of gold, silver and platinum bullion.
- 7. BMS believes there is adequate liquidity for each Precious Metal in the marketplace such that the Existing Fund should not have any problem achieving its investment objective or satisfying redemptions.
- 8. If a Precious Metal is unavailable, which is not expected to occur, the Existing Fund's investments are overweighted in one or more of the Precious Metals, the Existing Fund's investments will be rebalanced in accordance with the Existing Fund's investment objective as soon as possible once such Precious Metal becomes available.
- 9. The investment objective of the Gold Fund will be to seek to achieve capital preservation and long-term appreciation by investing substantially all of its assets in gold bullion.
- 10. The Gold Fund will maintain a fixed investment policy of investing all of its assets in gold bullion regardless of market conditions. The Gold Fund may also hold cash in amounts generally not exceeding more than five percent (5%) of its net assets in order to pay expenses and to facilitate redemptions. The Gold Fund will not base its investment decisions on changes in the prices of gold bullion.
- 11. BMS believes there is adequate liquidity for gold bullion in the marketplace such that the Gold Fund should not have any problem achieving its investment objective or satisfying redemptions.

12. If gold bullion is unavailable, which is not expected to occur, the Gold Fund will continue to hold any pending investments in cash until gold bullion becomes available again. At that time, the Gold Fund will immediately invest any cash in excess of five percent (5%) of its net assets in gold bullion.
13. The Bank of Nova Scotia (**BNS**) is the custodian of the Existing Fund and will be the custodian of the Gold Fund. All of the Precious Metals held by the Existing Fund and all of the gold bullion held by the Gold Fund will be physically held in the Canadian vaults of BNS or by another qualified or acceptable Canadian sub-custodian(s) on a segregated and allocated basis.
14. BNS will be given standing instructions to invest one third of the Existing Fund's assets in each of gold, silver and platinum bullion.
15. BNS, on the direction of BMS, will invest the assets of the Gold Fund in gold bullion.
16. The custody arrangements between the Existing Fund, the Gold Fund and BNS, as applicable, will be governed by the terms of a Bullion Trading Account Agreement and a Holding Account Agreement for each of the bullions held by the applicable fund. The terms of the Bullion Trading Account Agreement and the Holding Account Agreement satisfy the custody provisions of Part 6 of NI 81-102.
17. The MRRS Decision contained a representation stating that the Existing Fund's auditors would perform a physical count of all bullion held by the Existing Fund in bar form in the vaults of BNS twice a year. Since inception, however, the actual practice has been for the Existing Fund's auditor to perform a physical count of all bullion held by the Fund in bar form in the vaults of BNS once a year.
18. On a going forward basis, the auditors of the Existing Fund and the Gold Fund will perform a physical count of all bullion held by the Existing Fund and the Gold Fund, respectively, at least once a year.
19. The MRRS Decision contained a representation stating that the Existing Fund's gold, silver and platinum bullion would at all times be insured to full current market value against destruction, disappearance or misappropriation. Since inception, however, the actual practice has been for the bullion holdings of the Existing Fund to be covered by the custodian's insurance.
20. On a going forward basis, BNS and/or any sub-custodian of the Existing Fund and the Gold Fund will maintain insurance as BNS and/or such sub-custodian deems appropriate against all risks of physical loss or damage except the risk of war, nuclear incident, terrorism events or government confiscation. BNS and/or any such sub-custodian shall maintain insurance with regard to its business on such terms and conditions as it deems appropriate.
21. BMS has determined that neither it nor the Existing Fund nor the Gold Fund require any additional insurance at this time.
22. BMS believes that BNS will obtain and will provide adequate insurance coverage at all times. The Holding Account Agreement shall provide that BNS shall not cancel its insurance except upon 30 days' prior written notice to BMS.
23. Neither the Existing Fund nor the Gold Fund will use specified derivatives, engage in hedging, use leverage or lease any bullion.
24. Neither the Existing Fund nor the Gold Fund will at any time invest in a "security" a such term is defined in subsection 1(1) of the *Securities Act* (Ontario) (the **OSA**), including securities or certificates of companies that produce gold, silver or platinum bullion.
25. Fund valuation services will be provided to the Existing Fund and the Gold Fund pursuant to the terms of a Valuation and Record Keeping Agreement between BMS and RBC Dexia Investor Services Trust (**RBC Dexia**).
26. All of the cash of the Existing Fund and the Gold Fund will be held by RBC Dexia as a sub-custodian of BNS, who will have access to the cash of the Existing Fund and the Gold Fund to, among other things, pay expenses of the Existing Fund and the Gold Fund.
27. Neither BMS nor its officers or directors are registered as an adviser or advising officers, respectively, under the OSA or as a commodity trading manager or commodity trading representatives, respectively, under the *Commodity Futures Act* (Ontario).
28. BMS will not provide any investment advice to the Existing Fund or the Gold Fund.
29. The MRRS Decision contained a condition prohibiting the simplified prospectus and the annual information form of the Existing Fund from being combined with the simplified prospectus and the annual information form of any other mutual fund.
30. BMS has determined that it would be appropriate to combine the Existing Fund, the Gold Fund and other similar mutual funds in a combined simplified prospectus and annual information form.

31. The MRRS Decision contained a condition requiring the prospectus of the Existing Fund to include risk disclosure related to the fact that BMS has never managed a precious metals fund and that each of its officers has limited experience with gold, silver and platinum. Given that the Existing Fund has existed since 2002, it is no longer necessary for the simplified prospectus of the Existing Fund, the Gold Fund or other similar mutual funds managed by BMS to contain such disclosure.

32. Following the issuance of this decision, BMS and the Existing Fund will no longer rely on the MRRS Decision.

### 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 Current Relief Sought is granted provided that each of BMS, the Existing Fund and the Gold Fund, as applicable, ensures that:

1. the simplified prospectus and the annual information form (collectively, the **Prospectus**) of the Existing Fund and the Gold Fund may only be combined with the simplified prospectus and the annual information form of other mutual funds managed by BMS that have substantially similar investment objectives of investing substantially all of their assets in physical bullion;
2. the Prospectus of the Existing Fund and the Gold Fund, including each renewal thereof, shall at all times contain the following disclosure regarding the risks associated with an investment in those funds:
  - (i) the risk that direct purchases of the bullion that each respective fund invests in may generate higher transaction and custody costs than other types of investments, which may impact the performance of that fund;
  - (ii) the risk that the bullion that each respective fund invests in may at times be unavailable thus preventing that fund from achieving its investment objective of being substantially invested in relevant bullion; and
  - (iii) the risk that BMS is not registered as an adviser with the OSC;
3. the Prospectus of the Existing Fund discloses in its investment objective that the maintenance of equal weightings in each of gold, silver and platinum bullion will be subject to the availability of

each of the Precious Metals, with the result that where one of the Precious Metals is temporarily unavailable, the Fund may become overweighted in the remaining Precious Metals on a pro rata basis;

4. the Prospectus of the Gold Fund discloses in its investment objective that investing substantially all of its assets in gold bullion will be subject to the availability of gold bullion, with the result that if gold bullion is temporarily unavailable, the Gold Fund may not be able to achieve its investment objective for a period of time;
5. BMS will provide staff at the OSC with 30 days prior written notice of any proposed material changes to any material contracts pertaining to the Existing Fund and the Gold Fund;
6. BMS will make available on its website:
  - (i) the current holdings of the Existing Fund and the Gold Fund on a daily basis;
  - (ii) will periodically list the number of ounces of bullion that each of the Existing Fund and the Gold Fund hold; and
  - (iii) will disclose in the Prospectus of the Existing Fund and the Gold Fund, and in each renewal thereof, that up-to-date information about the amount of bullion held by that fund may be found on BMS' website;
7. the Existing Fund will disclose in its investment strategies section of each renewal Prospectus and in its continuous disclosure:
  - (i) whether one or more of the Precious Metals represented more than one third of the net assets of the Existing Fund for the 12 month period immediately preceding the date of the renewal Prospectus;
  - (ii) the name of such Precious Metal(s);
  - (iii) the maximum percentage of the Existing Fund's net assets that the Precious Metal(s) referred to in (ii) above represented in the 12 month period; and
  - (iv) the percentage of the Existing Fund' net assets that the Precious Metal(s) referred to in (ii) above represented at the most recent date for which such information is available; and
8. the Existing Fund and the Gold Fund will each disclose in its continuous disclosure documents the percentage of its assets that were invested in

each Precious Metal, as applicable, as of the most recent date for which such information is required.

“Darren McKall”

Assistant Manager, Investment Funds Branch  
Ontario Securities Commission

## **2.1.10 Sanu Resources Ltd. – 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).

September 15, 2009

Sanu Resources Ltd.  
Suite 2101 - 885 West Georgia St.  
Vancouver, BC  
V6E 3E8

Dear Sirs/Mesdames:

**Re: Sanu Resources Ltd. (the Applicant) – application for a decision under the securities legislation of Alberta and Ontario (the Jurisdictions) that the Applicant is not a reporting issuer**

The Applicant has applied to the local securities regulatory authority or regulator (the Decision Maker) in each of the Jurisdictions for a decision under the securities legislation (the Legislation) of the Jurisdictions 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 it is not a reporting issuer in all of the jurisdictions in Canada in which it is currently a reporting issuer; and
- (d) the Applicant is not in default of any of its obligations under the Legislation as a reporting issuer,

each of the Decision Makers is satisfied that the test contained in the Legislation that provides the Decision Maker with the jurisdiction to make the decision has been met and orders that the Applicant is not a reporting issuer.

“Jo-Anne Matear”  
Assistant Manager, Corporate Finance  
Ontario Securities Commission

## 2.1.11 Gerdau Ameristeel Corporation

### Headnote

NP 11-203 – decision exempting the Filer from the requirement in s. 3.1 of NI 52-107 that financial statements be prepared in accordance with Canadian GAAP for so long as the Filer prepares its financial statements in accordance with IFRS-IASB for financial periods ending on or after September 30, 2009 – Filer must provide specified disclosure regarding change to IFRS-IASB – if the Filer files interim financial statements prepared in accordance with Canadian GAAP in the year that the Filer adopts IFRS-IASB, those interim financial statements must be restated using IFRS-IASB – Filer wishes to change to IFRS-IASB to align the bases of accounting under which the Filer and its majority holder prepare their financial statements

### Applicable Legislative Provisions

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

September 15, 2009

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

AND

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

AND

**IN THE MATTER OF  
GERDAU AMERISTEEL CORPORATION  
(the Filer)**

**DECISION**

### Background

The principal regulator in the Jurisdiction has received an application from the Filer for a decision under the securities legislation of the Jurisdiction (the Legislation) exempting the Filer from the requirement in section 3.1 of National Instrument 52-107 *Acceptable Accounting Principles, Auditing Standards and Reporting Currency* (NI 52-107) that financial statements be prepared in accordance with Canadian GAAP for financial periods ending on or after September 30, 2009 (the Exemption Sought), for so long as the Filer prepares its financial statements in accordance with International Financial Reporting Standards as issued by the International Accounting Standards Board (IFRS-IASB).

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, New Brunswick, Nova Scotia, Prince Edward Island, Newfoundland and Labrador, the Northwest Territories, Yukon and the Nunavut Territory (the Passport 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 Filer:

1. The Filer was incorporated under the laws of the Province of Ontario by letters patent dated September 10, 1970 and was continued under the *Canada Business Corporations Act* pursuant to articles of continuance dated May 24, 2006. The registered office of the Filer is located at 1801 Hopkins Street South, Whitby, Ontario, L1N 5T1.
2. The Filer is a reporting issuer or equivalent in the Jurisdiction and each of the Passport Jurisdictions. The Filer is not, to its knowledge, in default of its reporting issuer obligations under the Legislation or the securities legislation of the Passport Jurisdictions.
3. The Filer is also a registrant with the United States Securities and Exchange Commission (SEC) and a foreign private issuer in the United States.
4. The Filer's securities are listed on the Toronto Stock Exchange and the New York Stock Exchange.
5. The Filer is the second largest mini-mill steel producer in North America with an annual manufacturing capacity of approximately 12 million tons of mill finished steel products. Through a vertically integrated network of 19 mini-mills (including one 50%-owned mini-mill), 23 scrap recycling facilities and 60 downstream operations (including nine majority owned joint venture fabrication facilities), the Filer primarily serves customers throughout the United States and Canada.
6. Gerdau S.A., the main holding company of the Gerdau Group, beneficially owned approximately 66.4% of the Filer's outstanding common shares as of June 30, 2009. Gerdau S.A. is engaged in

- the production and sale of steel products in general from plants located in Brazil, Argentina, Chile, Colombia, Guatemala, Mexico, Peru, Dominican Republic, Uruguay, Venezuela, United States, Canada, Spain and India. Gerdau S.A. prepares its financial statements in accordance with IFRS-IASB.
7. NI 52-107 sets out acceptable accounting principles for financial reporting under the Legislation by domestic issuers, foreign issuers, registrants and other market participants. Under NI 52-107, a domestic issuer must use Canadian GAAP with the exception, found in section 4.1 of NI 52-107, that an SEC registrant may use U.S. GAAP. Under NI 52-107, only foreign issuers may use IFRS-IASB.
  8. The Filer currently relies on section 4.1 of NI 52-107 to prepare its financial statements in accordance with U.S. GAAP.
  9. The Filer has not previously prepared financial statements that contain an explicit and unreserved statement of compliance with IFRS-IASB.
  10. The Canadian Accounting Standards Board has confirmed that publicly accountable enterprises will be required to prepare their financial statements in accordance with IFRS-IASB for interim and annual financial statements relating to fiscal years beginning on or after January 1, 2011.
  11. In CSA Staff Notice 52-321 *Early Adoption of International Financial Reporting Standards, Use of US GAAP and Reference to IFRS-IASB*, staff of the Canadian Securities Administrators recognized that some issuers may wish to prepare their financial statements in accordance with IFRS-IASB for periods beginning prior to January 1, 2011 and indicated that staff were prepared to recommend exemptive relief on a case by case basis to permit a domestic issuer to do so, despite section 3.1 of NI 52-107.
  12. Subject to obtaining the Exemption Sought, the Filer intends to adopt IFRS-IASB for its financial statements for periods beginning on and after January 1, 2009.
  13. The Filer believes that the adoption of IFRS-IASB for financial periods beginning on or after January 1, 2009 is in the best interests of the Filer and the users of its financial information because the adoption of IFRS-IASB will (i) align the bases of accounting under which the Filer and its majority owner, Gerdau S.A., prepare their financial statements; and (ii) increase the comparability of the Filer's financial statements to those of a number of global issuers, including competitors within the steel industry, who already prepare, or will soon be required to prepare, financial statements in accordance with IFRS-IASB.
  14. The Filer has implemented a comprehensive IFRS-IASB conversion plan.
  15. The Filer has carefully assessed the readiness of its employees, board of directors, audit committee, auditors and investors and other market participants for the adoption by the Filer of IFRS-IASB for financial periods beginning on or after January 1, 2009 and has concluded that they will be adequately prepared for the Filer's adoption of IFRS-IASB for periods beginning on or after January 1, 2009.
  16. The Filer has considered the implications of adopting IFRS-IASB before January 1, 2011 on its obligations under securities legislation including, but not limited to, those relating to CEO and CFO certifications, business acquisition reports, offering documents, and previously released material forward looking information.
  17. The Filer will disseminate a news release not more than seven days after the date of this decision disclosing relevant information about its conversion to IFRS-IASB as contemplated by CSA Staff Notice 52-320 *Disclosure of Expected Changes in Accounting Policies Relating to Changeover to International Financial Reporting Standards*, including:
    - (a) its preparations for its conversion to IFRS-IASB, including the key elements and timing of its conversion plan;
    - (b) its decisions in respect of the exemptions made available under IFRS 1 *First-time Adoption of International Financial Reporting Standards*;
    - (c) the accounting policy and implementation decisions it has made or will have to make;
    - (d) major identified differences between its current accounting policies and those it is required or expects to apply in preparing financial statements in accordance with IFRS-IASB; and
    - (e) the expected impact of adopting IFRS-IASB on the key line items presented in its interim and annual financial statements.
  18. The Filer will update the information set out in the news release in its management's discussion and analysis for the interim period ending June 30, 2009 including, to the extent known, quantitative information regarding the impact of adopting IFRS-IASB on key line items in the Filer's financial statements for the interim period ending June 30, 2009.



**Decision**

1. The principal regulator is satisfied that the decision meets the test set out in the Legislation for the principal regulator to make the decision.
2. The decision of the principal regulator under the Legislation is that the Exemption Sought is granted, subject to the following conditions:
  - (a) for so long as the Filer prepares its financial statements for financial periods ending on or after September 30, 2009 in accordance with IFRS-IASB;
  - (b) provided that the Filer provides all of the communication and information as described and in the manner set out in paragraphs 17 and 18 respectively;
  - (c) provided that if the Filer files interim financial statements prepared in accordance with U.S. GAAP for one or more interim periods in the year that the Filer adopts IFRS-IASB, the Filer will restate and refile those interim financial statements originally prepared in accordance with U.S. GAAP in accordance with IFRS-IASB together with the related restated interim management's discussion and analysis as well as the certificates required by National Instrument 52-109 – Certification of Disclosure in Issuers' Annual and Interim Filings; and
  - (d) provided that if the Filer files its first IFRS-IASB financial statements in an interim period, those interim financial statements will present all financial statements with equal prominence, including the opening statement of financial position at the date of transition to IFRS-IASB.

DATED this 15th day of September, 2009.

"Jo-Anne Matear"  
Assistant Manager  
Corporate Finance Branch

**2.2 Orders**

**2.2.1 Abel Da Silva – 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  
ABEL DA SILVA**

**ORDER  
(Sections 127 & 127.1)**

**WHEREAS** on October 21, 2008 the Ontario Securities Commission (the "Commission") issued a Notice of Hearing in this matter and scheduled a hearing to commence on November 27, 2008 at 3:00 p.m.;

**AND WHEREAS** Staff of the Ontario Securities Commission ("Staff") filed a Statement of Allegations dated October 20, 2008 with the Commission;

**AND WHEREAS** Staff served Abel Da Silva ("Da Silva") with a certified copy of the Notice of Hearing and Staff's Statement of Allegations as evidenced by the Affidavit of Service of Wayne Vanderlaan, sworn on November 10, 2008, filed with the Commission;

**AND WHEREAS** the Commission held a hearing on November 27, 2008 at 3:00 p.m. and Staff attended and made submissions, including advising the Commission that the disclosure was available on this matter, and Staff undertook to notify Da Silva that disclosure is available;

**AND WHEREAS** on November 27, 2008, Da Silva did not appear at the hearing;

**AND WHEREAS** on November 27, 2008, the Commission ordered that the hearing in this matter is adjourned to June 4, 2009 at 11:00 a.m.

**AND WHEREAS** Staff served Da Silva with a certified copy of the Order of the Commission dated November 27, 2008 as evidenced by the Affidavit of Service of Kathleen McMillan sworn on June 3, 2009;

**AND WHEREAS** on June 4, 2009, a status hearing was held commencing at 11:00 a.m. and Staff appeared before the Commission and provided the Commission with a status update with respect to this matter;

**AND WHEREAS** on June 4, 2009, Da Silva did not attend before the Commission;

**AND WHEREAS** on June 4, 2009, the Commission considered the submissions of Staff;

**AND WHEREAS** on June 4, 2009, the Commission ordered that the hearing with respect to the

Notice of Hearing dated October 21, 2008 and Staff's Statement of Allegations dated October 20, 2008 be adjourned to September 10, 2009 at 10:30 a.m.

**AND WHEREAS** on September 10, 2009, a status hearing was held commencing at 10:30 a.m. and Staff appeared before the Commission and provided the Commission with a status update with respect to this matter;

**AND WHEREAS** on September 10, 2009, Da Silva did not attend before the Commission;

**AND WHEREAS** on September 10, 2009, Staff undertook to notify Da Silva of the Order arising out of the September 10, 2009 status hearing;

**AND WHEREAS** on September 10, 2009, the Commission considered the submissions of Staff;

**IT IS HEREBY ORDERED** that the hearing with respect to the Notice of Hearing dated October 21, 2008 and Staff's Statement of Allegations dated October 20, 2008 is adjourned to January 12, 2010 at 10:30 a.m.

**DATED** at Toronto this 10th day of September, 2009.

"David L. Knight"

**2.2.2 Shallow Oil & Gas Inc. et al. – ss. 127(1), 127(8)**

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

**AND**

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

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

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

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

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

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

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

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

**AND WHEREAS** Grossman contested the extension of the Temporary Order;

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

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

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

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

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

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

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

- (a) the issuance of a temporary cease trade order against Diadamo, McQuarrie, Wash, and Mankofsky; and,
- (b) the extension of the original Temporary Order dated January 16, 2008.

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

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

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

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

**AND WHEREAS** on June 18, 2008, the Commission considered the evidence and submissions of

Staff and Grossman, and the submissions of Diadamo, McQuarrie, and Mankofsky;

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

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

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

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

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

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

**AND WHEREAS** on June 18, 2008, the Commission ordered that the hearing with respect to the Second Temporary Order in this matter be adjourned to November 25, 2008, at 2:30 p.m.;

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

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

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

**AND WHEREAS** on November 25, 2008, the Commission concluded that satisfactory information had not been provided to the Commission by McQuarrie,

Diadamo, Wash, Mankofsky, and Gahunia, as contemplated by subsection 127(8) of the Act;

**AND WHEREAS** on November 25, 2008, the Commission ordered, pursuant to subsection 127(8) of the Act, that:

- the Temporary Order is extended as against Gahunia until the conclusion of the hearing on the merits in this matter;
- the Second Temporary Order is extended as against Diadamo, McQuarrie, Wash, and Mankofsky until the conclusion of the hearing on the merits in this matter; and,
- the hearing with respect to the Notice of Hearing dated June 11, 2008 and Staff's Statement of Allegations dated June 10, 2008 is adjourned to June 4th, 2009 at 10:00 a.m. for a status hearing.

**AND WHEREAS** Staff served all of the respondents, except Gahunia, with a certified copy of the Order of the Commission dated November 25, 2008 as evidenced by the Affidavit of Service of Kathleen McMillan sworn on June 3, 2009;

**AND WHEREAS** on June 4, 2009, a status hearing was held commencing at 11:00 a.m. and Staff appeared before the Commission and provided the Commission with a status update with respect to this matter;

**AND WHEREAS** on June 4, 2009, none of the respondents attended before the Commission;

**AND WHEREAS** on June 4, 2009, Staff undertook to notify Gahunia of the proceedings that took place on June 4, 2009;

**AND WHEREAS** on June 4, 2009, the Commission considered the submissions of Staff;

**AND WHEREAS** on June 4, 2009, the Commission ordered that the hearing with respect to the Notice of Hearing dated June 11, 2008 and Staff's Statement of Allegations dated June 10th, 2008 is adjourned to September 10, 2009 at 10 a.m.;

**AND WHEREAS** on September 10, 2009, a status hearing was held commencing at 10:00 a.m. and Staff appeared before the Commission and provided the Commission with a status update with respect to this matter;

**AND WHEREAS** on September 10, 2009, Staff advised the Commission that Staff had complied with the undertaking to notify Gahunia of the proceedings that took place on June 4th, 2009;

**AND WHEREAS** on September 10, 2009, none of the respondents attended before the Commission;

**AND WHEREAS** on September 10, 2009, the Commission considered the submissions of Staff;

**IT IS HEREBY ORDERED** that the hearing with respect to the Notice of Hearing dated June 11th, 2008 and Staff's Statement of Allegations dated June 10th, 2008 is adjourned to January 12th, 2010 at 10:00 a.m.

