

The Ontario Securities Commission

# OSC Bulletin

October 22, 2010

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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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# Chapter 1

## Notices / News Releases

### 1.1 Notices

#### 1.1.1 Current Proceedings Before The Ontario Securities Commission

October 22, 2010

#### CURRENT PROCEEDINGS

#### BEFORE

#### ONTARIO SECURITIES COMMISSION

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

The Harry S. Bray Hearing Room  
Ontario Securities Commission  
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Mary G. Condon	—	MGC
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Kevin J. Kelly	—	KJK
Paulette L. Kennedy	—	PLK
Patrick J. LeSage	—	PJL
Carol S. Perry	—	CSP
Charles Wesley Moore (Wes) Scott	—	CWMS

### SCHEDULED OSC HEARINGS

October 25, 2010	Coventree Inc., Geoffrey Cornish and Dean Tai
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10:00 a.m.	s. 127
------------	--------

October 27, 2010	J. Waechter in attendance for Staff
------------------	-------------------------------------

9:30 a.m.	Panel: JEAT/MGC/PLK
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October 28-29, November 1-3, December 1-3 and December 8-17, 2010	
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10:00 a.m.	
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October 25, 2010	<b>Axcess Automation LLC, Axcess Fund Management, LLC, Axcess Fund, L.P., Gordon Alan Driver, David Rutledge, 6845941 Canada Inc. carrying on business as Anesis Investments, Steven M. Taylor, Berkshire Management Services Inc. carrying on business as International Communication Strategies, 1303066 Ontario Ltd. carrying on business as ACG Graphic Communications, Montecassino Management Corporation, Reynold Mainse, World Class Communications Inc. and Ronald Mainse</b>
------------------	--

October 27, 2010	s. 127
------------------	--------

1:00 p.m.	Y. Chisholm in attendance for Staff
-----------	-------------------------------------

October 27, 2010	Panel: JDC
------------------	------------

October 27, 2010	<b>Shaun Gerard McErlean, Securus Capital Inc., and Acquiesce Investments</b>
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1:00 p.m.	s. 127
-----------	--------

October 27, 2010	M. Britton in attendance for Staff
------------------	------------------------------------

October 27, 2010	Panel: MGC
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November 4, 2010 11:00 a.m.	<b>Lehman Cohort Global Group Inc., Anton Schnedl, Richard Unzer, Alexander Grundmann and Henry Hehlsinger</b>  s. 127  H. Craig in attendance for Staff  Panel: JEAT/CSP/SA	November 8, November 10-19, 2010 10:00 a.m.	<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>  s. 127  M. Britton in attendance for Staff  Panel: TBA
November 5, 2010 10:00 a.m.	<b>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</b>  s. 127  M. Boswell in attendance for Staff  Panel: PLK/SA	November 12, 2010 10:00 a.m.	<b>Imagin Diagnostic Centres Inc., Patrick J. Rooney, Cynthia Jordan, Allan McCaffrey, Michael Shumacher, Christopher Smith, Melvyn Harris and Michael Zelyony</b>  s. 127 and 127.1  J. Feasby in attendance for Staff  Panel: MGC/MCH
November 8, 2010 10:00 a.m.	<b>Christina Harper, Howard Rash, Michael Schaumer, Elliot Feder, Vadim Tsatskin, Oded Pasternak, Alan Silverstein, Herbert Groberman, Allan Walker, Peter Robinson, Vyacheslav Brikman, Nikola Bajovski, Bruce Cohen and Andrew Shiff</b>  s. 127  H. Craig in attendance for Staff  Panel: TBA	November 1 5-17, November 24 – December 2, 2010 10:00 a.m.	<b>Juniper Fund Management Corporation, Juniper Income Fund, Juniper Equity Growth Fund and Roy Brown (a.k.a. Roy Brown-Rodrigues)</b>  s. 127 and 127.1  D. Ferris in attendance for Staff  Panel: TBA
November 8, 2010 10:00 a.m.	<b>Global Energy Group, Ltd. and New Gold Limited Partnerships</b>  s. 127  H. Craig in attendance for Staff  Panel: TBA	November 18, 2010 10:00 a.m.	<b>QuantFX Asset Management Inc., Vadim Tsatskin, Lucien Shtromvaser and Rostislav Zemlinsky</b>  s. 127  H. Craig in attendance for Staff  Panel: TBA
November 8, 2010 10:00 a.m.	<b>Global Energy Group, Ltd. and New Gold Limited Partnerships</b>  s. 127  H. Craig in attendance for Staff  Panel: TBA	November 22, 2010 10:00 a.m.	<b>Georges Benarroch, Linda Kent, Marjorie Ann Glover and Credifinance Securities Limited</b>  s. 21.7  A. Heydon in attendance for Staff  Panel: JDC/CSP

November 29, 2010	<b>Irwin Boock, Stanton Defreitas, Jason Wong, Saudia Allie, Alena Dubinsky, Alex Khodjiaints</b>	December 7, 2010	<b>Mega-C Power Corporation, Rene Pardo, Gary Usling, Lewis Taylor Sr., Lewis Taylor Jr., Jared Taylor, Colin Taylor and 1248136 Ontario Limited</b>
9:30 a.m.	<b>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>	2:00 p.m.	
	s. 127 and 127.1		s. 127
	H. Craig in attendance for Staff		M. Britton/J.Feasby in attendance for Staff
	Panel: MGC		Panel: JDC/KJK
November 29, 2010	<b>Paladin Capital Markets Inc., John David Culp and Claudio Fernando Maya</b>	December 9-10, 2010	<b>Sextant Capital Management Inc., Sextant Capital GP Inc., Otto Spork, Robert Levack and Natalie Spork</b>
10:00 a.m.		10:00 a.m.	
	s. 127		s. 127
	C. Price in attendance for Staff		T. Center in attendance for Staff
	Panel: JEAT		Panel: JDC/CSP
November 29, 2010	<b>Abel Da Silva</b>	December 15-16, 2010	<b>Questrade Inc.</b>
10:00 a.m.		10:00 a.m.	
	s. 127		s. 21.7
	M. Boswell in attendance for Staff		A. Heydon in attendance for Staff
	Panel: JDC		Panel: JDC/CSP
November 30, 2010	<b>Locate Technologies Inc., Tubtron Controls Corp., Bradley Corporate Services Ltd., 706166 Alberta Ltd., Lorne Drever, Harry Niles, Michael Cody and Donald Nason</b>	January 7, 2011	<b>York Rio Resources Inc., Brillante Brasilcan Resources Corp., Victor York, Robert Runic, George Schwartz, Peter Robinson, Adam Sherman, Ryan Demchuk, Matthew Oliver, Gordon Valde and Scott Bassingdale</b>
2:30 p.m.		2:30 p.m.	
	s. 127		s. 127
	A. Heydon in attendance for Staff		H. Craig in attendance for Staff
	Panel: JDC		Panel: TBA
December 2, 2010	<b>Richvale Resource Corp., Marvin Winick, Howard Blumenfeld, Pasquale Schiavone, and Shafi Khan</b>	January 10, 12-21 and 24, 2011	<b>Carlton Ivanhoe Lewis, Mark Anthony Scott, Sedwick Hill, Leverage Pro Inc., Prosporex Investment Club Inc., Prosporex Investments Inc., Prosporex Ltd., Prosporex Inc., Prosporex Forex SPV Trust, Network Financial Group Inc., and Network Marketing Solutions</b>
9:30 a.m.		10:00 a.m.	
	s. 127(7) and 127(8)		s. 127 and 127.1
	H. Craig in attendance for Staff		H. Daley in attendance for Staff
	Panel: TBA		Panel: TBA

January 10, 12-21, January 26 – February 1, 2011	<b>Maple Leaf Investment Fund Corp., Joe Henry Chau (aka: Henry Joe Chau, Shung Kai Chow and Henry Shung Kai Chow), Tulsiani Investments Inc., Sunil Tulsiani and Ravinder Tulsiani</b>	February 8, 2011	<b>Ameron Oil and Gas Ltd. and MX-IV, Ltd.</b>
10:00 a.m.		2:30 p.m.	s. 127
	s. 127		M. Boswell in attendance for Staff
	A. Perschy/C. Rossi in attendance for Staff		Panel: TBA
	Panel: TBA	February 11, 2011	<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>
January 17-21, 2011	<b>Merax Resource Management Ltd. carrying on business as Crown Capital Partners, Richard Mellon and Alex Elin</b>	10:00 a.m.	s. 127(7) and 127(8)
10:00 a.m.			M. Boswell in attendance for Staff
	s. 127		Panel: TBA
	H. Craig in attendance for Staff	February 14-18, February 23-28, March 7, March 9-11, March 28-31, 2011	<b>Agoracom Investor Relations Corp., Agora International Enterprises Corp., George Tsiolis and Apostolis Kondakos (a.k.a. Paul Kondakos)</b>
	Panel: TBA		s. 127
January 26, 2011	<b>Rezwealth Financial Services Inc., Pamela Ramoutar, Chris Ramoutar, Justin Ramoutar, Tiffin Financial Corporation, Daniel Tiffin, 2150129 Ontario Inc. and Sylvan Blackett</b>	10:00 a.m.	T. Center in attendance for Staff
10:00 a.m.			Panel: TBA
	s. 127(1) and (5)		
	A. Heydon in attendance for Staff	February 14-18, February 23 – March 1, 2011	<b>Nelson Financial Group Ltd., Nelson Investment Group Ltd., Marc D. Boutet, Stephanie Lockman Sobol, Paul Manuel Torres, H.W. Peter Knoll</b>
	Panel: CSP	10:00 a.m.	s. 127
January 31 – February 7, February 9-18, February 23, 2011	<b>Anthony Ianno and Saverio Manzo</b>		P. Foy in attendance for Staff
	s. 127 and 127.1		Panel: TBA
	A. Clark in attendance for Staff		
10:00 a.m.	Panel: TBA	February 25, 2011	<b>Hillcorp International Services, Hillcorp Wealth Management, Suncorp Holdings, 1621852 Ontario Limited, Steven John Hill, and Danny De Melo</b>
January 31, February 1-7 and 9-11, 2011	<b>Nest Acquisitions and Mergers, IMG International Inc., Caroline Myriam Frayssignes, David Pelcowitz, Michael Smith, and Robert Patrick Zuk</b>	10:00 a.m.	s. 127
10:00 a.m.			A. Clark in attendance for Staff
	s. 37, 127 and 127.1		Panel: TBA
	C. Price in attendance for Staff		
	Panel: TBA		



March 1-7, 9-11, 21 and 23-31, 2011	<b>Paul Donald</b> s. 127	TBA	<b>Yama Abdullah Yaqeen</b> s. 8(2)
10:00 a.m.	C. Price in attendance for Staff Panel: TBA		J. Superina in attendance for Staff Panel: TBA
March 7, 2011	<b>Firestar Capital Management Corp., Kamposse Financial Corp., Firestar Investment Management Group, Michael Ciavarella and Michael Mitton</b> s. 127	TBA	<b>Microsourceonline Inc., Michael Peter Anzelmo, Vito Curalli, Jaime S. Lobo, Sumit Majumdar and Jeffrey David Mandell</b> s. 127
10:00 a.m.	H. Craig in attendance for Staff Panel: TBA		J. Waechter in attendance for Staff Panel: TBA
March 21 and March 23-31, 2011	<b>York Rio Resources Inc., Brilliante Brasilcan Resources Corp., Victor York, Robert Runic, George Schwartz, Peter Robinson, Adam Sherman, Ryan Demchuk, Matthew Oliver, Gordon Valde and Scott Bassingdale</b> s. 127	TBA	<b>Frank Dunn, Douglas Beatty, Michael Gollogly</b> s. 127
May 2 and May 4-16, 2011	H. Craig in attendance for Staff Panel: TBA		K. Daniels in attendance for Staff Panel: TBA
10:00 a.m.	H. Craig in attendance for Staff Panel: TBA	TBA	<b>Biovail Corporation, Eugene N. Melnyk, Brian H. Crombie, John R. Miszuk and Kenneth G. Howling</b> s. 127(1) and 127.1
March 30, 2011	<b>Oversea Chinese Fund Limited Partnership, Weizhen Tang and Associates Inc., Weizhen Tang Corp., and Weizhen Tang</b> s. 127 and 127.1		J. Superina, A. Clark in attendance for Staff Panel: TBA
10:00 a.m.	M. Britton in attendance for Staff Panel: TBA	TBA	<b>FactorCorp Inc., FactorCorp Financial Inc. and Mark Twerdun</b> s. 127
April 4 and April 6-7, 2011	<b>Uranium308 Resources Inc., Michael Friedman, George Schwartz, Peter Robinson, and Shafi Khan</b> s. 127		C. Price in attendance for Staff Panel: TBA
April 11-18 and April 20, 2011	M. Boswell in attendance for Staff Panel: TBA	TBA	<b>MRS Sciences Inc. (formerly Morningside Capital Corp.), Americo DeRosa, Ronald Sherman, Edward Emmons and Ivan Cavric</b> s. 127 and 127(1)
10:00 a.m.			D. Ferris in attendance for Staff Panel: TBA

TBA	<p><b>Goldpoint Resources Corporation, Lino Novielli, Brian Moloney, Evanna Tomeli, Robert Black, Richard Wylie and Jack Anderson</b></p> <p>s. 127(1) and 127(5)</p> <p>M. Boswell in attendance for Staff</p> <p>Panel: TBA</p>	TBA	<p><b>Lyndz Pharmaceuticals Inc., James Marketing Ltd., Michael Eatch and Rickey McKenzie</b></p> <p>s. 127(1) and (5)</p> <p>J. Feasby in attendance for Staff</p> <p>Panel: TBA</p>
TBA	<p><b>Goldbridge Financial Inc., Wesley Wayne Weber and Shawn C. Lesperance</b></p> <p>s. 127</p> <p>C. Johnson in attendance for Staff</p> <p>Panel: TBA</p>	TBA	<p><b>M P Global Financial Ltd., and Joe Feng Deng</b></p> <p>s. 127 (1)</p> <p>M. Britton in attendance for Staff</p> <p>Panel: TBA</p>
TBA	<p><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></p> <p>s. 127 and 127.1</p> <p>Y. Chisholm in attendance for Staff</p> <p>Panel: TBA</p>	TBA	<p><b>Peter Robinson and Platinum International Investments Inc.</b></p> <p>s. 127</p> <p>M. Boswell in attendance for Staff</p> <p>Panel: TBA</p>
TBA	<p><b>Innovative Gifting Inc., Terence Lushington, Z2A Corp., and Christine Hewitt</b></p> <p>s. 127</p> <p>M. Boswell in attendance for Staff</p> <p>Panel: TBA</p>	TBA	<p><b>Sunil Tulsiani, Tulsiani Investments Inc., Private Investment Club Inc., and Gulfland Holdings LLC</b></p> <p>s. 127</p> <p>J. Feasby in attendance for Staff</p> <p>Panel: TBA</p>
TBA	<p><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></p> <p>s. 127</p> <p>H. Craig in attendance for Staff</p> <p>Panel: TBA</p>	TBA	<p><b>Shane Suman and Monie Rahman</b></p> <p>s. 127 and 127(1)</p> <p>C. Price in attendance for Staff</p> <p>Panel: JEAT/PLK</p>
		TBA	<p><b>Gold-Quest International, Health and Harmony, Iain Buchanan and Lisa Buchanan</b></p> <p>s. 127</p> <p>H. Craig in attendance for Staff</p> <p>Panel: JEAT/CSP/SA</p>

TBA      **Global Energy Group, Ltd., New Gold Limited Partnerships, Christina Harper, Vadim Tsatskin, Michael Schaumer, Elliot Feder, Oded Pasternak, Alan Silverstein, Herbert Groberman, Allan Walker, Peter Robinson, Vyacheslav Brikman, Nikola Bajovski, Bruce Cohen and Andrew Shiff**

s. 37, 127 and 127.1

H. Craig in attendance for Staff

Panel: TBA

TBA      **TBS New Media Ltd., TBS New Media PLC, CNF Food Corp., CNF Candy Corp., Ari Jonathan Firestone and Mark Green**

s. 127

H. Craig in attendance for Staff

Panel: TBA

TBA      **Sulja Bros. Building Supplies, Ltd., Petar Vucicevich, Kore International Management Inc., Andrew Devries, Steven Sulja, Pranab Shah, Tracey Banumas and Sam Sulja**

s. 127 and 127.1

J. Feasby in attendance for Staff

Panel: PJL/SA

TBA      **Brilliante Brasilcan Resources Corp., York Rio Resources Inc., Brian W. Aidelman, Jason Georgiadis, Richard Taylor and Victor York**

s. 127

H. Craig in attendance for Staff

Panel: TBA

TBA      **Howard Jeffrey Miller and Man Kin Cheng (a.k.a. Francis Cheng)**

s. 127

T. Center in attendance for Staff

Panel: TBA

TBA      **Ciccone Group, Medra Corporation, 990509 Ontario Inc., Tadd Financial Inc., Cachet Wealth Management Inc., Vince Ciccone, Darryl Brubacher, Andrew J. Martin., Steve Haney, Klaudiusz Malinowski and Ben Giangrosso**

s. 127

P. Foy in attendance for Staff

Panel: TBA

TBA      **Lehman Brothers & Associates Corp., Greg Marks, Michael Lehman (a.k.a. Mike Laymen), Kent Emerson Lounds and Gregory William Higgins**

s. 127

H. Craig in attendance for Staff

Panel: TBA

#### ADJOURNED SINE DIE

**Global Privacy Management Trust and Robert Cranston**

**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**

**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**

**Hollinger Inc., Conrad M. Black, F. David Radler, John A. Boulton and Peter Y. Atkinson**

**1.1.2 OSC Staff Notice 51-706 – Corporate Finance  
Branch Report – Fiscal 2010**

OSC Staff Notice 51-706 – *Corporate Finance Branch Report – Fiscal 2010* is reproduced on the following internally numbered pages. Bulletin pagination resumes at the end of the Staff Notice.

**OSC Staff Notice 51-706**

**October 20, 2010**



## **Corporate Finance Branch Report**

### **Fiscal 2010**

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## 1. Introduction

This report is a summary of the key activities and initiatives of the Corporate Finance Branch (the Branch or we) of the Ontario Securities Commission (the OSC or the Commission) for fiscal 2010 (April 1, 2009 to March 31, 2010).

### 1.1 Role of the Corporate Finance Branch

The Branch is responsible for regulating approximately 4,200 reporting issuers in Ontario, of which approximately 1,400 are based in Ontario. This includes public companies and other issuers of securities, other than investment funds (referred to in this report as issuers or reporting issuers).

The cornerstone of our regulation of issuers is disclosure. We require issuers to provide information to the marketplace about the securities they are selling, their business and the activities or knowledge of their insiders. Complete, accurate and timely information is critical to maintaining and strengthening investor confidence and efficient capital markets. Our review program for continuous disclosure (CD), prospectus and other filings is focused on upholding high standards of disclosure by issuers.

We also regulate issuers by:

- prohibiting certain activities such as insider trading and certain types of pre-marketing that we think can be harmful to investors and the markets
- applying measures to protect investors in take-over bids and significant conflict of interest transactions, and
- issuing guidance and mandating procedures to make voting rights more effective for investors.

You can find more information on the Branch in the About the OSC section of the OSC website (found at: [http://www.osc.gov.on.ca/en/About\\_cf\\_index.htm](http://www.osc.gov.on.ca/en/About_cf_index.htm)).

### 1.2 Purpose of this report

During fiscal 2010, we remained focused on providing protection to investors and fostering fair and efficient capital markets as the markets continued to undergo significant change. In doing so, we undertook several initiatives that were designed to:

- proactively address continuing market conditions
- improve disclosure provided to investors for the purpose of making investment decisions
- preserve and enhance investor rights
- respond to feedback from investors, issuers and other market participants regarding the securities regulatory framework for reporting issuers, and
- keep pace with global developments.

This report is intended to help issuers improve their understanding of securities law requirements. It may also be of interest to investors and investor advocacy groups. This report is intended to supplement the information in various Commission and Staff Notices on specific topics applicable to these issuers. It summarizes the Branch's key initiatives during fiscal 2010 relating to:

- disclosure to investors
- International Financial Reporting Standards (IFRS) reporting and communication
- shareholder empowerment and board governance, and
- exempt market financing and novel, complex products.

We also discuss developing issues and some aspects of the Branch's plans for fiscal 2011 (April 1, 2010 to March 31, 2011) that we believe will be of particular interest to issuers and their investors.

### 1.3 Ontario's capital markets

We are the principal regulator and generally have responsibility for all 1,429 reporting issuers with head offices in Ontario that represent approximately \$702 billion or 37% of Canada's \$1.9 trillion market capitalization (as of March 31, 2010).

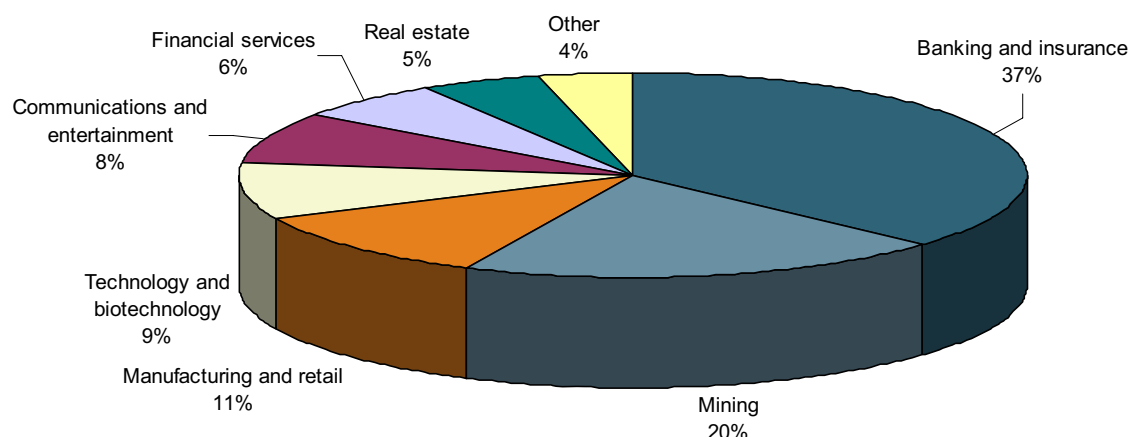
The number of reporting issuers in Ontario for which the OSC is the principal regulator has remained relatively consistent over the past three years.

	Fiscal 2008	Fiscal 2009	Fiscal 2010
<b>Reporting issuers</b>	1,466	1,482	1,429

The issuers that we regulate span a variety of industries. The three largest industry groups in Ontario's capital markets by percentage of market capitalization are banking and insurance, mining, and manufacturing and retail. The three largest industry groups by number of reporting issuers are mining, technology and biotechnology, and financial services.



Market capitalization (% of total)



Note: The market capitalization of these industries was determined as of December 31, 2009. The market capitalization of certain reporting issuers, such as those whose securities are currently subject to a cease trade order, has been excluded.

Given the diversity in Ontario's capital markets and the scope of the Branch's activities, we deal with a variety of regulatory issues. We focus many of our reviews along industry lines in order to enable us to gain a greater understanding of the specific issues and concerns of each industry. Doing so allows us to address accounting and general disclosure issues affecting these industries.

#### Highlights of our two largest industry specializations

- Banking and insurance issuers:** Ontario's banking and insurance industry, although small in number of issuers, represents 37% of Ontario's market capitalization. In assessing a bank or insurance issuer's business, it is imperative to understand the nature and extent of risks arising from financial instruments that an issuer is exposed to and how these risks are managed. Our reviews often focus on the adequacy of the disclosure of the risks and uncertainties, including how these risks impact the valuation of financial instruments and disclosure in the financial statements and management's discussion and analysis (MD&A).
- Mining issuers:** The OSC is the principal regulator of approximately 350 reporting issuers operating in the mining industry. These issuers have a combined market capitalization of more than \$135 billion, representing 20% of Ontario's market capitalization. The stage of development of a mining company largely determines its risk profile. Mining issuers can range from start-up companies that conduct a single grass-roots exploration program to multinational companies that develop and operate producing mines throughout the world. We factor a mining issuer's stage of development into how we design and conduct our review.

## 2. Disclosure to investors

In this section of the report, we explain how we focus our Branch operations on our disclosure review programs. Issuers need to provide complete, accurate and timely information to allow investors to make informed investment decisions to buy, sell or hold securities or to participate in a change of control. We are seeking and getting enhanced disclosure through our comments on CD, prospectus and rights offering reviews. We also get longer term enhancements to disclosure by reviewing and updating our rules, policies and notices.

During fiscal 2010, the Branch continued its focus on holding issuers to high standards of disclosure. This involved:

- reviewing CD, prospectuses and rights offering circulars to assess issuer's compliance with disclosure obligations (discussed in section 2.1 *Review program for CD and offering documents*), and
- proposing changes or issuing additional guidance to facilitate enhanced disclosure to investors in a number of important areas (discussed in section 2.2 *Enhancing disclosure by reporting issuers and insiders*).

### 2.1 Review program for CD and offering documents

Our review programs for CD and offering documents are risk-based and outcome focused. They have two main objectives:

Compliance	Issuer education and outreach
→ to assess whether issuers are complying with their disclosure obligations.	→ to help issuers better understand their disclosure obligations.