**DATED** at Toronto this 10th day of September, 2009.

"David L. Knight"

**2.2.3 M P Global Financial Ltd. and Joe Feng Deng – ss. 127(1), 127(8)**

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

**AND**

**IN THE MATTER OF  
M P GLOBAL FINANCIAL LTD.,  
AND JOE FENG DENG**

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

**WHEREAS** on the 13th day of April, 2009, the Ontario Securities Commission (the “Commission”) made a temporary order (the “Temporary Order”) against M P Global Financial Ltd. (“MP Global”) and Joe Feng Deng also known as Feng Deng, Yue Wen Deng and Deng Yue Wen (“Deng”) (collectively the “Respondents”);

**AND WHEREAS** on April 13, 2009, the Commission ordered pursuant to subsection 126(7) of the *Securities Act*, R.S.O. 1990, c. S.5, as amended (the “Act”) that the Temporary Order shall expire on the 15th day after its making unless extended by order of the Commission;

**AND WHEREAS** the Temporary Order dated April 13, 2009 provided that:

1. pursuant to clause 2 of subsection 127(1) of the Act, that all trading of securities of MP Global shall cease;
2. pursuant to clause 2 of subsection 127(1) of the Act, that trading by Deng and MP Global shall cease; and
3. pursuant to clause 3 of subsection 127(1) of the Act, that the exemptions contained in Ontario securities law do not apply to MP Global or Deng;

**AND WHEREAS** on April 27, 2009, the Commission ordered that the Temporary Order be extended until May 26, 2009 and the hearing in this matter be adjourned to May 25, 2009 at 2:00 p.m.;

**AND WHEREAS** on May 25, 2009, the Commission ordered that the Temporary Order be extended until the completion of the hearing on June 29, 2009 and the hearing in this matter be adjourned to June 29, 2009 at 11:00 a.m.;

**AND WHEREAS** on June 29, 2009, the Commission ordered that the Temporary Order be extended until September 14, 2009 and the hearing in this matter be adjourned to September 11, 2009 at 10:00 a.m.;

**AND WHEREAS** the Commission held a hearing on September 11, 2009;

**AND UPON** hearing the submissions from Staff of the Commission and counsel for the Respondents;

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

**IT IS ORDERED** that the Temporary Order be extended until the completion of the hearing on the merits in this matter;

**IT IS FURTHER ORDERED** that the hearing on the merits in this matter commence on February 17, 2010 and continue to March 1, 2010.

**DATED** at Toronto this 11th day of September, 2009

“Mary G. Condon”

**2.2.4 MI Developments Inc. – ss. 104(1), 127**

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

**AND**

**IN THE MATTER OF  
MI DEVELOPMENTS INC.**

**ORDER  
(Subsection 104(1) and section 127 of the Act)**

**Hearing:** September 9 and 10, 2009

**Decision:** September 14, 2009

**Panel:** James E. A. Turner – Vice-Chair  
Paulette L. Kennedy – Commissioner

**Counsel:** Thomas G. Heintzman – For Greenlight Capital, Inc.  
René R. Sorell  
Andrew B. Matheson  
(McCarthy Tétrault LLP)

Michael E. Barrack – For Farallon Capital Management, LLC,  
Jessica S. Bookman Hotchkis and Wiley Capital Management, LLC,  
(ThorntonGroutFinnigan LLP) Donald Smith & Co. Inc., Owl Creek Asset Management, LP,  
North Run Capital, LP, Pzena Investment Management, LLC

Shane Priemer  
(Voorheis & Co. LLP)

Kent E. Thomson – For MI Developments Inc.  
James W. E. Doris  
Andrea L. Burke  
Vincent A. Mercier  
Derek D. Ricci  
(Davies Ward Phillips &  
Vineberg LLP)

Laura K. Fric – For Magna Entertainment Corp.  
Emmanuel Z. Pressman  
Craig T. Lockwood  
(Osler, Hoskin & Harcourt LLP)

Peter F. C. Howard – For Fair Enterprise Limited  
Sean F. Dunphy  
Edward J. Waitzer  
Ellen Snow  
Amanda Linett  
(Stikeman Elliott LLP)

James Sasha Angus – For Staff of the Ontario Securities Commission  
Michelle Vaillancourt  
Usman Sheikh  
Naizam Kanji  
Shannon O'Hearn  
Jason Koskela

**ORDER**

**WHEREAS** Farallon Capital Management, LLC, Hotchkis and Wiley Capital Management, LLC, Donald Smith & Co. Inc., Owl Creek Asset Management, LP, North Run Capital, LP and Pzena Investment Management, LLC (the "Shareholders") on behalf of themselves and funds and entities under their management requested by way of an application dated July 10, 2009 (the "Farallon Application") that the Commission convene a hearing to review compliance by MI Developments Inc. ("MID") with Multilateral Instrument 61-101 – Protection of Minority Security Holders in Special Transactions ("MI 61-101"), in connection with certain transactions;

**AND WHEREAS** Greenlight Capital, Inc. ("Greenlight") has also requested by way of an application dated July 13, 2009 (the "Greenlight Application") that the Commission convene a hearing to review MID's compliance with MI 61-101 in connection with the same transactions;

**AND WHEREAS** on August 11, 2009, the Commission issued a Notice of Hearing pursuant to subsection 104(1) and section 127 of the *Securities Act*, R.S.O. 1990, c. S.5, as amended ("the Act") to consider the Farallon Application and the Greenlight Application (the "Applications");

**AND WHEREAS** The Commission held a motions hearing on August 19, 2009 (the "**Motions Hearing**") to hear and determine various procedural matters in anticipation of the hearing on the merits of the Applications;

**AND WHEREAS** Magna Entertainment Corp. ("MEC") filed a motion for intervenor status and was granted intervenor status at the Motions Hearing allowing MEC to make submissions with respect to the appropriateness and scope of any potential Commission order disposing of the Applications, as that order could affect MEC;

**AND WHEREAS** Fair Enterprise Limited ("Fair Enterprise") filed a motion for intervenor status and was granted intervenor status at the Motions Hearing allowing Fair Enterprise to adduce evidence regarding its involvement in the transactions and agreements to which it is a party and that are at issue in connection with the Applications, and to make oral and written submissions on those issues;

**AND WHEREAS** in response to document requests, the parties and Fair Enterprise have produced and filed with the Commission non-public documents on the basis that those documents will be kept confidential by all parties and intervenors and will not be used for any purpose other than the Applications and, accordingly, a protective order was issued by the Commission on August 21, 2009;

**AND WHEREAS** the Commission held a hearing on the merits on September 9 and 10, 2009 to consider the Applications and determine whether the Commission should make an order under subsection 104(1) and/or section 127 of the Act as requested by the Shareholders and Greenlight or as otherwise determined by the Commission;

**AND WHEREAS** the Commission intends to issue reasons for this Order in due course;

**AND UPON** considering the written materials filed by the Shareholders, Greenlight, MID, MEC, Fair Enterprise and Staff of the Commission ("Staff") and considering the oral submissions made;

**AND UPON** being satisfied that it would not be in the public interest to make an order under subsection 104(1) or section 127 of the Act in connection with the Applications;

**IT IS ORDERED THAT:**

1. The Farallon Application and the Greenlight Application are hereby dismissed; and
2. MID is hereby unconditionally released from its undertaking provided to Staff on May 11, 2009 relating to transactions with MEC.

DATED at Toronto this 14th day of September, 2009.

"James E. A. Turner"

"Paulette L. Kennedy"

**2.2.5 ICE Futures U.S., Inc. – s. 147 of the Act and ss. 38, 80 of the CSA**

registration requirement under section 22 of the CFA (Hedger Relief);

**Headnote**

Section 147 of the Securities Act (OSA) and sections 38 and 80 of the Commodity Futures Act (CFA) – exemption from section 21(1) of the OSA requiring ICE Futures U.S. to be recognized as a stock exchange; exemption from section 15 of the CFA requiring ICE Futures U.S. to be registered as a commodity futures exchange; and exemption from the registration requirement in section 22 of the CFA for trades in contracts on ICE Futures U.S. by “hedgers”, as defined in the CFA.

**Statutes Cited**

Securities Act, R.S.O. 1990, c. S.5, as am., ss. 21, 147.  
Commodity Futures Act, R.S.O. 1990, c. C.20, as am., ss. 15, 22, 38, 80.

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

**AND**

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

**AND**

**IN THE MATTER OF  
ICE FUTURES U.S., INC.**

**ORDER  
(Section 147 of the OSA and  
sections 38 and 80 of the CFA)**

**WHEREAS** ICE Futures U.S., Inc. (the “Applicant” or “ICE Futures U.S.”) has filed an application dated May 15, 2009 (Application) with the Ontario Securities Commission (Commission) requesting:

- (a) an order pursuant to section 147 of the OSA exempting the Applicant from the requirement to be recognized as a stock exchange under section 21 of the OSA;
- (b) an order pursuant to section 80 of the CFA exempting the Applicant from the requirement to be registered as a commodity futures exchange under section 15 of the CFA; and
- (c) an order pursuant to section 38 of the CFA exempting trades in contracts on ICE Futures U.S. by “hedgers” from the

**AND WHEREAS** the term “hedger” has the meaning ascribed to it in section 1(1) of the CFA (Hedger);

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

**AND WHEREAS** the Rule entitled *In the Matter of Trading in Commodity Futures Contracts and Commodity Futures Options Entered into on Commodity Futures Exchanges in the United States of America*, provides that section 33 of the CFA does not apply to trades entered into on commodity futures exchanges designated by the U.S. Commodity Futures Trading Commission under the U.S. Commodity Exchange Act;

**AND WHEREAS** the Applicant has represented to the Commission that:

1. The Applicant is a Delaware corporation, designated as a contract market by the United States Commodity Futures Trading Commission (the “CFTC”) pursuant to Section 5 of the U.S. Commodity Exchange Act (the “CEA”). The Applicant is owned by the IntercontinentalExchange, Inc. (“ICE, Inc.”) in accordance with a merger agreement consummated on January 12, 2007. ICE, Inc. is a public company governed by the laws of the State of Delaware and listed on the New York Stock Exchange. ICE Inc. and its affiliates are collectively referred to as the “ICE Group”;
2. The Applicant is, in turn, the sole shareholder of ICE Clear U.S., Inc. (formerly known as the New York Clearing Corporation or NYCC) (“ICE Clear U.S.”), the New York Futures Exchange, Inc. (“NYFE”) and eCOPS, LLC;
3. ICE Clear U.S. is a New York corporation and is a registered derivatives clearing organization (“DCO”) as set forth in Section 5b of the CEA. As such, ICE Clear U.S. is subject to the regulatory oversight of the CFTC and must remain in compliance with all of the Core Principles of Section 5b of the CEA (the “DCO Core Principles”). ICE Clear U.S. clears the trades executed on ICE Futures U.S.;
4. ICE Futures U.S. traces its history to 1870 when the predecessor exchanges were founded that would eventually become the Board of Trade of the City of New York, Inc. (“NYBOT”). On September 14, 2006, ICE, Inc. announced that it had entered into an agreement to acquire NYBOT



- for consideration of approximately \$1 billion. On December 11, 2006, the merger was approved by the members of NYBOT and on January 12, 2007, the merger was consummated and NYBOT became a wholly-owned subsidiary of ICE, Inc.;
5. As a Designated Contract Market (a "DCM"), the Applicant offers a variety of agricultural or soft commodity futures contracts and options on futures contracts as well as futures contracts and options on futures contracts on certain financial and equity indices and currencies (collectively, "ICE Futures U.S. Contracts"). Historically the Applicant only offered trading of its contracts via open outcry floor trading. In 2007, the Applicant continued to offer floor trading, but also commenced electronic trading on a platform owned and operated by ICE, Inc. (known as the "ICE Platform") in its core agricultural futures products alongside traditional open outcry access. The contract terms of contracts available for electronic trading are the same as the contract terms of their equivalent floor traded contracts, and therefore fully fungible. Since that time the Applicant has continued to transition more of its contracts towards electronic trading. Although the Applicant has either commenced or will be commencing electronic trading for most of its commodity futures contracts, the applicant continues to maintain a floor trading operation for open outcry trading in respect of all of its listed commodity futures options contracts as well as with respect to certain of its less liquid commodity futures contracts.
  6. Pursuant to its regulation by the CFTC, the Applicant is required to demonstrate its on-going compliance with various "Core Principles" applicable to all U.S. DCMs. The statutory Core Principles are described in Section 5 of the CEA and include requirements relating to, among others: fitness and properness; systems and controls; maintenance of an orderly market; investor protection; creation and maintenance of necessary records; the avoidance of anti-competitive actions; minimizing conflicts of interest in the decision-making process and establishing a process for resolving such conflicts; and rule-making and other matters including that the Applicant monitor and enforce compliance with its rules.
  7. The CFTC monitors trading on ICE Futures U.S. and receives daily transaction and other reports from the Applicant. The CFTC also undertakes periodic in-depth audits or "rule reviews" of the Applicant's compliance with certain of the statutory Core Principles.
  8. The Applicant is required under its regulations to provide to the CFTC on request access to all records. In addition, ICE Futures U.S. Rule 6.50 requires the disclosure of information to the regulatory authority of any foreign jurisdiction in which it has been approved to conduct business, if such disclosure is a condition of approval.
  9. The Applicant proposes to offer direct electronic access to trading in ICE Futures U.S. Contracts through the ICE Platform to prospective participants in Ontario ("Ontario Participants"), either by way of (i) membership in ICE Futures U.S., (ii) via direct access sponsored by a member of ICE Clear U.S. (a "Clearing Member") (such non-Clearing Member participants, "Direct Access Users"), or (iii) through order-routing arrangements where orders are routed through a Clearing Member onto the exchange.
  10. The Applicant expects that potential Ontario Participants that may seek to become members, Direct Access Users or order-routing clients of a Clearing Member will be (i) dealers that are engaged in the business of trading commodity futures and commodity options in Ontario and (ii) Hedgers.
  11. ICE Futures U.S. Contracts fall under the definitions of "commodity futures contract" or "commodity futures option" set out in Section 1 of the CFA. The Applicant is therefore considered a "commodity futures exchange" as defined in Section 1 of the CFA and is prohibited from carrying on business in Ontario unless it is registered or exempt from registration as an exchange under Section 15 of the CFA.
  12. The Applicant seeks to provide Ontario Participants with direct, electronic access to trading in ICE Futures U.S. Contracts and as a result, is considered by the Commission to be "carrying on business as a commodity futures exchange" in Ontario.
  13. The Applicant is not registered with or recognized by the Commission as a commodity futures exchange under the CFA and no ICE Futures U.S. Contracts have been accepted by the Director (as defined in the OSA) under the CFA, therefore, ICE Futures U.S. Contracts are considered "securities" under paragraph (p) of the definition of "security" set out in Section 1(1) of the OSA and the Applicant is considered a "stock exchange" under the OSA and is prohibited from carrying on business in Ontario unless it is recognized or exempt from recognition under section 21 of the OSA.
  14. As above, since the Applicant seeks to provide Ontario Participants with direct, electronic access to trading in ICE Futures U.S. Contracts it is considered by the Commission to be "carrying on business as a stock exchange" in Ontario.
  15. The exemption from registration in section 32(1)(a) of the CFA applies for trades "by a

hedger through a dealer". This exemption will be available for trades in ICE Futures U.S. Contracts by Ontario resident hedgers that route orders to ICE Futures U.S. through ICE Futures U.S. Clearing Members that are dealers, however, this exemption will not be available for trades in ICE Futures U.S. Contracts by Ontario resident hedgers that become Direct Access Users or non-clearing ICE Futures U.S. members since they will have direct electronic access to ICE Futures U.S. and will not execute trades through dealers.

16. The Applicant maintains rigorous membership criteria that all applicants must satisfy before their applications are considered by its membership committee, including, among others: fitness criteria; suitable qualifications and experience; adequate training and supervision; proper authorizations, or exemptions to trade; and suitable financial standing.

17. All Clearing Members that guarantee a Direct Access User or provide order routing access to ICE Futures U.S. to an Ontario client will be registered futures commission merchants with the CFTC. Such clearing members are subject to the compliance requirements of the CEA, the CFTC and the National Futures Association as they relate to customer accounts, including various know-your-client, suitability, risk-disclosure, anti-money laundering and anti-fraud requirements. These requirements, in conjunction with the ICE Clear U.S. margin requirements that apply to all Clearing Members and subsequently to their clients whose trades they guarantee, ensure that Ontario firms seeking to become Direct Access Users or gain order routing access through a Clearing Member are subjected to appropriate due diligence procedures and fitness criteria. In addition, Direct Access Users are required to sign the ICE Futures U.S. Electronic User Agreement making them responsible for, among other things, compliance with the Applicant's exchange rules.

18. Each applicant for ICE Futures U.S. membership or for status as a Direct Access User of ICE Futures U.S. electronic trading that intends to rely on the Hedger Relief will be required, as part of the application documentation to:

- (a) represent that it is a Hedger;
- (b) acknowledge that the Applicant deems the Hedger representation to be repeated by the applicant each time it enters an order for an ICE Futures U.S. Contract, and that the applicant must be a Hedger for the purposes of each trade resulting from such an order;
- (c) agree to notify the Applicant if the applicant ceases to be a Hedger;

- (d) represent that it will only enter trades for its own account; and
- (e) acknowledge that it is a market participant under the CFA and is subject to applicable requirements.

19. With respect to electronic trading via direct access or order-routing access, the Applicant will ensure that the guidance that it circulates to Clearing Members respecting the granting of such access to Ontario Participants indicates that the Clearing Member is permitted to grant direct access or order routing access to ICE Futures U.S. to an Ontario Participant provided that (i) the Ontario Participant is appropriately registered under the CFA to trade in ICE Futures U.S. Contracts or (ii) the Ontario Participant is a Hedger.

20. Based on the facts set out in the Application, the Applicant satisfies the criteria set out in Schedule "A" to this order;

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

**IT IS HEREBY ORDERED** by the Commission that pursuant to section 147 of the OSA, the Applicant is exempt from recognition as a stock exchange under section 21 of the OSA, and pursuant to section 80 of the CFA, the Applicant is exempt from registration as a commodity futures exchange under section 15 of the CFA;

**AND IT IS FURTHER ORDERED** by the Commission that, pursuant to section 38 of the CFA, trades in ICE Futures U.S. Contracts by Hedgers who are ICE Futures U.S. Members or Direct Access Users are exempt from the registration requirement under section 22 of the CFA;

**PROVIDED THAT** the Applicant complies with the terms and conditions attached hereto as Schedule "B".

**DATED** at Toronto this 1st day of September, 2009.

"Mary Condon"  
Commissioner  
Ontario Securities Commission

"Margot Howard"  
Commissioner  
Ontario Securities Commission

## SCHEDULE "A"

### Criteria for Exemption from Recognition/Registration as an Exchange

#### PART 1 REGULATION AND OVERSIGHT OF THE EXCHANGE

##### 1.1 Regulation of the Exchange

The Exchange is regulated in an appropriate manner in another jurisdiction by a Foreign Regulator. The regulatory scheme of the Foreign Regulator is transparent and generally comparable to that in Ontario.

##### 1.2 Authority of the Foreign Regulator

The Foreign Regulator has the appropriate authority and procedures for oversight of the Exchange. This oversight includes regular, periodic regulatory examinations of the Exchange by the Foreign Regulator.

#### PART 2 CORPORATE GOVERNANCE

##### 2.1 Fair Representation

The governance structure of the Exchange provides for:

- (i) appropriate, fair and meaningful representation on its Board and any committee thereof; and
- (ii) appropriate representation by independent directors on the Board and any committee thereof.

##### 2.2 Appropriate Provisions for Directors and Officers

There are appropriate qualifications, remuneration, limitation of liability and indemnity provisions for directors and officers.

##### 2.3 Fitness

The Exchange takes reasonable steps to ensure that each officer and director is a fit and proper person and past conduct of each officer or director affords reasonable grounds for belief that the officer or director will perform his or her duties with integrity.

##### 2.4 Conflicts of Interest

The Exchange has appropriate conflict of interest provisions for all directors, officers and employees.

#### PART 3 FEES

##### 3.1 Fees

The Exchange's process for setting fees is fair, transparent and appropriate. Any and all fees imposed by the Exchange on its participants are equitably allocated, do not

have the effect of creating barriers to access and are balanced with the criteria that the Exchange has sufficient revenues to satisfy its responsibilities.

#### PART 4 REGULATION OF PRODUCTS

##### 4.1 Approval of Products

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

##### 4.2 Product Specifications

The terms and conditions of trading the products are in conformity with normal commercial business practices for the trade in the product.

##### 4.3 Risks Associated with Trading Products

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

#### PART 5 ACCESS

##### 5.1 Fair Access

The requirements of the Exchange relating to access to the facilities of the Exchange, the imposition of limitations or conditions on access and denial of access are approved by the Foreign Regulator and are fair and reasonable, including in respect of notice, an opportunity to be heard or make representations, the keeping of records, the giving of reasons and the provisions for appeals.

##### 5.2 Details of Access Criteria

In particular, the Exchange

- i. has written standards for granting access to trading on its facilities to ensure users have appropriate integrity and fitness;
- ii. has and enforces financial integrity standards for those persons who enter orders for execution on the system, including, but not limited to, credit or position limits and clearing membership;
- iii. does not unreasonably prohibit or limit access by a person or company to services offered by it.
- iv. keeps records of each grant and each denial or limitation of access, including reasons for granting, denying or limiting access; and
- v. restricts access to adequately trained system users who have demonstrated

competence in the functions that they perform.

### 5.3 Access for Ontario Persons

The Exchange provides direct access, either through terminals, data feeds or third party provided interfaces, to only those Ontario persons that are duly registered or licensed under Ontario.

## PART 6 RULEMAKING

### 6.1 Purpose of Rules

The Exchange maintains rules, policies and other similar instruments as are necessary or appropriate to govern and regulate all aspects of its business and affairs and such rules are designed to, in particular,

- i. ensure compliance with the rules of the Exchange and securities legislation;
- ii. prevent fraudulent and manipulative acts and practices;
- iii. promote just and equitable principles of trade;
- iv. foster cooperation and coordination with persons or companies engaged in regulating, clearing, settling, processing information with respect to, and facilitating transactions in, the products trade on the Exchange;
- v. provide for appropriate discipline;
- vi. ensure a fair and orderly market; and
- vii. ensure that the Exchange business is conducted in a manner so as to afford protection to investors.

### 6.2 No Discrimination or Burden on Competition

The rules of the Exchange do not

- i. permit unreasonable discrimination among issuers, if applicable, and participants; or
- ii. impose any burden on competition that is not reasonably necessary or appropriate.

## PART 7 SYSTEMS AND TECHNOLOGY

### 7.1 System Capability/Scalability

For each of its systems that support order entry, order routing, execution, data feeds, trade reporting and trade comparison, capacity and integrity requirements, the Exchange:

- i. makes reasonable current and future capacity estimates;
- ii. conducts capacity stress tests of critical systems to determine the ability of those systems to process transactions in an accurate, timely and efficient manner;
- iii. reviews the vulnerability of those systems and data centre computer operations to internal and external threats, including physical hazards and natural disasters;
- iv. ensures that safeguards which protect a system against unauthorized access, internal failures, human errors, attacks and natural catastrophes that might cause improper disclosures, modification, destruction or denial of service are subject to an independent and ongoing audit which should include the physical environment, system capacity, operating system testing, documentation, internal controls and contingency plans;
- v. ensures that the configuration of the system has been reviewed to identify potential points of failure, lack of back-up and redundant capabilities;
- vi. maintains reasonable procedures to review and keep current the development and testing methodology of those systems; and
- vii. maintains reasonable back-up, contingency and business continuity plans, disaster recovery plans and internal controls.

### 7.2 Information Technology Risk Management Procedures

Procedures are in place that:

- i. handle trading errors, trading halts and circuit breakers;
- ii. ensure the competence, integrity and authority of system users; and
- iii. ensure that the system users are adequately supervised.

## PART 8 FINANCIAL VIABILITY

### 8.1 Financial Viability

The Exchange has sufficient financial resources for the proper performance of its functions.

## **PART 9 CLEARING AND SETTLEMENT**

### **9.1 Relationship with Clearing House**

The Exchange has a clearing relationship with an established clearing house and all transactions executed on the Exchange are cleared through the Clearing House.

### **9.2 Regulation of the Clearing House**

The Clearing House and direct clearing members are subject to acceptable regulation.

### **9.3 Authority of the Foreign Regulator**

The Foreign Regulator has the appropriate authority and procedures for oversight of the Clearing House. This oversight includes regular, periodic regulatory examinations of the Clearing House by the Foreign Regulator.

### **9.4 Restrictions on Access to a Foreign Member**

Any restrictions on access to the clearing system by a foreign member are adequately disclosed and justified by the legislation of the home jurisdiction, are not anti-competitive and do not unreasonably impose barriers to access.

### **9.5 Sophistication of Technology of Clearing House**

The Exchange has assured itself that the information technology used by the Clearing House has been adequately reviewed and tested and provides at least the same level of safeguards as required of the Exchange.

### **9.6 Risk Management of Clearing House**

The Exchange has assured itself that the Clearing House has established appropriate risk management policies and procedures, contingency plans, default procedures and internal controls.

## **PART 10 TRADING PRACTICES**

### **10.1 Trading Practices**

Trading practices are fair, properly supervised and not contrary to the public interest.

### **10.2 Market Making Provisions**

Market making provisions and other provisions to ensure market liquidity, if any, are fair and equitable to all market participants.

### **10.3 Orders**

Rules pertaining to order size and limits are fair and equitable to all market participants and the system for accepting and distinguishing between and executing different types of orders is fair, equitable and transparent.

### **10.4 Transparency**

Adequate provision has been made to record and publish details of pricing and trading.

### **10.5 Market Limits**

Market limits have been established as to ensure the integrity of the Exchange during times of volatility.

## **PART 11 COMPLIANCE, SURVEILLANCE AND ENFORCEMENT**

### **11.1 Jurisdiction**

The Exchange or the Foreign Regulator has the jurisdiction to perform member and market regulation, including the ability to set rules, conduct compliance reviews and perform surveillance and enforcement.

### **11.2 Member and Market Regulation**

The Exchange or its Foreign Regulator maintains appropriate systems, resources and procedures for evaluating compliance with Exchange and legislative requirements and disciplining participants.

### **11.3 Record Keeping**

The Exchange maintains adequate provisions for keeping books and records, including operations of the exchange, audit trail information on all trades and compliance and/or violations of Exchange requirements and securities legislation.

### **11.4 Availability of Information to Regulator**

The Exchange has mechanisms in place to ensure that the information necessary to conduct adequate surveillance of the system for supervisory and enforcement purposes is available to the relevant regulatory authorities on a timely basis.

## **PART 12 INFORMATION SHARING AND OVERSIGHT ARRANGEMENTS**

### **12.1 Information Sharing and Oversight Agreement**

Satisfactory information sharing and oversight agreements exist among the OSC and the Foreign Regulator.

## **PART 13 IOSCO PRINCIPLES**

### **13.1 IOSCO Principles**

The Exchange adheres to the IOSCO principles to the extent consistent with the law of the foreign jurisdiction.

## **SCHEDULE "B"**

### **Terms and Conditions**

#### **REGULATION OF ICE FUTURES U.S.**

1. The Applicant will maintain its status as a DCM with the CFTC and will continue to be subject to the supervision of the CFTC, or any successor regulatory body, as a DCM, or any successor category of recognition.
2. The Applicant will continue to comply with its ongoing compliance requirements set out in the Core Principles under section 5 of the CEA or any successor compliance requirements.
3. The Applicant will continue to meet the criteria for exemption from registration as an exchange, as set out in Schedule "A".

#### **ACCESS**

4. The Applicant will not allow Ontario Participants to become Direct Access Users or ICE Futures U.S. members unless they are appropriately registered to trade in ICE Futures U.S. Contracts or are Hedgers.
5. Each Ontario Participant that intends to rely on the Hedger Relief will be required, as part of the application documentation to:
  - (a) represent that it is a Hedger;
  - (b) acknowledge that the Applicant deems the Hedger representation to be repeated by the Ontario Participant each time it enters an order for an ICE Futures U.S. Contract and that the Ontario Participant must be a Hedger for the purposes of each trade resulting from such an order;
  - (c) agree to notify the Applicant if it ceases to be a Hedger;
  - (a) represent that it will only enter trades for its own account; and
  - (e) acknowledge that it is a market participant under the CFA and is subject to applicable requirements.
6. The Applicant will require Ontario Participants to notify it if their registration or exemption from registration has been revoked, suspended or amended by the Commission and, following notice from the Ontario Participant or the Commission and subject to applicable laws, the Applicant will promptly restrict the Ontario Participant's access to ICE Futures U.S. if the Ontario Participant is no longer appropriately registered with or exempted by the Commission.

7. ICE Futures makes available to Ontario Participants appropriate training for each person who has access to trade in ICE Futures U.S. Contracts on the ICE Platform.

#### **SUBMISSION TO JURISDICTION AND AGENT FOR SERVICE**

8. The Applicant submits to the non-exclusive jurisdiction of (i) the courts and administrative tribunals of Ontario and (ii) an administrative proceeding in Ontario, in a proceeding arising out of, related to or concerning or in any other manner connected with the activities of ICE Futures U.S. in Ontario.
9. The Applicant will file with the Commission a valid and binding appointment of an agent for service in Ontario upon whom may be served a notice, pleading, subpoena, summons or other process in any action, investigation or administrative, criminal, quasi-criminal, penal or other proceeding arising out of or relating to or concerning the Applicant's activities in Ontario.

#### **DISCLOSURE**

10. The Applicant will provide to all Ontario Participants, and also require Ontario Participants that are registered FCMs under the CFA to distribute to Ontario clients, prior to the first trade by each client that is executed through the facilities of ICE Futures U.S., disclosure that states that:
  - (a) rights and remedies against the Applicant may only be governed by the laws of the United States, rather than the laws of Ontario and may be required to be pursued in the United States rather than in Ontario;
  - (b) the rules applicable to trading on ICE Futures U.S. may be governed by the laws of the United States, rather than the laws of Ontario; and
  - (c) ICE Futures U.S. is regulated by the CFTC, rather than the OSC.

#### **FILING REQUIREMENTS**

##### **Prompt Notice**

11. The Applicant will promptly notify staff of the Commission of any of the following:
  - (a) any material change to the information provided in the Application, including, but not limited to:
    - (i) changes to the regulatory oversight by the CFTC,

- (ii) the corporate governance structure of ICE Futures U.S.,
  - (iii) the access model, including eligibility criteria, for Ontario Participants,
  - (iv) systems and technology, and
  - (v) the clearing and settlement arrangements for ICE Futures U.S.;
- (b) any change or proposed change in the ICE Futures U.S. rules or regulations or the laws, rules and regulations in the United States relevant to futures and options on futures where such change may materially affect the ability of the Applicant to meet the criteria set out in Schedule "A" to this order;
- (c) any known investigations or disciplinary action by the CFTC or any other regulatory authority to which the Applicant is subject relating to the discharge by the Applicant of its regulatory obligations;
- (d) any matter known to the Applicant that may affect the financial or operational viability of ICE Futures U.S., including, but not limited to, any significant system failure or interruption;
- (e) any default, insolvency or bankruptcy of any ICE Futures U.S. Member, direct access user or Clearing Member known to ICE Futures or its representatives that may have a material, adverse impact upon ICE Futures U.S., ICE Clear U.S. or any Ontario Participant.
- (c) a list of all investigations by the Applicant relating to Ontario Participants that are either exchange members or Direct Access Users;
- (d) a list of all Ontario applicants who have been denied access to ICE Futures U.S.; and
- (e) for each ICE Futures U.S. Contract, the total trading volume originating from Ontario Participants that are either exchange members or Direct Access Users and the proportion of worldwide trading volume on ICE Futures U.S. conducted by such Ontario Participants.

**Annual Reporting**

13. The Applicant will arrange to have the annual SAS 70 for ICE, Inc. filed with the Commission.

**FINANCIAL VIABILITY**

14. The Applicant will file with the Commission all annual financial statements required to be filed with the CFTC, within the same timeframes as required by the CFTC.

**INFORMATION SHARING**

15. The Applicant will, subject to applicable laws, share any and all information within the care and control of ICE Futures U.S. and otherwise co-operate wherever reasonable with the Commission or its staff.

**Quarterly Reporting**

12. The Applicant will maintain the following updated information and submit such information to the Commission on at least a quarterly basis, and at any time promptly upon the request of staff of the Commission:
- (a) a current list of all Ontario Participants that are either exchange members or Direct Access Users;
  - (b) a list of all Ontario Participants that are either exchange members or Direct Access Users against whom disciplinary action has been taken in the last quarter by the Applicant or the CFTC with respect to activities on ICE Futures U.S.;

**2.2.6 Sextant Capital Management 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  
SEXTANT CAPITAL MANAGEMENT INC.,  
SEXTANT CAPITAL GP INC.,  
SEXTANT STRATEGIC OPPORTUNITIES  
HEDGE FUND L.P., OTTO SPORK,  
ROBERT LEVACK AND NATALIE SPORK**

**ORDER  
(Section 127)**

**WHEREAS** the Ontario Securities Commission (the "Commission") issued a temporary order on December 8, 2008 (the "Temporary Order") against Sextant Capital Management Inc. ("SCMI"), Sextant Capital GP Inc. ("Sextant GP"), the Sextant Strategic Opportunities Hedge Fund L.P. (the "Sextant Canadian Fund"), Otto Spork, Robert Levack and Natalie Spork (together, the "Respondents");

**AND WHEREAS** the Temporary Order ordered that: (1) pursuant to clause 1 of section 127(1) and section 127(5) of the Act, SCMI's registration as investment counsel, portfolio manager and limited market dealer is subject to the terms and conditions that its advising and dealing activities may be applied exclusively to and in respect of the Sextant Canadian Fund and not to or in respect of any other entities; (2) pursuant to clause 2 of section 127(1) and section 127(5) of the Act, trading in securities of and by the Respondents shall cease with the sole exception that SCMI may place sell orders in respect of the securities and futures contracts held on deposit on behalf of the Sextant Canadian Fund in accounts at Newedge Canada Inc.; and (3) pursuant to clause 3 of section 127(1) and section 127(5) of the Act, any exemptions contained in Ontario securities law do not apply to any of the Respondents;

**AND WHEREAS** on December 16, 2008, staff of the Commission ("Staff") and counsel for Otto Spork, Robert Levack and Natalie Spork (the "Individual Respondents") appeared before the Commission, counsel for SCMI, Sextant GP and the Sextant Canadian Fund having advised of those Respondents' position in writing, and the Commission ordered that the Temporary Order is continued until March 17, 2009 or further order of the Commission and the hearing is adjourned to March 16, 2009 at 10:00 a.m., or such other date as is agreed by Staff and the Respondents and is determined by the Office of the Secretary;

**AND WHEREAS** on March 16, 2009, Staff, counsel for the Individual Respondents and counsel for SCMI and Sextant GP appeared before the Commission, no one appearing on behalf of the Sextant Canadian Fund, and the Commission ordered that the Temporary Order is

continued until June 17, 2009 or further order of the Commission and the hearing is adjourned to June 16, 2009 at 10:00 a.m., or such other date as is agreed by Staff and the Respondents and is determined by the Office of the Secretary;

**AND WHEREAS** on June 16, 2009, Staff, counsel for Otto Spork and Natalie Spork and counsel for SCMI and Sextant GP appeared before the Commission, counsel for Robert Levack having advised Staff of his position and no one appearing on behalf of the Sextant Canadian Fund, and the Commission ordered that the Temporary Order is continued until September 17, 2009 or further order of the Commission and the hearing is adjourned to September 16, 2009 at 10:00 a.m., or such other date as is agreed by Staff and the Respondents and is determined by the Office of the Secretary;

**AND WHEREAS** by Order of the Ontario Superior Court of Justice dated July 17, 2009, PricewaterhouseCoopers Inc. was appointed as Receiver and Manager for SCMI, Sextant GP and the Sextant Canadian Fund;

**AND WHEREAS** Staff have undertaken to have preliminary disclosure made to the respondents by no later than October 16, 2009;

**AND WHEREAS** Staff, counsel for Otto Spork and Natalie Spork and counsel for Robert Levack, counsel for the Receiver on behalf of SCMI, Sextant GP and the Sextant Canadian Fund taking no position, are prepared to schedule the hearing of this matter for the four-week period from May 3 to 28, 2010;

**AND WHEREAS** Staff have requested a continuation of the Temporary Order until the conclusion of the hearing on the merits and none of the parties object to Staff's request;

**IT IS ORDERED that:**

- (a) the hearing on the merits in this matter is scheduled for the four week period from May 3 to 28, 2010; and
- (b) the Temporary Order is continued until the conclusion of the hearing on the merits in this matter.

**DATED** at Toronto this 15th day of September, 2009.

"Mary G. Condon"



## Chapter 3

# Reasons: Decisions, Orders and Rulings

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### 3.1 OSC Decisions, Orders and Rulings

#### 3.1.1 Goldbridge Financial Inc. et al.

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

AND

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

HEARING HELD PURSUANT TO SECTIONS 127 AND 127.1 OF THE SECURITIES ACT

#### SETTLEMENT HEARING RE: SHAWN LESPERANCE

**HEARING:** Wednesday, September 2, 2009

**PANEL:** Patrick J. LeSage, Q.C. – Chair of the Panel

**APPEARANCES:** Jon Feasby – for Staff of the Ontario Securities Commission

Michael Donsky – for Shawn Lesperance

#### 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] The Commission and Mr. Lesperance have entered into an agreement in regards to the conduct of Mr. Lesperance, the Treasurer and a director of Goldbridge Financial Inc. It is agreed that as a result of the conduct of Mr. Lesperance (and others), as the Treasurer and a director of Goldbridge Financial Inc., he received monies clearly in violation of the Securities Act and an outstanding order made by this Commission.

[2] That misconduct has been acknowledged and accepted by Mr. Lesperance. The Commission and Mr. Lesperance, through his counsel, Mr. Donsky, who is here today along with Mr. Lesperance, have entered into this settlement agreement. The penalty agreed upon between the parties is that: Mr. Lesperance be prohibited for three years from trading in securities, subject to the exception that he may continue to trade on his own behalf exclusively in a Registered Retirement Savings Plan account; second, that Mr. Lesperance be prohibited for three years from becoming or acting as a director or officer of any issuer; and third, that Mr. Lesperance pay the costs of the investigation of this matter to the Commission in the amount of \$1,000 within one week of the date of the order.

[3] I am satisfied having regard to all the circumstances that the proposed settlement is appropriate and that it satisfies the public interest in censoring Mr. Lesperance's conduct. The proposed settlement therefore shall become the order of this Tribunal.

[4] As the record will show, a bank draft in the amount of \$1,000 has been presented to the Commission by Mr. Donsky, counsel for Mr. Lesperance, this morning in the hearing room. That will satisfy the third condition, with the exception that there is a tiny spelling error in the draft. I am sure it will be of no concern and, in any case, if it is, Mr. Donsky has undertaken to ensure that it is corrected as required to satisfy the \$1,000 cost order.

[5] Mr. Lesperance just let me say this to you; consider yourself fortunate that Mr. Feasby and Mr. Donsky were able to resolve the matter in the manner in which it has been presented. I hope that it is a lesson to you that there are rules and regulations that must be followed. Should you ever seek to go back into the business, you must follow appropriate rules and regulations. In the meantime, good luck.

Approved by the Chair of the Panel on September 12, 2009.

“Patrick J. LeSage”

3.1.2 Global Petroleum Strategies, LLC et al.

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

AND

IN THE MATTER OF  
GLOBAL PETROLEUM STRATEGIES, LLC,  
PETROLEUM UNLIMITED, LLC AND  
ROGER A. KIMMEL, JR.

HEARING HELD PURSUANT TO  
SUBSECTIONS 127(1) AND 127(10) OF THE SECURITIES ACT

**HEARING:** Wednesday, September 2, 2009

**PANEL:** Patrick J. LeSage, Q.C. – Chair of the Panel

**APPEARANCES:** Emily Cole – for Staff of the Ontario Securities Commission

**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 is a hearing before the Ontario Securities Commission (the "Commission") on September 2, 2009 pursuant to subsections 127(1) and 127(10) of the *Securities Act*, R.S.O. 1990, c. S.5, as amended (the "Act"), to consider whether it is in the public interest to make an order imposing sanctions against Global Petroleum Strategies, LLC, Petroleum Unlimited, LLC and Roger A. Kimmel, Jr.

[2] Staff of the Commission rely upon subsection 127(10) of the Act, which states that:

Without limiting the generality of subsections (1) and (5), an order may be made under subsection (1) or (5) in respect of a person or company if any of the following circumstances exist:

...

4. The person or company is subject to an order made by a securities regulatory authority in any jurisdiction imposing sanctions, conditions, restrictions or requirements on the person or company.

5. The person or company has agreed with a securities regulatory authority in any jurisdiction to be made subject to sanctions, conditions, restrictions or requirements.

[3] I am satisfied that notice of this hearing has been served on Global Petroleum Strategies LLC.

[4] I am satisfied on the material that is before me that it is appropriate and in the public interest that the order be granted as sought: having regard to the order and the decision of the Alberta Securities Commission; having regard to the Saskatchewan, Manitoba and New Brunswick orders; having regard to the consent that is filed on behalf of Petroleum Unlimited and Roger Kimmel Jr.; and on all of the background information.

[5] And that order is:

pursuant to paragraph 2 of subsection 127(1) of the Act, Petroleum Unlimited LLC and Roger A. Kimmel Jr. cease trading in or purchasing securities for a period of seven years;

pursuant to paragraph 3 of subsection 127(1) of the Act, any exemptions contained in Ontario securities law do not apply to Petroleum Unlimited LLC and Roger A. Kimmel Jr. for a period of seven years;

pursuant to paragraph 2 of subsection 127(1) of the Act, Global Petroleum Strategies LLC cease trading in or purchasing securities permanently; and

pursuant to paragraph 3 of subsection 127(1) of the Act, any of the exemptions contained in Ontario securities law do not apply to Global Petroleum Strategies LLC permanently.

[6] Those are the four items that I so order.

Approved by the Chair of the Panel on September 15, 2009.

“Patrick J. LeSage”

## 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
Bioxel Pharma Inc.	03 Sept 09	15 Sept 09	15 Sept 09	
Broadband Learning Corporation	04 Sept 09	16 Sept 09	16 Sept 09	
Specialty Foods Group Income Fund	04 Sept 09	16 Sept 09	16 Sept 09	
Yukon Gold Corporation, Inc.	02 Sept 09	14 Sept 09		16 Sept 09
Rapid Solutions Corporation	14 Sept 09	25 Sept 09		
Biotanika Health Group Inc.	14 Sept 09	25 Sept 09		
Copper Mesa Mining Corporation	27 Aug 09	08 Sept 09	08 Sept 09	16 Sept 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
Norwall Group Inc.	02 Sept 09	14 Sept 09	14 Sept 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
Coalcorp Mining Inc.	18 Feb 09	03 Mar 09	03 Mar 09		
Spylogics International Corp.	02 June 09	15 June 09	15 June 09		
Firstgold Corp.	22 July 09	04 Aug 09	04 Aug 09		
Norwall Group Inc.	02 Sept 09	14 Sept 09	14 Sept 09		

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## **Chapter 7**

# **Insider Reporting**

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This chapter is available in the print version of the OSC Bulletin, as well as as in Carswell's internet service SecuritiesSource (see [www.carswell.com](http://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](http://www.sedi.ca)).

## Chapter 8

# Notice of Exempt Financings

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### REPORTS OF TRADES SUBMITTED ON FORMS 45-106F1 AND 45-501F1

Transaction Date	# of Purchasers	Issuer/Security	Total Purchase Price (\$)	# of Securities Distributed
08/20/2009 to 08/24/2009	21	Active Control Technology Inc. - Units	419,000.00	4,015,000.00
08/27/2009	1	Amcor Limited - Common Shares	3,091,588.13	785,249.00
08/27/2009	13	Antioquia Gold Inc. - Units	250,000.00	1,250,000.00
08/12/2009	1	Aquila Resources Inc. - Common Shares	2,218,170.00	12,141,051.00
08/18/2009	2	Ashburton Ventures Inc. - Units	300,000.00	3,000,000.00
08/25/2009	1	Aura Minerals Inc. - Common Shares	16,169,456.00	8,084,728.00
08/20/2009	8	Ball Corporation - Notes	2,083,700.95	1,904,000.00
08/21/2009	18	Bassett Media Group Inc. - Units	538,953.70	283,801.00
08/17/2009	69	Brainhunter Inc. - Units	10,710,357.56	N/A
08/11/2009	2	Brunswick Corporation - Notes	2,197,600.00	N/A
08/13/2009	49	Canadian International Minerals Inc. - Common Shares	336,750.00	300,000.00
08/14/2009 to 08/20/2009	8	CanAlaska Uranium Ltd. - Flow-Through Shares	990,550.00	N/A
07/30/2009 to 08/25/2009	21	Canuc Resources Corporation - Units	520,350.00	N/A
09/01/2009	1	Capital Direct I Income Trust - Trust Units	20,000.00	2,000.00
08/26/2009	14	Cinch Energy Corp. - Flow-Through Shares	2,730,115.00	3,211,900.00
08/26/2009	1	Claim Post Resources Inc. - Common Shares	200,000.00	12,141,051.00
08/21/2009	41	Cloudbreak Resources Ltd. - Flow-Through Shares	570,700.00	N/A
08/30/2009 to 09/09/2009	6	CMC Markets UK PLC - Contracts for Differences	195,995.00	6.00
07/01/2009 to 07/07/2009	2	Consumer Discretionary Selt - Common Shares	6,308,572.13	260,000.00
07/01/2009 to 07/09/2009	2	Energy Select Sector SPDR - Common Shares	4,549,714.92	93,346.00
08/18/2009	19	Enssolutions Group Inc. - Common Shares	395,000.05	21,999,374.00
08/28/2009	10	Eventus Investment Limited Partnership - Limited Partnership Interest	811,350.00	N/A



**Notice of Exempt Financings**

<b>Transaction Date</b>	<b># of Purchasers</b>	<b>Issuer/Security</b>	<b>Total Purchase Price (\$)</b>	<b># of Securities Distributed</b>
07/08/2009 to 07/30/2009	2	Financial Select Sector SPDR - Common Shares	4,996,418.27	400,000.00
08/31/2009	1	First Leaside Entities Limited Partnership - Limited Partnership Interest	12,817.00	12,817.00
08/31/2009	1	First Leaside Fund - Trust Units	150,000.00	150,000.00
08/27/2009 to 08/31/2009	4	First Leaside Fund - Trust Units	92,046.00	92,046.00
08/31/2009	2	First Leaside Investors Limited Partnership - Units	75,000.00	75,000.00
08/31/2009	2	First Leaside Wealth Management Inc. - Preferred Shares	147,000.00	147,000.00
08/31/2009	2	First Leaside Wealth Management Inc. - Preferred Shares	177,183.75	141,747.00
08/20/2009	38	First Majestic Silver Corp. - Units	8,047,700.00	2,499,000.00
08/24/2009	3	FNX Mining Company Inc. - Warrants	665,000.00	305,000.00
08/10/2009	6	GeneNews Limited - Common Shares	297,259.00	1,189,036.00
08/17/2009 to 08/21/2009	5	General Motors Acceptance Corporation of Canada, Limited - Notes	1,877,133.21	1,877,133.21
08/25/2009	13	Gitennes Exploration Inc. - Units	305,079.49	4,358,264.00
08/04/2009	8	Globe Specialty Metals - Common Shares	17,227,000.00	2,300,000.00
04/27/2009	4	Golden Predator Royalty & Development Corp. - Units	1,380,000.00	2,760,000.00
07/23/2009 to 07/28/2009	2	Health Care Select Sector - Common Shares	276,479.99	9,300.00
09/04/2009	2	Healthcare REIT - Common Shares	7,698,250.00	175,000.00
06/23/2009	1	HedgeForum Paulson Advantage Plus Ltd. - Units	342,540.00	269.44
08/27/2009 to 09/02/2009	20	Hinterland Metals Inc. - Flow-Through Shares	450,930.00	N/A
07/15/2009 to 07/30/2009	2	Horizons Betapro NYMEXCRUDE - Common Shares	115,431.40	7,500.00
09/08/2009	3	Interface Biologics Inc. - Notes	1,500,000.00	N/A
07/15/2009 to 07/28/2009	2	iShares CDN S&P/TSX 60 Index Fund - Common Shares	202,507.84	11,900.00
07/13/2009 to 07/14/2009	2	ISHARES INC MSCI AUSTRALIA INDEX - Common Shares	939,294.55	55,800.00
07/17/2009	1	ISHARES INC MSCI HONGKONG INDEX - Common Shares	61,404.51	4,000.00
06/30/2009	1	iShares iUnits INCM TRST - Common Shares	140,871.80	14,000.00
07/13/2009 to 07/22/2009	4	iShares MSCI Emerging Markets Index Fund - Common Shares	48,932,824.51	1,358,370.00