#### Risk-based approach

Generally, we use risk-based criteria to determine (1) the issuers whose disclosure we will select for review and (2) the level of review required. The criteria are designed to identify issuers whose disclosure is most likely to be materially improved or brought into compliance with Ontario securities law or accounting standards as a result of our review. Based on our previous experience, data analysis and awareness of best practices, we have found that certain criteria are useful in predicting where compliance problems may exist. The criteria used include both qualitative and quantitative factors, and are regularly reviewed and updated as market conditions change. This allows us to address particular areas of concern in a timely manner.

Notwithstanding our risk-based approach, some issuers are selected for review on a random basis.

## Types of reviews

In general, we will conduct either a “full” review or an “issue-oriented” review. A full review is broad in scope and generally encompasses a review of the full prospectus or a review of an issuer’s CD record for a period of at least 12 months. An issue-oriented review is an in-depth review focusing on one or more specific accounting, legal or regulatory issue(s) that we believe warrant regulatory scrutiny. Full and issue-oriented reviews allow us to:

- assess compliance with new requirements and accounting standards, and
- communicate our interpretation of securities law requirements and areas of concern.

In addition, issue-oriented reviews allow us to quickly address specific areas of risk.

## Outcomes for fiscal 2010

Through our reviews, we strive to foster a culture of compliance with our disclosure regime. Compliance is an important part of our regulatory oversight. Enhanced compliance can lead to more complete, accurate and timely disclosure for investors, which in turn enables them to make better informed investment decisions.

In fiscal 2010, a significant number of our compliance reviews resulted in either enhanced compliance by reporting issuers or commitments to improve compliance going forward.

Program	Percentage of files that resulted in an outcome	Dominant outcome
CD reviews	72% of reviews	Prospective disclosure enhancements (63% of outcomes)
Prospectus reviews	57% of reviews	Material disclosure enhancements (57% of outcomes)

The outcomes of our CD and prospectus review programs are discussed in more detail below.

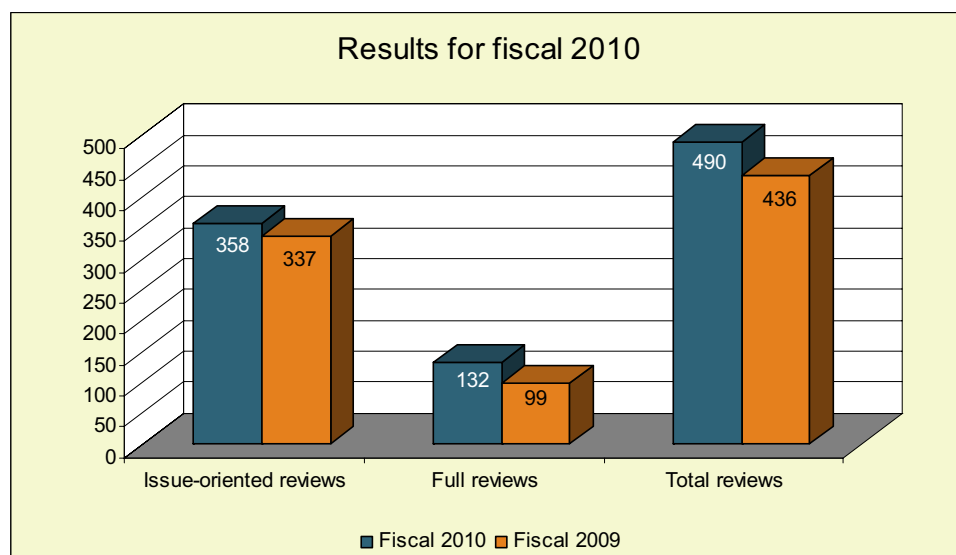
### A. CD reviews

A critical component of the Branch’s focus on compliance with disclosure requirements is our CD program. This program is designed to monitor and enhance compliance with accounting standards and disclosure requirements under securities law. Our reviews focus on critical disclosures that are important to investors and areas where material changes and enhancements are required. This program also contributes to the culture of compliance in our marketplace, as reporting issuers are aware that we review a significant number of issuers each year and that their disclosure may be reviewed at any point. Having high quality, transparent information allows investors to have confidence in the credibility of the information provided by reporting issuers.

## Results for fiscal 2010

The overall number and composition of CD reviews undertaken each year depends on market conditions and risks identified. Given continuing market conditions and the importance for investors of having a reliable CD

record to use when making their investment decisions, we increased our focus on CD reviews in fiscal 2010. Specifically, the number of full reviews conducted in fiscal 2010 increased by 33% from the previous year. The number of issue-oriented reviews also increased by 6% from the prior year.



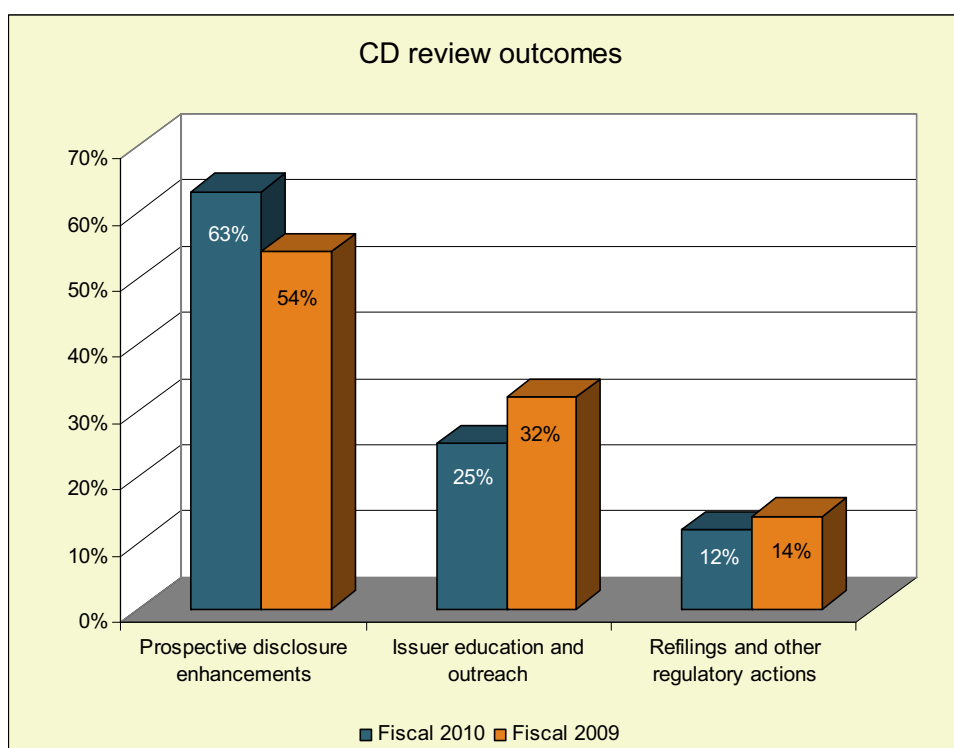
### Outcomes for fiscal 2010

We generally select for review issuers at higher risk of non-compliance. In fiscal 2010, 72% of our CD reviews resulted in an outcome, compared to 80% in fiscal 2009. While we have seen efforts from issuers to improve their disclosure, we believe that further enhancements to their disclosure are needed.

We classify the outcomes of CD reviews into three categories:

- prospective disclosure enhancements
- issuer education and outreach, and
- refilings and other regulatory actions.

A CD review can have more than one category of outcome. For example, an issuer may be required to refile certain CD documents as well as make changes on a prospective basis. The chart below shows the range of review outcomes for fiscal 2010 compared to fiscal 2009.



Generally, the outcomes have remained consistent with prior years as prospective changes continue to be the most dominant outcome.

#### Summary of CD review outcomes

- Prospective disclosure enhancements:** In fiscal 2010, the majority of the outcomes involved informing the issuer that certain enhancements were required in its next CD filing as a result of deficiencies identified. For example, issuers agreed to make prospective enhancements to executive compensation, forward-looking information and asset impairment, as well as disclosure related to the certification requirements set out in National Instrument 52-109 *Certification of Disclosure in Issuers' Annual and Interim Filings* (NI 52-109).
- Issuer education and outreach about specific disclosure risks:** A newer area of focus has been issuer education and outreach. We selected issuers based on a particular risk profile and proactively alerted them to certain disclosure enhancements that should be considered in their next CD filing. In fiscal 2010, issuer education and outreach were mainly focused around IFRS.
- Refilings and other regulatory actions:** Another area of outcomes involved the identification of significant deficiencies that led to a refiling of a CD document, such as MD&A and certificates filed under NI 52-109, or another regulatory action, such as adding the issuer to the default list, issuing a cease trade order or referring the issuer to the OSC's Enforcement Branch.

Refer to CSA Staff Notice 51-332 Continuous Disclosure Review Program Activities for the fiscal year ended March 31, 2010 (dated July 9, 2010) for a discussion of the common deficiencies identified in CD reviews.

### Issue-oriented CD reviews conducted in fiscal 2010

Of the 490 CD reviews completed in fiscal 2010, 73% of the reviews were issue-oriented reviews. Issue-oriented reviews are an effective way to:

- assess issuers' understanding of new accounting standards, such as IFRS, or regulatory requirements such as certification, forward-looking information and executive compensation, and
- focus on particular areas of risk, such as continuing market conditions.

During fiscal 2010, we conducted six issue-oriented reviews, five of which are summarized below. The sixth, relating to IFRS transition disclosure, is discussed in section 3.2 *Compliance review of IFRS transition disclosure* below.

Review	Purpose of review	Outcomes
<b>Certification requirements under NI 52-109</b>	To identify specific areas of non-compliance with the requirements of the new NI 52-109 that came into effect on December 15, 2008.	<p>We identified some level of non-compliance with the requirements of NI 52-109 by 62% of the issuers reviewed. For 30% of the issuers reviewed, the filings were so deficient that the issuers were required to refile their annual MD&amp;A and/or certificates to comply with the requirements under NI 52-109. Prospective changes were required for 32% of the issuers reviewed to correct some aspect of their compliance with the provisions of NI 52-109 going forward.</p> <p><u>CSA Staff Notice 52-325 Certification Compliance Review</u> (dated September 11, 2009) provides guidance to reporting issuers and their certifying officers to facilitate compliance going forward.</p> <p>We plan to continue to work with issuers in this area by conducting a follow-up compliance review in fiscal 2011. See Areas of focus for fiscal 2011 below for further information.</p>

Review	Purpose of review	Outcomes
<b>Executive compensation disclosure</b>	To assess compliance with the new Form 51-102F6 <i>Statement of Executive Compensation</i> that came into effect on December 31, 2008.	<p>Most of the issuers reviewed were asked to make prospective enhancements to their executive compensation disclosure including:</p> <ul style="list-style-type: none"> <li>disclosing performance goals or similar conditions along with the benchmark group used for specific levels of compensation</li> <li>providing more information regarding the grant date fair value of share-based and option-based awards, and</li> <li>quantifying the estimated benefits payable as a result of a termination or change of control.</li> </ul> <p>Issuers should review both the requirements in the form and the guidance in <u>CSA Staff Notice 51-331 Report on Staff's Review of Executive Compensation Disclosure</u> (dated November 20, 2009) to assist them in the preparation of their executive compensation disclosure going forward.</p>
<b>Forward-looking information (FLI)</b>	To assess compliance with the FLI requirements under Parts 4A and 4B of National Instrument 51-102 <i>Continuous Disclosure Obligations</i> (NI 51-102) that came into effect on December 31, 2007.	<p>We identified areas where FLI disclosure was either non-compliant, or where it could be made more readable and user-friendly. These include the disclosure regarding:</p> <ul style="list-style-type: none"> <li>the identification of FLI</li> <li>material risk factors and material factors and assumptions</li> <li>the purpose of FLI</li> <li>goals and targets, and</li> <li>the impact of the transition to IFRS.</li> </ul> <p><u>CSA Staff Notice 51-330 Guidance Regarding the Application of Forward-Looking Information Requirements under NI 51-102 Continuous Disclosure Obligations</u> (dated November 20, 2009) contains guidance for issuers on these areas.</p>

Review	Purpose of review	Outcomes
<b>Continuing market conditions - Asset impairment</b>	<p>To review how reporting issuers in industries with a higher risk of having an impairment of assets have dealt with the impairment of:</p> <ul style="list-style-type: none"> <li>• goodwill</li> <li>• intangible assets</li> <li>• long-lived assets</li> <li>• investments, and</li> <li>• future tax assets.</li> </ul>	<p>While our review did not find the accounting for the impairment to be a significant concern, we found disclosure to be generally deficient in management's discussion &amp; analysis (MD&amp;A) regarding the rationale and circumstances behind impairment charges and the methodology used in the impairment analysis.</p> <p>We required issuers to enhance their MD&amp;A disclosure, especially with respect to their critical accounting estimates, to provide a greater link between the financial statements and the related MD&amp;A disclosure.</p>
<b>Continuing market conditions - Going concern</b>	<p>To review reporting issuers' disclosure of their going concern uncertainty as required by section 1400 of the CICA Handbook and the disclosure requirements regarding financial condition, liquidity needs and risks in Form 51-102F1 <i>Management's Discussion &amp; Analysis</i>.</p>	<p>We found that the issuers generally did not provide complete disclosure of this risk in the financial statements and MD&amp;A. We required some issuers to provide prospective disclosure enhancements in the notes to their financial statements and their MD&amp;A disclosure. In particular, the discussion of liquidity and capital resources did not provide an adequate analysis of the issuers' cash needs and was not linked to the going concern note in their financial statements.</p>



## Areas of focus for fiscal 2011

While the number and type of reviews may change depending on current economic conditions and market developments, the following issue-oriented reviews are currently planned for fiscal 2011:

### Proposed issue-oriented reviews

- **Risk disclosure:** Disclosure of risk and risk management practices enables investors and other stakeholders to understand and evaluate risks and their potential impact on a reporting issuer's future prospects. We will conduct a review of this disclosure in MD&A, annual information forms, prospectuses and other documents filed in 2010. The objectives of the review will be to: (1) assess compliance with existing risk disclosure requirements which are mainly set out in NI 51-102, National Instrument 41-101 *General Prospectus Requirements* and National Instrument 44-101 *Short Form Prospectus Distributions*, (2) use the results of the review to educate reporting issuers about the requirements and promote best practices for risk disclosure, and (3) identify any requirements that need clarification or further explanation to assist issuers in fulfilling their risk disclosure requirements.
- **Corporate governance:** Some investors and other stakeholders have raised concerns about the corporate governance disclosure currently being provided by some reporting issuers. As a result, we are conducting a follow-up corporate governance disclosure review to assess compliance with the existing disclosure requirements set out in National Instrument 58-101 *Disclosure of Corporate Governance Practices* (NI 58-101). The review involves assessing the adequacy of corporate governance disclosure in information circulars (or annual information forms or annual MD&A, if applicable) filed by reporting issuers in spring 2010. It is intended to build on the CSA's 2007 review, described in CSA Staff Notice 58-303 *Corporate Governance Disclosure Compliance Review*. Following the review, we expect to issue a staff notice in 2010 that will summarize the results of the review and provide additional guidance for reporting issuers.
- **Follow-up review of NI 52-109 certification:** Certification of disclosure controls and procedures is meant to confirm that the information required to be included in the periodic reports filed with the OSC is not misleading and fairly presents the financial condition of an issuer. When we first looked at certification compliance in fiscal 2009, we found a high non-compliance rate (approximately 62%) with the requirements of NI 52-109 (see the discussion of the 2009 issue-oriented review on page 10). As a result, we are conducting a follow-up review. Our follow-up review focuses on two aspects: (1) assessing form compliance, including following up on issuers previously reviewed for which deficiencies were identified, and (2) reviewing issuers that refiled their financial statements in fiscal 2009. We expect to issue a staff notice in the fall of 2010 that will summarize the results of the review.

- Material contracts:** The material contract filing requirements are an important aspect of our CD regime because they enable investors and potential investors to understand the terms and conditions of contracts that are of key significance to a particular issuer's business and/or operations. We plan to review compliance with material contract filing requirements under NI 51-102. The review will focus on whether issuers are: (1) filing all of their material contracts, (2) interpreting the exemption for contracts entered into in the "ordinary course of business" correctly, and (3) complying with provisions allowing for the omission and redaction of information from material contracts.

In addition, we plan to conduct a follow-up review of IFRS transition disclosure in fiscal 2011. Refer to section 3.2 *Compliance review of IFRS transition disclosure* for more information about the review.

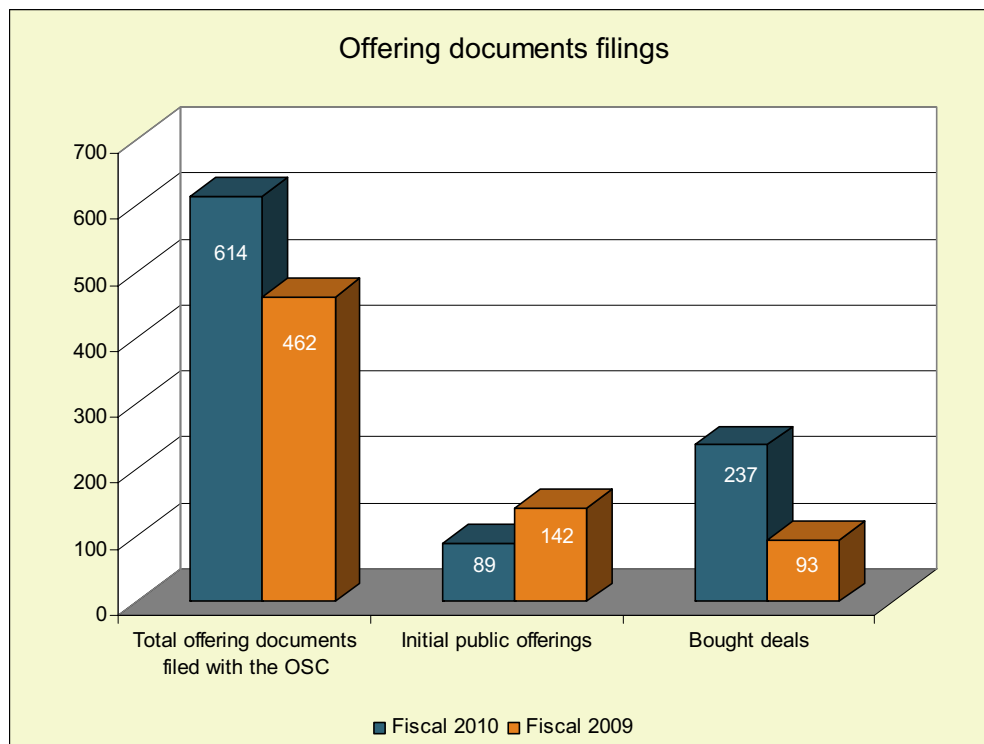
## B. Prospectus reviews

Another key component of the Branch's disclosure compliance program focused on disclosure is our review of offering documents. When issuers seek to raise capital, they are required to meet a number of disclosure requirements considered important to assist investors in making informed investment decisions. We discuss below some of the results of our reviews of public offering documents in fiscal 2010.

### Filings made in fiscal 2010

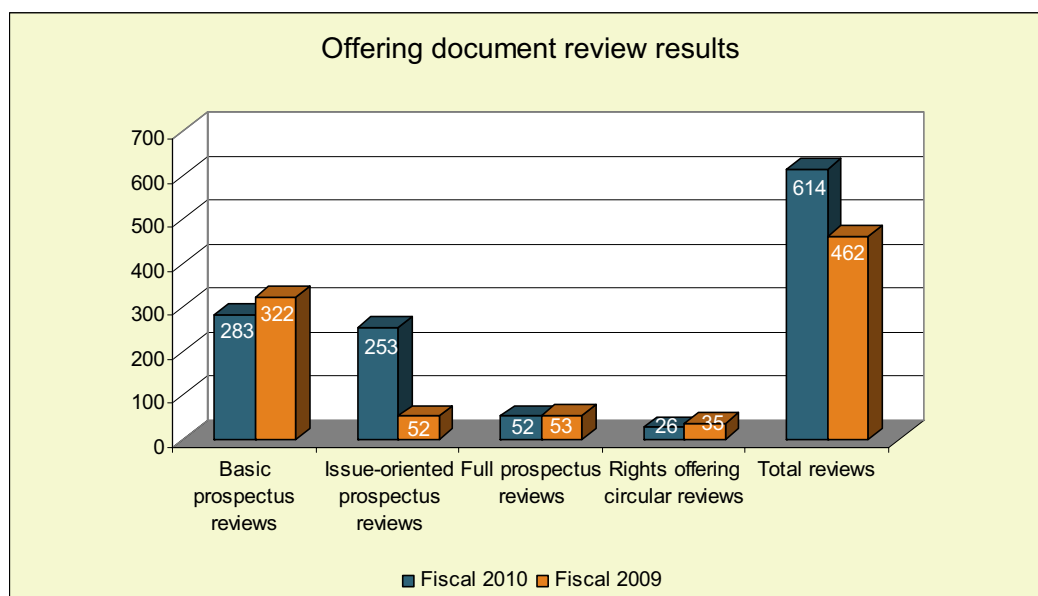
There was a 33% increase in the total number of offering documents (excluding investment fund offerings) reviewed by us in fiscal 2010 from the previous year. We believe this is largely a reflection of the general recovery of the Canadian and global economies, and the perception that raising capital in the public markets was more attractive than in fiscal 2009. The composition of the filings changed in fiscal 2010. In particular, we saw a 37% decrease in the number of initial public offerings (IPO) in fiscal 2010 and a 155% increase in the number of bought deals in fiscal 2010.

Issuers in a range of industries sought public financing. Fifty per cent of the offerings were made by issuers in the mining and oil & gas industries. Issuers in the real estate industry were also active in the public markets in fiscal 2010.



## Results for fiscal 2010

The chart below shows the composition of the type of offering document reviews we conducted in fiscal 2010 compared to fiscal 2009.



As with CD reviews, the overall number and composition of offering document reviews undertaken each year depends on market conditions and risks identified. The number of full prospectus reviews conducted in fiscal 2010 is consistent with the previous year. The significant increase in issue-oriented prospectus reviews in fiscal 2010 is a result of changes made to our risk-based selection criteria to respond to continuing market conditions and recent regulatory developments.

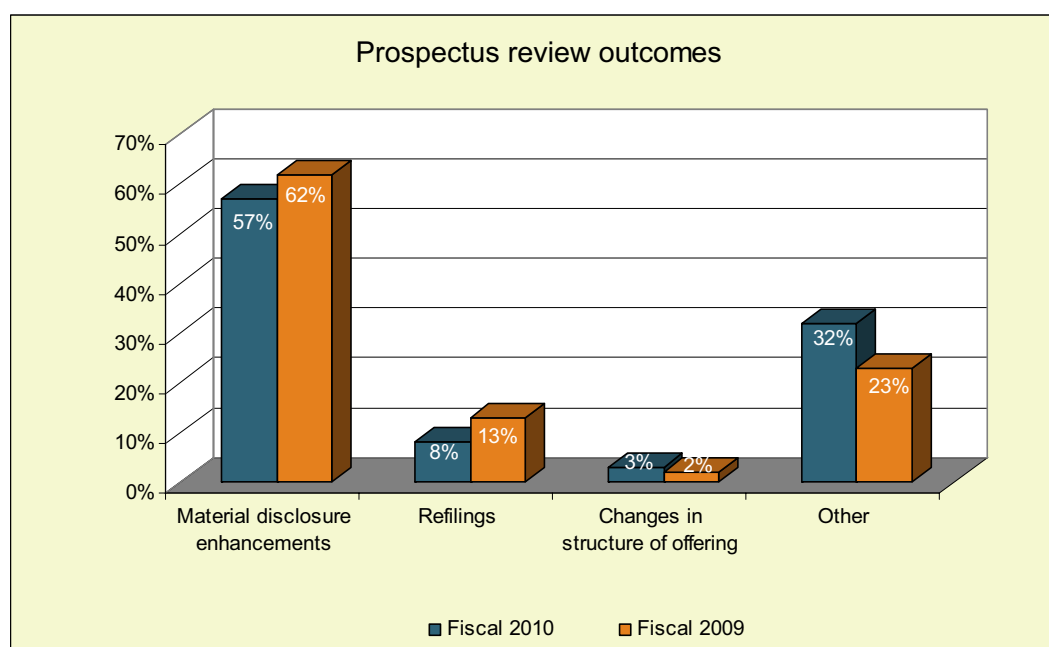
## Outcomes for fiscal 2010

In addition to selecting all IPO prospectuses, we generally select issuers at higher risk of non-compliance for review. In fiscal 2010, 57% of the offering documents selected for review resulted in an outcome, compared to 75% in fiscal 2009. Due to regulatory changes in fiscal 2010, we started tracking outcomes from prospectus reviews where the OSC was not the principal regulator. Outcomes on these reviews were lower than for prospectuses filed with the OSC as principal regulator, as the OSC does not record an outcome for issues raised and resolved by the issuer's principal regulator.

We classify the outcomes of our full and issue-oriented prospectus reviews into four categories:

- material disclosure enhancements
- refilings
- changes in offering structure, and
- other outcomes.

The chart below shows the range of review outcomes for fiscal 2010 compared to fiscal 2009.



Consistent with prior years, material disclosure enhancements remained the most dominant outcome.

#### Summary of prospectus review outcomes

- **Material disclosure enhancements:** In fiscal 2010, more than half of our outcomes were material disclosure enhancements made by issuers. The key areas requiring enhancements were disclosure of qualified persons, technical mining information, use of proceeds, risk factors and executive compensation.
- **Refilings:** Less commonly, our reviews resulted in the refiling of a significantly deficient document or the filing of a required document that was not previously filed. Many of the deficiencies that led to a refiling in fiscal 2010 related to a failure to file technical reports and related consents.