**Notice of Exempt Financings**

<b>Transaction Date</b>	<b># of Purchasers</b>	<b>Issuer/Security</b>	<b>Total Purchase Price (\$)</b>	<b># of Securities Distributed</b>
07/13/2009 to 07/23/2009	1	iShares MSCI Mexico Invest MKT Index - Common Shares	1,793,459.76	42,400.00
06/30/2009 to 07/16/2009	1	IShares Russell 2000 - Common Shares	110,831.08	2,000.00
07/06/2009 to 07/28/2009	3	ISHARES TR MSCI EAFE IDX - Common Shares	10,292,506.14	209,010.00
06/30/2009 to 07/17/2009	1	IShares TR S&P Euro Plus - Common Shares	444,072.27	13,000.00
08/31/2009	1	Kingwest Avenue Portfolio - Units	75,000.00	3,013.21
08/31/2009	1	Kingwest Canadian Equity Portfolio - Units	220,000.00	21,897.96
08/31/2009	1	Kingwest US Equity Portfolio - Units	75,000.00	7,332.38
08/20/2009	17	KWG Resources Inc. - Units	1,437,500.00	8,750,000.00
07/23/2009	2	Midcap SPDR Trust Series 1 - Common Shares	7,057,740.12	59,000.00
09/01/2009	16	Mobidia Technology Inc. - Preferred Shares	355,520.00	323,200.00
08/21/2009	23	Module Resources Incorporated - Units	880,490.00	11,006,125.00
08/26/2009	1	MPH Ventures Corp. - Common Shares	6,375.00	25,000.00
06/04/2009	1	Mukuba Resources Limited - Warrants	99,750.00	285,000.00
08/20/2009 to 08/25/2009	8	Newport Canadian Equity Fund - Units	158,329.23	1,403.65
08/20/2009 to 08/21/2009	18	Newport Fixed Income Fund - Units	1,574,776.12	14,784.10
08/20/2009	7	Newport Global Equity Fund - Units	128,020.00	2,235.40
08/17/2009 to 08/25/2009	18	Newport Yield Fund - Units	502,290.57	4,775.82
08/28/2009	1	Newstrike Resources Ltd. - Common Shares	243,000.00	600,000.00
08/26/2009	100	Noront Resources Inc. - Flow-Through Shares	24,999,800.00	8,928,500.00
07/28/2009	11	NXA Inc. - Units	28,000.00	1,866,666.00
08/12/2009	1	Ocwen Financial Corporation - Common Shares	107,662.50	11,000.00
08/24/2009	67	Ontex Resources Limited - Flow-Through Shares	5,000,000.00	12,500,000.00
08/18/2009	1	Opawica Explorations Inc. - Flow-Through Shares	150,000.00	2,500,000.00
07/31/2009	1	Oroco Resource Corp - Common Shares	0.00	500,000.00
08/11/2009	1	Plenary Health Bridgepoint LP - Notes	252,116,000.00	1.00
06/30/2009 to 07/15/2009	3	Powershares QQQ NASDAQ 100 - Common Shares	11,234,080.86	285,705.00

**Notice of Exempt Financings**

<b>Transaction Date</b>	<b># of Purchasers</b>	<b>Issuer/Security</b>	<b>Total Purchase Price (\$)</b>	<b># of Securities Distributed</b>
08/18/2009	48	Primewest Mortgage Investment Corporation - Units	695,100.00	N/A
08/18/2009	1	Radiant Energy Corporation - Debentures	100,000.00	N/A
08/12/2009	69	Sacre-Coeur Minerals Ltd. - Units	2,242,320.00	3,449,722.00
08/26/2009	22	Sacre-Coeur Minerals Ltd. - Units	1,007,000.00	1,549,231.00
08/14/2009	68	Sandspring Resources Ltd. - Receipts	5,716,550.00	16,333,000.00
08/24/2009	1	Sirius XM Radio Inc. - Notes	2,685,500.00	N/A
08/01/2009	1	Spartan Arbitrage Fund Limited Partnership - Units	250,000.00	250.00
07/23/2008 to 07/28/2009	2	SPDR Gold Trust - Common Shares	2,362,386.67	23,300.00
07/23/2009 to 07/28/2009	3	SPDR S&P Homebuilders ETF - Common Shares	6,841,222.37	465,000.00
06/30/2009 to 07/16/2009	2	SPDR S&P Retail ETF - Common Shares	433,462.26	14,500.00
07/10/2009	1	SPDR S&P Semiconductors - Common Shares	712,505.56	20,000.00
05/15/2009 to 06/09/2009	8	Sportsclick Inc. - Common Shares	374,725.00	2,498,257.00
06/30/2009 to 07/27/2009	7	S&P Depository receipts TR Unit - Common Shares	100,710,652.32	997,479.00
07/30/2009	4	The Toronto-Dominion Bank - Notes	3,000,000.00	N/A
07/30/2009	3	The Toronto-Dominion Bank - Notes	3,000,000.00	N/A
08/26/2009 to 08/27/2009	130	Trelawney Mining and Exploration Inc. - Flow-Through Shares	2,972,449.80	4,660,000.00
08/21/2009	5	Trelawney Mining and Exploration Inc. - Units	650,000.00	3,250,000.00
07/07/2009	1	Ultrashort S&P500 Proshare - Common Shares	3,976,532.47	61,710.00
07/01/2009 to 07/08/2009	2	United States Oil Fund LP - Common Shares	373,355.21	10,000.00
09/04/2009	10	Universal Power Corp. - Common Shares	1,600,000.00	3,200,000.00
08/25/2009	19	Valucap Investments Inc. - Common Shares	973,503.00	7,376,562.00
02/24/2009	68	Walton Income 1 Investment Corporation - Common Shares	1,403,000.00	3,400.00
07/29/2009	8	Wescan Goldfields Inc. - Common Shares	604,946.32	N/A
08/25/2009	17	White Pine Resources Inc. - Flow-Through Shares	2,483,749.55	4,874,999.00
08/18/2009	5	Wicked Interactive Ltd. - Units	425,200.00	566,933.00

## Chapter 11

# IPOs, New Issues and Secondary Financings

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**Issuer Name:**

Aecon Group Inc.  
Principal Regulator - Ontario

**Type and Date:**

Preliminary Short Form Prospectus dated September 14, 2009

NP 11-202 Receipt dated September 14, 2009

**Offering Price and Description:**

\$150,000,000.00 - 150,000 7.0% Convertible Unsecured  
Subordinated Debentures Price: \$1,000 per 7.0%  
Convertible Unsecured Subordinated Debenture

**Underwriter(s) or Distributor(s):**

GMP Securities L.P.  
TD Securities Inc.  
Raymond James Ltd.  
CIBC World Markets Inc.  
Paradigm Capital Inc.  
BMO Nesbitt Burns Inc.  
Canaccord Capital Corporation  
National Bank Financial Inc.  
Genuity Capital Markets  
Macquarie Capital Markets Canada Ltd.

**Promoter(s):**

-

**Project #1475485**

**Issuer Name:**

Alita Resources Ltd.  
Principal Regulator - British Columbia

**Type and Date:**

Preliminary CPC Prospectus dated September 1, 2009

NP 11-202 Receipt dated September 9, 2009

**Offering Price and Description:**

Maximum Offering: \$600,000.00 or 6,000,000 Shares;  
Minimum Offering: \$200,000.00 or 2,000,000 Shares Price:  
\$0.10 per Share

**Underwriter(s) or Distributor(s):**

Leede Financial Markets Inc.

**Promoter(s):**

T.J. Malcolm Powell

**Project #1472475**

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**Issuer Name:**

Agrium Inc.  
Principal Regulator - Alberta

**Type and Date:**

Preliminary Base Short Form Shelf Prospectus dated  
September 10, 2009

NP 11-202 Receipt dated September 10, 2009

**Offering Price and Description:**

U.S.\$1,000,000,000.00:

Common Shares  
Preferred Shares  
Subscription Receipts  
Debt Securities  
Units

**Underwriter(s) or Distributor(s):**

-

**Promoter(s):**

-

**Project #1474595**

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**Issuer Name:**

Barrick Gold Corporation  
Principal Regulator - Ontario

**Type and Date:**

Preliminary Short Form Prospectus dated September 8, 2009

NP 11-202 Receipt dated September 9, 2009

**Offering Price and Description:**

US\$ \* - \* Common Shares Price: US\$ \* per Common Share

**Underwriter(s) or Distributor(s):**

RBC Dominion Securities Inc.  
Morgan Stanley Canada Limited  
J.P. Morgan Securities Canada Inc.  
Scotia Capital Inc.  
BMO Nesbitt Burns Inc.  
BNP Paribas (Canada) Securities Inc.  
CIBC World Markets Inc.  
Citigroup Global Markets Canada Inc.  
Goldman Sachs Canada Inc.  
Merrill Lynch Canada Inc.  
UBS Securities Canada Inc.  
Barclays Capital Canada Inc.  
Credit Suisse Securities (Canada), Inc.  
HSBC Securities (Canada) Inc.  
National Bank Financial Inc.  
TD Securities Inc.  
Brookfield Financial Corp.  
Canaccord Capital Corporation  
Cormark Securities Inc.  
Dundee Securities Corporation  
Genuity Capital Markets  
GMP Securities L.P.  
Haywood Securities Inc.  
Research Capital Corporation  
RBS Capital Markets (Canada) Limited  
Salman Partners Inc.  
Thomas Weisel Partners Canada Inc.

**Promoter(s):**

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**Project #1473849**

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**Issuer Name:**

Barrick Gold Corporation  
Principal Regulator - Ontario

**Type and Date:**

Amended and Restated Preliminary Short Form dated September 9, 2009

NP 11-202 Receipt dated September 9, 2009

**Offering Price and Description:**

US\$3,501,012,500.00 - 94,750,000 COMMON SHARES

Price US\$36.95 per Common Share

**Underwriter(s) or Distributor(s):**

RBC Dominion Securities Inc.  
Morgan Stanley Canada Limited  
J.P. Morgan Securities Canada Inc.  
Scotia Capital Inc.  
BMO Nesbitt Burns Inc.  
BNP Paribas (Canada) Securities Inc.  
CIBC World Markets Inc.  
Citigroup Global Markets Canada Inc.  
Goldman Sachs Canada Inc.  
Merrill Lynch Canada Inc.  
UBS Securities Canada Inc.  
Barclays Capital Canada Inc.  
Credit Suisse Securities (Canada), Inc.  
HSBC Securities (Canada) Inc.  
National Bank Financial Inc.  
TD Securities Inc.  
Brookfield Financial Corp.  
Canaccord Capital Corporation  
Cormark Securities Inc.  
Dundee Securities Corporation  
Genuity Capital Markets  
GMP Securities L.P.  
Haywood Securities Inc.  
Research Capital Corporation  
RBS Capital Markets (Canada) Limited  
Salman Partners Inc.  
Thomas Weisel Partners Canada Inc.

**Promoter(s):**

-

**Project #1473849**

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**Issuer Name:**

Compton Petroleum Corporation  
Principal Regulator - Alberta

**Type and Date:**

Preliminary Short Form Prospectus dated September 10, 2009

NP 11-202 Receipt dated September 10, 2009

**Offering Price and Description:**

\$ \* - \* Units Price: \$ \* Per Unit

**Underwriter(s) or Distributor(s):**

Canaccord Capital Corporation  
BMO Nesbitt Burns Inc.  
FirstEnergy Capital Corp.  
Scotia Capital Inc.  
TD Securities Inc.  
Salman Partners Inc.

**Promoter(s):**

-

**Project #1474733**

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**Issuer Name:**

Compton Petroleum Corporation  
Principal Regulator - Alberta

**Type and Date:**

Amended and Restated Preliminary Short Form dated  
September 11, 2009

NP 11-202 Receipt dated September 11, 2009

**Offering Price and Description:**

\$150,000,000.00 - 120,000,000 Units Price: \$1.25 per Unit

**Underwriter(s) or Distributor(s):**

Canaccord Capital Corporation  
BMO Nesbitt Burns Inc.  
FirstEnergy Capital Corp.  
Scotia Capital Inc.  
TD Securities Inc.  
Salman Partners Inc.

**Promoter(s):**

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**Project #1474733**

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**Issuer Name:**

Connor, Clark & Lunn Natural Resources Fund Inc.  
Principal Regulator - Ontario

**Type and Date:**

Preliminary Simplified Prospectus dated September 11, 2009

NP 11-202 Receipt dated September 14, 2009

**Offering Price and Description:**

Class A Shares

**Underwriter(s) or Distributor(s):**

-

**Promoter(s):**

Connor, Clark & Lunn Capital Markets Inc.

**Project #1475132**

**Issuer Name:**

Crombie Real Estate Investment Trust  
Principal Regulator - Nova Scotia

**Type and Date:**

Preliminary Short Form Prospectus dated September 14, 2009

NP 11-202 Receipt dated September 14, 2009

**Offering Price and Description:**

\$85,000,000 - 6.25% Series B Convertible Unsecured  
Subordinated Debentures Price: \$1,000 per Series B  
Convertible Unsecured Subordinated Debentures

**Underwriter(s) or Distributor(s):**

CIBC World Markets Inc.  
TD Securities Inc.  
Scotia Capital Inc.  
BMO Nesbitt Burns Inc.  
National Bank Financial Inc.  
Canaccord Capital Corporation  
Beacon Securities Limited  
Macquarie Capital Markets  
Raymond James Ltd.  
Jennings Capital Inc.

**Promoter(s):**

-

**Project #1475388**

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**Issuer Name:**

DELPHI ENERGY CORP.  
Principal Regulator - Alberta

**Type and Date:**

Preliminary Short Form Prospectus dated September 15, 2009

NP 11-202 Receipt dated September 15, 2009

**Offering Price and Description:**

\$15,000,000.00 - 12,000,000 Common Shares Price:  
\$1.25 per Common Share

**Underwriter(s) or Distributor(s):**

National Bank Financial Inc.  
Scotia Capital Inc.  
RBC Dominion Securities Inc.  
GMP Securities L.P.  
Macquarie Capital Markets Canada Ltd.  
Salman Partners Inc.  
Maison Placements Canada Inc.  
Acumen Capital Finance Partners Limited

**Promoter(s):**

-

**Project #1475981**

**Issuer Name:**

Dollarama Inc.  
Principal Regulator - Quebec

**Type and Date:**

Preliminary Long Form Prospectus dated September 10, 2009

NP 11-202 Receipt dated September 10, 2009

**Offering Price and Description:**

\$ \* - \* Common Shares Price: \$ \* per Common Share

**Underwriter(s) or Distributor(s):**

RBC Dominion Securities Inc.  
CIBC World Markets Inc.  
Credit Suisse Securities (Canada) Inc.  
Scotia Capital Inc.  
Barclays Capital Canada Inc.  
National Bank Financial Inc.  
Desjardins Securities Inc.  
HSBC Securities (Canada) Inc.  
Merrill Lynch Canada Inc.  
Raymond James Ltd.

**Promoter(s):**

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**Project #1474736**

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**Issuer Name:**

EnerVest FTS Limited Partnership 2009  
Principal Regulator - Alberta

**Type and Date:**

Preliminary Long Form Prospectus dated September 9, 2009

NP 11-202 Receipt dated September 9, 2009

**Offering Price and Description:**

MAXIMUM 1,600,000 CLASS CEE AND/OR CLASS CDE LIMITED PARTNERSHIP UNITS (\$40,000,000); MINIMUM 200,000 CLASS CEE AND/OR CLASS CDE LIMITED PARTNERSHIP UNITS (\$5,000,000) PRICE: \$25.00 PER CEE UNIT AND CDE UNIT- MINIMUM SUBSCRIPTION: \$5,000 (200 UNITS) FOR CEE UNITS AND/OR CDE UNITS

**Underwriter(s) or Distributor(s):**

National Bank Financial Inc.  
CIBC World Markets Inc.  
BMO Nesbitt Burns Inc.  
Scotia Capital Inc.  
TD Securities Inc.  
FirstEnergy Capital Corp.  
Haywood Securities Inc.  
Blackmont Capital Inc.  
Canaccord Capital Corporation  
HSBC Securities (Canada) Inc.  
Manulife Securities Incorporated  
Raymond James Ltd.  
Wellington West Capital Markets Inc.

**Promoter(s):**

EnerVest 2009 General Partners Corp.  
EnerVest Management Ltd.

**Project #1474260**

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**Issuer Name:**

Excel BRIC Fund  
Principal Regulator - Ontario

**Type and Date:**

Preliminary Simplified Prospectus dated September 11, 2009

NP 11-202 Receipt dated September 14, 2009

**Offering Price and Description:**

Series A and Series F Units

**Underwriter(s) or Distributor(s):**

Excel Funds Management Inc.

**Promoter(s):**

Excel Funds Management Inc.

**Project #1475129**

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**Issuer Name:**

Horizons AlphaPro Gartman ETF  
Principal Regulator - Ontario

**Type and Date:**

Preliminary Long Form Prospectus dated September 8, 2009

NP 11-202 Receipt dated September 14, 2009

**Offering Price and Description:**

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**Underwriter(s) or Distributor(s):**

-

**Promoter(s):**

AlphaPro Management Inc.

**Project #1475168**

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**Issuer Name:**

Horizons BetaPro U.S. NYMEX® Crude Oil ETF  
Horizons BetaPro U.S. NYMEX® Natural Gas ETF  
Principal Regulator - Ontario

**Type and Date:**

Preliminary Long Form Prospectus dated September 10, 2009

NP 11-202 Receipt dated September 14, 2009

**Offering Price and Description:**

U.S. \$ Class U Units

**Underwriter(s) or Distributor(s):**

-

**Promoter(s):**

BetaPro Management Inc.

**Project #1475185**

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**Issuer Name:**

Midnight Oil Exploration Ltd.  
Principal Regulator - Alberta

**Type and Date:**

Preliminary Short Form Prospectus dated September 15, 2009

NP 11-202 Receipt dated September 15, 2009

**Offering Price and Description:**

\$17,605,000.00 - 10,600,000 Common Shares and  
6,850,000 Flow-Through Shares Price: \$0.95 per Common  
Share and \$1.10 per Flow-Through Share

**Underwriter(s) or Distributor(s):**

Cormark Securities Inc.  
GMP Securities L.P.  
National Bank Financial Inc.  
FirstEnergy Capital Corp.  
Acumen Capital Finance Partners Limited

**Promoter(s):**

-

**Project #1475834**

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**Issuer Name:**

Paramount Gold and Silver Corp.

**Type and Date:**

Preliminary MJDS Prospectus dated September 11, 2009  
Receipted on September 14, 2009

**Offering Price and Description:**

US \$80,000,000.00:

Common Stock

Common Stock Purchase Warrants

**Underwriter(s) or Distributor(s):**

-

**Promoter(s):**

-

**Project #1475353**

**Issuer Name:**

Silver Wheaton Corp.  
Principal Regulator - British Columbia

**Type and Date:**

Preliminary Short Form Prospectus dated September 14, 2009

NP 11-202 Receipt dated September 14, 2009

**Offering Price and Description:**

US\$250,027,500.00 - 22,525,000 Common Shares Price:  
US\$11.10 per Common Share

**Underwriter(s) or Distributor(s):**

Genuity Capital Markets  
GMP Securities L.P.  
BMO Nesbitt Burns Inc.  
Scotia Capital Inc.  
Canaccord Capital Corporation  
USB Securities Canada Inc.  
Blackmont Capital Inc.  
HSBC Securities (Canada) Inc.  
Macquarie Capital Markets Canada Ltd.  
Merrill Lynch Canada Inc.  
Raymond James Ltd.  
RBC Dominion Securities Inc.  
Salman Partners Inc.  
CIBC World Markets Inc.

**Promoter(s):**

-

**Project #1475484**

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**Issuer Name:**

SinoGas West Inc.  
Principal Regulator - Alberta

**Type and Date:**

Preliminary CPC Prospectus dated September 9, 2009  
NP 11-202 Receipt dated September 10, 2009

**Offering Price and Description:**

Minimum Offering \$550,000.00 (5,500,000 Class "A"  
Common Shares); Maximum Offering \$1,000,000  
.00(10,000,000 Class "A" Common Shares) PRICE: \$0.10  
per Class "A" Common Share

**Underwriter(s) or Distributor(s):**

Canaccord Capital Corporation

**Promoter(s):**

Wise Wong

**Project #1474776**



**Issuer Name:**

TransCanada Corporation  
Principal Regulator - Alberta

**Type and Date:**

Preliminary Short Form Base Shelf Prospectus dated  
September 15, 2009

NP 11-202 Receipt dated September 15, 2009

**Offering Price and Description:**

\$3,000,000,000.00:

Common Shares  
First Preferred Shares  
Second Preferred Shares  
Subscription Receipts

**Underwriter(s) or Distributor(s):**

-

**Promoter(s):**

-

**Project #1475965**

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**Issuer Name:**

Transcontinental Inc.  
Principal Regulator - Quebec

**Type and Date:**

Preliminary Short Form Base Shelf Prospectus dated  
September 10, 2009

NP 11-202 Receipt dated September 10, 2009

**Offering Price and Description:**

\$500,000,000.00:

Debt Securities (unsecured)  
Preferred Shares

**Underwriter(s) or Distributor(s):**

-

**Promoter(s):**

-

**Project #1474640**

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**Issuer Name:**

Uranium Focused Energy Fund  
Principal Regulator - Ontario

**Type and Date:**

Preliminary Short Form Prospectus dated September 4,  
2009

NP 11-202 Receipt dated September 9, 2009

**Offering Price and Description:**

OFFERING OF \* RIGHTS TO PURCHASE A MAXIMUM  
OF \* TRUST UNITS Subscription Price: One Right and \$ \*  
per Trust Unit The Subscription Price equals approximately  
\* % of the closing price per Trust Unit on the Toronto Stock  
Exchange on \*, 2009

**Underwriter(s) or Distributor(s):**

Middlefield Capital Corporation

**Promoter(s):**

-

**Project #1473863**

**Issuer Name:**

WestJet Airlines Ltd.  
Principal Regulator - Alberta

**Type and Date:**

Preliminary Short Form Prospectus dated September 15,  
2009

NP 11-202 Receipt dated September 15, 2009

**Offering Price and Description:**

\$149,968,000.00 - 13,390,000 Common Voting Shares and  
Variable Voting Shares (depending on the residency of the  
purchaser) Price: \$11.20 Per Offered Share

**Underwriter(s) or Distributor(s):**

CIBC World Markets Inc.  
RBC Dominion Securities Inc.  
TD Securities Inc.  
National Bank Financial Inc.  
Raymond James Ltd.  
Scotia Capital Inc.  
UBS Securities Canada Inc.  
HSBC Securities (Canada) Inc.

**Promoter(s):**

-

**Project #1475895**

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**Issuer Name:**

YPG Holdings Inc.  
Principal Regulator - Quebec

**Type and Date:**

Preliminary Short Form Prospectus dated September 9,  
2009

NP 11-202 Receipt dated September 9, 2009

**Offering Price and Description:**

\$187,500,000 - 7,500,000 Cumulative Rate Reset First  
Preferred Shares, Series 3 Price: \$25.00 per Series 3  
Preferred Share to yield initially 6.75%

**Underwriter(s) or Distributor(s):**

CIBC World Markets Inc.  
Scotia Capital Inc.  
RBC Dominion Securities Inc.  
BMO Nesbitt Burns Inc.  
TD Securities Inc.  
National Bank Financial Inc.  
HSBC Securities (Canada) Inc.  
Desjardins Securities Inc.  
Canaccord Capital Corporation  
Raymond James Ltd.  
Dundee Securities Corporation  
Blackmont Capital Inc.

**Promoter(s):**

-

**Project #1474131**

**Issuer Name:**

Barrick Gold Corporation  
Principal Regulator - Ontario

**Type and Date:**

Final Short Form Prospectus dated September 15, 2009  
NP 11-202 Receipt dated September 15, 2009

**Offering Price and Description:**

US\$4,026,164,375.00 - 108,962,500 COMMON SHARES  
Price US\$36.95 per Common Share

**Underwriter(s) or Distributor(s):**

RBC Dominion Securities Inc.  
Morgan Stanley Canada Limited  
J.P. Morgan Securities Canada Inc.  
Scotia Capital Inc.  
BMO Nesbitt Burns Inc.  
BNP Paribas (Canada) Securities Inc.  
CIBC World Markets Inc.  
Citigroup Global Markets Canada Inc.  
Goldman Sachs Canada Inc.  
Merrill Lynch Canada Inc.  
UBS Securities Canada Inc.  
Barclays Capital Canada Inc.  
Credit Suisse Securities (Canada), Inc.  
HSBC Securities (Canada) Inc.  
National Bank Financial Inc.  
TD Securities Inc.  
Brookfield Financial Corp.  
Canaccord Capital Corporation  
Cormark Securities Inc.  
Dundee Securities Corporation  
Genuity Capital Markets  
GMP Securities L.P.  
Haywood Securities Inc.  
Research Capital Corporation  
RBS Capital Markets (Canada) Limited  
Salman Partners Inc.  
Thomas Weisel Partners Canada Inc.

**Promoter(s):**

-

**Project #1473849**

**Issuer Name:**

Bellamont Exploration Ltd.  
Principal Regulator - Alberta

**Type and Date:**

Final Short Form Prospectus dated September 10, 2009  
NP 11-202 Receipt dated September 10, 2009

**Offering Price and Description:**

\$6,200,000.00 - 10,000,000 Class A Shares Price: \$0.62  
per Class A Share

**Underwriter(s) or Distributor(s):**

FirstEnergy Capital Corp  
GMP Securities L.P.  
RBC Dominion Securities Inc.  
National Bank Financial Inc.

**Promoter(s):**

-

**Project #1472675**

**Issuer Name:**

BlackWatch Energy Services Corp.  
Principal Regulator - Alberta

**Type and Date:**

Final Short Form Prospectus dated September 14, 2009  
NP 11-202 Receipt dated September 14, 2009

**Offering Price and Description:**

\$75,000,000.00 - 75,000,000 Common Shares Price:  
\$1.00 per Common Share

**Underwriter(s) or Distributor(s):**

Peters & Co. Limited  
Cormark Securities Inc.  
FirstEnergy Capital Corp.  
Scotia Capital Inc.

**Promoter(s):**

-

**Project #1471189**

**Issuer Name:**

BMG BullionFund  
BMG Gold BullionFund  
Principal Regulator - Ontario

**Type and Date:**

Final Simplified Prospectuses dated September 4, 2009  
NP 11-202 Receipt dated September 14, 2009

**Offering Price and Description:**

Class A, Class F, Class I, Class S1 and Class S2 Units @  
Net Asset Value

**Underwriter(s) or Distributor(s):**

-

**Promoter(s):**

Bullion Management Services Inc.

**Project #1450525**

**Issuer Name:**

Chou Asia Fund  
Chou Associates Fund  
Chou Bond Fund  
Chou Europe Fund  
Chou RRSP Fund  
Principal Regulator - Ontario

**Type and Date:**

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

**Offering Price and Description:**

-

**Underwriter(s) or Distributor(s):**

-

**Promoter(s):**

-

**Project #1458184**

**Issuer Name:**

Credential Enrich Canadian Equity Pool  
Credential Enrich Income Pool  
Credential Enrich International Equity Pool  
Credential Enrich US Equity Pool  
Principal Regulator - Ontario

**Type and Date:**

Amendment #1 dated September 11, 2009 to the Simplified Prospectuses and Annual Information Forms dated June 30, 2009

NP 11-202 Receipt dated September 15, 2009

**Offering Price and Description:**

Class A and Class B Units @ Net Asset Value

**Underwriter(s) or Distributor(s):**

Credential Asset Management Inc.

**Promoter(s):**

Northwest & Ethical Investments L.P

**Project #1431416**

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**Issuer Name:**

Dundee Corporation  
Principal Regulator - Ontario

**Type and Date:**

Final Short Form Prospectus dated September 9, 2009

NP 11-202 Receipt dated September 9, 2009

**Offering Price and Description:**

\$115,000,000.00 - 4,600,000 Cumulative 5-Year Rate  
Reset First Preference Shares, Series 2

**Underwriter(s) or Distributor(s):**

GMP Securities L.P.  
Scotia Capital Inc.  
BMO Nesbitt Burns Inc.  
CIBC World Markets Inc.  
Dundee Securities Corporation  
National Bank Financial Inc.  
TD Securities Inc.  
Canaccord Capital Corporation  
Raymond James Ltd.

**Promoter(s):**

-

**Project #1470353**

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**Issuer Name:**

Global Biotech Corp

**Type and Date:**

Final Long Form Non-Offering Prospectus dated  
September 9, 2009

Receipted on September 10, 2009

**Offering Price and Description:**

-

**Underwriter(s) or Distributor(s):**

-

**Promoter(s):**

Louis Greco  
Perry Choiniere  
Gilles Lamarre  
**Project #1369618**

**Issuer Name:**

Global Educational Trust Plan  
Principal Regulator - Ontario

**Type and Date:**

Final Long Form Prospectus dated August 28, 2009  
NP 11-202 Receipt dated September 11, 2009

**Offering Price and Description:**

Units @ Net Asset Value

**Underwriter(s) or Distributor(s):**

-

**Promoter(s):**

Global Educational Trust Foundation

**Project #1451303**

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**Issuer Name:**

Mercator Minerals Ltd.  
Principal Regulator - British Columbia

**Type and Date:**

Final Short Form Prospectus dated September 9, 2009

NP 11-202 Receipt dated September 10, 2009

**Offering Price and Description:**

\$70,000,000.00 - 26,923,077 Common Shares Price:  
\$2.60 per Common Share

**Underwriter(s) or Distributor(s):**

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

**Promoter(s):**

-

**Project #1472351**

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**Issuer Name:**

Morguard Real Estate Investment Trust  
Principal Regulator - Ontario

**Type and Date:**

Final Short Form Prospectus dated September 15, 2009

NP 11-202 Receipt dated September 15, 2009

**Offering Price and Description:**

\$90,000,000.00 - 6.50% Convertible Unsecured  
Subordinated Debentures due September 30, 2014

**Underwriter(s) or Distributor(s):**

RBC Dominion Securities Inc.  
TD Securities Inc.  
Scotia Capital Inc.  
BMO Nesbitt Burns Inc.  
CIBC World Markets Inc.  
HSBC Securities (Canada) Inc.  
Blackmont Capital Inc.  
Brookfield Financial Corp.  
Canaccord Capital Corporation

**Promoter(s):**

-

**Project #1473387**

**Issuer Name:**

Nitinat Minerals Corporation  
Principal Regulator - Ontario

**Type and Date:**

Amended and Restated Prospectus dated September 4, 2009, amending and restating the Prospectus dated April 28, 2009

NP 11-202 Receipt dated September 9, 2009

**Offering Price and Description:**

-

**Underwriter(s) or Distributor(s):**

First Canada Capital Partners Inc.

**Promoter(s):**

Vernon Briggs

**Project #1328230**

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**Issuer Name:**

Superior Plus Corp.  
Principal Regulator - Alberta

**Type and Date:**

Final Short Form Prospectus dated September 14, 2009

NP 11-202 Receipt dated September 14, 2009

**Offering Price and Description:**

\$45,059,500.00 - 3,970,000 Common Shares @ \$11.35 per Common Share

**Underwriter(s) or Distributor(s):**

TD Securities Inc.  
Scotia Capital Inc.  
National Bank Financial Inc.  
CIBC World Markets Inc.  
BMO Nesbitt Burns Inc.  
Cormark Securities Inc.

**Promoter(s):**

-

**Project #1473355**

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**Issuer Name:**

SXC Health Solutions Corp.  
Principal Regulator - Ontario

**Type and Date:**

Final Short Form Base Shelf Prospectus dated September 14, 2009

NP 11-202 Receipt dated September 14, 2009

**Offering Price and Description:**

U.S.\$300,000,000.00:

Debt Securities  
Common Shares  
Warrants

Convertible Securities  
Share Purchase Contracts  
Share Purchase Units

**Underwriter(s) or Distributor(s):**

-

**Promoter(s):**

-

**Project #1457191**

**Issuer Name:**

Thompson Creek Metals Company Inc.  
Principal Regulator - Ontario

**Type and Date:**

Final Short Form Prospectus dated September 9, 2009

NP 11-202 Receipt dated September 9, 2009

**Offering Price and Description:**

C\$217,000,000.00 - 15,500,000 Common Shares Price: C\$14.00 per Common Share

**Underwriter(s) or Distributor(s):**

UBS Securities Canada Inc.  
GMP Securities L.P.  
BMO Nesbitt Burns Inc.  
Credit Suisse Securities (Canada) Inc.  
Desjardins Securities Inc.  
Deutsche Bank Securities Limited  
Scotia Capital Inc.

**Promoter(s):**

-

**Project #1470683**

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## Chapter 12

# Registrations

### 12.1.1 Registrants

Type	Company	Category of Registration	Effective Date
Name Change	From: FWM Securities Inc.  To: Shoreline Capital Management Ltd.	Commodity Trading Manager and Limited Market Dealer	September 9, 2009
New Registration	Lombard Odier Darier Hentsch Securities (Canada) Inc.	Investment Dealer	September 15, 2009
Change of Category	Montrose Hammond & Co.	From: Limited Market Dealer Investment Counsel and Portfolio Manager  To: Limited Market Dealer Investment Counsel and Portfolio Manager Commodity Trading Manager	September 16, 2009
Name Change	From: International Advisory Services Group (IASG) ULC  To : Fidelity Clearing Canada ULC	Investment Dealer	September 16, 2009

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## Chapter 13

# SRO Notices and Disciplinary Proceedings

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### 13.1.1 MFDA Hearing Panel Issues Reasons for Decision with Respect to De Thomas Financial Corp. Settlement Hearing

**NEWS RELEASE**  
For immediate release

#### **MFDA HEARING PANEL ISSUES REASONS FOR DECISION WITH RESPECT TO DE THOMAS FINANCIAL CORP. SETTLEMENT HEARING**

**September 10, 2009** (Toronto, Ontario) – A Hearing Panel of the Central Regional Council of the Mutual Fund Dealers Association of Canada (“MFDA”) has issued its Reasons for Decision in connection with the Settlement Hearing held in Toronto, Ontario on September 3, 2009 in the matter of De Thomas Financial Corp.

A copy of the Reasons for Decision is available on the MFDA website at [www.mfda.ca](http://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 145 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](mailto:sdevlin@mfda.ca)



**13.1.2 Technical Amendments to CDS Procedures – New Extended Failed Trades File for IIROC Members – Notice of Effective Date**

**CDS CLEARING AND DEPOSITORY SERVICES INC. (CDS®)**

**TECHNICAL AMENDMENTS TO CDS PROCEDURES**

**NEW EXTENDED FAILED TRADES FILE FOR IIROC MEMBERS**

**NOTICE OF EFFECTIVE DATE**

**A. DESCRIPTION OF THE CDS PROCEDURE AMENDMENT**

*Background*

The proposed amendment is to allow subscription to a new file that is required to assist CDS participants in complying with the regulatory reporting requirements of the Investment Industry Regulatory Organization of Canada (IIROC).

A new file will be created to identify unsettled non-exchange trades to IIROC. The new file will be based on the existing end-of-day outbound non-exchange trade file sent to subscribing participants each day, but will only report those trades that are outstanding 10 days past value date, where the buyer (and subscriber) is an IIROC member. The new daily file will be delivered on behalf of a subscribing participant directly to IIROC.

By having CDS provide this information to IIROC, individual participant costs associated with developing and supporting a facility to report this data are reduced or eliminated.

The CDSX218 form marked for the amendments may be accessed at the CDS website at:

<http://www.cds.ca/cdsclearinghome.nsf/Pages/-EN-FormsOnline?Open>

*Description of Proposed Amendments*

The proposed amendment allows participants to subscribe to the new Extended Failed Trades-IIROC file.

**CDS subscription form:**

CDSX218: Data Transmission Request

CDS Procedure Amendments are reviewed and approved by CDS's Strategic Development Review Committee ("SDRC"). The SDRC determines or reviews, prioritizes and oversees CDS-related systems development and other changes proposed by participants and CDS. The SDRC's membership includes representatives from the CDS Participant community and it meets on a monthly basis.

These amendments were reviewed and approved by the SDRC on August 27, 2009.

**B. REASONS FOR TECHNICAL CLASSIFICATION**

The amendments proposed pursuant to this Notice are considered technical amendments required to ensure consistency or compliance with a regulatory requirement.

**C. EFFECTIVE DATE OF THE CDS PROCEDURE AMENDMENT**

Pursuant to Appendix A ("Rule Protocol Regarding The Review And Approval Of CDS Rules By The OSC") of the Recognition and Designation Order, as amended on November 1, 2006, and Annexe A ("Protocole d'examen et d'approbation des Règles de Services de Dépôt et de Compensation CDS Inc. par l'Autorité des marchés financiers") of AMF Decision 2006-PDG-0180, made effective on November 1, 2006, CDS has determined that the proposed amendments will become effective on a date subsequently determined by CDS, and as stipulated in the related CDS Bulletin.

**D. QUESTIONS**

Questions regarding this notice may be directed to:

Laura Ellick  
Manager, Business Systems  
Business Systems Development & Support  
CDS Clearing and Depository Services Inc.  
85 Richmond Street West  
Toronto, Ontario M5H 2C9

Telephone: 416-365-3872  
Fax: 416-365-9625  
Email: lellick@cds.ca

13.1.3 MFDA Hearing Panel Issues Decision and Reasons with Respect to Tony Tung-Yuan Lin

**NEWS RELEASE**  
For immediate release

**MFDA HEARING PANEL ISSUES DECISION  
AND REASONS WITH RESPECT TO  
TONY TUNG-YUAN LIN**

**September 14, 2009** (Toronto, Ontario) – A Hearing Panel of the Pacific 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 Vancouver, British Columbia in respect of Tony Tung-Yuan Lin.

A copy of the Decision and Reasons is available on the MFDA website at [www.mfda.ca](http://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 145 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](mailto:sdevlin@mfda.ca)

13.1.4 MFDA Issues Notice of Settlement Hearing Regarding Bick Financial Security Corporation

**NEWS RELEASE**  
For immediate release

**MFDA ISSUES NOTICE OF  
SETTLEMENT HEARING REGARDING  
BICK FINANCIAL SECURITY CORPORATION**

**September 14, 2009** (Toronto, Ontario) – The Mutual Fund Dealers Association of Canada (“MFDA”) today announced that it has issued a Notice of Settlement Hearing regarding the presentation, review and consideration of a proposed settlement agreement by a Hearing Panel of the MFDA’s Central Regional Council.

The settlement agreement will be between staff of the MFDA and Bick Financial Security Corporation (the “Respondent”) and involves matters for which the Respondent may be disciplined by a Hearing Panel pursuant to MFDA By-laws. The proposed settlement agreement concerns allegations that, contrary to MFDA Rules and Policy No. 2, the Respondent failed to establish, implement and maintain adequate policies and procedures for:

- (a) conducting and maintaining records of trade supervision;
- (b) the review and approval of advertisements, sales communications and client communications; and
- (c) assessing and supervising the suitability of leveraging recommendations that its Approved Persona made to clients.

The settlement hearing is scheduled to commence at 10:00 a.m. (Eastern) on September 24, 2009 in the Hearing Room in the MFDA offices located at 121 King Street West, Suite 1000, Toronto, Ontario. The hearing will be open to the public except as may be required for the protection of confidential matters. A copy of the Notice of Settlement Hearing is available on the MFDA website at [www.mfda.ca](http://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 145 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](mailto:sdevlin@mfda.ca)

**13.1.5 Technical Amendments to CDS Procedures – SWIFT Message Instructions for Euroclear France – Notice of Effective Date**

**CDS CLEARING AND DEPOSITORY SERVICES INC. (CDS®)**  
**TECHNICAL AMENDMENTS TO CDS PROCEDURES**  
**SWIFT MESSAGE INSTRUCTIONS FOR EUROCLEAR FRANCE**  
**NOTICE OF EFFECTIVE DATE**

**A. DESCRIPTION OF THE CDS PROCEDURE AMENDMENT**

*Background*

CDS is in the process of upgrading the SWIFT communication messages for its free of payment (FoP) settlement facility currently in place with Euroclear France. The upgrade is required to allow delivery instructions provided by CDS participants to be sent in a straight through processing (STP) manner by CDS to an upgraded Euroclear France settlement platform. The updated procedures require participants to provide specific information in existing fields within the international delivery input screen. Additionally, CDS will automatically process securities received from Euroclear France into the participant's CUID ledger specified by the delivering party.

The CDS Procedures marked for the amendments may be accessed at the CDS website at:

<http://www.cds.ca/cdsclearinghome.nsf/Pages/-EN-blacklined?Open>.

*Description of Proposed Amendments*

The proposed amendments will align the external procedures referenced in this Notice with the required data field input and processes provided to CDS by Euroclear France. CDS is amending sections of the International Services Procedures manual. Changes are required to Chapter 1 – International deliveries section 1.6, and Chapter 3 – Euroclear France Link Service sections 3.1, 3.2, 3.2.1 and 3.3.

CDS Procedure Amendments are reviewed and approved by CDS's Strategic Development Review Committee ("SDRC"). The SDRC determines or reviews, prioritizes and oversees CDS-related systems development and other changes proposed by participants and CDS. The SDRC's membership includes representatives from the CDS Participant community and it meets on a monthly basis.

These amendments were reviewed and approved by the SDRC on August 27, 2009

**B. REASONS FOR TECHNICAL CLASSIFICATION**

The amendments proposed pursuant to this Notice are considered technical amendments as they are matters of a technical nature in routine operating procedures and administrative practices relating to the settlement services;

**C. EFFECTIVE DATE OF THE CDS PROCEDURE AMENDMENT**

Pursuant to Appendix A ("Rule Protocol Regarding The Review And Approval Of CDS Rules By The OSC") of the Recognition and Designation Order, as amended on November 1, 2006, and Annexe A ("Protocole d'examen et d'approbation des Règles de Services de Dépôt et de Compensation CDS Inc. par l'Autorité des marchés financiers") of AMF Decision 2006-PDG-0180, made effective on November 1, 2006, CDS has determined that the proposed amendments will become effective on a date subsequently determined by CDS, and as stipulated in the related CDS Bulletin.

**D. QUESTIONS**

Questions regarding this notice may be directed to:

Alvin Ropchan  
Senior Product Manager  
CDS Clearing and Depository Services Inc.  
85 Richmond Street West  
Toronto, Ontario M5H 2C9

Telephone: 416-365-8378  
Fax: 416-365-0842  
Email: [aropchan@cds.ca](mailto:aropchan@cds.ca)

**13.1.6 Technical Amendments to CDS Procedures – Company Name Change (FMC to SS&C) on Service Eligibility Details – Unit Functions Form (CDSX799) – Notice of Effective Date**

**CDS CLEARING AND DEPOSITORY SERVICES INC. (CDS®)**

**TECHNICAL AMENDMENTS TO CDS PROCEDURES**

**COMPANY NAME CHANGE (FMC TO SS&C) ON SERVICE ELIGIBILITY DETAILS – UNIT FUNCTIONS FORM (CDSX799)**

**NOTICE OF EFFECTIVE DATE**

**A. DESCRIPTION OF THE CDS PROCEDURE AMENDMENT**

*Background*

CDS form **CDSX799: Online Services Support – Service Eligibility Details - Unit Functions**, is used by participants to indicate to CDS its eligibility for a number of online services support. Among such online services is support for institutional trade processing (ITP), typically through a third-party virtual matching utility (VMU). The form lists several VMU choices identified by VMU name.

One of the VMUs listed on form CDSX799 is “FMC”, in reference to FINANCIAL MODELS COMPANY INC. (FMC), a corporation which has since been acquired by SS&C TECHNOLOGIES, INC. (SS&C) [for further details see: <http://www.sec.gov/Archives/edgar/data/1011661/000095013505001153/b53904ssexv2w1.htm>].

Although the ITP system formerly operated by FMC is familiarly referred to as “FMC” or “FMCNet”, SS&C has recently indicated to CDS that it wishes to change the “FMC” VMU listing on form CDSX799 to read “SS&C”.

The CDS Procedures marked for the amendments may be accessed at the CDS website at:

<http://www.cds.ca/cdsclearinghome.nsf/Pages/-EN-FormsOnline?Open>

*Description of Proposed Amendments*

Revise CDS form CDSX799 to change the line under “Service Description” on that reads: **ITP Service - FMC (VMU)**, to read: **ITP Service – SS&C (VMU)**.

CDS Procedure Amendments are reviewed and approved by CDS’s Strategic Development Review Committee (“SDRC”). The SDRC determines or reviews, prioritizes and oversees CDS-related systems development and other changes proposed by participants and CDS. The SDRC’s membership includes representatives from the CDS Participant community and it meets on a monthly basis.

These amendments were reviewed and approved by the SDRC on August 27, 2009.

**B. REASONS FOR TECHNICAL CLASSIFICATION**

The amendments proposed pursuant to this Notice are considered technical amendments as matters of a technical nature in routine operating procedures and administrative practices relating to the settlement services.

**C. EFFECTIVE DATE OF THE CDS PROCEDURE AMENDMENT**

Pursuant to Appendix A (“Rule Protocol Regarding The Review And Approval Of CDS Rules By The OSC”) of the Recognition and Designation Order, as amended on November 1, 2006, and Annexe A (“Protocole d’examen et d’approbation des Règles de Services de Dépôt et de Compensation CDS Inc. par l’Autorité des marchés financiers”) of AMF Decision 2006-PDG-0180, made effective on November 1, 2006, CDS has determined that the proposed amendments will become effective on a date subsequently determined by CDS, and as stipulated in the related CDS Bulletin.

**D. QUESTIONS**

Questions regarding this notice may be directed to:

George Chung  
Manager, Customer Service Support  
CDS Clearing and Depository Services Inc.  
85 Richmond Street West  
Toronto, Ontario M5H 2C9

Telephone: 416.365.8610  
Fax: 416.365.0842  
Email: [gchung@cds.ca](mailto:gchung@cds.ca)



13.1.7 MFDA Confirms Next Appearance in the Matter of ASL Direct Inc. and Adrian S. Leemhuis

**NEWS RELEASE**  
For immediate release

**MFDA CONFIRMS NEXT APPEARANCE  
IN THE MATTER OF  
ASL DIRECT INC. AND ADRIAN S. LEEMHUIS**

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

As previously announced, an appearance took place in this proceeding today by teleconference before a three-member Hearing Panel of the MFDA’s Central Regional Council.

Following submissions by the parties, the Hearing Panel confirmed that the next appearance in this matter will be an in-person pre-hearing motion on October 27, 2009 at 10:00 a.m. (Eastern) in the Hearing Room located at the offices of the MFDA at 121 King Street West, Suite 1000, Toronto, Ontario. The appearance will be open to the public, except as may be required for the protection of confidential matters.

A copy of the Notice of Hearing is available on the MFDA website at [www.mfda.ca](http://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 145 Members and their approximately 75,000 Approved Persons with a mandate to protect investors and the public interest.

*For further information, please contact:*  
Marco Wynnycky  
Hearings Coordinator  
416-945-5146 or [mwynnyckyj@mfda.ca](mailto:mwynnyckyj@mfda.ca)

13.1.8 MFDA Issues Notice of Settlement Hearing Regarding Douglas Malech

**NEWS RELEASE**  
For immediate release

**MFDA ISSUES NOTICE OF SETTLEMENT HEARING  
REGARDING DOUGLAS MALECH**

**September 15, 2009** (Toronto, Ontario) – The Mutual Fund Dealers Association of Canada (“MFDA”) today announced that it has issued a Notice of Settlement Hearing regarding the presentation, review and consideration of a proposed settlement agreement by a Hearing Panel of the MFDA’s Prairie Regional Council.

The settlement agreement will be between staff of the MFDA and Douglas D. Malech (the “Respondent”) and involves matters for which the Respondent may be disciplined by a Hearing Panel pursuant to MFDA By-laws. The proposed settlement agreement concerns allegations that the Respondent failed to deal fairly, honestly and in good faith with a client, contrary to MFDA Rule 2.2.1.

The settlement hearing is scheduled to commence at 10:00 a.m. (Mountain) on September 18, 2009 in the Hearing Room located at the Fairmont Hotel Macdonald, 10065-100th Street, Edmonton, Alberta. The hearing will be open to the public except as may be required for the protection of confidential matters. A copy of the Notice of Settlement Hearing is available on the MFDA website at [www.mfda.ca](http://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 145 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](mailto:sdevlin@mfda.ca)

### 13.1.9 TSX Notice of Approval – Amendments to Part VI of the TSX Company Manual

## TORONTO STOCK EXCHANGE NOTICE OF APPROVAL AMENDMENTS TO PART VI OF THE TORONTO STOCK EXCHANGE COMPANY MANUAL

In accordance with the Protocol for Commission Oversight of Toronto Stock Exchange Rule Proposals (the “Protocol”) between the Ontario Securities Commission (the “OSC”) and Toronto Stock Exchange (“TSX”), TSX has adopted and the OSC has approved various amendments (the “Amendments”) to Part VI of the TSX Company Manual (the “Manual”). The Amendments were published for public comment in a request for comments on January 26, 2007 (“Request for Comments”).

### Reasons for the Amendments

Various changes to Part VI of the Manual went into effect on January 1, 2005. Since that time, TSX experience with the application of the rules has indicated that certain provisions in Part VI could either be clarified or improved, due to both the benefit of time and practice, and in response to the changing needs of our stakeholders. The objective of the Amendments is for TSX to continue to provide listed issuers with a complete and transparent set of TSX standards and practices allowing issuers and investors, and their respective advisors, to have certainty when planning and completing transactions.