- **Changes in structure of offering:** A few of the outcomes involved a change in the offering structure as a result of our review. The most common change was an increase in the minimum offering size to ensure that the issuer had sufficient funds to sustain its operations for a reasonable period of time and/or achieve the disclosed purposes of the offering.
- **Other:** This category includes outcomes that do not result in a change to a prospectus but are significant to our mandate in other ways. For example, it includes reviews where we have had substantive discussions with the issuer, exemptive relief was granted or procedural enhancements were implemented by the issuer. A significant number of these outcomes were undertakings filed by issuers under which they agreed to pre-clear the disclosure in prospectus supplements related to the issuance of convertible, exchangeable or complex securities.

## 2.2 Enhancing disclosure by reporting issuers and insiders

### A. Disclosure by reporting issuers

In fiscal 2010, we continued to focus on investor protection by taking steps to improve the disclosure provided to investors by reporting issuers. In particular, we achieved milestones on two disclosure-related initiatives: the publication of the OSC's report on corporate sustainability reporting and the publication for comment of a new set of mining disclosure requirements. These initiatives are discussed below.

#### Corporate sustainability reporting

On April 9, 2009, the Ontario Legislature approved a non-binding resolution calling on the OSC to undertake a broad consultation to consider best practices in corporate social responsibility and environmental, social and governance disclosure. In response, the OSC published on December 18, 2009:

- OSC Corporate Sustainability Initiative Report to the Minister of Finance, and
- OSC Notice 51-717 Corporate Governance and Environmental Disclosure.

These documents summarize our plan to enhance compliance by reporting issuers with existing corporate governance and environmental disclosure requirements. Our plan involves:

- Corporate governance disclosure compliance review:** During 2010, we are conducting a follow-up corporate governance disclosure review to assess compliance with the existing disclosure requirements. Refer to Areas of focus for fiscal 2011 in section 2.1 *Review program for CD and offering documents* for further information.
- Environmental reporting guidance:** During 2010, we are developing additional staff guidance on disclosure of environmental matters. The staff guidance seeks to build on OSC Staff Notice 51-716 *Environmental Reporting* (dated February 27, 2008). In developing the staff guidance, we are consulting with stakeholders and experts in this area. We are also considering international developments, such as the SEC's interpretative release, *Commission Guidance Regarding Disclosure Related to Climate Change*, which became effective on February 8, 2010. We intend to publish the guidance in fall 2010 so that reporting issuers have sufficient time to consider the guidance when preparing their 2010 annual CD documents.

Both of these initiatives reflect the feedback received during our consultations in 2009. We consulted with various stakeholders, the OSC's advisory committees and the Prospectors & Developers Association of Canada. We also held a roundtable discussion on September 18, 2009, which was attended by representatives of investors, issuers and professional bodies, analysts, legal and accounting advisors and academics.

#### Updating of mining disclosure requirements

On April 23, 2010, the Canadian Securities Administrators (CSA) published for a 90-day public comment period a proposal to amend National Instrument 43-101 *Standards of Disclosure for Mineral Projects* (NI 43-101). The comment period closed on July 23, 2010 and the CSA received 50 written submissions.

NI 43-101 is generally regarded as a world standard for mining disclosure and it is important to Ontario's capital markets given the size of our mining industry. This is the first major proposal for amendments since NI 43-101 came into effect in 2001 and reflects nine years of regulatory experience with the instrument and broad industry consultation through focus groups and advisory committees.

The purposes of the proposed changes are to enhance the efficiency and effectiveness of the regulation of mining disclosure, reduce compliance costs for reporting issuers, and maintain internationally-leading standards for mining disclosure consistent with our mandate of investor protection.

The proposed changes include:

- updating the expert certificate and consent requirements to provide greater consistency and efficiency, and
- modifying the technical report disclosure requirements to enable the reports to better reflect the stage of development of a mineral property, and as a result, provide more useful information to investors.

In addition, the CSA has requested specific feedback on whether to keep, modify or eliminate the existing requirement to file a technical report with a short form prospectus. The feedback will likely confirm whether the time and costs of producing a technical report for a short form prospectus is a significant issue for the mining industry, and whether investors think they will be disadvantaged if new technical disclosure in a short form prospectus is not supported by a current technical report.

Issuers in the mining industry should monitor these changes to ensure their mining technical disclosure in their CD documents, including technical reports, and on their websites complies with all current disclosure requirements.

## **B. Disclosure by insiders**

During fiscal 2010, we finalized National Instrument 55-104 Insider Reporting Requirements and Exemptions (NI 55-104), which came into force on April 30, 2010.

The new instrument modernizes, harmonizes and streamlines insider reporting in Canada, and will benefit investors by:

- focusing the insider reporting requirement on a core group of insiders with the greatest access to material undisclosed information and the greatest influence over the issuer
- improving the consistency of the reporting requirements for stock-based compensation arrangements, and
- after a transition period, accelerating the filing deadline for reports of trading activity, which will make this important information available to the market sooner.

Reporting issuers and their advisors should familiarize themselves with the new insider reporting requirements to assist their reporting insiders in complying with their reporting obligation. In addition, reporting issuers should adopt appropriate policies and procedures relating to blackout periods, timely disclosure of material information, and monitoring and restricting of insider trading and tipping activities.

For further guidance on the new insider reporting regime, refer to:

- CSA Staff Notice 55-315 Frequently Asked Questions (FAQs) about National Instrument 55-104 Insider Reporting Requirements and Exemptions dated April 28, 2010
- CSA Staff Notice 55-312 Insider Reporting Guidelines for Certain Derivative Transactions (Equity Monetization) (REVISED) dated June 11, 2010, and
- CSA Staff Notice 55-316 Questions and Answers on Insider Reporting and the System for Electronic Disclosure by Insiders (SEDI) dated June 11, 2010.



### 3. IFRS reporting and communication

Following a period of public consultation, the Canadian Accounting Standards Board adopted a strategic plan to move financial reporting for Canadian publicly accountable enterprises to IFRS as issued by the International Accounting Standards Board. For financial years beginning on or after January 1, 2011, Canadian GAAP for publicly accountable enterprises will be IFRS as incorporated into the CICA Handbook.

The OSC supports Canada's move to IFRS, a globally accepted, high quality set of accounting principles. With issuers increasingly making decisions in a global context, the move to IFRS places Canada with more than 100 other countries, including the United Kingdom, other European Union nations and Australia, that have already adopted IFRS. Our objective is to facilitate a smooth transition from current Canadian GAAP to IFRS for reporting issuers. During fiscal 2010, we continued to educate reporting issuers and their advisors on IFRS changes and transitional issues as they prepare their first set of IFRS-compliant financial statements.

#### 3.1 Regulatory impacts of IFRS

On October 1, 2010, we published amendments to the CD, prospectus and certification rules that address the changes required to reflect the adoption of IFRS. Subject to receiving Ministerial approval, the amendments will come into force for issuers with financial years beginning on or after January 1, 2011.

The amendments include a list of changes to accounting terms and phrases, and transition changes that should assist issuers with the conversion to IFRS. The amendments will:

- replace existing Canadian GAAP terms and phrases with IFRS terms and phrases
- change disclosure requirements in instances where IFRS contemplates different financial statements than existing Canadian GAAP
- require the opening IFRS statement of financial position to be presented in an issuer's first IFRS interim financial report and first IFRS financial statements
- provide a 30-day extension to the filing deadline for the first IFRS interim financial report, and
- clarify, amend or delete existing provisions where the provision is no longer accurate or appropriate.

The amendments are intended to provide an efficient transition mechanism for issuers to reflect the changeover to IFRS and produce high quality financial reporting for the benefit of investors and other stakeholders.

### 3.2 Compliance review of IFRS transition disclosure

It is likely that the conversion to IFRS will require a significant commitment of resources by reporting issuers and sufficient advance planning. IFRS transition disclosure is important to assist investors in assessing the readiness of a reporting issuer's transition to IFRS and the impact the adoption of IFRS may have on the issuer. Issuers that provide sufficient information about their conversion process and its effects prior to the IFRS changeover will reduce the level of investor uncertainty about their IFRS readiness. This disclosure should lead to a more stable and less disruptive transition to IFRS, which will be beneficial to both issuers and their investors.

During fiscal 2010, the Branch continued to work towards facilitating a smooth conversion to IFRS for reporting issuers and their investors. As part of this goal, we conducted targeted reviews of IFRS transition disclosures made by issuers in their 2008 and 2009 annual MD&A. Our review of the 2008 annual MD&A disclosures found that the issuers reviewed were not adequately disclosing information related to their IFRS transition efforts. A detailed discussion of the findings of this review can be found in OSC Staff Notice 52-718 IFRS Transition Disclosure Review dated February 5, 2010. We recently completed our review of 2009 annual MD&A. Overall, we found an improvement in the amount and quality of IFRS transition disclosure provided by issuers in their 2009 annual MD&A compared to the prior year. This improvement should be expected since we are closer to the changeover date of January 1, 2011 and issuers generally are farther along in implementing their changeover plans and assessing the impact of accounting policy differences. We issued CSA Staff Notice 52-326 IFRS Transition Disclosure Review on July 23, 2010 which details the findings of the review and provides additional guidance for issuers preparing future MD&A.

Issuers that provide sufficient information about their conversion process and its effects prior to the changeover date will reduce the level of investor uncertainty about IFRS readiness and inform investors and other stakeholders about the potential for volatility in future reported results. This disclosure should lead to a more stable and less disruptive transition to IFRS, which will be beneficial to both issuers and their investors.

Given the short time remaining before the changeover to IFRS, it is critical that issuers provide investors with sufficient information about their conversion process and the potential impact of IFRS on the expected financial results. We will continue to review IFRS transition disclosure provided by reporting issuers as part of our CD review program.

## 4. Shareholder empowerment and board governance

During fiscal 2010, merger and acquisition (M&A) activity increased as issuers shifted their focus towards growth opportunities. This recent rise in M&A activity has also resulted in more contested transactions. The Branch continued to concentrate on the enhancement and protection of shareholder rights in the context of M&A transactions and the ability of shareholders to participate in director elections and other matters that are the subject of shareholder meetings. The measures we took include:

- intervening in mergers, acquisitions and significant related party transactions
- providing guidance to market participants about the take-over bid process
- improving shareholder access to proxy related materials, and
- addressing board governance.

### 4.1 Overview of mergers and acquisition matters

We have a specialized transactional and policy team that regulates take-over bids, issuer bids, business combinations, related party transactions and early warning reporting. This regulation focuses on shareholder rights in change of control and conflict of interest transactions.

This past year, our regulatory efforts included:

- addressing non-compliance with disclosure requirements applicable to M&A transactions
- participating in Commission M&A hearings
- publishing CSA Staff Notice 62-305 *Varying the Terms of Take-Over Bids*, and
- coordinating with our CSA colleagues on major transactional and policy matters.

#### Compliance

We routinely address non-compliance with take-over bid and early warning requirements. We identify non-compliance through independent staff review, third party complaints and self-reporting. Non-compliance outcomes include:

- public disclosure of non-compliance
- applications for compliance or public interest orders made to the Commission
- remedial measures, such as requiring the orderly sale of shares acquired without an exemption to the take-over bid provisions, and
- preventative action to minimize the risk of future non-compliance.

## Significant hearings

The Commission held two public interest hearings concerning related party transactions regulated by Multilateral Instrument 61-101 *Protection of Minority Security Holders in Special Transactions* (MI 61-101). Both transactions involved a controlling shareholder.

### *Magna International Inc.*

On June 23 and 24, 2010, the Commission held a hearing concerning the proposed reorganization of Magna International Inc. (Magna) to collapse Magna's dual class structure (the Arrangement). In a statement of allegations, Staff asked the Commission to cease trade Magna's class B shares because:

- Magna's board of directors failed to provide a recommendation to shareholders and the management information circular (the Circular) in respect of the Arrangement did not contain sufficient information to allow shareholders to form a reasoned judgment, and
- the approval and review process followed by Magna's board was inadequate.

In its decision, the Commission concluded that while the Arrangement was not abusive of Magna's subordinate voting shareholders or the capital markets generally, the Circular contained serious and substantive deficiencies which precluded the subordinate voting shareholders from being able to make an informed voting decision in respect of the Arrangement.

The Commission took a contextual approach in reaching this conclusion. The Commission stated that the disclosure standard for a management information circular must be applied in the circumstances of the transaction. In the case of the Arrangement, the following circumstances were found to be relevant:

- The Arrangement was a material related party transaction between Magna and its controlling shareholder
- Neither the board nor special committee made any recommendation to the subordinate voting shareholders as to how to vote on the Arrangement
- Neither the board nor special committee gave their view as to the fairness of the Arrangement
- No fairness opinion was obtained with respect to the Arrangement, and
- The Arrangement was complex and some portions of the consideration to be paid were difficult to evaluate.

Given these circumstances, the Commission concluded that the Circular must provide the subordinate voting shareholders with substantially the same information and analysis received by the special committee.

The Commission ordered the Arrangement be cease traded until Magna provided extensive supplemental disclosure in the Circular.

The Commission stated that it had concerns about the process followed by the Magna board, the special committee and management in reviewing and submitting the Arrangement to the subordinate voting shareholders. The Commission stated its intention to discuss those concerns in its full reasons for the decision.

### *MI Developments Inc.*

Staff was involved in a Commission hearing on whether MI Developments Inc. (MID) failed to comply with MI 61-101 in connection with certain related party transactions. On December 23, 2009, the Commission released its reasons. These are some of the significant aspects of the decision:

- Only staff has a right to bring an application under section 127 of the *Securities Act* (Ontario) (the Act).
- The Commission has discretion to permit a person other than staff to make an application under section 127 of the Act. The Commission cited the following reasons to support its decision to permit the applicants to bring their applications under section 127 of the Act in this case:
  - the applications involved past and possible future related party transactions, governed by MI 61-101
  - the applications involved breaches of MI 61-101, but were not purely enforcement in nature
  - the relief sought was future looking and was intended to prevent future related party transactions
  - the Commission had the authority to impose an appropriate remedy, and
  - the applicants, as substantial shareholders of MID, were directly affected by the past conduct of MID and would have been directly affected by future related party transactions.
- The Commission confirmed that issuers can arrange their affairs through *bona fide* transactions to qualify for exemptions from our conflict of interest regime, MI 61-101. However, the Commission emphasized that it would look to the substance and effect of the transaction to determine whether the issuer should be able to rely upon the exemption.

### **Policy initiatives**

#### *Varying the terms of a bid*

We published CSA Staff Notice 62-305 *Varying the Terms of Take-Over Bids* on December 18, 2009 to address concerns over how the market was interpreting certain rules relating to formal take-over bids. Specifically, the notice sets out the views of CSA staff on the ability of an offeror to vary the terms of a formal bid in a manner that makes the bid less favourable to target security holders. The notice highlights that an offeror's conditions to a formal take-over bid should be *bona fide*, and should be interpreted in good faith since the bid creates an expectation among security holders that the bid will be completed at the price specified if the conditions are satisfied.

#### *Shareholder rights plans*

We, together with our CSA colleagues, are following recent developments in shareholder rights plan case law both in Ontario and across Canada. National Policy 62-202 *Take-Over Bids – Defensive Tactics* currently sets out the CSA's views on defensive tactics. In May 2009, the Commission dismissed an application by Pala

Investments Holding Limited to cease trade the shareholder rights plan of Neo Material Technologies Inc. The plan was adopted by the target board and approved by the shareholders during the course of a hostile partial bid. Staff are reviewing the impact of this, and other recent CSA decisions, to determine whether there is a need for further guidance on shareholder rights plans.

## 4.2 Communication with beneficial owners of securities

As part of our focus on shareholder rights, we want to improve the process through which beneficial owners of reporting issuer securities, as opposed to registered securityholders, receive proxy related materials and how their voting instructions are solicited. Our goal is to make it simpler for beneficial owners to understand what they are being asked to vote on and to cast their vote.

During fiscal 2010, the CSA finalized proposed amendments to National Instrument 54-101 *Communication with Beneficial Owners of Securities of a Reporting Issuer* (NI 54-101). The proposed amendments are intended to simplify and clarify aspects of the voting process for beneficial owners. They include:

- introduction of a voluntary “notice-and-access” method of informing registered holders and beneficial owners of reporting issuer securities that the proxy-related materials have been posted on a website that is not SEDAR, and explaining how to access them
- simplification of the process by which beneficial owners who hold securities through an intermediary are appointed as proxy holders
- enhanced disclosure by reporting issuers of the beneficial owner voting process, and
- restrictions designed to minimize the potential for misuse of certain beneficial owner information.

In developing the proposed amendments, CSA staff consulted with issuers, intermediaries, beneficial owners, a proxy advisory firm, proxy solicitors and service providers, as well as with the OSC’s advisory committees. The proposed amendments reflect the feedback received during those consultations.

The proposed amendments were published for a 144-day comment period on April 9, 2010. The comment period ended on August 31, 2010 and the CSA received 25 written submissions.

Our policymaking in the area of beneficial owner communications reflects our commitment to the principles animating NI 54-101:

- all securityholders of a reporting issuer, whether registered holders or beneficial owners, should have the opportunity to be treated alike as far as is practicable
- efficiency should be encouraged, and
- the obligation of each party in the securityholder communication process should be equitable and clearly defined.

### 4.3 Board governance

In addition to initiatives regarding shareholder rights, we continued our focus on disclosure surrounding the practices of those charged with “representing” shareholder interests, such as the board of directors. As part of our corporate sustainability reporting initiative, we reviewed the existing disclosure requirements regarding corporate governance matters during fiscal 2010. We heard feedback from stakeholders consulted that the existing disclosure requirements are adequate. However, they noted that compliance by reporting issuers with these requirements could be enhanced.

On December 18, 2009, the OSC announced its plan to conduct a review of compliance with the requirements of NI 58-101. Refer to Areas of focus for fiscal 2011 in section 2.1 *Review program for CD and offering documents* for a discussion of this review.

Consistent with our decision to focus on compliance with the existing requirements, CSA staff published CSA Staff Notice 58-305 Status Report on the Proposed Changes to the Corporate Governance Regime on November 13, 2009. The notice confirmed that the CSA did not intend to implement proposed changes to the corporate governance regime, including the related disclosure requirements, published for comment on December 19, 2008. The CSA’s decision was in response to comments received on the proposed changes. A majority of commenters expressed the view that it was not the appropriate time to introduce significant changes to the corporate governance regime in Canada, and in particular, they expressed concerns about moving towards a principles-based corporate governance regime. They also noted that issuers were currently focused on business sustainability issues in a challenging economic climate and on the transition to IFRS.

## 5. Exempt market financing and novel, complex products

Canadian investors increasingly are being offered, on an exempt basis as well as through prospectuses, a variety of novel and complex financial products. In fiscal 2010, we continued to work on initiatives intended to permit financial innovation without compromising investor protection. This work will continue into fiscal 2011.

### 5.1 Regulation of credit rating organizations

Credit rating organizations (CROs) play an important role in the financial markets. CRO ratings are referred to in a number of rules made under securities legislation. The importance of credit ratings, and their role in the recent global financial crisis and 2007 Canadian asset-backed commercial paper (ABCP) market turmoil, has resulted in a consensus in Canada and internationally that CROs must be subject to appropriate regulation.

During fiscal 2010, we continued to develop a framework for regulating CROs that will be complementary to international regulatory regimes. The CSA published proposed National Instrument 25-101 Designated Rating Organizations for a 90-day public comment period on July 16, 2010. The comment period closes on October 25, 2010. We encourage interested stakeholders to provide written submissions on the proposal.

Under the proposed instrument, a credit rating organization will be able to apply for designation as a “designated rating organization” by filing an application containing prescribed information. The central requirement of the proposed instrument is that, once designated, a rating organization must establish, maintain and ensure compliance with a code of conduct that is substantially the same as the Code of Conduct Fundamentals for Credit Rating Agencies published by the International Organization of Securities Commissions (IOSCO). A designated rating organization would also be required to establish policies and procedures to manage conflicts of interest, prevent inappropriate use of information, appoint a compliance officer and make an annual filing. While the CSA intends to appropriately regulate CROs, they are not proposing to direct or regulate the content of credit ratings or the methodologies used to determine credit ratings.

### 5.2 Offerings of novel and complex products

We continue to monitor how novel, complex products are sold in both the exempt markets as well as through prospectuses, and to develop appropriate regulatory responses.

#### Internet offerings of over-the-counter derivatives

The internet has increased the opportunities for Ontario residents to invest in securities, including over-the-counter derivatives such as contracts for difference (CFDs) and foreign exchange contracts. We became concerned that certain internet offerings were being made by unregistered, offshore entities to retail investors in Ontario. To address these investor protection concerns, we issued OSC Staff Notice 91-702 Offerings of



*Contracts for Difference and Foreign Exchange Contracts to Investors in Ontario* on October 30, 2009. The notice gives general guidance to market participants on CFDs, as well as foreign exchange contracts and similar over-the-counter derivatives.

Market participants must comply with the registration and prospectus requirements of Ontario securities law, or obtain exemptive relief, when offering these products to Ontario investors. This means investors will receive prospectus-level disclosure and registrants selling these products will need to fulfill their know-your-client and suitability obligations, unless exemptive relief has been granted.

### **Securitized products**

Securitized products are securities whose payments are supported by an underlying pool of cash-generating financial assets collected in a bankruptcy-remote special purpose vehicle. ABCP and collateralized debt obligations (CDOs) are types of securitized products. Examples of financial assets that are commonly securitized in this way include residential and commercial mortgages, credit card receivables, and automobile and agricultural equipment leases.

ABCP is generally issued in the exempt market. The majority of term asset-backed securities and other types of securitized products are prospectus qualified (often through a short form or shelf prospectus).

There is an international consensus that securitized products have unique features that require specific regulation. The 2007 Canadian ABCP crisis demonstrated the need to examine the regulation of securitized products, both on the disclosure side and the distribution side.

The CSA has been developing regulatory proposals to address these concerns in a manner that:

- balances investor protection with efficient capital markets, and
- facilitates transparency and a robust market infrastructure so that the securitization market can continue to function even in times of financial stress.

In developing proposals regarding securitization, we have considered international regulatory and industry developments, and are reviewing them against current Canadian requirements applicable to the distribution of securitized products. For example, we are reviewing the final recommendations of IOSCO's report, *Disclosure Principles for Public Offerings and Listings of Asset-Backed Securities*, and the SEC's notice of proposed rule-making relating to asset-backed securities and other structured finance products.

We expect to publish amendments to our rules relating to the sale of ABCP and other securitized products in the exempt market as well as through prospectuses later in 2010. Refer to CSA Staff Notice 45-307 Regulatory Developments Regarding Securitization (dated June 18, 2010) for further information.

These proposals are significant given the size of the Canadian securitization market. According to DBRS, as of March 31, 2010, the size of the Canadian securitization market was \$104 billion. The securitization market is significant to Ontario capital markets and the OSC is the principal regulator for the majority of asset-backed securities issuers.

### 5.3 Updating of exempt market regime

We continuously update our prospectus exemptions regime in response to market developments and related regulatory initiatives. On September 28, 2009, amended and restated versions of National Instrument 45-106 Prospectus and Registration Exemptions and OSC Rule 45-501 Ontario Prospectus and Registration Exemptions, and amendments to the related resale instrument, National Instrument 45-102 Resale of Securities came into effect. These amendments facilitate the implementation of our new registration regime, which was introduced at the same time through National Instrument 31-103 Registration Requirements and Exemptions, and amendments to the Act.

Our focus in fiscal 2011 will be on reviewing how products are sold to retail investors on a prospectus exempt basis. In particular, we are reviewing the accredited investor and \$150,000 minimum amount investment prospectus exemptions to assess whether they continue to be appropriate, or whether amendments are needed.

## 6. Questions and additional resources

### 6.1 Questions about this report

If you have any questions about this report, please contact:

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### 6.2 General questions

If you have any general questions about the Branch or any of its activities, please contact the OSC Inquiries and Contact Centre or Branch staff.

The OSC Inquiries and Contact Centre can be contacted by:

Phone: 416-593-8314 (Toronto area)/ 1-877-785-1555 (toll-free)/ 1-866-827-1295 (TTY)

E-mail: inquiries@osc.gov.on.ca

Fax: 416-593-8122

Appendix A contains the contact information for the professional and clerical staff in the Branch.

### 6.3 Additional resources

A part of our Branch's mandate is to foster a culture of compliance through outreach and other initiatives. Although we cannot provide legal, financial accounting or other advice, we try to assist issuers in meeting their regulatory requirements in a number of ways.

#### Corporate Finance section of OSC website

During fiscal 2010, we updated the Corporate Finance section of the OSC website. This section of the website provides a basic outline for issuers on how to comply with Ontario securities law and file certain documents with the OSC. It describes the steps an issuer needs to take to:

- distribute and market securities
- disclose information on a timely and accurate basis, and
- apply for regulatory exemptions.

In particular, there is a page that contains links to information for smaller issuers (both reporting issuers and other issuers) that want to learn more about Ontario securities law.

The Information for Companies section of the OSC website can be found at:

[http://www.osc.gov.on.ca/en/Companies\\_index.htm](http://www.osc.gov.on.ca/en/Companies_index.htm).