### Summary of the Amendments

TSX received four comment letters in response to the Request for Comments. A summary of the comments together with TSX’s responses is attached as **Appendix B**. TSX has made non-material changes since the Request for Comments, based on both the public comments and the OSC’s comments. A blacklined version of the Amendments showing the changes since the Request for Comments is attached as **Appendix C**.

### Part I – Introduction

#### Interpretation

A definition of “insider participation limit” has been added to Part I to simplify the drafting in Part VI. The definition arises in Subsections 613(a) and 613(i).

### Part VI – Changes in Capital Structure of Listed Issuers

#### Unlisted Warrants – Section 608

TSX requested feedback from the public as to whether to introduce a proposed valuation requirement and mechanism for unlisted warrants because of concerns that had previously been raised by market participants regarding the potential inconsistency of having pricing requirements (i.e. allowable discounts) for securities distributed by private placements without factoring in a value for warrants. Only one commenter responded to this question, and did not support making such changes. Accordingly, TSX is not proposing to change the current regime for unlisted warrants.

#### Security Based Compensation Arrangements & Insiders – Subsections 613(a), (d), (h) and (i)

##### Requirement for Security Holder Approval - Subsection 613(a)

Some minor technical drafting amendments have been made to Subsection 613(a) since the Request for Comments, mainly to incorporate the new definition of “insider participation limit” and to correct section references.

##### Disclosure Required when Seeking Security Holder Approval & Annually – Subsection 613(d)

Drafting amendments have been made to clarify the calculations required to satisfy the disclosure requirements under Subsection 613(d)(ii) and to correct a section reference.

##### Prohibited Provisions Notwithstanding Security Holder Approval - Subsection 613(h)

The final provision has been slightly revised from the Request for Comments to clarify that it applies regardless of whether or not the arrangement has been approved by security holders and to remove redundant language at the end of the paragraph. Comments received supported this clarification.

### **Amendments Requiring Specific Security Holder Approval - Subsection 613(i)**

Based on the comments received, additional minor drafting amendments have been made to Subsection 613(i) since the Request for Comments.

#### *Changing the exercise price or term of options held by insiders – Subsections 613(i)(i) and (ii)*

A change to the exercise price or term of options held by insiders continues to require security holder approval.

In addition, language has been added to the end of Subsection 613(i) to clarify that the votes of insiders benefiting directly or indirectly from an amendment described in Subsections 613(i) and (ii) must be excluded for the purposes of security holder approval of the amendment.

#### *Changing the insider participation limit in a plan – Subsection 613(i)(iii)*

Based on comments received, Subsection 613(i)(iii) has been revised from the Request for Comments to include a requirement for security holder approval to remove or exceed the insider participation limit. To clarify the drafting, the new definition of “insider participation limit” has also been added to Part I.

In addition, language has been added to the end of Subsection 613(i) to require that the votes of insiders benefiting directly or indirectly from an amendment described in Subsection 613(i)(iii) must be excluded for the purposes of security holder approval of the amendment.

#### *Changing the fixed maximum of a plan – Subsections 613(i)(iv)*

Language has been added to the end of Subsection 613(i) to clarify that the votes of insiders benefiting directly or indirectly from an amendment described in Subsection 613(i)(iv) do not have to be excluded from the security holder approval when the plan has an insider participation limit. The insider participation limit adequately deals with concerns about disproportionate insider benefits in such circumstances. The disinterested security holder approval requirement was inadvertently captured in the drafting of the proposed amendments to this subsection in the Request for Comments.

#### *Adding a cashless exercise provision – Formerly Subsection 613(i)(v)*

TSX has determined that a requirement for security holder approval for the addition of a cashless exercise provision to an evergreen plan is not necessary or useful and Subsection 613(i)(v) as proposed in the Request for Comments is therefore being withdrawn. One comment was received on this point, which supports this position.

In plans with a fixed maximum number of securities issuable (a “fixed plan”), if there is no full deduction of the underlying securities for a cashless exercise provision, the plan is prolonged since it will take longer to reach the maximum fixed number of securities issuable under the plan. Consequently, a cashless exercise feature in a fixed plan in such circumstances extends the life of the plan and delays when a listed issuer must seek security holder approval to increase the number of securities issuable under the plan. In a fixed plan, security holder approval will be required for a cashless exercise feature if there is no full deduction of the underlying securities.

An evergreen plan is fundamentally different than a fixed plan, since whether an award is exercised or cancelled, the underlying securities become available for future grant. In a fixed plan, only cancelled awards become available for future grant. A cashless exercise feature in an evergreen plan does not extend the plan nor impact the number of securities available for issuance under the plan. Further, security holder approval is required every three years in order for a listed issuer to continue granting awards. Therefore, in an evergreen plan, security holder approval of a cashless exercise feature is not necessary or useful.

#### *Amending an Amendment Provision – Subsection 613(i)(v)*

Language has been added to the end of Subsection 613(i) to clarify that the votes of insiders benefiting directly or indirectly from an amendment described in Subsection 613(i)(v) do not have to be excluded from the security holder approval when the plan has an insider participation limit. The insider participation limit adequately deals with concerns about disproportionate insider benefits in such circumstances. However, language has also been added to the end of Subsection 613(i) to clarify that if the amendment will disproportionately benefit one or more insiders over other plan participants, the votes of such insiders must be excluded.

### **General**

Additional minor drafting amendments have been made for clarification purposes, as indicated in the blackline at Appendix C.

**Text of the Amendments**

The Amendments are attached at **Appendix A**.

**Effective Date**

The Amendments will become effective on September 18, 2009.

## APPENDIX A

The TSX Company Manual (the “Manual”) is proposed to be amended as follows:

1. Part I will be amended to add the following definition:

### Interpretation

“insider participation limit” means the number of the listed issuer’s securities:

- i) issued to insiders of the listed issuer, within any one year period, and
- ii) issuable to insiders of the listed issuer, at any time,

under the arrangement, or when combined with all of the listed issuer’s other security based compensation arrangements, which can not exceed 10% of the listed issuer’s total issued and outstanding securities, respectively.

2. Subsection 602(g) will be amended as follows:

### General

- (g) TSX will not apply its standards with respect to security holder approval (Section 604), private placements (Section 607), unlisted warrants (Section 608), acquisitions (Section 611) and security based compensation arrangements (Section 613) to issuers listed on another exchange where at least 75% of the trading value and volume over the six months immediately preceding notification occurs on that other exchange. These issuers must still comply with Section 602, at which time TSX will notify the issuer of their eligibility under this Subsection 602(g) and the documents and fees required for TSX acceptance of the notified transaction.

3. Section 613 will be amended as follows:

### Requirement for Security Holder Approval

- (a) When instituted, and when required for amendment, all security based compensation arrangements must be approved by:
  - i) a majority of the listed issuer’s directors; and
  - ii) subject to Subsection 613(c), by the listed issuer’s security holders.

Every three years after institution, all unallocated options, rights or other entitlements under a security based compensation arrangement which does not have a fixed maximum aggregate of securities issuable, must be approved by:

- i) a majority of the listed issuer’s directors; and
- ii) subject to Subsection 613(c), the listed issuer’s security holders.

Insiders of the listed issuer entitled to receive a benefit under the arrangement are not eligible to vote their securities in respect of the approvals required by this Subsection 613(a) unless the arrangement contains the insider participation limit.

If any security holder approval is required for a security based compensation arrangement and insiders of the listed issuer entitled to receive a benefit under the arrangement are not eligible to vote their securities in respect of the approval required by this Subsection 613(a), holders of Restricted Securities, as defined in Part I, must be entitled to vote with the holders of any class of securities of the listed issuer which otherwise carry greater voting rights, on a basis proportionate to their respective residual equity interests in the listed issuer.

Security holder approval required for a security based compensation arrangement must be by way of a duly called meeting. The exemption from security holder approval contained in Subsection 604(e) is not available in respect of security based compensation arrangements.

**Types of Security Based Compensation Arrangements**

- (b) For the purposes of this Section 613, security based compensation arrangements include;
- i) stock option plans for the benefit of employees, insiders, service providers or any one of such groups;
  - ii) individual stock options granted to employees, service providers or insiders if not granted pursuant to a plan previously approved by the listed issuer's security holders;
  - iii) stock purchase plans where the listed issuer provides financial assistance or where the listed issuer matches the whole or a portion of the securities being purchased;
  - iv) stock appreciation rights involving issuances of securities from treasury;
  - v) any other compensation or incentive mechanism involving the issuance or potential issuances of securities of the listed issuer; and
  - vi) security purchases from treasury by an employee, insider or service provider which is financially assisted by the listed issuer by any means whatsoever.

For greater certainty, arrangements which do not involve the issuance from treasury or potential issuance from treasury of securities of the listed issuer are not security based compensation arrangements for the purposes of this Section 613.

For the purposes of Section 613, a "service provider" is a person or company engaged by the listed issuer to provide services for an initial, renewable or extended period of twelve months or more.

**Exception to the Requirement for Security Holder Approval – Employment Inducements**

- (c) Security holder approval is not required for security based compensation arrangements used as an inducement to a person or company not previously employed by and not previously an insider of the listed issuer, to enter into a contract of full time employment as an officer of the listed issuer, provided that the securities issuable to such person or company do not exceed 2% of the number of securities of the listed issuer which are outstanding, on a non-diluted basis, prior to the date of the arrangement.

**Disclosure Required when Seeking Security Holder Approval & Annually**

- (d) Materials provided to security holders in respect of a meeting at which the approval of security based compensation arrangements will be requested must be pre-cleared with TSX. Such materials must provide disclosure, as of the date of the materials, in respect of:
- i) the eligible participants under the arrangement;
  - ii) each of the following, as applicable:
    - i. for plans with a fixed maximum number of securities issuable (A) the total number of securities issued and securities issuable under each arrangement and (B) this total as a percentage of the number of the listed issuer's securities currently outstanding,
    - ii. for plans with a fixed maximum percentage of securities issuable, the total number of securities issued and securities issuable under each arrangement as a percentage of the number of the listed issuer's securities currently outstanding, and
    - iii. the total number of securities issuable under actual grants or awards made and this total as a percentage of the number of the listed issuer's securities currently outstanding;
  - iii) the maximum percentage, if any, of securities under each arrangement available to insiders of the listed issuer;
  - iv) the maximum number of securities, if any, any one person or company is entitled to receive under each arrangement and the percentage of the listed issuer's currently outstanding capital represented by these securities;

- v) subject to Section 613(h)(i), the method of determining the exercise price for securities under each arrangement;
- vi) the method of determining the purchase price for securities under security purchase arrangements, with specific disclosure as to whether the purchase price could be below the market price of the securities;
- vii) the formula for calculating market appreciation of stock appreciation rights;
- viii) the ability for the listed issuer to transform a stock option into a stock appreciation right involving an issuance of securities from treasury;
- ix) the vesting of stock options;
- x) the term of stock options;
- xi) the causes of cessation of entitlement under each arrangement, including the effect of an employee's termination for or without cause;
- xii) the assignability of security based compensation arrangements benefits and the conditions for such assignability;
- xiii) the procedure for amending each arrangement, including specific disclosure as to whether security holder approval is required for amendments;
- xiv) any financial assistance provided by the listed issuer to participants under each arrangement to facilitate the purchase of securities under the arrangement, including the terms of such assistance;
- xv) entitlements under each arrangement previously granted but subject to ratification by security holders; and
- xvi) such other material information as may be reasonably required by a security holder to approve the arrangements.

Should a security based compensation arrangement not provide for the procedure for amending the arrangement, security holder approval will be required for such amendments, as provided for in Subsections 613(a) and (i). In addition, the votes attaching to any securities held by insiders who hold securities subject to the amendment will be excluded. Please see Subsection 613 (l) for more information.

#### **Granting Entitlements Prior to Seeking Security Holder Approval**

- (e) A listed issuer may grant options or rights under a security based compensation arrangement that has not been approved by security holders provided that no exercise of such option or right may occur until security holder approval is obtained.

#### **Filing Security Based Compensation Arrangements with TSX**

- (f) All security based compensation plans, and any amendments thereto, must be filed with TSX, along with evidence of security holder approval where required. Listed securities issuable under the arrangements will not be listed on TSX until such documentation is received.

#### **Annual Disclosure Requirements**

- (g) Listed issuers must disclose on an annual basis, in their information circulars, or other annual disclosure document distributed to all security holders, the terms of their security based compensation arrangements and any amendments that were adopted in the last fiscal year (this includes amendments to individual security agreements and amendments to security based compensation arrangements, including, in both instances, those assumed by the listed issuer through an acquisition). The information circular must provide disclosure in respect of each of the items in Section 613(d), as of the date of the circular, as well as the nature of the amendments adopted in the last fiscal year, including whether or not (and if not, why not) security holder approval was obtained for the amendment.



### Prohibited Provisions Notwithstanding Security Holder Approval

- (h) Notwithstanding that a security based compensation arrangement contains provisions: (1) contrary to or inconsistent with the following items, or (2) allowing amendments to the following items without security holder approval, and notwithstanding that such provisions may have been approved by the listed issuer's security holders:
  - i) the exercise price for any stock options granted under a security based compensation arrangement or otherwise must not be lower than the market price of the securities at the time the option is granted; and
  - ii) the arrangement must have a maximum number of securities issuable, either as a fixed number or a fixed percentage of the listed issuer's outstanding capital represented by such securities.

### Amendments Requiring Specific Security Holder Approval

- (i) Notwithstanding that a security based compensation arrangement contains a provision allowing amendments to the following items without security holder approval, specific security holder approval is required for:
  - i) a reduction in the exercise price or purchase price under a security based compensation arrangement benefiting an insider of the issuer;
  - ii) an extension of the term, under a security based compensation arrangement benefiting an insider of the issuer;
  - iii) any amendment to remove or to exceed the insider participation limit;
  - iv) an increase to the maximum number of securities issuable, either as a fixed number or a fixed percentage of the listed issuer's outstanding capital represented by such securities; and
  - v) amendments to an amending provision within a security based compensation arrangement.

For Subsection 613(i)(i)-(iii), the votes of securities held directly or indirectly by insiders benefiting directly or indirectly from the amendment must be excluded. For Subsection 613(i)(iv)-(v), the votes of securities held directly or indirectly by insiders entitled to receive a benefit directly or indirectly under the arrangement must be excluded unless the arrangement contains the insider participation limit.

In addition to the above exclusions, for Subsection 613(i)(v), where the amendment will disproportionately benefit one or more insiders over other participants under the arrangement, the votes of securities held directly or indirectly by those insiders receiving the disproportionate benefit must be excluded.

### Reporting Requirements to TSX

- (j) The granting of stock options under a plan and the issuance of securities under a stock option plan or other plan do not require the prior consent of TSX if the plan has been precleared with TSX and the securities that are subject to issuance have been listed. However, stock options granted, exercised or cancelled under a plan must be reported to TSX on a monthly basis in the form of a duly completed Form I - Change in Outstanding and Reserved Securities (Appendix H: Company Reporting Forms). If no listed securities are issued, no options have expired or been cancelled in any particular month, a nil report is required to be filed on a quarterly basis.

### Material Undisclosed Information

- (k) TSX's policy on timely disclosure requires immediate disclosure by its listed issuers of all "material information" as defined in the policy. The policy also recognizes that there are restricted circumstances where confidentiality may be justified on a temporary basis. Listed issuers may not set option exercise prices, or prices at which securities may otherwise be issued, on the basis of market prices which do not reflect material information of which management is aware but which has not been disclosed to the public. Exceptions are:
  - i) where employees, at a previous time when such employees did not have knowledge of the undisclosed event, committed themselves to acquire the securities on specified terms through participation in a security purchase plan, or

- ii) where, in relation to an undisclosed event (such as the acquisition by a listed issuer of another issuer), a person or company who is neither an employee nor an insider of the listed issuer, is granted, or given the right to be granted at a set price, a stock option in the listed issuer, while the event is still undisclosed.

**Amendment Procedures**

- (l) Security based compensation arrangements cannot be amended without obtaining security holder approval unless the arrangement contains a provision empowering the listed issuer's board of directors (who may delegate this to a committee of the board) to make the specific amendment. Security holder approval is required for the introduction of and subsequent amendments to, such amending provisions. Disclosure provided to security holders voting on amending provisions, and annually, must state that security holder approval will not be required for amendments permitted by the provision.

## APPENDIX B

## SUMMARY OF COMMENTS – AMENDMENTS TO PART VI

## List of Commenters:

C. Steven Cohen (S. Cohen)  
 Canada Pension Plan Investment Board (CPPIB)  
 Institutional Shareholder Services Canada Corp. (ISS)  
 Osler, Hoskin & Harcourt LLP (Osler)

	Reference	Summarized Comment	TSX Response
<b>Interlisted Issuer Exemption – Subsection 602(g)</b>			
<b>Question 1: Is relief from the acquisition requirements contained in Section 611 appropriate for interlisted issuers where at least 75% of the trading value and volume occurs on another exchange? If not, why?</b>			
1.1	s.602(g)	One commenter agreed that is appropriate for interlisted issuers with at least 75% of trading value and volume on another exchange to be granted relief from the acquisition requirements in s.611. (Osler)	The amendment to s.602(g) has been made, as described in the Request for Comments.
<b>Unlisted Warrants – Section 608</b>			
<b>Question 2: Should TSX establish a standard valuation calculation for warrants and factor such valuation into allowable discounts for private placements? Should the Black-Scholes model be used or an alternative methodology? Under the Black-Scholes model, what should be the appropriate period for the volatility (or beta) calculation?</b>			
2.1	s.608	One commenter did not believe TSX should establish a standard valuation calculation for warrants as there are inherent problems with any calculation model adopted. Consequently, no one particular model should be adopted as the standard. (Osler)	At this time, TSX is not proposing to introduce a requirement for warrants to be valued. As a result, a standard valuation calculation will not be established.  TSX did not receive comments highlighting problems with the current regime for unlisted warrants. Based on this, there does not appear to be sufficient rationale for changing the current regime. Any issues arising from the pricing of private placements involving unlisted warrants will continue to be reviewed in accordance with the current regime.
<b>Question 3: If yes to Question 2 above, what impact if any should there be to other “sweeteners” such as flow-through tax credits?</b>			
3.1	s.608	No comments received.	See TSX response to item 2.1.
<b>Security Based Compensation Arrangements &amp; Insiders – Subsections 613(a), (h) and (i)</b>			
<b>Question 4: Consider whether it is appropriate to require specific security holder approval for each of the instances described above.</b>			
4.1	s.613(h)(ii)	One commenter suggested removing the added language “...which may not be increased without specific security holder approval.” at the end of s.613(h)(ii). They suggested that s.613(h) should be limited to mandatory provisions affecting all plans, and that s.613(i) should address changes that require security holder approval. (Osler)	TSX agrees and has amended s.613(h)(ii) as suggested by removing the language “...which may not be increased without specific security holder approval” at the end of the paragraph. Subsections 613(h) and (i) have been amended as suggested.

	<i>Reference</i>	<i>Summarized Comment</i>	<i>TSX Response</i>
4.2	s.613(i)	<p>One commenter recommended redrafting the opening language to s.613(i) to replace "Notwithstanding that" with "Whether or not". (Osler)</p> <p>The commenter also recommended the deletion of the words "... (excluding the votes of securities held directly or indirectly by insiders benefiting from the amendment)...", because the exclusion of the votes of insiders should apply only to s.613(i) and (ii), and not to (iii)-(vi). (Osler)</p>	<p>TSX has maintained the language as proposed in the Request for Comments in order to remain consistent with language used elsewhere in s.613. The current language is clear and self explanatory.</p> <p>TSX has amended s.613(i) to clarify which amendments require disinterested security holder approval.</p>
4.3	s.613(i)(ii)	<p>One commenter suggested it would be helpful to explain that "extension of the term" is only in respect of an extension of the original maximum term when the grant is first made, and does not apply, for example, to a change to provisions of a plan providing for accelerated expiry of options in certain circumstances, such as termination. (Osler)</p>	<p>TSX has maintained the language in its original form. TSX believes the language in its current form is appropriate and permits "term" to continue to be interpreted in the manner noted in the comment.</p>
4.4	s.613(i)(iii)	<p>One commenter suggested that it would be helpful to clarify that an amendment to increase the maximum limit for insiders can be achieved by either specifically increasing the number specified as the maximum limit or by deleting a number which has been previously stated to be the maximum limit, with the effect that there is no longer a maximum limit. (Osler)</p> <p>The commenter also submitted that s.613(i)(iii) should only apply when limits on insider participation have been included in the plan and the proposal is to increase them beyond 10% or remove them. (Osler)</p>	<p>TSX agrees and has amended s.613(i)(iii).</p> <p>TSX agrees and has amended 613(i)(iii) accordingly.</p>
4.5	s.613(i)(iv)	<p>One commenter suggested s.613(i)(iv) should include carve outs for fixed plans, to account for adjustments due to capital reorganizations, i.e. stock split. (Osler)</p>	<p>TSX has determined that such a carve out is not necessary. Notices provided under s.602(e) provide TSX with the information required to make the proper adjustments for normal anti-dilution events for all convertible securities, including those issued pursuant to security based compensation arrangements, so approval under s. 613(i)(iv) will not be required if only due to such adjustments.</p>
4.6	s.613(i)(v)	<p>One commenter believes that security holder approval should not be required for the addition of a cashless exercise feature for a rolling or evergreen plan. The commenter believes that a rolling or evergreen plan allows options to be granted up to a percentage of the outstanding common shares, and whether or not the options are</p>	<p>TSX has determined that such a requirement is not necessary or useful and has deleted proposed subparagraph (v). As a result, TSX will not be requiring specific security holder approval when a cashless exercise feature is being added to an evergreen plan provided that the issuer's board of directors has the ability to make</p>

	Reference	Summarized Comment	TSX Response
		<p>exercised on a cashless exercise basis is not relevant given the rolling nature of the plan. An evergreen plan will take this into account automatically as the increase in the number of shares available for grant in the future will be limited to the number of shares actually issued on a cashless exercise basis.</p> <p>As a result, the commenter believes there is not an economic impact to the issuer, and therefore no basis for requiring security holder approval for the addition of a cashless exercise feature for a rolling or evergreen plan. (S. Cohen)</p>	<p>such an amendment under its amending provision.</p> <p>TSX agrees with the commenter's analysis that such a provision is economically neutral to the issuer and therefore should be permitted if the board has the ability to make such amendment under its amending provision.</p>
4.7	s.613(i)(vi)	One commenter suggested s.613(i)(vi) be clarified to state that security holder approval is not required for an amendment that adds items which require security holder approval. (Osler)	Generally, any amendment to an amendment provision in a plan will require specific security holder approval. All types of amendments to a plan must be approved by security holders unless the plan provides otherwise and is not otherwise required under TSX rules.
<b>Other Comments:</b>			
4.8	s.613(l)	It was suggested that the word "certain" be added in the penultimate sentence between "for the introduction of and" and "subsequent amendments". (Osler)	TSX will not be making this change at this time. TSX's intention was for security holders to approve which types of amendments should be within the discretion of the board. To permit "certain" amendments, even those such as housekeeping or those which are more restrictive, would run contrary to this premise. Please also see TSX response to item 4.7.
4.9	s.613	One commenter noted that when TSX makes changes to its security based compensation arrangement rules, the changes often require that matters be considered or approved by security holders. Given the frequency of such changes by TSX, it creates a burden on issuers requiring them to amend their plans and submit the same to security holders for approval. While matters come to light as policies and rules are considered and thus refinement is necessary, the impact of this on issuers and the need to go back to security holders continuously should be considered. (S. Cohen)	TSX agrees with this comment in that continuous changes could present a burden to issuers. However, the changes introduced by TSX in the Request for Comments which require security holder approval are generally consistent with its current practice. In addition, the changes which are being introduced do not necessitate any amendments to plans in order to be in compliance with TSX requirements.
4.10	General	Two commenters advised that they support security holder approval for certain amendments which go beyond current and proposed TSX regulatory requirements, particularly those that only apply when insiders are affected. They believe that that the key consideration should be the reasonableness of any possible amendment	At this time TSX is satisfied that its requirements provide security holders with sufficient protections and appropriate approval rights, accompanied by thorough disclosure, which are aimed at addressing the key considerations raised by the comments.

	<i>Reference</i>	<i>Summarized Comment</i>	<i>TSX Response</i>
		<p>and its potential to contribute to self-dealing or over-compensation without the input of security holders. (ISS, CPPIB)</p> <p>Specifically, both of these commenters proposed that security holder approval should be required for (a) any reduction in the exercise price or cancellation and reissue of options, (b) amendments to eligible participants that may permit non-employee director participation on a discretionary basis or amendments that increase limits on non-employee director participation and (c) any amendment that would permit awards to be transferable or assignable other than for estate planning purposes</p> <p>In addition, one commenter submitted that security holder approval should also be required for any amendment that extends the term of an award beyond the original expiry (ISS)</p>	<p>The “insider participation limit” deals with concerns about self-dealing and over-compensation of insiders for certain plan features. To the extent such commenters have proposed additional security holder approval requirements which are not covered by the final amendments, TSX considers these to be amendments to non fundamental plan features, for which there is limited opportunity for self-dealing by non insiders.</p> <p>At the time the current security based compensation rules were introduced, pursuant to a public comment process, it was determined that while security holders need to approve the content of such arrangements, it is not appropriate for TSX to determine non fundamental terms of such arrangements.</p>

APPENDIX C

BLACKLINED VERSION OF THE AMENDMENTS SHOWING CHANGES SINCE  
THE REQUEST FOR COMMENTS PUBLISHED ON JANUARY 26, 2007

APPENDIX A  
~~REQUEST FOR COMMENTS FOR AMENDMENTS TO PART VI~~

The TSX Company Manual (the "Manual") is proposed to be amended as follows:

1. Part I will be amended to add the following definition:

Interpretation

"insider participation limit" means the number of the listed issuer's securities:

- i) issued to insiders of the listed issuer, within any one year period, and
- ii) issuable to insiders of the listed issuer, at any time,

under the arrangement, or when combined with all of the listed issuer's other security based compensation arrangements, which can not exceed 10% of the listed issuer's total issued and outstanding securities, respectively.

2. ~~4-~~ Subsection 602(g) will be amended as follows:

General

- (g) TSX will not apply its standards with respect to security holder approval (Section 604), private placements (Section 607), unlisted warrants (Section 608), acquisitions (Section 611) and security based compensation arrangements (Section 613) to issuers listed on another exchange where at least 75% of the trading value and volume over the six months immediately preceding notification occurs on that other exchange. These issuers must still comply with Section 602, at which time TSX will notify the issuer of their eligibility under this Subsection 602(g) and the documents and fees required for TSX acceptance of the notified transaction.

3. ~~2-~~ Section 613 will be amended as follows:

Requirement for Security Holder Approval

- (a) ~~(a)~~—When instituted, and when required for amendment, all security based compensation arrangements must be approved by:
  - i) a majority of the listed issuer's directors; and
  - ii) subject to ~~Subsections~~ Subsection 613(b), (c), (g) and (j), by the listed issuer's security holders.

Every three years after institution, all unallocated options, rights or other entitlements under a security based compensation arrangement which does not have a fixed maximum aggregate of securities issuable, must be approved by:

- ~~i)-i)~~ a majority of the listed issuer's directors; and
- ~~ii)-ii)~~ subject to ~~Subsections~~ Subsection 613(b), (c), (g) and (j), the listed issuer's security holders.

Insiders of the listed issuer entitled to receive a benefit under the arrangement are not eligible to vote their securities in respect of the approvals required by this Subsection 613(a) unless the ~~number of the listed issuer's securities: arrangement contains the insider participation limit.~~

- ~~i)~~ ~~issued to insiders of the listed issuer, within any one year period, and~~
- ~~ii)~~ ~~issuable to insiders of the listed issuer, at any time,~~

~~under the arrangement, or when combined with all of the listed issuer's other security based compensation arrangements, could not exceed 10% of the listed issuer's total issued and outstanding securities, respectively.~~

If any security holder approval is required for a security based compensation arrangement and insiders of the listed issuer entitled to receive a benefit under the arrangement are not eligible to vote their securities in respect of the approval required by this Subsection 613(a), holders of Restricted Securities, as defined in Section 624, Part I, must be entitled to vote with the holders of any class of securities of the listed issuer which otherwise carry greater voting rights, on a basis proportionate to their respective residual equity interests in the listed issuer.

Security holder approval required for a security based compensation arrangement must be by way of a duly called meeting. The exemption from security holder approval contained in Subsection 604(e) is not available in respect of security based compensation arrangements.

### Types of Security Based Compensation Arrangements

- (b) For the purposes of this Section 613, security based compensation arrangements include;
- i) stock option plans for the benefit of employees, insiders, service providers or any one of such groups;
  - ii) individual stock options granted to employees, service providers or insiders if not granted pursuant to a plan previously approved by the listed issuer's security holders;
  - iii) stock purchase plans where the listed issuer provides financial assistance or where the listed issuer matches the whole or a portion of the securities being purchased;
  - iv) stock appreciation rights involving issuances of securities from treasury;
  - v) any other compensation or incentive mechanism involving the issuance or potential issuances of securities of the listed issuer; and
  - vi) security purchases from treasury by an employee, insider or service provider which is financially assisted by the listed issuer by any means whatsoever.

For greater certainty, arrangements which do not involve the issuance from treasury or potential issuance from treasury of securities of the listed issuer are not security based compensation arrangements for the purposes of this Section 613.

For the purposes of Section 613, a "service provider" is a person or company engaged by the listed issuer to provide services for an initial, renewable or extended period of twelve months or more.

### Exception to the Requirement for Security Holder Approval – Employment Inducements

- (c) Security holder approval is not required for security based compensation arrangements used as an inducement to a person or company not previously employed by and not previously an insider of the listed issuer, to enter into a contract of full time employment as an officer of the listed issuer, provided that the securities issuable to such person or company do not exceed 2% of the number of securities of the listed issuer which are outstanding, on a non-diluted basis, prior to the date of the arrangement.

### Disclosure Required when Seeking Security Holder Approval & Annually

- (d) Materials provided to security holders in respect of a meeting at which the approval of security based compensation arrangements will be requested must be pre-cleared with TSX. Such materials must provide disclosure, as of the date of the materials, in respect of:
- i) the eligible participants under the arrangement;
  - ii) each of the following, as applicable:
    - i. for plans with a fixed maximum number of securities issuable (A) the total number of securities issued and securities issuable under each arrangement and the (B) this total as a



- percentage of the number of the listed issuer's securities currently outstanding—~~capital represented by such securities~~,
- ii for plans with a fixed maximum percentage of securities issuable, the total number of securities issued and securities issuable under each arrangement, as a percentage of the number of the listed issuer's securities currently outstanding—~~capital~~, and
  - iii. the total number of securities issuable under actual grants or awards made and ~~the~~ this total as a percentage of the number of the listed issuer's securities currently outstanding—~~capital represented by such securities~~;
- iii) the maximum percentage, if any, of securities under each arrangement available to insiders of the listed issuer;
  - iv) the maximum number of securities, if any, any one person or company is entitled to receive under each arrangement and the percentage of the listed issuer's currently outstanding capital represented by these securities;
  - v. subject to Section 613(h)(i), the method of determining the exercise price for securities under each arrangement;
  - vi) the method of determining the purchase price for securities under security purchase arrangements, with specific disclosure as to whether the purchase price could be below the market price of the securities;
  - vii) the formula for calculating market appreciation of stock appreciation rights;
  - viii) the ability for the listed issuer to transform a stock option into a stock appreciation right involving an issuance of securities from treasury;
  - ix) the vesting of stock options;
  - x) the term of stock options;
  - xi) the causes of cessation of entitlement under each arrangement, including the effect of an employee's termination for or without cause;
  - xii) the assignability of security based compensation arrangements benefits and the conditions for such assignability;
  - xiii) the procedure for amending each arrangement, including specific disclosure as to whether security holder approval is required for amendments;
  - xiv) any financial assistance provided by the listed issuer to participants under each arrangement to facilitate the purchase of securities under the arrangement, including the terms of such assistance;
  - xv) entitlements under each arrangement previously granted but subject to ratification by security holders; and
  - xvi) such other material information as may be reasonably required by a security holder to approve the arrangements.

Should a security based compensation arrangement not provide for the procedure for amending the arrangement, security holder approval will be required for such amendments, as provided for in ~~Subsection~~ Subsections 613(a) and (i). In addition, the votes attaching to any securities held by insiders who hold securities subject to the amendment will be excluded. Please see Subsection 613 (l) for more information.

### Granting Entitlements Prior to Seeking Security Holder Approval

- (e) A listed issuer may grant options or rights under a security based compensation arrangement that has not been approved by security holders provided that no exercise of such option or right may occur until security holder approval is obtained.

### Filing Security Based Compensation Arrangements with TSX

- (f) All security based compensation plans, and any amendments thereto, must be filed with TSX, along with evidence of security holder approval where required. Listed securities issuable under the arrangements will not be listed on TSX until such documentation is received.

### Annual Disclosure Requirements

- (g) Listed issuers must disclose on an annual basis, in their information circulars, or other annual disclosure document distributed to all security holders, the terms of their security based compensation arrangements and any amendments that were adopted in the last fiscal year (this includes amendments to individual security agreements and amendments to security based compensation arrangements, including, in both instances, those assumed by the listed issuer through an acquisition). The information circular must provide disclosure in respect of each of the items in Section 613(d), as of the date of the circular, as well as the nature of the amendments adopted in the last fiscal year, including whether or not (and if not, why not) security holder approval was obtained for the amendment.

### Prohibited Provisions Notwithstanding Security Holder Approval

- (h) Notwithstanding that a security based compensation arrangement contains provisions: (1) contrary to or inconsistent with the following items, or (2) allowing amendments to the following items without security holder approval, and notwithstanding that such provisions may have been approved by the listed issuer's security holders:
  - i) the exercise price for any stock options granted under a security based compensation arrangement or otherwise must not be lower than the market price of the securities at the time the option is granted; and
  - ii) the arrangement must have a maximum number of securities issuable, either as a fixed number or a fixed percentage of the listed issuer's outstanding capital represented by such securities, ~~which may not be increased without specific security holder approval.~~

### Amendments Requiring Specific Security Holder Approval ~~in all Circumstances~~

- (i) Notwithstanding that a security based compensation arrangement contains a provision allowing amendments to the following items without security holder approval, specific security holder approval ~~(excluding the votes of securities held directly or indirectly by insiders benefiting from the amendment)~~ is required for:
  - i) a reduction in the exercise price or purchase price under a security based compensation arrangement benefiting an insider of the issuer;
  - ii) an extension of the term, under a security based compensation arrangement benefiting an insider of the issuer;
  - iii) any amendment to ~~increase the maximum limit of the number of securities that may be:~~ remove or to exceed the insider participation limit:
    - a. ~~issued to insiders of the listed issuer within any one year period, or~~
    - b. ~~issuable to insiders of the listed issuer, at any time;~~~~under the arrangement, or when combined with all of the listed issuer's other security based compensation arrangements, which could exceed 10% of the listed issuer's total issued and outstanding securities, respectively;~~
  - iv) an increase to the maximum number of securities issuable, either as a fixed number or a fixed percentage of the listed issuer's outstanding capital represented by such securities;

~~v) for security based compensation arrangements that do not have a fixed maximum number of securities issuable, the addition of any provision that allows for the exercise of options without cash consideration, whether the option holder receives the intrinsic value in the form of securities from treasury or the intrinsic value in cash, and where a deduction may not be made for the number of securities originally underlying the options; and~~

v) vi) amendments to an amending provision within a security based compensation arrangement.

For Subsection 613(i)(i)-(iii), the votes of securities held directly or indirectly by insiders benefiting directly or indirectly from the amendment must be excluded. For Subsection 613(i)(iv)-(v), the votes of securities held directly or indirectly by insiders entitled to receive a benefit directly or indirectly under the arrangement must be excluded unless the arrangement contains the insider participation limit.

In addition to the above exclusions, for Subsection 613(i)(v), where the amendment will disproportionately benefit one or more insiders over other participants under the arrangement, the votes of securities held directly or indirectly by those insiders receiving the disproportionate benefit must be excluded.

### Reporting Requirements to TSX

- (j) The granting of stock options under a plan and the issuance of securities under a stock option plan or other plan do not require the prior consent of TSX if the plan has been precleared with TSX and the securities that are subject to issuance have been listed. However, stock options granted, exercised or cancelled under a plan must be reported to TSX on a monthly basis in the form of a duly completed Form I - Change in Outstanding and Reserved Securities (Appendix H: Company Reporting Forms). If no listed securities are issued, no options have expired or been cancelled in any particular month, a nil report is required to be filed on a quarterly basis.

### Material Undisclosed Information

- (k) TSX's policy on timely disclosure requires immediate disclosure by its listed issuers of all "material information" as defined in the policy. The policy also recognizes that there are restricted circumstances where confidentiality may be justified on a temporary basis. Listed issuers may not set option exercise prices, or prices at which securities may otherwise be issued, on the basis of market prices which do not reflect material information of which management is aware but which has not been disclosed to the public. Exceptions are:
  - i) where employees, at a previous time when such employees did not have knowledge of the undisclosed event, committed themselves to acquire the securities on specified terms through participation in a security purchase plan, or
  - ii) where, in relation to an undisclosed event (such as the acquisition by a listed issuer of another issuer), a person or company who is neither an employee nor an insider of the listed issuer, is granted, or given the right to be granted at a set price, a stock option in the listed issuer, while the event is still undisclosed.

### Amendment Procedures

- (l) Security based compensation arrangements cannot be amended without obtaining security holder approval unless the arrangement contains a provision empowering the listed issuer's board of directors (who may delegate this to a committee of the board) to make the specific amendment. Security holder approval is required for the introduction of and subsequent amendments to, such amending provisions. Disclosure provided to security holders voting on amending provisions, and annually, must state that security holder approval will not be required for amendments permitted by the provision.

**13.1.10 Material Amendments to CDS Procedures – DTC Direct Link and New York Link Services – Additional Material Amendments To Participant Procedures For The Dtc Direct Link (DDL) And New York Link (NYL) – Request for Comments**

**CDS CLEARING AND DEPOSITORY SERVICES INC. (CDS®)**

**MATERIAL AMENDMENTS TO CDS PROCEDURES**

**DTC DIRECT LINK AND NEW YORK LINK SERVICES**

**ADDITIONAL MATERIAL AMENDMENTS TO  
PARTICIPANT PROCEDURES FOR THE DTC DIRECT LINK (DDL)  
AND NEW YORK LINK (NYL)**

**REQUEST FOR COMMENTS**

**A. DESCRIPTION OF THE PROPOSED CDS PROCEDURE AMENDMENTS**

Material amendments to CDS procedures relating to “Changes to Participant Collateral and Funding Requirements” for the CDS New York Link (“NYL”) and DTC Direct Link (“DDL”) services were proposed by CDS and published for comment on August 14, 2009. Since publication of the amendments, additional changes have been identified by CDS as described in this Notice.

**Summary of Material Amendments published on August 14, 2009:**

The procedure amendments posted on August 14, 2009 addressed requirements as a result of changes imposed on CDS by the National Securities Clearing Corporation (“NSCC”) and the Depository Trust Corporation (“DTC”) in the U.S.

Effective November 2, 2009, CDS sponsored participants of the NYL service will be required to meet expanded collateral requirements resulting from changes introduced by NSCC. Such changes will require NYL participants to pledge all risk based margin (“RBM”) related collateral, required to operate in NSCC’s services, directly with NSCC. In the current process, all RBM related collateral posted by NYL participants is held by CDS.

As NSCC will be holding all the RBM related collateral from NYL participants starting November 2, 2009, CDS will no longer have access to the collateral needed to protect the remaining NYL participants if one of the NYL participants was to default. Therefore, CDS will require NYL participants to pledge additional collateral to CDS based on CDS’s risk control criteria.

CDS will also establish a NYL participant fund (“CDS Participant Fund for New York Link”) and a DTC Direct Link (“DDL”) participant fund (“CDS Participant Fund for DTC Direct Link”), requiring both DDL participants and NYL participants to post collateral to support those fund requirements. The intent of the CDS Participant Fund for New York Link and CDS Participant Fund for DTC Direct Link is to provide collateral to meet end-of-day liquidity requirements resulting from the default of a single participant with the largest payment obligation. The CDS Participant Fund for DTC Direct Link will be established with a total value equal to the largest DTC net debit cap allocated to any participant using DDL, currently USD 40 million. The CDS Participant Fund for New York Link will be established with a total value equal to the sum of (a) the largest DTC net debit cap allocated to any participant using NYL, currently USD 60 million, and (b) the largest payment owing to NSCC within the pre-determined confidence level. Both funds will be calculated in the similar manner as the “Receiver’s Collateral Pool” in CDSX®.

**Additional Changes to the Material Amendments published on August 14, 2009:**

**1. *Removal of U.S. dollar cash as an acceptable form of collateral for the CDS Participant Fund for New York Link and the CDS Participant Fund for DTC Direct Link***

Initially, CDS intended to include securities issued by the Government of Canada, Government of Canada stripped coupons and residuals, U.S. Treasury securities and cash (U.S. dollars) as acceptable forms of collateral managed by CDS for the CDS Participant Fund for New York Link and the CDS Participant Fund for DTC Direct Link.

While retaining all of the other forms of collateral, CDS has decided to remove cash (U.S. dollars) as an acceptable form of collateral for these two participant funds for the following reasons:

- The primary purpose of CDS Participant Fund for New York Link and CDS Participant Fund for DTC Direct Link is to provide end-of-day liquidity in case of a default of a New York Link or DTC Direct Link participant. CDS has been holding much of the U.S. dollars cash pledged by New York Link participants with the U.S. banker in a bank account that is covered under the Federal Deposit Insurance Corporation (FDIC) unlimited funds guarantee. Therefore, CDS is not currently exposed to the default of its U.S. banker. However, this FDIC unlimited funds guarantee is scheduled to expire by the end of 2009, potentially exposing CDS to the default of the commercial bank holding U.S. dollars cash for CDS. As a result, CDS has decided not to accept U.S. dollars cash as collateral for CDS Participant Fund for New York Link and CDS Participant Fund for DTC Direct Link.
- While avoidance of default of a U.S. banker may be accomplished by investing U.S. dollar cash holdings in U.S. treasury securities via an investment manager, CDS would likely not be able to liquidate the U.S. treasury securities in the timeframe required under a default of a participant scenario. In consideration of the available options, CDS decided that the best approach would be to manage the collateral process for CDS Participant Fund for New York Link and DTC Direct Link via the CDSX pledging facility. As such, it was decided that acceptable collateral for CDS Participant Fund for New York Link and DTC Direct Link be restricted to securities issued by the government of Canada and U.S. government treasury securities and these securities must be CDSX eligible and pledged via CDSX which would provide CDS with full control of the collateral. These securities are acceptable collateral to CDS's commercial liquidity provider for provision of end-of-day liquidity against a line of credit that could be drawn against in the event of default of a participant.

**2. *Adjustment of the collateral requirement deadlines for the NSCC Participant Fund (RBM collateral held directly by NSCC) for New York Link participants.***

NSCC's final deadline for its participants to pledge daily RBM collateral is 10:00 a.m. ET. For a six-month minimum period beginning November 2, 2009, NSCC will temporarily permit CDS to pledge the daily RBM collateral to NSCC by 12:00 p.m. ET as opposed to the 10:00 a.m. ET deadline.

In order to comply with NSCC's transitional collateral requirement deadline of 12:00 p.m. ET, CDS will move the initial collateral requirement deadline for the NSCC Participant Fund for New York Link from the current 12:00 p.m. ET deadline to 11:00 a.m. ET and the final collateral requirement deadline for the NSCC Participant Fund for New York Link will move from the current 1:00 p.m. ET deadline to 11:30 a.m. ET for all New York Link participants. Since NSCC will require CDS to comply with its 10:00 a.m. ET final deadline after the transition period, the participant deadlines will eventually change to two hours earlier in the business day. The transition period is meant to allow participants enough time to plan their processes in preparation for the earlier deadline that would be imposed after the transition period has expired.

**3. *Adjustment of the deadline for participants to request the withdrawal of excess cash collateral from the NSCC Participant Fund held by NSCC for New York Link***

Currently, most of the RBM related collateral posted by participants for the NSCC Participant Fund for New York Link is held by CDS. The participant deadline for requesting the withdrawal of excess collateral is 4:00 p.m. ET (NSCC's deadline is currently 2:00 p.m. ET). However, because NSCC will be holding all of the RBM related collateral posted by participants for the NSCC Participant Fund for New York Link as of November 2, 2009 CDS must follow NSCC's excess collateral withdrawal process and deadline for requesting the withdrawal of excess cash collateral from NSCC.

A deadline of 11:00 a.m. ET will be established for participant requests for the withdrawal of excess collateral from the NSCC Participant Fund for New York Link. CDS decided that it would be more effective operationally for CDS and participants to align the withdrawal deadline with the deadline associated with satisfying daily collateral requirements. CDS and participants would in effect only need to review the collateral report once daily. Requests from participants for return of collateral after the 11:00 a.m. ET deadline will be processed on a best efforts basis.

**4. *Changes to holiday processing for the NSCC Participant Fund for New York Link***

NSCC does not recognize Canadian holidays and CDS will be required to provide collateral to NSCC on Canadian holidays that do not have a corresponding U.S. holiday. To be consistent with the daily requirement for submitting collateral to NSCC, the procedures need to be amended to require participants to be responsible for monitoring and satisfying their collateral requirements for the NSCC Participant Fund for New York Link on Canadian holidays that are not observed in the U.S. or when there is no corresponding U.S. holiday.

**5. Information on how participants can pledge collateral to the DDL Fund and the NYL Fund managed by CDS**

Text will be added to the procedures to describe the process participants are to follow in order to pledge securities as collateral for the CDS participant fund for New York Link and the CDS participant fund for DTC Direct Link.

**6. Service Suspension**

Text will be modified within the procedures pertaining to the NSCC Participant Fund for New York Link, the CDS participant fund for New York Link and the CDS participant fund for DTC Direct Link to clarify that participants that fail to satisfy their collateral requirements for these participant funds by the specified deadlines will be suspended from all of CDS services, not just the NYL and DDL services, and to align the procedures with the corresponding CDS Rules (i.e. Rule 9 Suspension of Participant – 9.2 General Description of Process on Suspension).

**B. NATURE AND PURPOSE OF THE PROPOSED CDS PROCEDURE AMENDMENTS**

The additional amendments to the participant procedures are intended to address further CDS and NSCC considerations occurring since the original procedure amendments regarding these services were approved by CDS's Strategic Development Review Committee ("SDRC") on July 30, 2009 and published for comments on August 14, 2009.

**C. IMPACT OF THE PROPOSED CDS PROCEDURE AMENDMENTS**

The removal of cash (U.S. dollars) as an acceptable type of collateral for the CDS Participant Fund for New York Link and the CDS Participant Fund for DTC Direct Link is expected to have a minimal impact on participants as participants usually pledge eligible securities to CDS as collateral rather than cash to satisfy their collateral obligations.

The adjustment of the collateral requirement deadlines for NYL participants to pledge RBM collateral and to request excess collateral held by NSCC for the NSCC Participant Fund for New York Link will require participants to modify their internal deadlines and collateral management procedures in order to meet the earlier deadlines. It is expected that having the same deadlines for pledging collateral and for requesting excess collateral for the NSCC Participant Fund will minimize the internal procedure impact to the NYL participants.

The change to holiday processing for the NSCC Participant Fund for New York Link will require participants to modify their processes and resource coverage regarding monitoring and providing collateral requirements for the NSCC Participant Fund for New York Link on Canadian holidays when the U.S. securities clearing and/or settlement systems are open. However, participants already have to monitor their activity at DTC/NSCC on Canadian holidays when the U.S. is open so the impact of this change should be minimal.

Adding clarifying text describing the process for pledging securities as collateral for the CDS participant fund for New York Link and the CDS participant fund for DTC Direct Link will not affect participants as the new text describes a process that is currently in place and that is not being changed.

Modifying the procedures related to the suspension of participants in order to align with CDS Participant Rule 9.2 General Description of Process on Suspension is not expected to have an impact on participants.

**C.1 Competition**

It is expected that the proposed amendments will have no impact on the competitive environment. All CDS sponsored participants using the NYL and DDL services will be required to comply with the new requirements.

It is possible that some participants may choose to become direct members of NSCC and DTC. In such event, the direct members would be required to comply with the NSCC and DTC requirements. Direct members may be able to post USD cash collateral to NSCC and DTC when securities are an acceptable alternative, but since USD cash is rarely posted to CDS, it is expected that this would not be a competitive advantage. In terms of the timelines for posting collateral, the temporary deadline of 11 a.m. ET is more favorable than NSCC's 10 a.m. ET deadline, but this advantage would be reversed after the transition period when CDS would be required to comply with NSCC's 10:00 a.m. deadline. In terms of requesting excess collateral, CDS's 11 a.m. ET deadline is earlier than NSCC's 2:00 p.m. ET deadline but based on historical data, most requests for excess capital occur in the morning, so the advantage for direct members of NSCC would be minimal. The amendments concerning holiday processing, the pledging process, and alignment of suspension implications with the CDS Participant Rules do not have any competitive impacts.