### **Other outreach initiatives**

We continued our efforts during fiscal 2010 to be transparent regarding the Branch's initiatives and practices and procedures in as timely a manner as possible. Our intent in doing so is to better enable issuers and their advisors to avoid potential regulatory issues before they undertake any transactions or make any regulatory filings. The primary tools that we use are staff notices (such as the notices referred to in this report) and public speaking engagements. We will continue to communicate regularly with our stakeholders about developing issues.

## Appendix – Corporate Finance Branch contact information

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ONTARIO  
SECURITIES  
COMMISSION

OSC Staff Notice 51-706



As the regulatory body responsible for overseeing the capital markets in Ontario, the Ontario Securities Commission administers and enforces the provincial Securities Act, the provincial Commodity Futures Act and administers certain provisions of the provincial Business Corporations Act. The OSC is a self-funded Crown corporation accountable to the Ontario Legislature through the Minister of Finance.





**1.1.3 Notice of Completion of Staff Review of Proposed Changes**

**CHI-X CANADA ATS  
NOTICE OF COMPLETION OF STAFF REVIEW OF PROPOSED CHANGES**

Chi-X Canada ATS Limited has announced its plans to implement changes to its Form 21-101F2 offering subscribers certain pre-trade validation checks to complement their existing risk management tools (proposed changes). A notice describing the proposed changes was published in accordance with OSC Staff Notice 21-703 – *Transparency of the Operations of Stock Exchanges and Alternative Trading Systems* on September 17, 2010 in this Bulletin. Pursuant to OSC Staff Notice 21-703, market participants were also invited by OSC staff to provide the Commission with feedback on the proposed changes. One comment letter was received. A summary of this comment and a response prepared by Chi-X Canada ATS may be found in Chapter 13 of this Bulletin.

OSC staff have completed their review of the proposed changes and have no further comment. Chi-X Canada ATS is expected to publish a notice indicating the intended implementation date of the proposed changes.

## 1.3 News Releases

### 1.3.1 Canadian Securities Regulators Observe Moderate Improvement in Issuers' Certification Requirements

October 15, 2010

#### **CANADIAN SECURITIES REGULATORS OBSERVE MODERATE IMPROVEMENT IN ISSUERS' CERTIFICATION REQUIREMENTS**

**Montréal** – The Canadian Securities Administrators (CSA) today published Staff Notice 52-327 *Certification Compliance Update* which summarizes issuer compliance with the requirements of National Instrument (NI) 52-109 *Certification of Disclosure in Issuers' Annual and Interim Filings* provisions. The results show moderate improvement in the level of compliance by issuers since a similar review was conducted last year.

This year's review focused on general compliance with the NI 52-109 provisions and the associated Management's Discussion & Analysis (MD&A) disclosure of issuers that restated and refiled interim or annual financial statements to correct accounting errors. In addition, the review focused on MD&A disclosure of material changes in internal control over financial reporting (ICFR) due to the transition to International Financial Reporting Standards (IFRS).

"We recognize the efforts made by issuers and their certifying officers to increase compliance with the Certification Instrument. However, there is still room for improvement and we expect issuers to pursue further efforts in order to improve the quality and reliability of disclosure to investors," said Jean St-Gelais, Chair of the CSA and President and Chief Executive Officer of the Autorité des marchés financiers (Québec). "We believe that the Notice will provide issuers with further guidance in an effort to improve compliance with the Certification Instrument."

CSA staff conducted the review of 2009 annual MD&A and annual certificates of a sample of 195 reporting issuers, composed of 145 non-venture issuers and 50 venture issuers. The sample included 45 issuers that were identified as non-compliant in last year's CSA review of 2008 annual MD&A and annual certificates.

Out of the total reporting issuers reviewed:

- 45 per cent appeared to comply or substantively comply with the provisions and no action was required, compared to 38 per cent in last year's review;
- 33 per cent were required to make prospective changes in future filings, compared to 32 per cent in last year's review; and
- 22 per cent were required to refile their annual MD&A and/or certificates, compared to 30 per cent in last year's review.

Copies of CSA Staff Notice 52-327 are available on the websites of CSA members.

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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Donn MacDougall  
Northwest Territories  
Securities Office  
867-920-8984

### 1.3.2 Canadian Securities Regulators Introduce Amendments to Oil and Gas Disclosure

FOR IMMEDIATE RELEASE  
October 15, 2010

#### CANADIAN SECURITIES REGULATORS INTRODUCE AMENDMENTS TO OIL AND GAS DISCLOSURE

**Calgary** – The Canadian Securities Administrators (CSA) have introduced amendments to National Instrument 51-101 *Standards of Disclosure for Oil and Gas Activities* and related forms, which are designed to improve and clarify the disclosure of oil and gas reporting issuers.

The proposed amendments to NI 51-101 fall into three broad categories: amendments for clarification, amendments to codify existing staff guidance and practice, and added requirements to enhance reliability of certain disclosure of reserves and resources other than reserves.

"Canada has developed one of the most effective and efficient oil and gas disclosure regimes in the world," said Jean St-Gelais, Chair of the CSA and President and Chief Executive Officer of the Autorité des marchés financiers (Québec). "These proposed amendments are part of the natural evolution to ensure this regime meets the changing disclosure needs of the oil and gas industry."

One aspect of the amendments is to create rules for the guidance that had previously been provided for the disclosure of reserves and resources other than reserves. The public comment period for the proposed amendments ran from December 2009 to March 2010. The amendments will come into force across Canada on December 30, 2010.

The amended NI 51-101 *Standards of Disclosure for Oil and Gas Activities* and related forms are available on the websites of CSA members.

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:

Mark Dickey  
Alberta Securities Commission  
403-297-4481

Robert Merrick  
Ontario Securities Commission  
416-593-8307

Ainsley Cunningham  
Manitoba Securities Commission  
204-945-4733

Natalie MacLellan  
Nova Scotia Securities Commission  
902-424-8586

Janice Callbeck  
PEI Securities Office  
Office of the Attorney General  
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Graham Lang  
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867-667-5466

Donn MacDougall  
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Sylvain Thériège  
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Ken Gracey  
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Wendy Connors-Beckett  
New Brunswick Securities Commission  
506-643-7745

Barbara Shourounis  
Saskatchewan Financial Services Commission  
306-787-5842

Doug Connolly  
Financial Services Regulation Div.  
Newfoundland and Labrador  
709-729-2594

Louis Arki  
Nunavut Securities Office  
867-975-6587

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

**1.4.1 Maple Leaf Investment Fund Corp. et al.**

**FOR IMMEDIATE RELEASE  
October 13, 2010**

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

**AND**

**IN THE MATTER OF  
MAPLE LEAF INVESTMENT FUND CORP.,  
JOE HENRY CHAU (aka: HENRY JOE CHAU,  
SHUNG KAI CHOW and  
HENRY SHUNG KAI CHOW),  
TULSIANI INVESTMENTS INC.,  
SUNIL TULSIANI and RAVINDER TULSIANI**

**TORONTO** – Following a hearing held on August 12, 2010, the panel released its Reasons For Denying A Motion For An Electronic Hearing in the above noted matter

A copy of the Reasons For Denying A Motion For An Electronic Hearing dated October 12, 2010 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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**1.4.2 Uranium308 Resources Inc. et al.**

**FOR IMMEDIATE RELEASE  
October 15, 2010**

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

**AND**

**IN THE MATTER OF  
URANIUM308 RESOURCES INC.,  
MICHAEL FRIEDMAN, GEORGE SCHWARTZ,  
PETER ROBINSON, AND SHAFI KHAN**

**TORONTO** – The Commission issued an Order in the above named matter which provides that (1) the hearing on the merits with respect to this matter shall commence on April 4, 2011 at 10 a.m. and shall continue on April 6, 7, 11, 12, 13, 14, 15, 18 and 20, 2011, or such further or other dates as shall be agreed to by the parties and fixed by the Office of the Secretary; and (2) the motion brought by Schwartz is to be heard on November 26, 2010 at 10:00 a.m. at the offices of the Commission, 20 Queen Street West, 17th floor, Toronto.

A copy of the Order dated October 14, 2010 is available at [www.osc.gov.on.ca](http://www.osc.gov.on.ca).

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**1.4.3 Peter Robinson and Platinum International Investments Inc.**

**FOR IMMEDIATE RELEASE  
October 15, 2010**

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

**AND**

**IN THE MATTER OF  
PETER ROBINSON AND PLATINUM  
INTERNATIONAL INVESTMENTS INC.**

**TORONTO** – The Commission issued an Order in the above named matter which provides that the hearing with respect to this matter is adjourned to November 8, 2010, at 11:30 a.m. to continue the pre-hearing conference.

A copy of the Order dated October 14, 2010 is available at [www.osc.gov.on.ca](http://www.osc.gov.on.ca).

OFFICE OF THE SECRETARY  
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**1.4.4 Ameron Oil and Gas Ltd. and MX-IV, Ltd.**

**FOR IMMEDIATE RELEASE  
October 15, 2010**

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

**AND**

**IN THE MATTER  
AMERON OIL AND GAS LTD.  
AND MX-IV, LTD.**

**TORONTO** – The Commission issued an Order in the above named matter which provides that (1) pursuant to subsections 127 (7) and (8) of the Act, the Temporary Order is extended to February 9, 2011; and (2) the hearing in this matter is adjourned to February 8, 2011 at 2:30 p.m.

A copy of the Order dated October 13, 2010 is available at [www.osc.gov.on.ca](http://www.osc.gov.on.ca).

OFFICE OF THE SECRETARY  
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**1.4.5 York Rio Resources Inc. et al.**

**FOR IMMEDIATE RELEASE  
October 15, 2010**

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

**AND**

**IN THE MATTER OF  
YORK RIO RESOURCES INC.,  
BRILLIANTE BRASILCAN RESOURCES CORP.,  
VICTOR YORK, ROBERT RUNIC,  
GEORGE SCHWARTZ, PETER ROBINSON,  
ADAM SHERMAN, RYAN DEMCHUK,  
MATTHEW OLIVER, GORDON VALDE  
AND SCOTT BASSINGDALE**

**TORONTO** – The Commission issued an Order in the above named matter which provides that (1) the hearing on the merits is to commence on March 21, 2011 at 10:00 a.m. at the offices of the Commission, 20 Queen Street West, 17th floor, Toronto and shall continue on March 23, 24 25, 28, 29, 30, 31, 2010 and May 2, 4, 5, 6, 9, 10, 11, 12, 13 and 16, 2010, or such further or other dates as may be agreed to by the parties and fixed by the Office of the Secretary; (2) the motion brought by Schwartz and York is to be heard on November 26, 2010 at 10:00 a.m. at the offices of the Commission, 20 Queen Street West, 17th floor, Toronto; and (3) the parties attend before the Commission on January 7, 2011 at 2:30 p.m. for a status hearing at the offices of the Commission, 20 Queen Street West, 17th floor, Toronto.

A copy of the Order dated October 14, 2010 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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**1.4.6 Brilliante Brasilcan Resources Corp. et al.**

**FOR IMMEDIATE RELEASE  
October 15, 2010**

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

**AND**

**IN THE MATTER OF  
BRILLIANTE BRASILCAN RESOURCES CORP.,  
YORK RIO RESOURCES INC.,  
BRIAN W. AIDELMAN, JASON GEORGIADIS,  
RICHARD TAYLOR AND VICTOR YORK**

**TORONTO** – The Commission issued an Order in the above named matter which provides that, pursuant to subsection 127(8) of the Act, the Amended Temporary Order is extended until the completion of the York Rio Hearing, subject to any further order by the Commission.

A copy of the Order dated October 15, 2010 is available at **[www.osc.gov.on.ca](http://www.osc.gov.on.ca)**.

**OFFICE OF THE SECRETARY  
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**1.4.7 Global Partners Capital et al.**

**FOR IMMEDIATE RELEASE**  
**October 18, 2010**

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

**AND**

**IN THE MATTER OF  
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, BASIL MARCELLINIUS  
TOUSSAINT also known as Peter Beckford, and  
RAFIQUE JIWANI also known as Ralph Jay**

**TORONTO** – Following the release of the Panel's Reasons and Decision dated August 31, 2010 on the hearing on the merits, a sanctions hearing is scheduled to commence on Friday, November 5, 2010 at 10:00 a.m. in Hearing Room B, 20 Queen Street West, Toronto, in the above named matter.

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

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**1.4.8 Howard Jeffrey Miller and Man Kin Cheng  
(a.k.a. Francis Cheng)**

**FOR IMMEDIATE RELEASE**  
**October 19, 2010**

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

**AND**

**IN THE MATTER OF  
HOWARD JEFFREY MILLER AND  
MAN KIN CHENG (a.k.a. FRANCIS CHENG)**

**TORONTO** – The Commission issued an Order in the above named matter which provides that a confidential pre-hearing conference shall take place on January 11, 2011, at 3:00 p.m.

A copy of the Order dated October 18, 2010 is available at **[www.osc.gov.on.ca](http://www.osc.gov.on.ca)**.

**OFFICE OF THE SECRETARY  
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## Chapter 2

# Decisions, Orders and Rulings

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### 2.1 Decisions

#### 2.1.1 Enerplus Resources Fund et al.

##### Headnote

Multilateral Instrument 11-102 Passport System and National Policy 11-203 Process for Exemptive Relief Applications in Multiple Jurisdictions – exemption granted from the requirement to include financial statements and management's discussion and analysis in an information circular for entities participating in an arrangement – the information circular will be sent to securityholders in connection with a proposed internal reorganization pursuant to which business operations will be conducted through a corporate entity – the corporate entity will own, directly or indirectly, all of the existing assets and assume all of the existing liabilities of the Fund and its sole business will be the current business of the Fund.

Exemption granted to a successor issuer from the current annual financial statement and current AIF short form prospectus qualification criteria and the requirement to file a notice declaring its intention to be qualified to file a short form prospectus at least 10 business days prior to the filing of a preliminary short form prospectus – disclosure regarding the predecessor issuer will effectively be the disclosure of the successor issuer – predecessor issuer is qualified to file a short form prospectus.

Exemption granted to a successor issuer from the requirement to deliver personal information forms for individuals for whom the Fund previously delivered personal information forms.

##### Applicable Legislative Provisions

National Instrument 51-102 Continuous Disclosure Obligations.  
National Instrument 44-101 Short Form Prospectus Distributions.

**Citation:** Enerplus Resources Fund, Re, 2010 ABASC 439

September 16, 2010

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

AND

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

AND

IN THE MATTER OF  
ENERPLUS RESOURCES FUND (THE FUND),  
ENERPLUS EXCHANGEABLE LIMITED  
PARTNERSHIP (EELP),  
ENERMARK INC. (EnerMark) AND  
ENERPLUS CORPORATION (Newco and,  
together with the Fund, EELP  
and EnerMark, the Filers)

DECISION

## Background

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

- (a) exempting the Fund and EELP from the requirement under Item 14.2 of Form 51-102F5 *Information Circular* (the **Circular Form**) of the Legislation to provide the Financial Statements (as defined below) and the MD&A (as defined below) in the management information circular (the **Circular**) to be prepared by the Fund and EELP and delivered to the holders (**Fund Unitholders**) of trust units of the Fund (**Fund Units**) and holders (**EELP Unitholders**, and together with Fund Unitholders, **Enerplus Unitholders**) of Class B limited partnership units of EELP (**EELP Units**) in connection with a special meeting (the **Enerplus Meeting**) of Enerplus Unitholders expected to be held on or about December 9, 2010 for the purposes of considering a plan of arrangement (the **Arrangement**) under the *Business Corporations Act* (Alberta) (the **ABCA**) resulting in the internal re-organization of Enerplus's trust structure into a corporate structure (the **Circular Relief**);
- (b) exempting Enerplus Amalco (as defined below) from the qualification criteria for short form prospectus eligibility contained in Subsection 2.2(d) of National Instrument 44-101 *Short Form Prospectus Distributions* (**NI 44-101**) following completion of the Arrangement until the earlier of: (i) March 30, 2012; and (ii) the date upon which Enerplus Amalco, as successor issuer to the Fund and which is anticipated to become a reporting issuer on January 1, 2011, has filed, or was required to file, both its annual financial statements and annual information form for the year ended December 31, 2011 pursuant to National Instrument 51-102 *Continuous Disclosure Obligations* (**NI 51-102**) (the **Qualification Relief**);
- (c) exempting Enerplus Amalco from the requirement contained in Section 2.8 of NI 44-101 to file a notice declaring Enerplus Amalco's intention to be qualified to file a short form prospectus at least 10 business days prior to the filing of its first preliminary short form prospectus after the notice (the **Prospectus Relief**); and
- (d) exempting Enerplus Amalco from the requirement under Subsection 4.1(b) of NI 44-101 for Enerplus Amalco to file a Personal Information Form and Authorization to Collect, Use and Disclose Personal Information in the form attached as Appendix A to NI 41-101 *General Prospectus Requirements* (**NI 41-101**) for each director and executive officer of Enerplus Amalco at the time of filing a preliminary short form prospectus for whom the Fund has previously delivered any of the documents described in Subsections 4.1(b)(i)(E) through (G) of NI 44-101 at the time of filing such preliminary short form prospectus (the **PIF Relief**).

Furthermore, the Decision Makers have received a request from the Filers for a decision that the application and this decision be kept confidential and not be made public until the earliest of:

- (a) the date on which the Fund publicly announces that the board of directors of EnerMark, as administrator of the Fund and general partner of EELP, has made a definitive decision to proceed with the Arrangement;
- (b) the date the Filers advise the principal regulator that there is no longer any need for the application and this decision to remain confidential; and
- (c) the date that is 90 days after the date of this decision (the **Confidentiality Relief**).

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

- (a) the Alberta Securities Commission is the principal regulator for this Application;
- (b) the Filers have provided notice that Subsection 4.7(1) of Multilateral Instrument 11-102 *Passport System* (**MI 11-102**) is intended to be relied upon in British Columbia, Saskatchewan, Manitoba, Québec, New Brunswick, Nova Scotia, Prince Edward Island, Newfoundland and Labrador, Yukon, Northwest Territories and Nunavut; and
- (c) the decision is the decision of the principal regulator and evidences the decision of the securities regulatory authority or regulator in Ontario.

## Interpretation

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:

### *The Fund*

1. The Fund is an unincorporated open-ended investment trust established under the laws of the Province of Alberta pursuant a trust indenture originally dated July 7, 1986, as amended and restated May 30, 2008 (the **Trust Indenture**). The principal office of the Fund is located in Calgary, Alberta.
2. The Fund is a reporting issuer or the equivalent under the securities legislation of each of the provinces and territories of Canada. To its knowledge, the Fund is not in default of securities legislation in any jurisdiction of Canada.
3. The Fund Units are listed on the Toronto Stock Exchange (the **TSX**) under the symbol "ERF.UN" and on the New York Stock Exchange (the **NYSE**) under the symbol "ERF".
4. The Fund does not currently carry on an active business, but through its directly and indirectly owned subsidiaries (all the voting interests of which are wholly-owned by the Fund), including, among others, EnerMark and Enerplus Commercial Trust (**ECT**), carries on the business of the exploration for, and the development and production of, oil and natural gas.
5. The Fund has filed a "current AIF" and has "current annual financial statements" (as such terms are defined in NI 44-101) for the financial year ended December 31, 2009.

### *EnerMark*

6. EnerMark is a corporation amalgamated under the laws of the Province of Alberta. The principal office of EnerMark is located in Calgary, Alberta.
7. EnerMark is an indirect wholly-owned subsidiary of the Fund and is the principal operating subsidiary of the Fund, the administrator of the Fund and the general partner of EELP.
8. EnerMark is not a reporting issuer in any jurisdiction and, to its knowledge, is not in default of applicable securities legislation in any jurisdiction of Canada.
9. None of the shares issued by EnerMark are listed or posted for trading on any exchange or quotation and trade reporting system.

### *Newco and Enerplus Amalco*

10. Newco is a corporation incorporated under the laws of the Province of Alberta. The principal office of Newco is located in Calgary, Alberta.
11. Newco is a wholly-owned subsidiary of the Fund and was incorporated solely to participate in the Arrangement, including to issue the common shares of Newco to the former Enerplus Unitholders and to amalgamate with EnerMark and certain other direct and indirect wholly-owned subsidiaries of the Fund to form "Enerplus Amalco" (**Enerplus Amalco**), as a result of which the former Enerplus Unitholders will hold common shares of Enerplus Amalco (**Enerplus Amalco Shares**) following completion of the Arrangement.
12. Newco is not a reporting issuer in any jurisdiction and, to its knowledge, is not in default of applicable securities legislation in any jurisdiction of Canada. Following completion of the Arrangement, Enerplus Amalco, as amalgamation successor to Newco, will be a reporting issuer in each of the provinces and territories of Canada.
13. None of the shares issued by Newco are listed or posted for trading on any exchange or quotation and trade reporting system. Application will be made to have the Enerplus Amalco Shares to be issued in connection with the Arrangement listed on the TSX and the NYSE.

### *EELP*

14. EELP is a limited partnership established under the laws of the Province of Alberta pursuant a limited partnership agreement dated June 21, 2006, as amended and restated February 13, 2008, as subsequently amended. The principal office of EELP is located in Calgary, Alberta.

15. EELP is a reporting issuer or the equivalent under the securities legislation of each of the provinces of Canada. To its knowledge, EELP is not in default of securities legislation in any jurisdiction of Canada.
16. EELP has two classes of securities issued and outstanding. All of the voting Class A limited partnership units of EELP are owned indirectly by the Fund. All of the EELP Units are publicly held by Canadian resident holders. Each EELP Unit is non-transferable and is exchangeable at any time, at the option of the holder and for no additional consideration, into 0.425 of a Fund Unit and is entitled to voting and distribution rights in the Fund equivalent to holders of Fund Units, subject to the foregoing exchange ratio. None of the securities issued by EELP are listed or posted for trading on any exchange or quotation and trade reporting system.
17. As permitted by Subsection 13.3(2) of NI 51-102, EELP satisfies the requirements in NI 51-102 by, among other things, relying on the continuous disclosure items filed by its parent issuer, being the Fund, and the notice required by Subclause 13.3(2)(d)(ii)(A) of NI 51-102 was filed by EELP on its SEDAR profile on February 15, 2008.

#### *The Arrangement*

18. The Arrangement will be effected under the ABCA involving, among others, the Filers, pursuant to which the Fund will convert from an income trust to a corporation. The proposed Arrangement is expected to be formally announced in October 2010.
19. As a result of the Arrangement and certain related transactions, among other things, (i) each of the Fund and EELP will be dissolved; (ii) the Fund Units will be exchanged for Enerplus Amalco Shares on a one-for-one basis and each EELP Unit will be exchanged for 0.425 of an Enerplus Amalco Share, and the Fund Units and EELP Units will be cancelled; and (iii) Enerplus Amalco will continue to carry on the business carried out on by the Fund prior to the completion of the Arrangement and Enerplus Amalco will own, directly or indirectly, all of the assets and assume all of the liabilities of the Fund, effectively resulting in the internal reorganization of the Fund's trust structure into a corporate structure.
20. Following the completion of the Arrangement:
  - (a) the sole business of Enerplus Amalco will be the business of the Fund (as carried on through its direct and indirect subsidiaries) prior to completion of the Arrangement;
  - (b) Enerplus Amalco will be a reporting issuer or the equivalent under the securities legislation in each of the provinces and territories of Canada; and
  - (c) the Enerplus Amalco Shares will, subject to approval by the TSX and the NYSE, be listed on the TSX and NYSE.
21. The Arrangement does not contemplate the acquisition of any additional operating assets or business or the disposition of any operating assets or business, and it will not result in a change on the ultimate beneficial ownership of the assets and liabilities of the Fund. The Arrangement will be an internal reorganization undertaken without dilution to the Enerplus Unitholders.
22. Pursuant to the Trust Indenture, EELP's constating documents, the ABCA and applicable securities laws, the Enerplus Unitholders will be required to approve the Arrangement at the Enerplus Meeting. The Arrangement must be approved by not less than two-thirds of the votes cast by Enerplus Unitholders, voting together as a single class, at the Enerplus Meeting. The Circular in respect of the Enerplus Meeting is expected to be mailed in late October 2010, subject to receipt of the Circular Relief.
23. The Arrangement will be accounted for on a continuity of interests basis and accordingly, following the Arrangement, the comparative consolidated financial statements of Enerplus Amalco for periods prior to the Arrangement will reflect the financial position and results of operations and cash flows as if Enerplus Amalco had always carried on the business formerly carried on the Fund.
24. The Arrangement will be a "restructuring transaction" (as such term is defined in NI 51-102) in respect of the Fund and EELP and therefore will require compliance with Item 14.2 of the Circular Form.
25. Subsequent to the effective date of the Arrangement and in accordance with the timing specified in the Qualification Relief, Enerplus Amalco, as successor issuer to the Fund, will file on its SEDAR profile certain continuous disclosure documents of the Fund for the year ended December 31, 2010 that would be required to be filed by the Fund under NI 51-102 if it were still a reporting issuer 90 days after December 31, 2010, including:

- (a) the audited annual comparative financial statements and management's discussion and analysis of the Fund for the financial year ended December 31, 2010; and
  - (b) an annual information form of the Fund for the year ended December 31, 2010
- (such financial statements, management's discussion and analysis and annual information form referred to as the **Fund 2010 Annual Filings**).