**C.2 Risks and Compliance Costs**

The removal of cash (U.S. dollars) as an acceptable type of collateral for the CDS Participant Fund for New York Link and the CDS Participant Fund for DTC Direct Link eliminates the risk associated with the conversion of cash that has been invested in short-term securities back into cash in a timely fashion (to provide liquidity in the event of a participant default), as well as the risk of the failure of CDS's U.S. banker (the FDIC is expected to reduce their unlimited funds guarantee by the end of 2009).

While there is a possibility that participants who do not follow the change to holiday processing or meet the new collateral requirements and deadlines for the NSCC Participant Fund for New York Link may be suspended from CDS's services, the new amendments to the participant procedures outlined in this notice are not expected to introduce any new risks to the participants. However, participants in western Canada may need to make special arrangements to meet the new collateral deadlines due to different time zones which may result in additional resource costs to comply with the requirements.

**C.3 Comparison to International Standards – (a) Committee on Payment and Settlement Systems of the Bank for International Settlements, (b) Technical Committee of the International Organization of Securities Commissions, and (c) the Group of Thirty**

CDS's proposed amendments are intended to be consistent with IOSCO's recommendation 11 for central counterparties, whereby "CCPs that establish links either cross border or domestically to clear trades should evaluate the potential sources of risk that can arise, and ensure that the risk are managed prudently on an ongoing basis. There should be a framework for cooperation and coordination between the relevant regulators and overseers".

**D. DESCRIPTION OF THE PROCEDURE DRAFTING PROCESS****D.1 Development Context**

The proposed additional amendments to CDS's participant procedures were prepared by CDS to address the developments that have occurred since the original procedural amendments were published. CDS's internal procedures will also be amended to reflect the additional changes as documented in this notice.

**D.2 Procedure Drafting Process**

CDS procedure amendments are reviewed and approved by CDS's Strategic Development Review Committee ("SDRC"). The SDRC determines or reviews, prioritizes and oversees CDS-related systems development and other changes proposed by participants and CDS. The SDRC's membership includes representatives from CDS participant community and it meets on a monthly basis.

These amendments will be reviewed by the SDRC on September 24, 2009 and approval is expected. If approval is not received prior to implementation, CDS will enact emergency procedures as outlined in CDS participant Rule 1.4.2 in order to meet the deadline imposed on CDS by NSCC.

**D.3 Issues Considered**

CDS investigated whether or not a substantial increase in its liquidity facility would significantly mitigate the risk of a failure to complete the USD payment exchange. Prices to arrange a \$200 million syndicated line of credit were sought from CDS's banker. Given that there are no upper limits to the settlement obligations resulting from NSCC's CNS process, a \$200 million line of credit does not eliminate the risk but simply provides an additional margin before USD payment exchange completion is threatened. CDS investigated the number of incidences where the largest debit balance for a participant was level of coverage provided by CDS's existing line of credit and \$200 million (the proposed level of coverage) and concluded that the high set-up costs (in excess of \$1 million) and on-going annual costs (between \$600,000 and \$900,000) for the additional coverage are not cost justified.

**D.4 Consultation**

In the past few months CDS provided a number of reports to the CDS Risk Advisory Committee ("RAC") on the risks associated with the NYL and DDL services and made recommendations on addressing the issues identified. CDS also kept its Board of Directors informed of the events surrounding the NYL and DDL services. On August 26, 2009, CDS provided a report with full details relating to the changes to the NYL/DDL services to all NYL and DDL participants and hosted a meeting via conference call on August 28, 2009 to discuss the details of the report, and to provide participants with an opportunity to ask questions. In addition, CDS has kept participants informed by participating in meetings of the Investment Industry Regulatory Organization of Canada's (IIROC) Financial Administrators Section ("FAS") working

group that is reviewing the implications of the changes to the NYL and DDL services and has provided them with information relative to the proposed changes to the collateral deadlines and holiday processing. CDS also has kept its regulators informed of the events surrounding these changes.

#### **D.5 Alternatives Considered**

CDS considered implementing these additional amendments to the participant procedures after the November 2, 2009 deadline imposed by DTC/NSCC but decided to proceed with the changes in order to avoid the potential risks to CDS and its participants associated with not having clear procedures implemented on November 2, 2009. These risks include participants failing to satisfy their collateral requirements for the NSCC participant fund for New York Link by the earlier deadline, participants failing to satisfy their collateral requirements on Canadian holidays not observed in the U.S. and CDS failing to satisfy NSCC's collateral requirements by the required deadline (which would result in CDS being considered to be in default by NSCC).

#### **D.6 Implementation Plan**

CDS is recognized as a clearing agency by the Ontario Securities Commission pursuant to section 21.2 of the Ontario Securities Act. The Autorité des marchés financiers has authorized CDS to carry on clearing activities in Québec pursuant to sections 169 and 170 of the Québec Securities Act. In addition CDS is deemed to be the clearing house for CDSX®, a clearing and settlement system designated by the Bank of Canada pursuant to section 4 of the Payment Clearing and Settlement Act. The Ontario Securities Commission, the Autorité des marchés financiers and the Bank of Canada will hereafter be collectively referred to as the "Recognizing Regulators".

The amendments to participant procedures may become effective upon approval of the amendments by the Recognizing Regulators following public notice and comment. Implementation of these changes is planned for November 2, 2009.

### **E. TECHNOLOGICAL SYSTEMS CHANGES**

#### **E.1 CDS**

CDS will set up the new CDS Participant Fund for New York Link and the CDS Participant Fund for DTC Direct Link within its collateral management system so that only securities issued by the Government of Canada, Government of Canada stripped coupons/residuals and U.S. Treasury securities are eligible forms of collateral. Cash (U.S. dollars) will not be established as an acceptable form of collateral for these participant funds.

None of the other additional amendments to the participant procedures require technological systems changes by CDS.

#### **E.2 CDS Participants**

It is not expected that participants will be required to make any technological systems changes as a result of these additional amendments to the participant procedures.

#### **E.3 Other Market Participants**

There is no anticipated impact to other market participants.

### **F. COMPARISON TO OTHER CLEARING AGENCIES**

Central securities depositories ("CSDs") similar to CDS generally determine the type of collateral that are acceptable, based on their liquidity arrangements. The rationale for deciding not to accept U.S. cash as an acceptable form of collateral for the CDS participant fund for New York Link and the CDS participant fund for DTC Direct Link is comparable to how decisions of a similar nature are made by other CSDs.

Direct members of NSCC/DTC are required to provide RBM collateral to NSCC by 10:00 a.m. ET on a daily basis. However, during the transition period, CDS requires NYL participants to provide RBM collateral required by NSCC by 11:00 a.m. ET on a daily basis.

The deadline for requesting excess collateral from NSCC for direct member of NSCC/DTC is 2:00 p.m. ET daily. However, the deadline for NYL participants is 11:00 a.m. ET daily, as CDS decided to align this deadline with the delivery of RBM collateral deadline for NYL participants.



The suspension procedures for participants who are unable to meet their collateral requirements are similar to that of other CSDs. Also, the suspension procedures for participants who are unable to meet their collateral requirements on holidays observed in Canada that are not observed in the U.S. are similar to that of other CSDs.

**G. PUBLIC INTEREST ASSESSMENT**

CDS has determined that the proposed amendments are not contrary to the public interest.

**H. COMMENTS**

Comments on the proposed amendments should be in writing and submitted within 30 calendar days following the date of publication of this notice in the Ontario Securities Commission Bulletin to:

Rob Argue  
Senior Product Manager, Product Development  
CDS Clearing and Depository Services Inc.  
85 Richmond Street West  
Toronto, Ontario M5H 2C9

Phone: 416-365-3887  
Fax: 416-365-0842  
Email: [rargue@cds.ca](mailto:rargue@cds.ca)

Copies should also be provided to the Autorité des marchés financiers and the Ontario Securities Commission by forwarding a copy to each of the following individuals:

Me Anne-Marie Beaudoin  
Secrétaire de l'Autorité  
Autorité des marchés financiers  
800, square Victoria, 22e étage  
C.P. 246, tour de la Bourse  
Montréal, Québec, H4Z 1G3  
Télécopieur: (514) 864-6381  
Courrier électronique: [consultation-en-cours@lautorite.qc.ca](mailto:consultation-en-cours@lautorite.qc.ca)

Manager, Market Regulation  
Capital Markets Branch  
Ontario Securities Commission  
Suite 1903, Box 55,  
20 Queen Street West  
Toronto, Ontario, M5H 3S8  
Fax: 416-595-8940  
e-mail: [marketregulation@osc.gov.on.ca](mailto:marketregulation@osc.gov.on.ca)

CDS will make available to the public, upon request, all comments received during the comment period.

**I. PROPOSED CDS PROCEDURE AMENDMENTS**

Due to formatting restrictions the text of current CDS Participant Procedures marked to reflect proposed amendments as well as text of these procedures reflecting the adoption of the proposed amendments can be accessed by clicking the link below.

Refer to <http://www.cds.ca/cdsclearinghome.nsf/Pages/-EN-blacklined?Open> to review the affected procedure amendments and the acceptable collateral table marked to reflect the proposed amendments. Once the link is accessed, click "Additional Changes to the New York Link and DTC Direct Link services."

## Chapter 25

# Other Information

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### 25.1 Approvals

#### 25.1.1 Les Placements Louisbourg Inc. – Louisbourg Investments Inc. – s. 213(3)(b) of the LTCA

August 25, 2009

Stikeman Elliott  
5300 Commerce Court West  
199 Bay Street  
Toronto, Ontario M5L 1B9

Attention: Colin Yao

Dear Sirs/Mesdames:

**Re: Les Placements Louisbourg Inc. – Louisbourg Investments Inc. (the “Applicant”)  
Application pursuant to clause 213(3)(b) of the  
*Loan and Trust Corporations Act* (Ontario) for  
approval to act as trustee  
Application No. 2009/0452**

Further to your application dated July 21, 2009 (the “Application”) filed on behalf of the Applicant, and based on the facts set out in the Application, and the representation by the Applicant that the assets of one or more mutual fund trusts (the “Funds”) to be established and managed by the Applicant from time to time will be held in the custody of a trust company incorporated and licensed or registered under the laws of Canada or a jurisdiction or a bank listed in Schedule I, II or III of the *Bank Act* (Canada) or an affiliate of such bank or trust company, the Ontario Securities Commission (the “Commission”) makes the following order:

Pursuant to the authority conferred on the Commission in clause 213(3)(b) of the *Loan and Trust Corporations Act* (Ontario), the Commission approves the proposal that the Applicant act as trustee of the Funds that may be established and managed by the Applicant from time to time, the securities of which will be offered pursuant to a prospectus exemption.

Yours truly,

“Paulette Kennedy”

“Mary Condon”

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# Index

<b>1248136 Ontario Limited</b>		<b>CIBC Global Asset Management Inc.</b>	
Notice of Hearing .....	7338	Decision.....	7345
Notice from the Office of the Secretary .....	7343	<b>Coalcorp Mining Inc.</b>	
<b>ASL Direct Inc.</b>		Cease Trading Order.....	7391
SRO Notices and Disciplinary Proceedings .....	7510	<b>Copper Mesa Mining Corporation</b>	
<b>Bick Financial Security Corporation</b>		Cease Trading Order.....	7391
SRO Notices and Disciplinary Proceedings .....	7505	<b>CSA Staff Notice 52-325 Certification Compliance Review</b>	
<b>Biotanika Health Group Inc.</b>		News Release .....	7338
Cease Trading Order .....	7391	<b>Da Silva, Abel</b>	
<b>Bioxel Pharma Inc.</b>		Notice from the Office of the Secretary .....	7340
Cease Trading Order .....	7391	Order – ss. 127, 127.1.....	7371
<b>BMG BullionFund</b>		Order – ss. 127, 127.1.....	7372
Decision .....	7364	<b>De Thomas Financial Corp.</b>	
<b>BMG GOLD BullionFund</b>		SRO Notices and Disciplinary Proceedings.....	7501
Decision .....	7364	<b>Deng, Joe Feng</b>	
<b>Broadband Learning Corporation</b>		Notice of Hearing – ss. 127(1), 127.1 .....	7333
Cease Trading Order .....	7391	Notice from the Office of the Secretary .....	7341
<b>Bullion Management Services Inc.</b>		Order – ss. 127(1), 127(8) .....	7375
Decision .....	7364	<b>Diadamo, Marco</b>	
<b>Canadian Medical Discoveries Fund Inc.</b>		Notice from the Office of the Secretary .....	7340
Decision – s. 1(10).....	7350	Order – ss. 127, 127.1.....	7372
<b>CDS Procedures – Company Name Change (FMC to SS&amp;C) on Service Eligibility Details – Unit Functions Form (CDSX799) – Notice of Effective Date</b>		<b>Fidelity Clearing Canada ULC</b>	
SRO Notices and Disciplinary Proceedings .....	7508	Name Change .....	7499
<b>CDS Procedures – DTC Direct Link and New York Link Services – Additional Material Amendments To Participant Procedures For The Dtc Direct Link (DDL) And New York Link (NYL) – Request for Comments</b>		<b>Firstgold Corp.</b>	
SRO Notices and Disciplinary Proceedings .....	7529	Cease Trading Order.....	7391
<b>CDS Procedures – New Extended Failed Trades File for IIROC Members – Notice of Effective Date</b>		<b>FWM Securities Inc.</b>	
SRO Notices and Disciplinary Proceedings .....	7502	Name Change .....	7499
<b>CDS Procedures – SWIFT Message Instructions for Euroclear France – Notice of Effective Date</b>		<b>Gahunia, Gurdip Singh</b>	
SRO Notices and Disciplinary Proceedings .....	7506	Notice from the Office of the Secretary .....	7340
<b>CI Investments Inc.</b>		Order – ss. 127, 127.1.....	7372
Decision .....	7353	<b>Gahunia, Michael</b>	
<b>CIBC Asset Management Inc.</b>		Notice from the Office of the Secretary .....	7340
Decision .....	7345	Order – ss. 127, 127.1.....	7372
		<b>Gerdau Ameristeel Corporation</b>	
		Decision.....	7369
		<b>Global Petroleum Strategies, LLC</b>	
		OSC Reasons .....	7389
		<b>Global Telecom Split Share Corp.</b>	
		Decision.....	7351

<b>Goldbridge Financial Inc</b>		<b>Mega-C Power Corporation</b>	
OSC Reasons .....	7387	Notice of Hearing.....	7338
<b>Grossman, Abraham Herbert</b>		Notice from the Office of the Secretary .....	7343
Notice from the Office of the Secretary .....	7340	<b>MI Developments Inc.</b>	
Order – ss. 127, 127.1 .....	7372	Notice from the Office of the Secretary .....	7342
<b>Grossman, Allen</b>		Order – ss. 104(1), 127 .....	7376
Notice from the Office of the Secretary .....	7340	<b>Montrose Hammond &amp; Co.</b>	
Order – ss. 127, 127.1 .....	7372	Change of Category .....	7499
<b>Hammerson plc</b>		<b>NI 31-103 Registration Requirements and Exemptions</b>	
Decision .....	7360	Notice .....	7325
<b>Harvest Pegasus Inc.</b>		<b>NI 45-102 Resale of Securities</b>	
Decision – s. 1(10) .....	7359	Notice .....	7332
<b>ICE Futures U.S., Inc.</b>		<b>NI 45-106 Prospectus and Registration Exemptions</b>	
Order – s. 147 of the Act and		Notice .....	7332
ss. 38, 80 of the CSA .....	7378	<b>Norwall Group Inc.</b>	
<b>International Advisory Services Group (IASG) ULC</b>		Cease Trading Order.....	7391
Name Change.....	7499	<b>Norwall Group Inc.</b>	
<b>Kimmel, Jr., Roger A.</b>		Cease Trading Order.....	7391
OSC Reasons .....	7389	<b>O'Brien, Eric</b>	
<b>Kinross Gold Corporation</b>		Notice from the Office of the Secretary .....	7340
Decision .....	7362	Order – ss. 127, 127.1 .....	7372
<b>Leemhuis, Adrian S.</b>		<b>OSC Rule 45-501 Ontario Prospectus and Registration Exemptions</b>	
SRO Notices and Disciplinary Proceedings .....	7510	Notice .....	7332
<b>Lesperance, Shawn</b>		<b>Pardo, Rene</b>	
OSC Reasons .....	7387	Notice of Hearing.....	7338
<b>Levack, Robert</b>		Notice from the Office of the Secretary .....	7343
Notice from the Office of the Secretary .....	7342	<b>Petroleum Unlimited, LLC</b>	
Order – s. 127 .....	7386	OSC Reasons .....	7389
<b>Lin, Tony Tung-Yuan</b>		<b>Placements Louisbourg Inc. – Louisbourg Investments Inc.</b>	
SRO Notices and Disciplinary Proceedings .....	7504	Approval – s. 213(3)(b) of the LTCA.....	7535
<b>Lombard Odier Darier Hentsch Securities (Canada) Inc.</b>		<b>Rapid Solutions Corporation</b>	
New Registration.....	7499	Cease Trading Order.....	7391
<b>M P Global Financial Ltd.</b>		<b>Sanu Resources Ltd.</b>	
Notice of Hearing – ss. 127(1), 127.1 .....	7333	Decision – s. 1(10) .....	7368
Notice from the Office of the Secretary .....	7341	<b>Scotia Canadian Balanced Fund</b>	
Order – ss. 127(1), 127(8).....	7375	Decision.....	7355
<b>Malech, Douglas</b>		<b>Scotia Canadian Blue Chip Fund</b>	
SRO Notices and Disciplinary Proceedings .....	7511	Decision.....	7355
<b>Mankofsky, William</b>		<b>Scotia Canadian Bond Index Fund</b>	
Notice from the Office of the Secretary .....	7340	Decision.....	7355
Order – ss. 127, 127.1 .....	7372	<b>Scotia Canadian Dividend Fund</b>	
<b>McQuarrie, Gord</b>		Decision.....	7355
Notice from the Office of the Secretary .....	7340		
Order – ss. 127, 127.1 .....	7372		

<b>Scotia Canadian Growth Fund</b>	<b>Scotia International Index Fund</b>
Decision ..... 7355	Decision..... 7355
<b>Scotia Canadian Income Fund</b>	<b>Scotia International Value Fund</b>
Decision ..... 7355	Decision..... 7355
<b>Scotia Canadian Index Fund</b>	<b>Scotia Latin American Fund</b>
Decision ..... 7355	Decision..... 7355
<b>Scotia Canadian Small Cap Fund</b>	<b>Scotia Money Market Fund</b>
Decision ..... 7355	Decision..... 7355
<b>Scotia Canadian Tactical Asset Allocation Fund</b>	<b>Scotia Mortgage Income Fund</b>
Decision ..... 7355	Decision..... 7355
<b>Scotia CanAm<sup>®</sup> Index Fund</b>	<b>Scotia Nasdaq Index Fund</b>
Decision ..... 7355	Decision..... 7355
<b>Scotia Cassels Advantaged Income Fund</b>	<b>Scotia Pacific Rim Fund</b>
Decision ..... 7355	Decision..... 7355
<b>Scotia Cassels Canadian Corporate Bond Fund</b>	<b>Scotia Partners Aggressive Growth Portfolio</b>
Decision ..... 7355	Decision..... 7355
<b>Scotia Cassels Canadian Equity Fund</b>	<b>Scotia Partners Balanced Income &amp; Growth Portfolio</b>
Decision ..... 7355	Decision..... 7355
<b>Scotia Cassels Cyclical Opportunities Fund</b>	<b>Scotia Partners Moderate Growth Portfolio</b>
Decision ..... 7355	Decision..... 7355
<b>Scotia Cassels International Equity Fund</b>	<b>Scotia Partners<sup>™</sup> Income &amp; Modest Growth Portfolio</b>
Decision ..... 7355	Decision..... 7355
<b>Scotia Cassels North American Equity Fund</b>	<b>Scotia Premium T-Bill Fund</b>
Decision ..... 7355	Decision..... 7355
<b>Scotia Cassels Short-Mid Government Bond Fund</b>	<b>Scotia Resource Fund</b>
Decision ..... 7355	Decision..... 7355
<b>Scotia Cassels U.S. Equity Fund</b>	<b>Scotia Securities Inc.</b>
Decision ..... 7355	Decision..... 7355
<b>Scotia Diversified Monthly Income Fund</b>	<b>Scotia Selected Aggressive Growth Portfolio</b>
Decision ..... 7355	Decision..... 7355
<b>Scotia European Fund</b>	<b>Scotia Selected Balanced Income &amp; Growth Portfolio</b>
Decision ..... 7355	Decision..... 7355
<b>Scotia Global Bond Fund</b>	<b>Scotia Selected Income &amp; Modest Growth Portfolio</b>
Decision ..... 7355	Decision..... 7355
<b>Scotia Global Climate Change Fund</b>	<b>Scotia Selected Moderate Growth Portfolio</b>
Decision ..... 7355	Decision..... 7355
<b>Scotia Global Growth Fund</b>	<b>Scotia T-Bill Fund</b>
Decision ..... 7355	Decision..... 7355
<b>Scotia Global Opportunities Fund</b>	<b>Scotia U.S. \$ Bond Fund</b>
Decision ..... 7355	Decision..... 7355
<b>Scotia Global Small Cap Fund</b>	<b>Scotia U.S. \$ Money Market Fund</b>
Decision ..... 7355	Decision..... 7355

<b>Scotia U.S. Growth Fund</b>		<b>Sprylogics International Corp.</b>	
Decision .....	7355	Cease Trading Order.....	7391
<b>Scotia U.S. Index Fund</b>		<b>Taylor Jr., Lewis</b>	
Decision .....	7355	Notice of Hearing.....	7338
<b>Scotia U.S. Value Fund</b>		Notice from the Office of the Secretary .....	7343
Decision .....	7355	<b>Taylor Sr., Lewis</b>	
<b>Scotia Vision Aggressive 2010 Portfolio</b>		Notice of Hearing.....	7338
Decision .....	7355	Notice from the Office of the Secretary .....	7343
<b>Scotia Vision Aggressive 2015 Portfolio</b>		<b>Taylor, Colin</b>	
Decision .....	7355	Notice of Hearing.....	7338
<b>Scotia Vision Aggressive 2020 Portfolio</b>		Notice from the Office of the Secretary .....	7343
Decision .....	7355	<b>Taylor, Jared</b>	
<b>Scotia Vision Aggressive 2030 Portfolio</b>		Notice of Hearing.....	7338
Decision .....	7355	Notice from the Office of the Secretary .....	7343
<b>Scotia Vision Conservative 2010 Portfolio</b>		<b>TSX Notice of Approval – Amendments to Part VI of the TSX Company Manual</b>	
Decision .....	7355	SRO Notices and Disciplinary Proceedings.....	7512
<b>Scotia Vision Conservative 2015 Portfolio</b>		<b>Usling, Gary</b>	
Decision .....	7355	Notice of Hearing.....	7338
<b>Scotia Vision Conservative 2020 Portfolio</b>		Notice from the Office of the Secretary .....	7343
Decision .....	7355	<b>Wash, Kevin</b>	
<b>Scotia Vision Conservative 2030 Portfolio</b>		Notice from the Office of the Secretary .....	7340
Decision .....	7355	Order – ss. 127, 127.1 .....	7372
<b>Sextant Capital GP Inc.</b>		<b>Weber, Wesley Wayne</b>	
Notice from the Office of the Secretary .....	7342	OSC Reasons .....	7387
Order – s. 127 .....	7386	<b>Yukon Gold Corporation, Inc.</b>	
<b>Sextant Capital Management Inc.</b>		Cease Trading Order.....	7391
Notice from the Office of the Secretary .....	7342		
Order – s. 127 .....	7386		
<b>Sextant Strategic Opportunities Hedge Fund L.P.</b>			
Notice from the Office of the Secretary .....	7342		
Order – s. 127 .....	7386		
<b>Shallow Oil &amp; Gas Inc.</b>			
Notice from the Office of the Secretary .....	7340		
Order – ss. 127, 127.1 .....	7372		
<b>Shoreline Capital Management Ltd.</b>			
Name Change.....	7499		
<b>Specialty Foods Group Income Fund</b>			
Cease Trading Order .....	7391		
<b>Spork, Natalie</b>			
Notice from the Office of the Secretary .....	7342		
Order – s. 127 .....	7386		
<b>Spork, Otto</b>			
Notice from the Office of the Secretary .....	7342		
Order – s. 127 .....	7386		