*Financial Statements and MD&A Disclosure in the Circular*

26. The Circular Form requires the Fund to include certain annual financial statements of EnerMark and ECT (collectively, the **Main Operating Entities**) in the Circular, including:
- (a) an income statement, a statement of retained earnings and a cash flow statement of the Main Operating Entities for each of the financial years ended December 31, 2009, December 31, 2008 and December 31, 2007; and
  - (b) a balance sheet of the Main Operating Entities as at December 31, 2009 and December 31, 2008
- (collectively, the **Annual Financial Statements**).
27. The Circular Form also requires the Fund to include certain comparative interim financial statements of the Main Operating Entities in the Circular, including:
- (a) an income statement, a statement of retained earnings and a cash flow statement of the Main Operating Entities for the interim periods ended June 30, 2010 and June 30, 2009; and
  - (b) a balance sheet of the Main Operating Entities as at June 30, 2010 and December 31, 2009
- (together with the Annual Financial Statements, the **Financial Statements**).
28. Subsection 4.2(1) of NI 41-101 requires that the Annual Financial Statements required to be included in the Circular must be audited in accordance with National Instrument 52-107 *Acceptable Accounting Principles, Auditing Standards and Reporting Currency*.
29. Items 8.2(1)(a) and 8.2(2) of Form 41-101F1 *Information Required in a Prospectus* (the **Prospectus Form**) require the Fund to include management's discussion and analysis corresponding to each of the financial years ended December 31, 2009 and December 31, 2008 and the interim period of June 30, 2010 of the Main Operating Entities (**MD&A**) in the Circular.
30. The Arrangement will not result in a change in beneficial ownership of the assets and liabilities of the Fund, from either an accounting perspective or an economic perspective. Accordingly, no acquisition will occur as a result of the Arrangement and therefore the significant acquisition financial statement disclosure requirements contained in the Prospectus Form are inapplicable.
31. The Arrangement will be an internal reorganization undertaken without dilution to the Enerplus Unitholders or additional debt or interest expense being incurred or assumed by Enerplus Amalco.

*Exemptions Sought*

*Circular Relief*

32. The Fund's financial statements and related management's discussion and analysis are prepared on a consolidated basis, which includes the financial results for the Main Operating Entities (as well as other minor direct and indirect subsidiaries of the Fund). To present the Financial Statements and MD&A in the Circular, which would exclude accounts of the Fund, would be misleading, since there are transactions among the Main Operating Entities and the Fund that are eliminated when consolidation is performed at the Fund level, and would present the effects of only one side of the financing activities among Main Operating Entities and the Fund. This would result in the presentation of significant intra-group liabilities and significant amounts of intra-group interest expense being reflected on the Financial Statements, which would not be representative of the capital structure of Enerplus Amalco following completion of the Arrangement. As a result, the presentation of these intra-group transactions, which will be eliminated upon completion of the Arrangement, would present a confusing (and potentially misleading) picture of Enerplus Amalco's historical financial performance.

33. The Financial Statements and MD&A are not relevant to the Enerplus Unitholders for the purposes of considering the Arrangement as the Financial Statements and MD&A, other than as discussed in paragraph 32 above, would be substantially and materially the same as the consolidated financial statements of the Fund filed in accordance with Part 4 of NI 51-102 because the financial position of the entity that exists both before and after the Arrangement is substantially the same.
34. The Circular will contain prospectus level disclosure in accordance with the Prospectus Form (other than the Financial Statements and MD&A) and will contain sufficient information to enable a reasonable securityholder to form a reasoned judgement concerning the nature and effect of the Arrangement and the nature of the resultant public entity and reporting issuer from the Arrangement, being Enerplus Amalco.

*Prospectus Relief and Qualification Relief*

35. Subsection 2.7(2) of NI 44-101 contains an exemption for successor issuers from the qualification criteria for short form prospectus eligibility contained in Subsection 2.2(d) of NI 44-101 if an information circular relating to the restructuring transaction that resulted in the successor issuer was filed by the successor issuer or an issuer that was a party to the restructuring transaction, and such information circular (i) complied with applicable securities legislation, and (ii) included disclosure in accordance with Item 14.2 or 14.5 of the Circular Form of the successor issuer.
36. Enerplus Amalco will be a "successor issuer" (as such term is defined in NI 44-101) as a result of the Arrangement (which, as discussed above, is a restructuring transaction). The Circular will be filed by the Fund (a party to the restructuring transaction), the Circular will comply with applicable securities legislation and the Circular will include the disclosure required by Item 14.2 of the Circular Form, except for the Financial Statements and MD&A which will not be included in the Circular pursuant to the Circular Relief (assuming the Circular Relief is granted).
37. The Fund is qualified to file a prospectus in the form of a short form prospectus pursuant to Section 2.2 of NI 44-101 and is deemed to have filed a notice of intention to be qualified to file a short form prospectus under Section 2.8(4) of NI 44-101.
38. The Filers anticipate that Enerplus Amalco may wish to file a preliminary short form prospectus following the completion of the Arrangement, relating to the offering or potential offering of securities (including common shares, debt securities or subscription receipts) of Enerplus Amalco.
39. In anticipation of the filing of a preliminary short form prospectus, and assuming the Arrangement has been completed, Enerplus Amalco intends to file the notice of intention to be qualified to file a short form prospectus (the **Notice of Intention**) following completion of the Arrangement. In the absence of the Prospectus Relief, Enerplus Amalco will not be qualified to file a preliminary short form prospectus until 10 business days from the date upon which the Notice of Intention is filed.
40. Pursuant to the qualification criteria set forth in Section 2.2 of NI 44-101 as modified by the Qualification Relief, following the Arrangement, Enerplus Amalco will be qualified to file a short form prospectus pursuant to NI 44-101.
41. Notwithstanding Section 2.2 of NI 44-101 as modified by the Qualification Relief, Section 2.8(1) of NI 44-101 provides that an issuer is not qualified to file a short form prospectus unless it has filed a notice declaring its intention to be qualified to file a short form prospectus at least 10 business days prior to the issuer filing its first preliminary short form prospectus.
42. The short form prospectus of Enerplus Amalco will incorporate by reference the documents that would be required to be incorporated by reference under Item 11 of Form 44-101F1 *Short Form Prospectus* in a short form prospectus of Enerplus Amalco, as modified by the Qualification Relief.

*PIF Relief*

43. Prior to August 21, 2009, the date of the most recently filed preliminary short form prospectus by the Fund, the Fund had previously delivered the documents described in Subsections 4.1(b)(i)(E) through (G) of NI 44-101 for each individual acting in the capacity of director or executive officer of the Fund at such time (the **Fund PIFs**).

**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:

- (a) the Circular Relief is granted;
- (b) the Qualification Relief is granted provided that any short form prospectus filed by Enerplus Amalco pursuant to NI 44-101 during the currency of the Qualification Relief specifically incorporates by reference:
  - (i) the Circular and any financial statements and related management's discussion and analysis of the Fund incorporated by reference into the Circular,
  - (ii) if the short form prospectus is filed before the earlier of the Fund 2010 Annual Filings having been filed by Enerplus Amalco or the date that is 90 days following December 31, 2010, the unaudited comparative interim financial statements of the Fund for the three and nine months ended September 30, 2010 together with the accompanying management's discussion and analysis of the Fund,
  - (iii) if the short form prospectus is filed either after the Fund 2010 Annual Filings have been filed by Enerplus Amalco or on a date more than 90 days following December 31, 2010, the Fund 2010 Annual Filings, and
  - (iv) any continuous disclosure documents of Enerplus Amalco, as successor issuer to the Fund, required to be incorporated by reference pursuant to the Prospectus Form;
- (c) the Prospectus Relief is granted, provided that at the time Enerplus Amalco files its Notice of Intention, Enerplus Amalco meets the requirements of Section 2.2 of NI 44-101, as modified by the Qualification Relief;
- (d) the PIF Relief is granted, provided that:
  - (i) each individual:
    - A. for whom the Fund has previously delivered a Fund PIF; and
    - B. who is a director or executive officer of Enerplus Amalco at the time of a prospectus filing by Enerplus Amalco,

authorizes the Decision Makers, in respect of a prospectus filing by Enerplus Amalco, to collect, use and disclose the personal information that was previously provided in the Fund PIF;

  - (ii) Enerplus Amalco, if requested by a Decision Maker, promptly delivers such further information from each individual referred to in clause (a) above as the Decision Maker may require; and
  - (iii) the PIF Relief will terminate in any jurisdiction in which the decision is in effect on the effective date of any change to Subsection 4.1(b)(i) of NI 44-101; and
- (e) the Confidentiality Relief is granted.

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

**2.1.2 Samuel SMT Inc.**

Maker with the jurisdiction to make the decision has been met and orders that the Applicant is not a reporting issuer.

**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.

“Michael Brown”

Assistant Manager, Corporate Finance  
Ontario Securities Commission

**Ontario Statutes**

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

October 13, 2010

Samuel SMT Inc.  
c/o Gowling Lafleur Henderson LLP  
Suite 1600-100 King Street West  
1 First Canadian Place  
Toronto, ON M5X 1G5

Attention: D’Arcy Doherty, III

Dear Sirs/Mesdames:

**Re: Samuel SMT Inc. (the successor company to Samuel Manu-Tech Inc. (the “Applicant”)) – Application for a Decision under the Securities Legislation of Ontario, Alberta, Saskatchewan, Manitoba and Québec (the “Jurisdictions”) that the Applicant is not a Reporting Issuer**

The Applicant has applied to the local securities regulatory authority or regulator (the Decision Maker) in each of the Jurisdictions for a decision under the securities legislation (the Legislation) of the Jurisdictions 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



### 2.1.3 UBS Securities LLC

#### Headnote

Filer exempted from section 13.12 [restriction on lending to clients] of National Instrument 31-103 Registration Requirements and Exemptions – The filer is applying for registration as an exempt market dealer in Alberta, British Columbia, Manitoba, New Brunswick, Newfoundland and Labrador, Nova Scotia, Ontario, Quebec and Saskatchewan – The filer is a registered broker-dealer with the SEC and a member of FINRA – Terms and conditions on the exemptions require that: (i) the head office or principal place of business of the filer be in the USA; (ii) the filer be registered under the securities legislation of the USA in a category of registration that permits it to carry on the activities in the USA that registration as an investment dealer would permit it to carry on in Ontario, (iii) by virtue of the regulation of the USA filer under the securities legislation of the USA, the USA filer is subject to requirements in respect of lending money, extending credit or providing margin to clients that result in substantially similar regulatory protections to those provided for under the capital and margin requirements of IROC, that would be applicable if the filer if it were registered under the Act as an investment dealer and were a member of IROC.

#### Instruments Cited

Multilateral Instrument 11-102 Passport System, s. 4.7.  
National Instrument 14-101 Definitions.  
National Instrument 31-103 Registration Requirements and Exemptions, ss. 13.12, 15.1.

October 14, 2010

#### 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 UBS SECURITIES LLC (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 from the requirement contained in section 13.12 [restriction on lending to clients] of National Instrument 31-103 *Registration Requirements and Exemptions* (**NI 31-103**) that a registrant must not lend

money, extend credit or provide margin to a client (the **Exemption Sought**).

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

- (a) the Ontario Securities Commission is the principal regulator for this application, and
- (b) the Filer has provided notice that section 4.7(1) of Multilateral Instrument 11-102 *Passport System* (**MI 11-102**) is intended to be relied upon in Alberta, British Columbia, Manitoba, New Brunswick, Newfoundland and Labrador, Nova Scotia, Quebec and Saskatchewan (the **Non-principal Jurisdictions**, or together with the Jurisdiction, the **Filing 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 or the context otherwise requires.

#### Representations

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

1. The Filer is a limited liability company organized under the laws of the State of Delaware. Its head office is located in Stamford, Connecticut, United States of America (**U.S.A.**).
2. The Filer is an indirect wholly-owned subsidiary of UBS AG, a publicly owned Swiss banking corporation.
3. The Filer is registered as a broker-dealer with the United States Securities and Exchange Commission (**SEC**), and is a member of the Financial Industry Regulatory Authority (**FINRA**). This registration permits the Filer to carry on in the U.S.A., being its home jurisdiction, substantially similar activities that registration as an investment dealer would authorize it to carry on in the Jurisdiction if the Filer were registered under the Legislation as an investment dealer.
4. The Filer is a member of a number of major securities exchanges in the U.S.A., including the New York Stock Exchange (**NYSE**) and NASDAQ.
5. The Filer is a Foreign Approved Participant of the Montreal Exchange and a Registered Futures Commission Merchant of ICE Futures Canada, Inc. The Filer is also a member of the Chicago Board of Trade, the Chicago Mercantile Exchange, ICE Futures Exchange, and other principal U.S.A. commodity exchanges.

6. The Filer provides a variety of capital raising, investment banking, market making, brokerage, and advisory services, including fixed income and equity sales and research, commodities trading, foreign exchange trading, emerging markets activities, securities lending, investment banking and derivatives dealing for governments, corporate and financial institutions. The Filer also conducts proprietary trading activities.
7. The Filer acts as a dealer in reliance on section 8.18 [*international dealer*] of NI 31-103 in the Filing Jurisdictions. In conjunction with this application for exemptive relief, the Filer is applying to be registered as an exempt market dealer in the Filing Jurisdictions.
8. Upon registration as an exempt market dealer under the securities legislation of the Filing Jurisdictions, the Filer will be subject to the prohibition on lending money, extending credit or providing margin to a client in section 13.12 of NI 31-103.
9. In certain comments received on NI 31-103, after it was published for comment, it was suggested that the prohibitions in section 13.12 should not apply to exempt market dealers that are members of foreign self-regulatory organizations, or subject to regulatory requirements in a foreign jurisdiction, where the dealer is subject to margin regimes similar to that imposed by the Investment Industry Regulatory Organization of Canada (IIROC). The Canadian Securities Administrators responded to these comments by suggesting that these circumstances could be considered on a case-by-case basis, through exemption applications, and that an exemption should be made available to registrants who have "adequate measures in place to address the risks involved and other related regulatory concerns".
10. The Filer is subject to regulations of the Board of Governors of the U.S.A. Federal Reserve System, the SEC, FINRA and the NYSE regarding the lending of money, extension of credit and provision of margin to clients (the **U.S.A. Margin Regulations**) that provide protections that are substantially similar to the protections provided by the requirements regarding the lending of money, extension of credit and provision of margin to clients to which dealer members of IIROC are subject. In particular, the Filer is subject to the margin requirements imposed by the Board, including Regulations T, U and X, under applicable SEC rules and under NYSE Rule 431. The Filer is in compliance in all material respects with all applicable U.S.A. Margin Regulations.

## 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 by the Filer is granted so long as:

- (a) the head office or principal place of business of the Filer is in the U.S.A.;
- (b) the Filer is registered under the securities legislation of the U.S.A. in a category of registration that permits it to carry on the activities in the U.S.A. that registration as an investment dealer would permit it to carry on in the Jurisdiction; and
- (c) by virtue of the registration referred to in paragraph (b), including required membership in one or more self-regulatory organizations, the Filer is subject to requirements in respect of its lending money, extending credit or providing margin to clients (including clients that are located in Canada) that result in substantially similar regulatory protections to those provided for under the capital and margin requirements of IIROC that would be applicable to the Filer if it were registered under the Legislation as an investment dealer and were a member of IIROC.

"Erez Blumberger"  
Deputy Director, Registrant Regulation  
Ontario Securities Commission

## 2.1.4 VentureLink Financial Services Innovation Fund Inc. et al.

### Headnote

NP 11-203 Process for Exemptive Relief Applications in Multiple Jurisdictions – Approval of proposed current labour sponsored funds amalgamation under the approval requirements in NI 81-102 – Proposed current merger approval required because mergers do not meet certain criteria for pre-approved reorganizations and transfers in National Instrument 81-102. Approval of the continuing fund paying performance fees that is not calculated with reference to a benchmark or index that reflects the market sector the mutual fund invests in, as required under Part 7 of NI 81-102 – The proposed performance fees is similar to existing performance fees each of the merging funds has received prior regulatory exemption.

### Applicable Legislative Provisions

National Instrument 81-102 Mutual Funds, ss. 5.5(1)(b), 7.1.

September 10, 2010

### 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 VENTURELINK FINANCIAL SERVICES INNOVATION FUND INC., VENTURELINK BRIGHTER FUTURE FUND INC., VENTURELINK DIVERSIFIED INCOME FUND INC. AND VENTURELINK BALANCED FUND INC. (COLLECTIVELY, THE “FUNDS”)

AND

### VENTURELINK LP (THE “FILER” OR THE “MANAGER”)

### DECISION

### Background

The principal regulator in the Jurisdiction has received an application from the Funds and the Filer for a decision under the securities legislation of the Jurisdiction (the “**Legislation**”) for

- i) approval pursuant to subsection 5.5(1)(b) of National Instrument 81-102 *Mutual Funds* (“**NI 81-**

**102**”) for the amalgamation of the Funds (the “**Amalgamation Approval**”)

- ii) exemption from section 7.1 of NI 81-102 for the amalgamated fund to adopt a performance bonus plan that incorporates the features of the existing performance bonus plans of the Funds (the “**Performance Bonus Exemption**”).

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 the provinces of British Columbia, Alberta, Saskatchewan, Manitoba, New Brunswick, Nova Scotia, Prince Edward Island and Newfoundland and Labrador (collectively with Ontario, the “**Jurisdictions**”).

### Interpretation

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

### Representations

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

### The Amalgamation

1. Details of the proposed amalgamation of the Funds (the “**Amalgamation**”) under the *Canada Business Corporations Act* (“**CBCA**”), were contained in an information circular dated July 22, 2010 (the “**Circular**”) which was sent to the shareholders of each of the Funds in connection with shareholder meetings held on July 22, 2010 (the “**Shareholder Meetings**”). The disclosure included the income tax considerations associated with the Amalgamation.
2. The shareholders of each of the Funds approved the special resolution approving the Amalgamation by a margin well in excess of the required 66 2/3% approval.
3. Each of VentureLink Diversified Income Fund Inc. (the “**DI Fund**”) and VentureLink Balanced Fund Inc. (the “**Balanced Fund**”) are required to continue under the CBCA as a precondition to participating in the Amalgamation. Details of the proposed continuance of the DI Fund and the Balanced Fund under the CBCA were contained in the Circular.

4. The shareholders of each of DI Fund and the Balanced Fund approved the special resolution approving their continuance under the CBCA by a margin well in excess of the required 66 2/3% approval. The DI Fund and the Balanced Fund have applied to the Ontario Securities Commission for their continuance pursuant to clause 4(b) of the Ontario Regulation 289/00 made under the *Business Corporations Act* (Ontario).
5. The Manager is the manager of each of the Funds. The Manager, or an affiliate of the Manager will be the manager of the amalgamated fund (the “**Innovation Fund**”), the continuing fund, following the Amalgamation.
6. The Amalgamation will result in the securityholders of a mutual fund becoming securityholders of another mutual fund thereby requiring the approval of the Regulators pursuant to section 5.5(1)(b) of NI 81-102.
7. The Manager shall bear the costs and expenses associated with the reorganization of the Funds resulting in the Amalgamation.
8. It is anticipated that the Amalgamation will be effective on or about September 10, 2010 (the “**Effective Date**”).
9. It is proposed that on the Effective Date, the Funds will amalgamate pursuant to section 178 of the CBCA and continue thereafter as a registered LSVCC pursuant to the Tax Act and as a LSIF pursuant to the CSBIF Act under the name the “VentureLink Innovation Fund Inc.” or such other name that is decided by the Board of Directors. On the Effective Date shareholders of:
  - (a) FinServ Fund (defined herein) Class A Shares, Series I, Class A Shares, Series II, Class A Shares, Series III, Class A Shares, Series IV and Class A Shares, Series VI will be entitled to receive, in exchange for those shares, Class A Shares of the same series in the capital of Innovation Fund equal to the number of FinServ Fund Class A Shares of the series so held multiplied by the net asset value per Class A Share of the series held of FinServ Fund divided by the net asset value per Class A Share of the same series of Innovation Fund all as determined on the Effective Date;
  - (b) BF Fund (defined herein) Class A Shares, Series I, Class A Shares, Series II, Class A Shares, Series III, Class A Shares, Series IV, and Class A Shares, Series VI will be entitled to receive, in exchange for those shares, Class A Shares of the same series in the capital of Innovation Fund equal to the number of BF Fund Class A Shares of the series so held multiplied by the net asset value per Class A Share of the series held of BF Fund divided by the net asset value per Class A Share of the same series of Innovation Fund all as determined on the Effective Date;
  - (c) BF Fund Class A Shares, Series V will be entitled to receive, in exchange for those shares, Class A Shares, Series II in the capital of Innovation Fund equal to the number of BF Fund Class A Shares, Series V so held multiplied by the net asset value per Class A Share, Series V held of BF Fund divided by the net asset value per Class A Share, Series II of Innovation Fund all as determined on the Effective Date;
  - (d) DI Fund Class A Shares, Series I, Class A Shares, Series II, Class A Shares, Series III, Class A Shares, Series IV and Class A Shares, Series VI will be entitled to receive, in exchange for those shares, Class A Shares of the same series in the capital of Innovation Fund equal to the number of DI Fund Class A Shares of the series so held multiplied by the net asset value per Class A Share of the series held of DI Fund divided by the net asset value per Class A Share of the same series of Innovation Fund all as determined on the Effective Date;
  - (e) Balanced Fund Class A Shares, Series I will be entitled to receive Class A Shares, Series II in the capital of Innovation Fund equal to the number of Balanced Fund Class A Shares, Series I multiplied by the net asset value per Class A Share, Series I of Balanced Fund divided by the net asset value per Class A Share, Series II of Innovation Fund all as determined on the Effective Date;
  - (f) FinServ, BF Fund, DI Fund and Balanced Fund Class B Shares will be entitled to receive, in exchange for those shares, one Class B Share in the capital of Innovation Fund for each Class B Share of a Fund held; and
  - (g) FinServ, BF Fund, DI Fund and Balanced Fund Class P Shares will be entitled to receive, in exchange for those shares, one Class P Share in the capital of Innovation Fund for each Class P Share of a Fund held.
10. The investment objective of Innovation Fund is to realize long-term capital appreciation by making debt and equity investments in a diversified

- portfolio of securities of eligible Canadian businesses and by investing in reserves. The boards of directors of the Funds concluded that a reasonable person would consider each of the Funds to have substantially similar fundamental investment objectives and valuation procedures as Innovation Fund.
11. The management fees for Innovation Fund are consistent with those of the existing Funds and the performance fee for Innovation Fund was designed to replicate the performance fees of the existing Funds and eliminate, to the extent possible, a change in performance fees going forward. The Innovation Fund will track investment pools for existing performance fees for each of FinServ Fund, DI Fund and BF Fund to retain those performance fee entitlements without change. For the Balanced Fund, the existing performance fee on venture investments is contained within the Community Small Business Investment Funds in which the Balanced Fund has invested, which will not change as a result of the Amalgamation. The performance fee from the date of the Amalgamation forward is substantially similar to the performance fees in each of the Funds. The boards of directors of the Funds concluded that a reasonable person would consider each of the Funds to have substantially similar fee structure as Innovation Fund, including performance fees.
  12. The Amalgamation is a tax-deferred transaction under subsection 87(1) of the *Income Tax Act* (Canada).
  13. Shareholders of the Funds were permitted to dissent from the Amalgamation pursuant to the dissent rights contained in the OBCA or the CBCA, as applicable. A shareholder who dissents will be entitled, in the event the Amalgamation becomes effective, to be paid by the amalgamated fund, the fair market value of the Class A Shares of a Fund held by such shareholder determined as at the close of business on the day before the Amalgamation resolution was passed. Where a shareholder dissents from an amalgamation and receives a cash payment for his shares from the amalgamated corporation, the shareholder is considered to have realized proceeds of disposition equal to the amount of the payment received by the shareholder. The proceeds of disposition will be reduced by the amount withheld and paid to the Receiver General for Canada as a return of the federal tax credit, the amount withheld from the proceeds and paid by the amalgamated fund to the Ministry of Finance (Ontario) as a return of the Ontario tax credit and applicable early redemption fees.
  14. Each of the Funds will cease to exist as separate entities upon the Amalgamation and there will be no discontinued funds to be wound up.
  15. The Amalgamation meets all of the conditions contained in Section 5.6(1) of NI 81-102 for the pre-approval of the reorganization resulting in the Amalgamation except for the requirement that the Innovation Fund have a current prospectus in the Jurisdictions as contemplated in subsection 5.6(1)(a) and the requirement that a prospectus and the most recent annual and interim financial statements of Innovation Fund be provided to securityholders as contemplated in subsection 5.6(1)(f)(ii) of NI 81-102, because such documents do not yet exist.
  16. The Circular dated July 22, 2010 provided prospectus level disclosure of the Innovation Fund. The Innovation Fund intends to continue distributing securities by filing a prospectus.
  17. The Manager and the board of directors of each of the Funds believe that amalgamating the Funds to form Innovation Fund will be beneficial to shareholders of each Fund for a number of reasons including some that are unique to LSIFs. The Amalgamation is expected to generate the following benefits for shareholders of the Funds:
    - (a) Greater Venture Portfolio Diversification – The shareholders of Innovation Fund, will become shareholders of a fund which has a broader, more diversified venture portfolio which is composed of a greater number of portfolio companies than that held by each individual Fund. Diversification is the main tool available to reduce the high level of risk inherent in venture investing.
    - (b) Improved Liquidity – After the Amalgamation, Innovation Fund is expected to have a stronger overall liquidity position than each of the Funds would have had alone. Maintaining adequate liquidity is important for a number of reasons. Cash is needed to meet the follow-on investment requirements of investee companies and to meet the redemption requests of shareholders. Adequate liquidity avoids the need to sell portfolio positions at inopportune times to generate cash, which can result in lower values being realized.
    - (c) Ability to Provide Follow-on Financing – Adequate liquidity allows Innovation Fund to meet follow-on fundraising commitments to investee companies which prevents shareholders from suffering the dilutive effects of financings completed at significantly lower prices than previous financing. It also allows Innovation Fund greater flexibility in providing follow on capital to take

- advantage of opportunities than each of the existing Funds would enjoy.
- (d) More economic portfolio size – Innovation Fund will be significantly larger than the existing Funds. This increased size will provide a more economic portfolio size over the remaining life of Innovation Fund.
  - (e) Reduced Costs – As compared to continuing each Fund as a single entity, shareholders of Innovation Fund can expect to bear a modestly reduced level of fixed, recurring fees and expenses post-Amalgamation such as those of professional services fees and shareholder communication expenses.
  - (f) Pacing benefit – four Community Small Business Investment Funds (“CSBIF’s”) with a cost of approximately \$14 million are held by the Balanced Fund. These CSBIF’s are expected to be eligible investments for the purposes meeting LSIF investment targets and provide greater flexibility to management in meeting minimum investment thresholds through the life of Innovation Fund.
  - (g) Management of Reserves – Innovation Fund will have a larger pool of reserves to manage. This larger pool can be managed to meet redemptions and to provide incremental yield.
  - (h) Pooling of tax loss carry forwards – Innovation Fund will have large tax loss carryforwards available, sufficient to significantly reduce the risk that one of the Funds should become taxable.

#### Relevant Parties

18. Information about the relevant parties involved in the Amalgamation consists of the following:

##### *VentureLink Financial Services Innovation Fund Inc. (“FinServ Fund”)*

- (a) FinServ Fund was incorporated under the CBCA. FinServ Fund is a registered labour sponsored investment fund corporation (“LSIF”) under the *Community Small Business Investment Funds Act* (Ontario) (the “CSBIF Act”) and is a registered labour-sponsored venture capital corporation (“LSVCC”) under the *Income Tax Act* (Canada) (the “Tax Act”). FinServ’s investment activities are governed by the CSBIF Act and the Tax Act.

- (b) FinServ Fund primarily invests in small and medium sized businesses and primarily financial services companies, with the objective of obtaining long term capital appreciation and must make “eligible investments” in “eligible businesses” as prescribed under the CSBIF Act and Tax Act.

##### *VentureLink Brighter Future Fund Inc. (“BF Fund”)*

- (d) BF Fund was formed pursuant to the amalgamation of VentureLink Fund Inc. and VentureLink Brighter Future Equity Fund Inc. in July 2006 under the CBCA. BF Fund is registered as a LSIF under the CSBIF Act and is registered as a LSVCC under the Tax Act. BF Fund’s investment activities are governed by the CSBIF Act and the Tax Act.
- (f) BF Fund primarily invests in a diversified portfolio of Canadian businesses developing products, services and technologies, including those engaged in software, broadband, Internet, fibre optic, telecommunication, wireless, hardware and biotechnology industries and companies involved in the essential services and infrastructure industries, such as energy, water and waste management. BF Fund’s objective is to obtain long term capital appreciation and it must make “eligible investments” in “eligible businesses” as prescribed under the CSBIF Act and the Tax Act.

##### *VentureLink Diversified Income Fund Inc.*

- (g) DI Fund was incorporated under the Ontario *Business Corporations Act* (the “OBCA”). DI Fund is registered as a LSIF under the CSBIF Act and is a prescribed LSVCC under the Tax Act. DI Fund’s investment activities are governed by the CSBIF Act.
- (i) DI Fund primarily invests in diversified portfolio of debt and equity securities of small and medium sized businesses with the objective of generating a superior level of income and must make “eligible investments” in “eligible businesses” as prescribed under the CSBIF Act.

##### *VentureLink Balanced Fund Inc.*

- (j) The Balanced Fund was formed pursuant to the amalgamation of VentureLink Diversified Balanced Fund and VentureLink Brighter Future (Equity) Balanced Fund Inc. in July 2006 under the OBCA. The Balanced Fund is registered as a

LSIF under the CSBIF Act and is a prescribed LSVCC under the Tax Act. The Balanced Fund's investing activities are governed by the CSBIF Act.

- (l) The Balanced Fund primarily invests in diversified portfolio of debt and equity securities of small and medium sized businesses with the objective of generating a superior level of income and must make "eligible investments" in "eligible businesses" as prescribed under the CSBIF Act.

- 19. VL Sponsor is the labour sponsor of each of the Funds and the Manager is the manager of each of the Funds.

*The Proposed Performance Bonus*

- 20. Each of the Funds pays a performance bonus which does not satisfy the requirements of Section 7.1 of NI 81-102, for which relief has been granted.
- 21. The performance bonus proposed for the Innovation Fund (the "**Performance Bonus**") does not satisfy the requirements of Section 7.1 of NI 81-102. The Performance Bonus is based on realized gains and the cumulative performance of the venture portfolio (and not in relation to a benchmark). The Performance Bonus is not based on the total return of the Innovation Fund because reserves are not included in the venture portfolio and because the quantum of the Performance Bonus is calculated on an investment-by investment basis.
- 22. The Performance Bonus consists of three parts:
  - (a) Part I – investments of VentureLink Financial Services Innovation Fund Inc. ("**FinServ Fund**") and new investments of Innovation Fund (the "**Continuing Plan**");
  - (b) Part II-Existing investments of DI Fund (the "**DI Fund Plan**"); and
  - (c) Part III-Existing investment of VentureLink Brighter Future Fund Inc. ("**BF Fund**") ( the "**BF Fund Plan**").

*Part I*

- 23. The performance fee for the Continuing Plan will be based on performance from the FinServ Fund eligible investment portfolio since inception and performance of any investments made (new or follow-on) following the Effective Date. Investments of the FinServ Fund since inception and investments following the Effective Date are described as Continuing Plan Investments and the

sum of Continuing Plan investments to be described as the Continuing Plan Portfolio.

- 24. The Manager will be entitled to a performance fee under the Continuing Plan based on realized gains and cumulative performance of the Continuing Plan Investments. Before any performance fee is paid by the Innovation Fund on realization of a Continuing Plan Investment, the Continuing Plan Portfolio must have:

- (a) earned sufficient income to generate a return on eligible investments in excess of a cumulative annualized threshold return of 6%. The income on eligible investments includes realized and unrealized investment gains and realized and unrealized losses earned and incurred since inception.
- (b) earned income from the eligible investment which provides a cumulative investment return at an average annual rate in excess of 6% since the date of the investment; and
- (c) fully recouped an amount equal to all principal invested in the eligible investment. The Innovation Fund will not pay the performance fee on any partial disposition of an eligible investment of the Continuing Plan unless and until the Innovation Fund receives, from all dispositions of that investment on a cumulative basis, an amount equal to at least the full amount of the principal invested in the eligible investment.

- 25. Subject to all of the above, the performance fee under the Continuing Plan will be an amount equal to the lesser of (i) 20% of all income earned from the eligible investment, and (ii) the portion of that amount that does not reduce returns to shareholders on the Continuing Plan Portfolio below a Cumulative Annualized Threshold Return of 6%.

*Part II*

- 26. The performance fee for the DI Fund Plan is based on the performance of eligible investments of the DI Fund held as at the Effective Date. Investments of the DI Fund as of the Effective Date are described as the DI Fund Investments and the sum of the DI Fund Investments are described as the DI Fund Portfolio.

- 27. The Manager will be entitled to a performance fee based on realized gains and cumulative performance of the DI Fund Investments. Before any performance fee is paid by the Fund on realization of a DI Fund Investment, the DI Fund Portfolio must have:

- (a) earned sufficient income to generate a return on eligible investments in excess of a cumulative annualized threshold return of 6%. The income on eligible investments includes realized and unrealized investment gains and realized and unrealized losses earned and incurred since inception.
    - (b) earned income from the eligible investment which provides a cumulative investment return at an average annual rate in excess of 6% since the date of the investment; and
    - (c) fully recouped an amount equal to all principal invested in the eligible investment.
  28. The Fund will not pay the performance fee on any partial disposition of an eligible investment of the DI Fund Plan unless and until the Fund receives, from all dispositions of that investment on a cumulative basis, an amount equal to at least the full amount of the principal invested in the eligible investment.
  29. Subject to all of the above, the performance fee under the DI Fund Plan will be an amount equal to the lesser of (i) 20% of all income earned from the eligible investment, and (ii) the portion of that amount that does not reduce returns on the DI Fund Portfolio below a Cumulative Annualized Threshold Return of 6%.
- Part III*
30. The performance fee for the BF Fund Plan is based on the performance of eligible investments of the BF Fund held as at the Effective Date. Investments of the BF Fund as of the Effective Date are described as the BF Fund Investments and the sum of the BF Fund Investments are described as the BF Fund Portfolio.
  31. The Manager will be entitled to a performance fee based on the realized gains and cumulative performance of the BF Fund Investments. The performance fee under the BF Fund Plan will consist of two parts as described below.
  32. The first part of the BF Fund performance fee pays the Manager a 5% bonus on proceeds in excess of the fair value of an eligible investment as at July 31, 2006 plus the threshold rate of return. Before the 5% performance fee is paid by the Innovation Fund on the realization of an eligible investment, the BF Fund Portfolio must have:
    - (a) earned sufficient income to generate a rate of return on eligible investments in excess of a cumulative annualized threshold return of 6% since July 31, 2006. The income on eligible investments includes realized and unrealized investment gains and losses earned and incurred since July 31, 2006;
    - (b) earned income from the eligible investment which provides a cumulative investment return at an average annual rate in excess of 6% since July 31, 2006; and
    - (c) fully recouped an amount equal to all principal invested in the eligible investment.
  33. Subject to all of the above, the performance fee under the first part of the BF Fund Plan will be an amount equal to the lesser of: (i) 5% of proceeds (realized gains and income) less the greater of the carrying value on July 31, 2006 plus 6% per annum and original cost; and (ii) the portion of the amount in section (i) immediately above that does not reduce returns on the BF Fund Portfolio since July 31, 2006 below a cumulative annualized threshold return of 6%.
  34. The second part of the BF Fund Plan pays the Manager a 10% performance fee on proceeds over the original cost of the investment. Before the 10% performance fee can be paid, the BF Fund Portfolio must have:
    - (a) earned sufficient income to generate a rate of return on eligible investments in excess of original cost of the portfolio plus a cumulative annualized threshold return of 6% since July 31, 2006. The income on eligible investments includes realized and unrealized investment gains and losses earned and incurred since July 31, 2006; and
    - (b) fully recouped an amount equal to all principal invested in the eligible investment.
  35. Subject to all of the above, the performance fee on the second part of the BF Fund Plan will be an amount equal to the lesser of: (i) 10% of all income earned from the eligible investment; and (ii) the portion of the amount in section (i) immediately above that does not reduce returns on the BF Fund Portfolio since July 31, 2006 below original cost plus a cumulative annualized threshold return of 6%.
  36. The Performance Bonus consists of the Continuing Plan, the DI Plan and both parts of the BF Plan and was designed to match expected proceeds to the Manager with or without the Amalgamation for all investments up to the Effective Date.



37. The performance hurdles and conditions set out under the Performance Bonus are only applied at the time of realization of an eligible investment.
38. The boards of directors of the Funds met, both with and without representatives of the Manager, to consider the Performance Bonus. The independent directors of each of the Funds concluded that a performance bonus should be offered by the Innovation Fund, analyzed various options for that performance bonus and concluded that it was in the best interests of the shareholders of the Funds to replicate, to the greatest extent practicable, the current entitlement of the Manager under the performance bonuses for the existing Funds.
39. The independent review committee of the Funds reviewed and approved the Amalgamation and the Performance Bonus as they were described in the information circular delivered to shareholders in connection with their approval of the continuance and the Amalgamation, each of which was approved by special resolution of the shareholders of each Fund continuing under the CBCA and each Fund, respectively.
40. The prospectus for the Innovation Fund will:
- (a) fully disclose that the Manager considers the Performance Bonus to be appropriate given the disclosed investment objectives and strategies of the Innovation Fund;
  - (b) provide an explanation of why the Performance Bonus is appropriate for the Innovation Fund; and
  - (c) provide an explanation of the Performance Bonus calculation for partial dispositions of an eligible investment.

### 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 Amalgamation Approval and the Performance Bonus Exemption are granted.

“Vera Nunes”

Assistant Manager, Investment Funds Branch  
Ontario Securities Commission

### 2.1.5 CFI Trust

#### 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)(b).

October 15, 2010

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

**AND**

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

**AND**

**IN THE MATTER OF  
CFI TRUST  
(the Filer)**

**DECISION**

#### Background

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

1. The Filer is a special purpose charitable trust organized under the laws of the Province of Alberta which resulted from the combination of CFI Lease Trust and CFI Trust (formerly CFI Auto Lease Trust) pursuant to a supplemental, amended and restated declaration of trust dated March 9, 1999, as amended December 6, 2006 (the **Declaration of Trust**). The Filer was established to acquire a revolving portfolio of auto leases and secured loans.
2. CFI Leasing Limited (**CFI Leasing**) was appointed the administrative agent of the Filer pursuant to the amended and restated administration agreement dated July 11, 2003, as amended December 6, 2006, pursuant to which CFI Leasing carries out certain administrative activities relating to the Filer
3. The registered and head office address of the Filer and CFI Leasing is 229 Niagara Street, Toronto, Ontario, Canada, M5J 2L5.
4. Montreal Trust Company of Canada was appointed as issuer trustee (the **Issuer Trustee**) of the Filer pursuant to the Declaration of Trust.
5. The head office of the Issuer Trustee is 100 University Avenue, Toronto, Ontario, M5J 2Y1.
6. The Filer has been a reporting issuer in all the provinces of Canada since July 14, 2003. The Filer is not a reporting issuer in any other jurisdiction in Canada.
7. The outstanding securities of the Filer, 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.
8. The Filer does not have any issued and outstanding equity securities.
9. As at September 15, 2010, the Filer had the following issued and outstanding debt securities:
  - (a) \$12,055,987 principal amount of Series 1999-1 Class B Notes;
  - (b) \$177,415,865 principal amount of Series 1999-1 Class C Notes;
  - (c) \$18,648,798 principal amount of Series 2008-1 Class A Term Notes;
  - (d) \$559,464 principal amount of Series 2008-1 Class B Term Notes; and
- (e) \$3,342,492 principal amount of Series 2003-3 Class C Subordinated Notes  
(collectively, the **Outstanding Notes**).
10. The Outstanding Notes were distributed by the Filer on a private placement basis pursuant to exemptions from the prospectus and dealer registration requirements. The Outstanding Notes are currently beneficially held by 11 institutional investors resident in Canada (the **Noteholders**).
11. The Filer has informed the Noteholders that it intends to cease to be a reporting issuer.
12. Neither the Declaration of Trust nor the note indentures for each of the Outstanding Notes contain provisions requiring the Filer to maintain its status as a reporting issuer or to provide continuous disclosure documents to Noteholders.
13. The Filer will continue to provide the Noteholders with unaudited quarterly and audited annual financial statements on a private enterprise GAAP basis after it ceases to be a reporting issuer.
14. No securities of the Filer are trading on a marketplace as defined in National Instrument 21-101 *Marketplace Operation*.
15. The Filer has no current intention to seek public financing by way of an offering of securities. The Filer intends to issue notes and other securities from time to time on an unrated private placement basis pursuant to available exemptions from the prospectus and registration requirements.
16. The Filer is applying for relief to cease to be a reporting issuer in all jurisdictions of Canada in which it is currently a reporting issuer.
17. The Filer is not in default of any requirement of the securities legislation in any of the jurisdictions in Canada.
18. The Filer did not surrender its status as a reporting issuer in British Columbia pursuant to BC Instrument 11-502 *Voluntary Surrender of Reporting Issuer Status* (the **BC Instrument**) in order to avoid the ten day waiting period under the BC Instrument.
19. As a result of paragraph 18, the Filer is not eligible to use the simplified procedure under CSA Staff Notice 12-307 *Applications for a Decision that an Issuer is not a Reporting Issuer* in order to apply for the Exemptive Relief Sought.
20. The Filer, upon the grant of the Exemptive Relief Sought, will no longer be a reporting issuer in any jurisdiction in Canada.

**Decision**

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

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

**DATED** at Toronto this 15th day of October, 2010.

“Michael Brown”  
Assistant Manager, Corporate Finance  
Ontario Securities Commission

## 2.1.6 Sprott Asset Management LP and Sprott Physical Silver Trust

### Headnote

National Policy 11-203 Process For Exemptive Relief Applications in Multiple Jurisdictions – relief from prospectus requirement in connection with the use of electronic roadshow materials – cross-border offering of securities – compliance with U.S. offering rules leads to non-compliance with Canadian regime – relief required as use of electronic roadshow materials constitutes a distribution requiring compliance with prospectus requirement – relief granted from section 53 of the Securities Act (Ontario) in connection with a cross-border offering – decision subject to conditions.

### Applicable Legislative Provisions

Securities Act, R.S.O. 1990, c. S.5, as am., ss. 25, 53.

National Policy 47-201 Trading Securities Using the Internet and Other Electronic Means, s. 2.7.

October 5 , 2010

IN THE MATTER OF  
THE SECURITIES LEGISLATION OF  
ONTARIO  
(the Jurisdiction)  
  
AND  
  
IN THE MATTER OF  
THE PROCESS FOR EXEMPTIVE RELIEF  
APPLICATIONS IN MULTIPLE JURISDICTIONS  
  
AND  
  
IN THE MATTER OF  
SPROTT ASSET MANAGEMENT LP  
(the Filer)  
  
AND  
  
IN THE MATTER OF  
SPROTT PHYSICAL SILVER TRUST  
(the Trust)  
  
DECISION

### Background

The principal regulator in the Jurisdiction has received an application from the Filer, in its capacity as the manager of the Trust, for a decision under the securities legislation of the Jurisdiction of the principal regulator (the **Legislation**) for a decision exempting the posting of certain roadshow materials on the website of one or more commercial services, such as [www.retailroadshow.com](http://www.retailroadshow.com) and/or [www.netroadshow.com](http://www.netroadshow.com), during the portion of the "waiting period" between the date of this decision document and the date of the Final Prospectus (as defined below) from the prospectus requirement under the Legislation (the **Exemption Sought**).

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

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

### Interpretation

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

## Representations

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

1. The Filer is a limited partnership formed and organized under the laws of the Province of Ontario and maintains its head office in Toronto, Ontario. The general partner of the Filer is Sprott Asset Management GP Inc. (the **General Partner**), which is a corporation incorporated under the laws of the Province of Ontario. The General Partner is a wholly owned, direct subsidiary of Sprott Inc. Sprott Inc. is a corporation incorporated under the laws of the Province of Ontario and is a public company listed on the Toronto Stock Exchange (**TSX**). Sprott Inc. is the sole limited partner of the Filer and the sole shareholder of the General Partner.
2. The Filer is registered under the securities legislation in British Columbia, Alberta, Saskatchewan, Manitoba, Ontario, New Brunswick, Nova Scotia, and Newfoundland and Labrador as an adviser in the category of portfolio manager.
3. The Trust is a closed-end mutual fund trust established under the laws of the Province of Ontario pursuant to a trust agreement dated as of June 30, 2010, as amended and restated as of October 1, 2010 (the **Trust Agreement**), as the same may be further amended, restated or supplemented from time to time. Pursuant to the Trust Agreement, RBC Dexia Investor Services Trust and the Filer are the trustee and the manager of the Trust, respectively.
4. The Trust is a "mutual fund in Ontario" as such term is defined in the *Securities Act* (Ontario) and is subject to the investment restrictions applicable to mutual funds which are prescribed by National Instrument 81-102 *Mutual Funds* (**NI 81-102**). The Filer has established an independent review committee for the Trust in accordance with the requirements under National Instrument 81-107 *Independent Review Committee for Investment Funds*.
5. The Trust is not required to register as an "investment company" as such term is defined in the U.S. *Investment Company Act of 1940*, as amended (the **1940 Act**), since the Trust will invest all or substantially all of its assets in physical silver bullion. Physical silver bullion does not fall within the definition of either a "security" or an "investment security" under the 1940 Act and, accordingly, the Trust is not required to be registered as an "investment company".
6. The Filer and the Trust are not in default of securities legislation in any province or territory of Canada.
7. In connection with an initial public offering (the **Offering**) of transferable, redeemable units of the Trust (the **Units**), a preliminary base PREP prospectus dated July 9, 2010 of the Trust was filed with the securities regulatory authorities in each province and territory of Canada (collectively, the **Canadian Jurisdictions**) and the Trust intends to become a reporting issuer, or the equivalent thereof, in such Canadian Jurisdictions following the filing of the final base PREP prospectus of the Trust (the **Final Prospectus**).
8. Concurrently with filing the foregoing preliminary prospectus, the Trust filed a registration statement on Form F-1 (the **Registration Statement**) under the U.S. *Securities Act of 1933*, as amended (the **1933 Act**), with the United States Securities and Exchange Commission (the **SEC**) in connection with the Offering of the Units in the United States.
9. The Trust subsequently filed via SEDAR the second amended and restated preliminary base PREP prospectus of the Trust dated October 1, 2010 (the **Preliminary Prospectus**) amending and restating the amended and restated preliminary base PREP prospectus of the Trust dated September 7, 2010 which amended and restated the preliminary base PREP prospectus of the Trust dated July 9, 2010 with each of the Canadian Jurisdictions. Concurrently with filing the Preliminary Prospectus, the Trust filed via EDGAR the Registration Statement, as amended, with the SEC.
10. The Trust intends to list the Units on the TSX and the New York Stock Exchange Arca (**NYSE Area**). The Trust will not file the Final Prospectus until the TSX and the NYSE Area have conditionally approved the listing of the Units.
11. The interval between the date of issuance of a preliminary receipt for the Preliminary Prospectus and the date of issuance of a receipt for the Final Prospectus under National Policy 11-202 *Process for Prospectus Reviews in Multiple Jurisdictions* is referred to as the **waiting period**. The Trust intends to utilize electronic roadshow materials (the **Website Materials**) during the portion of the "waiting period" between the date of this decision document and the date of the Final Prospectus as part of the marketing efforts for the Offering, as is now typical for an initial public offering in the United State's.
12. Because the Trust will not be required to file reports with the SEC pursuant to section 13 or section 15(d) of the U.S. Securities Exchange Act of 1934, as amended, until the time the Registration Statement, as amended, has become effective pursuant to the 1933 Act, Rule 433(d)(8)(ii) under the 1933 Act which came into effect in December 2005, requires the Trust to either file the Website Materials with the SEC or make them "available without restriction by means of graphic communication to any person ...". Staff of the SEC have taken the position that the requirement to be

"available without restriction" means that there cannot be any restrictions on access or viewing imposed, both with respect to persons in and outside of the United States.

13. Compliance with applicable U.S. securities laws thus requires either making the Website Materials available in a manner that affords unrestricted access to the public, or filing the Website Materials on the SEC's EDGAR system, which will have the same effect of affording unrestricted access; however, this is inconsistent with Canadian securities laws, in particular, the prospectus requirement and activities that are permissible during the waiting period which, when applied together, require that access to the Website Materials be controlled by the Trust or the underwriters by such means as password protection and otherwise, as suggested by National Policy 47-201 *Trading Securities Using the Internet and Other Electronic Means*.
14. The Trust wishes to comply with applicable U.S. securities laws by posting the Website Materials on the website of one or more commercial services, such as [www.retailroadshow.com](http://www.retailroadshow.com) or [www.netroadshow.com](http://www.netroadshow.com), without any restriction thereon, such as password protection.
15. The securities laws of the Canadian Jurisdictions do not, absent the Exemption Sought, allow the Trust to post the Website Materials on the website of one or more commercial services, such as [www.retailroadshow.com](http://www.retailroadshow.com) or [www.netroadshow.com](http://www.netroadshow.com), during the waiting period in a manner that would allow the Website Materials to be accessible to all prospective investors in the Canadian Jurisdictions without restriction.
16. The Website Materials will contain a statement that information conveyed through the Website Materials does not contain all of the information in the Preliminary Prospectus, or any amendments thereto, or the Final Prospectus, or any amendments thereto, and that prospective purchasers should review all of those prospectuses, in addition to the Website Materials, for complete information regarding the Units.
17. All information about the Units is contained in the Preliminary Prospectus or will be contained in any amendments thereto.
18. The Website Materials will also contain a hyperlink to the prospectuses referred to in paragraph 16, as at and after such time as a particular prospectus is filed. The Website Materials will comply with Part 15 of NI 81-102.
19. The Website Materials will be fair and balanced.
20. The Website Materials, the Preliminary Prospectus and any amendments thereto, the Final Prospectus and any amendments thereto, state or will state that purchasers of Units in the Canadian Jurisdictions will have a contractual right of action against the Trust and the Canadian underwriters in connection with the information contained in the Website Materials posted on the website of one or more commercial services, such as [www.retailroadshow.com](http://www.retailroadshow.com) and/or [www.netroadshow.com](http://www.netroadshow.com).
21. At least one Canadian underwriter that signed the Preliminary Prospectus was, and, in respect of any subsequently amended preliminary prospectus, the Final Prospectus and any subsequently amended final prospectus, will be, registered in each of the Canadian Jurisdictions.
22. Canadian purchasers will only be able to purchase the Units under the Final Prospectus through an underwriter that is registered in the respective Canadian Jurisdiction of residence of the Canadian purchaser.
23. The Filer and the Trust acknowledge that the Exemption Sought relates only to the posting of the Website Materials on the website of one or more commercial services, such as [www.retailroadshow.com](http://www.retailroadshow.com) and/or [www.netroadshow.com](http://www.netroadshow.com), and not in respect of the Final Prospectus:

### Decision

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

The decision of the Principal Regulator under the Legislation is that the Exemption Sought is granted provided that:

- (a) The Trust and the Canadian underwriters provide each of the purchasers of the Units in the Canadian Jurisdictions under the Final Prospectus, including any amendments thereto, with a contractual right of action against the Trust and the Canadian underwriters as described in the disclosure required by condition (b) below.

- (b) The Preliminary Prospectus and any amendments thereto, and the Final Prospectus and any amendments thereto, state that purchasers of Units in each of the Canadian Jurisdictions have a contractual right of action against the Trust and the Canadian underwriters, substantially in the following form:

"We may make available certain materials describing the offering (the **Website Materials**) on the website of one or more commercial services, such as [www.retailroadshow.com](http://www.retailroadshow.com) and/or [www.netroadshow.com](http://www.netroadshow.com), under the heading "Sprott Physical Silver Trust" in accordance with U.S. securities law during the period prior to obtaining a final receipt for the final prospectus relating to this offering (the **Final Prospectus**) from the securities regulatory authorities in each of the provinces and territories of Canada (the **Canadian Jurisdictions**). In order to give purchasers in each of the Canadian Jurisdictions the same unrestricted access to the Website Materials as provided to U.S. purchasers, we have applied for and obtained exemptive relief from the securities regulatory authorities in each of the Canadian Jurisdictions. Pursuant to the terms of that exemptive relief, we and each of the Canadian underwriters signing the certificate contained in the Final Prospectus have agreed that, in the event that the Website Materials contained any untrue statement of a material fact or omitted to state a material fact required to be stated or necessary in order to make any statement therein not misleading in the light of the circumstances in which it was made (a **misrepresentation**) a purchaser resident in any of the Canadian Jurisdictions who purchases Units pursuant to the Final Prospectus during the period of distribution shall have, without regard to whether the purchaser relied on the misrepresentation, rights against the Trust and each Canadian underwriter with respect to such misrepresentations as are equivalent to the rights under section 130 of the *Securities Act* (Ontario) or the comparable provision of the securities legislation of each of the other Canadian Jurisdictions, as if such misrepresentation was contained in the Final Prospectus."

- (c) The Website Materials will not include comparables unless the comparables are also included in the Preliminary Prospectus or in any amendments thereto that are filed prior to the Website Materials being made available.
- (d) The Website Materials will also contain a hyperlink to the Preliminary Prospectus, including any amendments thereto, and the Final Prospectus, including any amendments thereto, as at and after such time as a particular prospectus is filed.
- (e) At least one Canadian underwriter who signed the Preliminary Prospectus was, and any amendments thereto, the Final Prospectus, and any amendments thereto, will be, registered in each of the Canadian Jurisdictions.

"Margot Howard"  
Commissioner

"James Turner"  
Vice-Chair

**2.1.7 Public Storage Canadian Properties – 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).

October 19, 2010

Public Storage Canadian Properties  
c/o Canadian Mini-Warehouses Properties Company  
22917 Pacific Coast Highway  
Suite 300  
Malibu, California  
90265

Dear Sirs /Mesdames:

**Re: Public Storage Canadian Properties (the Applicant) – application for a decision under the securities legislation of the Provinces of Ontario, Alberta, Saskatchewan, Manitoba, Québec, New Brunswick, Nova Scotia, Prince Edward Island, Newfoundland and Labrador, the Yukon Territory, the Northwest Territories and Nunavut 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



## 2.1.8 West 49 Inc.

### Headnote

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

### Applicable Legislative Provisions

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

October 19, 2010

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

AND

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

AND

IN THE MATTER OF  
WEST 49 INC.  
(the Issuer)

### DECISION

### Background

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

1. The Issuer was incorporated under the *Business Corporations Act* (Ontario) as Lincoln Capital Corporation on June 19, 1987. It became West 49 Inc. by way of a reverse take-over on December 1, 2004.
2. The Issuer's head office is located at 1100 Burloak Drive, Suite 200, Burlington, Ontario L7L 6B2.
3. The Issuer is a reporting issuer in the Jurisdictions.
4. The Issuer's authorized capital consists of an unlimited amount of common shares and preferred shares, issuable in series. At the time of the Arrangement (as defined below), there were 63,803,518 common shares and 5,190,130 preferred shares issued and outstanding.
5. The Issuer, Aurora Inc. (**Aurora**), a wholly-owned subsidiary of Billabong International Limited (**Billabong**), and Billabong entered into an acquisition agreement dated June 30, 2010 under the provisions of section 182 of the *Business Corporations Act* (the **Arrangement**), whereby Aurora agreed to buy all of the issued and outstanding preferred shares and common shares of the Issuer. Pursuant to the Arrangement, shareholders of the Issuer were given cash consideration in the amount of \$1.30 for each common share and preferred share owned.
6. The Arrangement was approved by the shareholders of the Issuer, present in person or represented by proxy at a special meeting of shareholders of the Issuer held on August 24, 2010 (the **Meeting**), holding approximately 99.9% of the votes cast at the Meeting.
7. The Arrangement was sanctioned by a judge of the Ontario Superior Court of Justice pursuant to a Final Order issued on August 26, 2010.
8. On August 31, 2010, Aurora became the sole shareholder of the Issuer on the closing of the Arrangement.
9. The common shares of the Issuer were listed and posted for trading on the Toronto Stock Exchange under the symbol "WXX" and were delisted from trading on the Toronto Stock Exchange effective as of the close of business on September 1, 2010.
10. The Issuer and Aurora amalgamated to form "West 49 Inc." on September 2, 2010. As a result, Billabong is now the sole shareholder of the Issuer.

- |     |  |  |
|-----|--|--|
| 11. | The outstanding securities of the Issuer, including debt securities, are beneficially owned directly or indirectly by fewer than 15 security holders in each of the jurisdictions and fewer than 51 security holders in total in Canada.   | “Margot C. Howard”<br>Ontario Securities Commission  |
| 12. | No securities of the Issuer are traded on a marketplace as defined in National Instrument 21-101 <i>Marketplace Operation</i> .  | “James D. Carnwath”<br>Ontario Securities Commission |
| 13. | The Issuer has no current intention to proceed with an offering of its securities in a jurisdiction of Canada by way of private placement or public offering.  |  |
| 14. | The Issuer is not in default of any of its obligations under the Legislation as a reporting issuer, except that it did not file its interim financial statements and related management’s discussion and analysis for the interim period ended July 31, 2010, as required under National Instrument 51-102 <i>Continuous Disclosure Obligations</i> , and the certificates of interim filings as required under National Instrument 52-109 <i>Certification of Disclosure in Issuers’ Annual and Interim Filings</i> , which became due on September 14, 2010. |  |
| 15. | The Issuer filed a notice in British Columbia under BC Instrument 11-502 <i>Voluntary Surrender of Reporting Issuer Status</i> stating that it will cease to be a reporting issuer in British Columbia. On September 23, 2010, the British Columbia Securities Commission sent a notice that it had received and accepted such notice and confirmed that non-reporting status was effective on September 24, 2010.   |  |
| 16. | The Issuer 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.   |  |
| 17. | As the Issuer is in default of certain filing obligations under the Legislation, as described in paragraph 14 above, the Issuer is not eligible to use the simplified procedure under CSA Staff Notice 12-307 <i>Applications for a Decision that an Issuer is not a Reporting Issuer</i> in order to apply for the Exemptive Relief Sought.   |  |
| 18. | The Issuer, upon the grant of the Exemptive Relief Sought, will no longer be a reporting issuer or the equivalent in any jurisdiction in Canada.   |  |

### Decision

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

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

**2.2 Orders**

**2.2.1 Uranium308 Resources Inc. et al. – s. 127**

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

**AND**

**IN THE MATTER OF  
URANIUM308 RESOURCES INC.,  
MICHAEL FRIEDMAN, GEORGE SCHWARTZ,  
PETER ROBINSON, AND SHAFI KHAN**

**ORDER  
(Section 127)**

**WHEREAS** on February 20, 2009, the Ontario Securities Commission (the "Commission") issued a temporary cease trade order pursuant to subsections 127(1) and 127(5) of the *Securities Act*, R.S.O. 1990, c. S.5, as amended (the "Act") ordering: that all trading in securities by Uranium308 Resources Inc. ("U308 Inc.") shall cease and that all trading in Uranium308 Resources Inc. securities shall cease; that all trading in securities by Uranium308 Resources Plc. ("U308 Plc.") shall cease and that all trading in Uranium308 Resources Plc. securities shall cease; that all trading in securities by Innovative Gifting Inc. ("IGI") shall cease; and, that Michael Friedman ("Friedman"), Peter Robinson ("Robinson"), George Schwartz ("Schwartz"), and Alan Marsh Shuman ("Shuman") cease trading in all securities (the "Temporary Order");

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

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

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

**AND WHEREAS** on March 6, July 10, November 30, 2009 and on February 3, 2010, hearings were held before the Commission and the Commission ordered that the Temporary Order be extended;

**AND WHEREAS** on February 3, 2010, the Commission ordered that the Temporary Order be extended until March 8, 2010 and the hearing with respect to the matter be adjourned to March 5, 2010;

**AND WHEREAS** on March 2, 2010, the Commission issued a Notice of Hearing to consider, *inter alia*, whether to make orders, pursuant to sections 37, 127, and 127.1, against U308 Inc., Friedman, Schwartz, Robinson and Shafi Khan ("Khan") (collectively the "Respondents");

**AND WHEREAS** on March 2, 2010, Staff of the Commission issued a Statement of Allegations against the Respondents;

**AND WHEREAS** Staff served the Respondents with the Notice of Hearing dated March 2, 2010 and Staff's Statement of Allegations dated March 2, 2010. Service by Staff was evidenced by the Affidavit of Service of Joanne Wadden, sworn on March 4, 2010, which was filed with the Commission;

**AND WHEREAS** on March 5, 2010, the Commission ordered that the Temporary Order be extended as against U308 Inc., Friedman, Schwartz, Robinson, and U308 Plc. until April 13, 2010 and the hearing with respect to the matter be adjourned to April 12, 2010;

**AND WHEREAS** on March 5, 2010, counsel for Staff advised the Commission that Staff were not seeking to extend the Temporary Order against Shuman and the Commission did not extend the Temporary Order against Shuman;

**AND WHEREAS** on April 12, 2010, counsel for Staff, Khan, and counsel for Friedman appeared before the Commission. Counsel for Robinson was not present but he had provided information to counsel for Staff which was relayed to the Commission. Schwartz was also not present but he had provided information to counsel for Staff which was relayed to the Commission;

**AND WHEREAS** on April 12, 2010, counsel for Staff requested the extension of the Temporary Order as against U308 Inc., Friedman, Schwartz, Robinson, and U308 Plc.;

**AND WHEREAS** on April 12, 2010, counsel for Staff provided counsel for Friedman and Khan with Staff's initial disclosure in this matter. Counsel for Staff advised the Commission that Staff's initial disclosure was also prepared and available for the other respondents to pick up from Staff;

**AND WHEREAS** on April 12, 2010, the Commission was of the opinion that it was in the public interest to order that, pursuant to subsection 127(8) of the Act, the Temporary Order is extended as against U308 Inc., Friedman, Schwartz, Robinson, and U308 Plc. to July 2, 2010 and that the hearing with respect to the Notice of Hearing dated March 2, 2010 and with respect to the Temporary Order is adjourned to June 30, 2010, at 10:00 a.m. at which time a pre-hearing conference will be held;

**AND WHEREAS** on June 30, 2010, the Commission was of the opinion that it was in the public

interest to order that, pursuant to subsection 127(8) of the Act, the Temporary Order is extended as against U308 Inc., Friedman, Schwartz, Robinson, and U308 Plc. until the completion of the hearing on the merits in this matter;

**AND WHEREAS** on June 30, 2010, the pre-hearing conference was commenced and the parties present made submissions to the Commission;

**AND WHEREAS** on June 30, 2010, the Commission adjourned the pre-hearing conference to continue on July 22, 2010 at 10 a.m.;

**AND WHEREAS** on July 22, 2010, the pre-hearing conference continued and counsel for Staff, Khan and Schwartz were present at the pre-hearing conference. A student-at-law with the office of counsel for Robinson was also present. Counsel for Friedman and U308 Inc. was not able to attend on July 22, 2010, but Staff advised the Commission of the reason for their non-attendance;

**AND WHEREAS** on July 22, 2010, the Commission was of the opinion that it was in the public interest to order that the hearing with respect to this matter is adjourned to August 30, 2010, at 10 a.m. at which time the pre-hearing conference would be continued;

**AND WHEREAS** on August 30, 2010, the pre-hearing conference continued and the following persons were in attendance: counsel for Staff; Khan; counsel for Robinson; and counsel for Friedman and U308 Inc. Schwartz was not able to attend but Staff advised the Commission of the reason for his non-attendance. The parties present made submissions to the Commission;

**AND WHEREAS** on August 30, 2010, the Commission was of the opinion that it was in the public interest to order that the hearing with respect to this matter is adjourned to October 12, 2010, at 2:30 p.m. at which time the pre-hearing conference would be continued;

**AND WHEREAS** on October 8, 2010, the Commission approved a Settlement Agreement entered into between Staff, U308 Inc. and Michael Friedman. On October 8, 2010, the Commission issued an order, pursuant to sections 37 and 127(1) of the Act, against U308 Inc. and Friedman;

**AND WHEREAS** on October 12, 2010, the pre-hearing conference continued and the following persons were in attendance: counsel for Staff; Khan; counsel for Robinson; and Schwartz. The parties present made submissions to the Commission;

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

**IT IS ORDERED** that the hearing on the merits with respect to this matter shall commence on April 4, 2011 at 10 a.m. and shall continue on April 6, 7, 11, 12, 13, 14, 15, 18 and 20, 2011, or such further or other dates as shall be agreed to by the parties and fixed by the Office of the Secretary;

**AND IT IS FURTHER ORDERED THAT** the motion brought by Schwartz is to be heard on November 26, 2010 at 10:00 a.m. at the offices of the Commission, 20 Queen Street West, 17th floor, Toronto.

**DATED** at Toronto this 14th day of October, 2010.

"Mary G. Condon"

**2.2.2 Peter Robinson and Platinum International Investments Inc.**

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

**AND**

**IN THE MATTER OF  
PETER ROBINSON AND  
PLATINUM INTERNATIONAL INVESTMENTS INC.**

**ORDER**

**WHEREAS** on December 18, 2009, the Secretary of the Commission issued a Notice of Hearing, pursuant to sections 37, 127 and 127.1 of the Ontario *Securities Act*, R.S.O. 1990, c. S.5, as amended (the "Act"), for a hearing to commence at the offices of the Commission at 20 Queen Street West, on Monday, January 11th, 2010 at 11 a.m., or as soon thereafter as the hearing can be held;

**WHEREAS** the Notice of Hearing provides for the Commission to consider, among other things, whether, in the opinion of the Commission, it is in the public interest, pursuant to s. 127(5) of the Act to issue a temporary order that:

The respondents, Platinum International Investments Inc. ("Platinum") and Peter Robinson ("Robinson") (collectively the "Respondents") shall cease trading in any securities;

**AND WHEREAS** Staff served the Respondents with copies of the Notice of Hearing and Staff's Statement of Allegations dated December 17, 2009, as evidenced by the Affidavit of Kathleen McMillan sworn on January 11, 2009, and filed with the Commission;

**AND WHEREAS** Staff served the Respondents with a copy of the Affidavit of Lori Toledano, affirmed on January 8, 2010, as evidenced by the Affidavit of Service of Kathleen McMillan sworn on January 8, 2010;

**AND WHEREAS** on January 11, 2010 Staff of the Commission and Robinson appeared before the Commission and made submissions. Robinson appeared in his personal capacity and as the sole registered director of Platinum. During the hearing on January 11, 2010, Robinson advised the Commission that he consented to the issuance of a temporary cease trade order against himself and against Platinum;

**AND WHEREAS** on January 11, 2010, Robinson requested an adjournment of the hearing in order to retain counsel;

**AND WHEREAS** on January 11, 2010, the panel of the Commission considered the Affidavit of Lori Toledano and the submissions made by Staff and Robinson;

**AND WHEREAS** on January 11, 2010, the panel of the Commission ordered, pursuant to section 127(5) of the Act, that Robinson and Platinum cease trading in any securities (the "Temporary Cease Trade Order") and that the Temporary Cease Trade Order is extended, pursuant to section 127(8) of the Act, until February 4, 2010;

**AND WHEREAS** on January 11, 2010, the panel of the Commission ordered that the hearing with respect to this matter was adjourned to February 3, 2010, at 9:00 a.m.;

**AND WHEREAS** on February 3, March 5, 2010 and April 12, 2010, hearings were held before the Commission and the Commission ordered that the Temporary Cease Trade Order be extended and that the hearing be adjourned for the purpose of having a pre-hearing conference on June 10, 2010;

**AND WHEREAS** on June 10, 2010, the pre-hearing conference was commenced and Staff and counsel for Platinum and Robinson attended before the Commission and made submissions, including requesting that the hearing be adjourned to June 30, 2010 at 11:00 a.m. at which time the pre-hearing conference would be continued;

**AND WHEREAS** on June 10, 2010, the Commission ordered that the Temporary Cease Trade Order be extended until the completion of the hearing on the merits and that the hearing be adjourned to June 30, 2010 at 11:00 a.m. at which time the pre-hearing conference would be continued;

**AND WHEREAS** on June 30, July 22, and August 30, 2010, Staff and counsel for Platinum and Robinson attended before the Commission for the continuation of the pre-hearing conference, made submissions to the Commission, and requested that the pre-hearing conference be adjourned to July 22, August 30, and then to October 12, 2010 at 3:00 p.m.;

**AND WHEREAS** on October 12, 2010, Staff and counsel for Platinum and Robinson attended before the Commission for the continuation of the pre-hearing conference, made submissions to the Commission, and requested that the pre-hearing conference be continued on November 8, 2010;

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

**IT IS ORDERED** that the hearing with respect to this matter is adjourned to November 8, 2010, at 11:30 a.m. to continue the pre-hearing conference.

**DATED** at Toronto this 14th day of October, 2010.

"Mary G. Condon"

**2.2.3 Ameron Oil and Gas Ltd. and MX-IV, Ltd. – ss. 127(7), 127(8)**

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

**AND**

**AMERON OIL AND GAS LTD.  
AND MX-IV, LTD.**

**ORDER  
(Subsections 127(7) and 127(8))**

**WHEREAS** on April 6, 2010, the Ontario Securities Commission (the "Commission") issued a temporary cease trade order pursuant to subsections 127(1) and 127(5) of the *Securities Act*, R.S.O. 1990, c. S.5, as amended (the "Act") ordering: that all trading in the securities of MX-IV, Ltd. shall cease; that Ameron Oil and Gas Ltd., MX-IV, Ltd. and their representatives, cease trading in all securities; and that any exemptions contained in Ontario securities law do not apply to Ameron Oil and Gas Ltd. and MX-IV, Ltd. (the "Temporary Order");

**AND WHEREAS**, on April 6, 2010, 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 April 8, 2010, the Commission issued a Notice of Hearing to consider, among other things, the extension of the Temporary Order, to be held on April 20, 2010 at 2:00 p.m.;

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

**AND WHEREAS** on April 20, 2010, a hearing was held before the Commission and Ameron Oil and Gas Ltd. and MX-IV, Ltd. did not appear before the Commission to oppose Staff of the Commission's ("Staff") request for the extension of the Temporary Order;

**AND WHEREAS** on April 20, 2010, the Commission considered the evidence and submissions before it and the Commission was of the opinion that it was in the public interest to extend the Temporary Order to October 14, 2010 and to adjourn the hearing in this matter to October 13, 2010 at 10:00 a.m.;

**AND WHEREAS** on October 13, 2010, a hearing was held before the Commission and Ameron Oil and Gas Ltd. and MX-IV, Ltd. did not appear before the Commission to oppose Staff's request for the extension of the Temporary Order;

**AND WHEREAS** on October 13, 2010, the Commission was satisfied that Staff had served each of the respondents with notice of the October 13, 2010 hearing and with a copy of the Affidavit of Wayne Vanderlaan, sworn on October 8, 2010. Service on the respondents was evidenced by the Affidavit of Charlene Rochman, sworn on October 8, 2010 and filed with the Commission;

**AND WHEREAS** on October 13, 2010, the Commission considered the evidence and submissions before it and the Commission was of the opinion that it was in the public interest to extend the Temporary Order;

**IT IS HEREBY ORDERED** pursuant to subsections 127 (7) and (8) of the Act that the Temporary Order is extended to February 9, 2011; and,

**IT IS FURTHER ORDERED** that the hearing in this matter is adjourned to February 8, 2011 at 2:30 p.m.

**DATED** at Toronto this 13th day of October, 2010.

"Mary G. Condon"

**2.2.4 York Rio Resources Inc. et al. – s. 127**

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

**AND**

**IN THE MATTER OF  
YORK RIO RESOURCES INC.,  
BRILLIANTE BRASILCAN RESOURCES CORP.,  
VICTOR YORK, ROBERT RUNCIC,  
GEORGE SCHWARTZ, PETER ROBINSON,  
ADAM SHERMAN, RYAN DEMCHUK,  
MATTHEW OLIVER, GORDON VALDE  
AND SCOTT BASSINGDALE**

**ORDER  
(Section 127 of the Securities Act)**

**WHEREAS** on March 2, 2010, the Commission issued a Notice of Hearing pursuant to sections 37, 127 and 127.1 of the Act accompanied by a Statement of Allegations dated March 2, 2010, issued by Staff of the Commission ("Staff") with respect to York Rio Resources Inc. ("York Rio"), Brillante Brasilcan Resources Corp. ("Brillante"), Victor York ("York"), Robert Runic ("Runic"), George Schwartz ("Schwartz"), Peter Robinson ("Robinson"), Adam Sherman ("Sherman"), Ryan Demchuk ("Demchuk"), Matthew Oliver ("Oliver"), Gordon Valde ("Valde") and Scott Bassingdale ("Bassingdale"), (collectively, the "Respondents");

**AND WHEREAS** on March 3, 2010, the Commission ordered that the hearing be adjourned until April 12, 2010;

**AND WHEREAS** on April 12, 2010, Staff informed the Commission that all parties had either been served with notice of the hearing or that service had been attempted on all parties;

**AND WHEREAS** on April 12, 2010, counsel for Staff, Demchuk and counsel for York appeared;

**AND WHEREAS** on April 12, 2010, Staff informed the Commission that counsel for Sherman, counsel for Robinson and counsel for Oliver had contacted Staff and indicated that they could not attend the hearing on April 12, 2010 but could attend at a later date;

**AND WHEREAS** on April 12, 2010, the Commission heard submissions from counsel for Staff, Demchuk and counsel for York;

**AND WHEREAS** on April 13, 2010, the hearing was adjourned to June 10, 2010;

**AND WHEREAS** on June 10, 2010, Staff appeared before the Commission and informed the Commission that all parties had either been served with notice of the hearing or that service had been previously attempted on all parties;

**AND WHEREAS** on June 10, 2010, upon hearing submissions from Staff, the hearing was adjourned to July 21, 2010;

**AND WHEREAS** on July 21, 2010, Staff appeared before the Commission and informed the Commission that all parties had either been served with notice of the hearing or that service had been previously attempted on all parties;

**AND WHEREAS** on July 21, 2010, the hearing was adjourned to August 30, 2010 for the purpose of conducting a pre-hearing conference;

**AND WHEREAS** on August 30, 2010, Staff appeared before the Commission and informed the Commission that all parties had either been served with notice of the pre-hearing conference or that service had been previously attempted on all parties;

**AND WHEREAS** on August 30, 2010, Staff, York and counsel for Robinson and Sherman appeared before the Commission and the pre-hearing conference was commenced;

**AND WHEREAS** on August 30, 2010, the Commission ordered that the hearing be adjourned to October 12, 2010 at 3:30 p.m. for the purpose of continuing the pre-hearing conference;

**AND WHEREAS** on October 12, 2010, Staff appeared before the Commission and informed the Commission that all parties had either been served with notice of the pre-hearing conference or that service had been previously attempted on all parties;

**AND WHEREAS** on October 12, 2010, Staff, York, Schwartz and agent for Sherman appeared before the Commission and the pre-hearing conference was continued and scheduling of the hearing on the merits was discussed;

**IT IS ORDERED THAT** the hearing on the merits is to commence on March 21, 2011 at 10:00 a.m. at the offices of the Commission, 20 Queen Street West, 17th floor, Toronto and shall continue on March 23, 24 25, 28, 29, 30, 31, 2010 and May 2, 4, 5, 6, 9, 10, 11, 12, 13 and 16, 2010, or such further or other dates as may be agreed to by the parties and fixed by the Office of the Secretary;

**AND IT IS FURTHER ORDERED THAT** the motion brought by Schwartz and York is to be heard on November 26, 2010 at 10:00 a.m. at the offices of the Commission, 20 Queen Street West, 17th floor, Toronto;

**AND IT IS FURTHER ORDERED THAT** the parties attend before the Commission on January 7, 2011 at 2:30 p.m. for a status hearing at the offices of the Commission, 20 Queen Street West, 17th floor, Toronto.

**DATED** at Toronto this 14th day of October, 2010.

"Mary G. Condon"

**2.2.5    Brilliante Brasilcan Resources Corp. et al. – ss.  
127(1), 127(2), 127(8)**

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

**AND**

**IN THE MATTER OF  
BRILLIANTE BRASILCAN RESOURCES CORP.,  
YORK RIO RESOURCES INC.,  
BRIAN W. AIDELMAN, JASON GEORGIADIS,  
RICHARD TAYLOR AND VICTOR YORK**

**ORDER  
(Subsections 127(1), (2) and (8))**

**WHEREAS** on October 21, 2008, the Ontario Securities Commission (“Commission”) ordered pursuant to subsection 127(1) of the *Securities Act*, R.S.O. 1990, c. S.5, as amended (the “Act”) that all trading in the securities of Brilliante Brasilcan Resources Corp. (“Brilliante”) shall cease and that Brilliante, York Rio Resources Inc. (“York Rio”) and their representatives, including Brian W. Aidelman (“Aidelman”), Jason Georgiadis (“Georgiadis”), Richard Taylor (“Taylor”), and Victor York (“York”) shall cease trading in all securities (the “Temporary Order”);

**AND WHEREAS** on October 21, 2008, the Commission further ordered pursuant to subsection 127(6) of the Act that the Temporary Order shall take effect immediately and shall expire on the fifteenth day after its making unless extended by order of the Commission;

**AND WHEREAS** the Commission issued a Notice of Hearing on October 23, 2008 to consider, among other things, whether to extend the Temporary Order;

**AND WHEREAS** on November 4, 2008 the Commission adjourned the hearing to November 14, 2008 at 10:00 a.m. and further extended the Temporary Order until the close of business on November 14, 2008;

**AND WHEREAS** on November 14, 2008, the Commission amended the Temporary Order (the “Amended Temporary Order”) to permit each of York, Aidelman, Georgiadis and Taylor to trade securities for the account of his registered retirement savings plans (as defined in the *Income Tax Act* (Canada)) in which he and/or his spouse have sole legal and beneficial ownership, provided that:

- I.     the securities traded are listed and posted for trading on the Toronto Stock Exchange, the New York Stock Exchange or NASDAQ (or their successor exchanges) or are issued by a mutual fund which is a reporting issuer;
- II.    he does not own legally or beneficially (in the aggregate, together with his spouse) more than one percent of the outstanding

securities of the class or series of the class in question;

- III.   he carries out any permitted trading through a registered dealer (which dealer must be given a copy of this order) and through accounts opened in his name only; and

- IV.   he shall provide Staff with the particulars of the accounts (before any trading in the accounts under this order occurs) including the name of the registered dealer through which the trading will occur and the account numbers, and he shall instruct the registered dealer to provide copies of all trade confirmation notices with respect to the accounts directly to Staff at the same time that such notices are provided to him;

**AND WHEREAS** on November 14, 2008, the Commission adjourned the hearing to March 3, 2009 at 2:30 p.m. and further extended the Amended Temporary Order until March 4, 2009;

**AND WHEREAS** on March 3, 2009, the Commission adjourned the hearing to September 3, 2009 at 10:00 a.m. and further extended the Amended Temporary Order until September 4, 2009;

**AND WHEREAS** on September 3, 2009, the Commission adjourned the hearing to March 3, 2010 at 10:00 a.m. and further extended the Amended Temporary Order, until March 4, 2010;

**AND WHEREAS** on March 3, 2010, the Commission adjourned the hearing to April 12, 2010 at 9:00 a.m. and further extended the Amended Temporary Order, until April 13, 2010;

**AND WHEREAS** on April 13, 2010, the Commission adjourned the hearing to June 10, 2010 at 2:00 p.m. and further extended the Amended Temporary Order, until June 11, 2010;

**AND WHEREAS** on June 10, 2010, the Commission adjourned the hearing to July 21, 2010 at 2:00 p.m. and further extended the Amended Temporary Order, until July 22, 2010;

**AND WHEREAS** on July 21, 2010, the Commission adjourned the hearing to August 30, 2010 at 11:00 a.m. and further extended the Amended Temporary Order, until August 31, 2010;

**AND WHEREAS** on August 30, 2010, the Commission adjourned the hearing to October 12, 2010 at 11:00 a.m. and further extended the Amended Temporary Order against all Respondents, except Taylor, until October 13, 2010;



**AND WHEREAS** on October 12, 2010, a hearing was held to consider the extension of the Amended Temporary Order against the remaining Respondents;

**AND WHEREAS** counsel for Staff appeared at the hearing on October 12, 2010 and the respondent York appeared and did not contest the extension of the Amended Temporary Order, as requested by Staff;

**AND WHEREAS** the Commission is satisfied that reasonable steps have been taken by Staff to give all remaining Respondents notice of the hearing;

**AND WHEREAS** on October 12, 2010, the Commission ordered that the hearing on the merits in the related matter of York Rio Resources Inc. *et al.* (the "York Rio Hearing") is to commence on March 21, 2011;

**AND WHEREAS** satisfactory information has not been provided by the remaining Respondents to the Commission;

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

**IT IS ORDERED** pursuant to subsection 127(8) of the Act that the Amended Temporary Order is extended until the completion of the York Rio Hearing, subject to any further order by the Commission.

**DATED** at Toronto this 15th day of October, 2010.

"Mary G. Condon"

**2.2.6 Howard Jeffrey Miller and Man Kin Cheng (a.k.a. Francis Cheng)**

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

**AND**

**IN THE MATTER OF  
HOWARD JEFFREY MILLER AND  
MAN KIN CHENG (a.k.a. FRANCIS CHENG)**

**ORDER**

**WHEREAS** on September 22, 2010, the Ontario Securities Commission ("Commission") issued a Notice of Hearing, pursuant to s.127 and 127.1 of the *Securities Act*, R.S.O. 1990, c. S.5, accompanied by a Statement of Allegations with respect to the Respondents for a hearing to commence on October 18, 2010;

**AND WHEREAS** the Respondents were served with the Notice of Hearing and Statement of Allegations dated September 22, 2010 on September 22, 2010;

**AND WHEREAS** at a hearing on October 18, 2010, counsel for Staff, counsel for the Respondent Man Kin Cheng, and Howard Jeffrey Miller, appearing on his own behalf, consented to the scheduling of a confidential pre-hearing conference on January 11, 2011 at 3:00 p.m.;

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

**IT IS ORDERED** that a confidential pre-hearing conference shall take place on January 11, 2011, at 3:00 p.m.

**DATED** at Toronto this 18th day of October, 2010.

"James D. Carnwath"

## 2.2.7 Brookfield Homes Corporation – s. 9.1

### Headnote

MI 61-101 – exemption from Part 4 – Business Combinations – Applicant proposing a business combination that is subject to Part 4 of MI 61-101. Applicant is an SEC foreign issuer but is unable to rely on section 4.14 of NI 71-102 to exempt it from complying with Part 4 of MI 61-101 as its controlling shareholder is Canadian. Other than the controlling shareholder, Canadians own less than 5% of the Applicant's outstanding equity securities on a fully diluted basis. Applicant is a Delaware corporation and SEC foreign issuers and subject to United States federal and state corporate and securities laws.

### Applicable Legislative Provisions

Multilateral Instrument 61-101 Protection of Minority Security Holders in Special Transactions (MI 61-101), Part 4

National Instrument 71-102 Continuous Disclosure and Other Exemptions Relating to Foreign Issuers, s. 4.14.

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

**AND**

**IN THE MATTER OF MULTILATERAL INSTRUMENT 61-101  
PROTECTION OF MINORITY SECURITY HOLDERS  
IN SPECIAL TRANSACTIONS**

**AND**

**THE MATTER OF  
BROOKFIELD HOMES CORPORATION**

**ORDER  
(Section 9.1)**

**UPON** the application (the “**Application**”) of Brookfield Homes Corporation (the “**Filer**”) to the Director for an order pursuant to section 9.1 of Multilateral Instrument 61-101 – *Protection of Minority Security Holders in Special Transactions* (“**MI 61-101**”) exempting the Filer from the requirements in Part 4 of MI 61-101 relating to the proposed transaction (the “**Transaction**”) resulting in the combination of the Filer with the North American residential land and house division (“**BPO Residential**”) of Brookfield Properties Corporation (“**Brookfield Properties**”);

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

**AND UPON** the Filer having represented to the Director as follows:

1. The Transaction is being structured as a merger of the Filer with BRP Acquisition Corp. (a Delaware corporation and a direct wholly-owned subsidiary of Brookfield Residential). The Filer would be the surviving entity and become a wholly-owned subsidiary of Brookfield Residential.
2. In the merger, each outstanding share of the Filer's common stock will be converted into a fixed number of shares of Brookfield Residential common stock, and each outstanding share of the Filer's 8% convertible preferred stock owned by Brookfield Asset Management Inc. (“**Brookfield**”) (representing 99% of the outstanding preferred stock) would be converted into a fixed number of shares of Brookfield Residential common stock in accordance with the terms of the Filer's convertible preferred stock certificate of designations. The remaining 1% of the Filer's 8% convertible preferred stock would be converted into a fixed number of shares of Brookfield Residential 8% convertible preferred stock in accordance with the terms of the Filer's convertible preferred stock certificate of designations.
3. Immediately prior to the merger, Brookfield Properties and its affiliates will contribute all of its outstanding equity interests in BPO Residential to Brookfield Residential in exchange for shares of Brookfield Residential common stock and one or more promissory notes.
4. Subsequent to the closing of the Transaction, Brookfield Properties will offer a right to acquire the shares of Brookfield Residential common stock received from its contribution of BPO Residential to the holders of common shares of Brookfield Properties. Brookfield will agree to acquire any shares of Brookfield Residential that are not otherwise subscribed for pursuant to the rights offering.
5. As the Filer and Brookfield Properties are both controlled by Brookfield, the board of directors of the Filer and Brookfield Properties have each formed a committee of directors who are independent of Brookfield and their respective companies to consider the Transaction and each of the special committees has engaged independent financial and legal advisors.
6. The Filer was incorporated on August 28, 2002 in Delaware as a wholly owned subsidiary of Brookfield Properties in order to acquire all of the California and Northern Virginia homebuilding and land development operations of Brookfield Properties pursuant to a reorganization of Brookfield Properties' residential homebuilding business (the “**Reorganization**”).
7. In connection with the Reorganization, on January 6, 2003, Brookfield Properties distributed one

- common share of the Filer for every five Brookfield Properties' common shares held by its shareholders. Prior to that distribution, the Filer filed a registration statement on Form 10 with the United States Securities and Exchange Commission. The Filer also filed a non-offering prospectus dated December 31, 2002 in all of the provinces of Canada to qualify the distribution for exemptive relief in Canada from the prospectus requirements.
8. The Filer's common shares are listed for trading on the New York Stock Exchange. The common shares of the Filer are registered under the Securities Exchange Act of 1934 in the United States (the "**1934 Act**"). The Filer is current in its reporting obligations under the 1934 Act and the regulations made thereunder.
  9. As a result of filing the non-offering prospectus referred to above, the Filer is currently a reporting issuer in all of the provinces of Canada, but no securities of the Filer are listed for trading on any stock exchange or market in Canada. Brookfield Residential, the parent of the Filer following the transaction, will be a reporting issuer in all provinces of Canada.
  10. The authorized capital of the Filer consists of 200,000,000 common shares and 10,000,000 8% convertible preferred shares, convertible at any time into 35,714,286 common shares. At June 30, 2010, 29,653,692 common shares and 10,000,000 convertible preferred shares were issued and outstanding.
  11. As at June 30, 2010, Brookfield (US) Corporation, a wholly-owned subsidiary of Brookfield, was the registered holder of 18,370,978 common shares of the Filer, representing approximately 62.0% of its issued and outstanding common shares. Further, Brookfield (US) Corporation was the registered holder of 9,922,495 convertible preferred shares of the Filer, representing 99.2% of its issued and outstanding convertible preferred shares. As at June 30, 2010, assuming full conversion of its convertible preferred shares of the Filer, Brookfield (US) Corporation owned approximately 82.7% of the Filer common shares. On August 9, 2010, Brookfield (US) Corporation sold all of its common shares and convertible preferred shares of the Filer to Brookfield BHS Holdings, Inc., a wholly-owned subsidiary of Brookfield, which is to be renamed Brookfield Residential Properties Inc. Brookfield and Brookfield BHS Holdings, Inc. are Ontario corporations whose registered offices are located in Ontario.
  12. Based on a review of the Filer's share register and a geographical survey report provided to the Filer by Broadridge Investor Communication Solutions Inc. ("**Broadridge**"), as of June 2, 2010 there were
    - (i) a total of 1,749 registered and beneficial shareholders holding an aggregate of 1,733,377 common shares resident in Canada (of whom 925 shareholders holding an aggregate of 1,672,047 shares were resident in Ontario, 222 shareholders holding an aggregate of 19,310 shares were resident in Quebec and 602 shareholders holding an aggregate of 42,020 shares were resident in other provinces and territories of Canada). These shares held by shareholders resident in Canada accounted for approximately 5.85% of the currently outstanding the Filer common shares or 2.65% of the outstanding the Filer common shares following the conversion of its convertible preferred shares. The foregoing share numbers and percentages exclude the shares owned by insiders of the Filer and the shares indirectly owned by Brookfield. The Filer has no reason to believe the June 2, 2010 report of Broadridge has changed in any material respect.
  13. The Transaction will be a business combination for the Filer under MI 61-101. Unless exempt, the Filer must comply with Part 4 of MI 61-101 which requires the Filer to, among other things, obtain a formal valuation and the approval of the majority of the minority for the Transaction.
  14. The Filer is an SEC foreign issuer as defined in National Instrument 71-102 *Continuous Disclosure and Other Exemptions Relating to Foreign Issuers* ("**NI 71-102**"). Section 4.14 of NI 71-102 exempts an SEC foreign issuer from complying with part 4 of MI 61-101 in connection with a business combination if the total number of equity securities of the SEC foreign issuer owned directly, or indirectly, by residents in Canada does not exceed 20 per cent, on a diluted basis, of the total number of equity securities of the SEC foreign issuer. The Filer cannot rely on this exemption because of Brookfield's ownership interest in the Filer.
  15. The interests of minority shareholders have been taken into account as follows:
    - (i) The board of directors of the Filer established the special committee (the "**Special Committee**") on May 12, 2010, comprised solely of directors independent of Brookfield, to review any Transaction. The Special Committee has retained Wells Fargo Securities LLC and Kaye Scholer LLP as independent United States legal and financial advisors and has held six formal meetings to date, in addition to the active participation of the Special Committee Chairman in the negotiation of the Transaction.
    - (ii) Based on the resolutions adopted by the Board in establishing the Special Committee, the Board granted the Special Committee the power and

authority to evaluate and recommend to the Board the terms and conditions of any Transaction. The Special Committee is currently considering whether it would recommend the Transaction. Under Delaware law, the generally understood role of a special committee in transactions involving related parties is to seek to replicate a process that would apply in an arm's-length transaction.

- (iii) The Special Committee sought and obtained a commitment from Brookfield, contrary to its interests, not only to convert its 8% convertible preferred shares of the Filer to common shares, but to do so at par, (i) foregoing a preferred position in Brookfield Residential and (ii) foregoing a significant premium on the conversion as estimated by the Special Committee's financial advisor, eliminating a potential conflict in the allocation of the transaction consideration between the common shareholders and the convertible preferred shareholders (of which Brookfield owns 99% of the outstanding convertible preferred shares).
- (iv) Brookfield will receive the same consideration for its shares as other common shareholders in the transaction, aligning its interest with those of the minority shareholders.
- (v) In addition to negotiating the conversion at par of Brookfield's convertible preferred shares, the terms of a merger agreement and the exchange ratio, the Special Committee has been negotiating the terms of the promissory note to be given to Brookfield Properties in exchange for its equity interests in BPO Residential, a significant portion of which, as a result of the Special Committee's negotiations, will now be deeply subordinated contrary to the interests of Brookfield Properties. To facilitate the Transaction, Brookfield agreed to credit enhance the subordinate portion of the note such that after the first five years of the note, or earlier if in default, Brookfield Properties will be entitled to sell the subordinated portion of the note to Brookfield at par and Brookfield will have the right to acquire the note at par.
- (vi) If the Special Committee recommends the Transaction, it will do so based, in part, upon an opinion rendered by the Special Committee's financial advisor as to the fairness of the consideration to be received by the Filer's public

shareholders in the Transaction. In accordance with the terms of the engagement letter, no portion of the fee that will be payable to the financial advisor will be dependent upon the success of the transaction. The financial advisor's opinion, together with a detailed description of its analyses, will be published in the disclosure document that will be distributed to shareholders in connection with the Transaction. The financial advisor's analyses would describe the various valuation methodologies employed by the advisor in arriving at its conclusion as to the fairness, from a financial point of view to holders of the Filer common stock (other than Brookfield) of the consideration to be paid for each share of the Filer common stock in the Transaction.

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

**IT IS ORDERED** pursuant to section 9.1 of MI 61-101 that the requirements of Part 4 of MI 61-101 not apply to the Filer in connection with the Transaction.

**DATED** at Toronto this 4th day of October, 2010.

"Naizam Kanji"  
Deputy Director, Corporate Finance  
Ontario Securities Commission

## 2.3 Rulings

### 2.3.1 G.I. Capital Corp. – s. 74(1)

#### Headnote

Relief from the prospectus requirement of the Act to permit the distribution of pooled fund securities to managed accounts held by non-accredited investors on an exempt basis – NI 45-106 contains a carve-out for managed accounts in Ontario which prohibits portfolio manager from making exempt distributions of securities of its proprietary pooled funds to its managed account clients in Ontario unless managed account client qualifies as accredited investor or invests \$150,000 – portfolio manager provides *bona fide* portfolio management services to high net worth clients – not all managed account clients are accredited investors – portfolio manager permitted to make exempt distributions of proprietary pooled funds to its managed accounts provided written notice is sent to clients advising them of the relief granted – portfolio manager is restricted from distributing proprietary pooled fund securities to parties other than its managed account clients.

#### Applicable Legislative Provisions

Ontario Securities Act, ss. 53, 74(1).

#### Rules Cited

National Instrument 45-106 Prospectus and Registration Exemptions.

October 19, 2010

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

**AND IN THE MATTER OF  
G.I. Capital Corp. (the Filer) AND ANY OPEN-END  
MUTUAL FUNDS THAT ARE NOT REPORTING  
ISSUERS ESTABLISHED BY THE FILER AND  
FOR WHICH THE FILER ACTS OR WILL ACT AS  
MANAGER, TRUSTEE (IF ESTABLISHED AS A  
TRUST) AND PORTFOLIO MANAGER  
(the G.I. Funds)**

**RULING  
(Subsection 74(1) of the Act)**

#### Background

The Ontario Securities Commission (the **Commission**) has received an application from the Filer, on behalf of itself and the G.I. Funds, for a ruling pursuant to subsection 74(1) of the Act, that distributions of securities of the G.I. Funds to Managed Accounts of Clients (as defined below) for which the Filer provides discretionary investment management services will not be subject to the prospectus requirement under Section 53 of the Act (the **Prospectus Requirement**) (the **Requested Relief**).

#### Interpretation

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

#### Representations

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

1. The Filer is incorporated under the laws of Ontario. Its head office is in Toronto, Ontario. The Filer is not in default of securities legislation in any jurisdiction.
2. The Filer is registered with the Commission as an adviser in the category of portfolio manager and as an exempt market dealer.
3. The Filer has applied to the Commission to become registered in the category of investment fund manager.
4. In addition to being their manager and portfolio manager, the Filer is or will be the trustee of G.I. Funds established as trusts. The G.I. Funds are and/or will be distributed pursuant to exemptions from the Prospectus Requirement.
5. The Filer offers investment management and financial counselling services primarily to high net worth individuals (each, a **Client**) each through a managed account (**Managed Account**).
6. The Filer's normal minimum aggregate balance for all the Managed Accounts of a Client is \$250,000. This minimum may be waived at the Filer's discretion. From time to time, the Filer may accept certain Clients with less than \$250,000 under management generally in order to solidify a client relationship with a view to growing the account over time.
7. The Filer generally acts as portfolio manager to Clients who are predominantly "accredited investors" within the meaning of National Instrument 45-106 *Prospectus and Registration Exemptions* (**NI 45-106**). However, from time to time, in limited circumstances (generally where despite a client not being an accredited investor, the client is still able to meet the minimum account balance of \$250,000) the Filer may agree to provide services to Clients who are not "accredited investors".
8. All of the Managed Accounts are serviced by individual portfolio managers of the Filer who meet the proficiency requirements of an advising officer or advising representative (or associate advising officer or associate advising representative) under Ontario securities law.

9. Each Client who wishes to receive the investment management services of the Filer executes a written agreement (the **Investment Counsel Agreement**) whereby the Client appoints the Filer to act as portfolio manager in connection with an investment portfolio of the Client with full discretionary authority to trade in securities for the Managed Account without obtaining the specific consent of the Client to the trade. The Investment Counsel Agreement further sets out how the Managed Account operates and informs the Client of the Filer's various rules, procedures and policies.
10. At the initial meeting between a new Client and a portfolio manager, the portfolio manager establishes the Client's general investment goals and objectives, which are then generally documented in an investment objectives letter (**IPS**) that describes the strategies that the Filer will employ to meet these objectives and includes specific information on matters such as asset allocation, risk tolerance and liquidity requirements. To the extent that a Client's goals or circumstances have changed, a new IPS is created to reflect those changes.
11. After the initial meeting, the Filer's portfolio manager offers to meet at least once per year with his/her Clients (or more frequently as required) to review the performance of their account and their investment goals.
12. The custodian of each Client sends the Client a monthly statement showing all transactions carried out in their Managed Account during the month. On a monthly basis, the Filer sends its Clients a statement showing all holdings in their Managed Account and providing commentary on the investments contained in their Managed Account portfolio. The portfolio manager is available to review and discuss with Clients all account statements.
13. The Filer has determined that to best fulfill its fiduciary duty to its Clients, a portion of the asset mix in each Client's portfolio should be invested in the G.I. Funds.
14. One G.I. Fund has been established and additional G.I. Funds may be established by the Filer, in each case, with a view to achieving efficiencies in the delivery of portfolio management services to its Clients' Managed Accounts. The Filer is not and will not be paid any compensation with respect to the distribution of the G.I. Funds' securities to the Managed Accounts.
15. The operation and management of the G.I. Funds by the Filer is and will be incidental to the principal business activity of the Filer of providing personalized investment management services to Managed Account Clients.
16. Investments in individual securities may not be appropriate for the Clients with smaller Managed Accounts, since they may not receive the same asset diversification benefits and may, as a result of the minimum commission charges, incur disproportionately higher brokerage commissions relative to the Clients with larger Managed Accounts. In addition, the initial G.I. Fund invests in private mortgages which do not lend themselves to investments by individual investors, making the fund structure more appropriate for this asset class.
17. To give all of its Clients the benefit of asset diversification, access to investment products with a very high minimum investment threshold (or those not available otherwise than through a fund structure) and economies of scale on brokerage commission charges, the Filer proposes to cause its Clients, including those that do not qualify as "accredited investors", to invest in securities of the G.I. Funds, without the Client needing to invest a minimum of \$150,000 in each G.I. Fund, subject to each Client's risk tolerance.
18. None of the G.I. Funds charges or will charge a commission or a management fee directly to investors. Instead, under the Investment Counsel Agreements between each Client and the Filer, the Client agrees to pay the Filer a management fee based upon a percentage of assets under management in the Managed Account. Terms of the fees are detailed in each Client's Investment Counsel Agreement.
19. Each G.I. Fund pays or will pay all administration fees and expenses relating to its operation. If, in the future, the Filer charges management fees or performance fees to a G.I. Fund and the Filer invests, on behalf of a Managed Account, in securities of such G.I. Fund, the necessary steps will be taken to ensure that there will be no duplication of fees between a Managed Account and the G.I. Funds.
20. While a Managed Account qualifies as an "accredited investor" in each province and territory outside Ontario, NI 45-106 contains a carve out for Managed Accounts in Ontario when the securities being purchased by the Managed Account are those of an investment fund. Absent the Requested Relief, the G.I. Funds are prohibited in Ontario from distributing, and the Filer is effectively prohibited from investing in, securities of the G.I. Funds for the Managed Accounts, in reliance upon the "accredited investor" exemption in NI 45-106 in circumstances where the individual Client who is the beneficial owner of the Managed Account is not otherwise qualified as an "accredited investor". Reliance

upon the \$150,000 minimum investment exemption available under NI 45-106 may not be appropriate for smaller Managed Accounts as this might require a disproportionately high percentage of the account to be invested in a G.I. Fund.

21. Under the exempt distribution rule applicable in each province and territory outside Ontario, there is no restriction on the ability of Managed Accounts to purchase investment fund securities on an exempt basis. Under NI 45-106, a Managed Account in each province and territory outside Ontario can acquire securities of the G.I. Funds as an “accredited investor”.

### Ruling

The Commission being satisfied that the relevant test contained in subsection 74(1) of the Act has been met, the Commission rules pursuant to subsection 74(1) of the Act that the Requested Relief from the Prospectus Requirement is granted in connection with the distribution of securities of the G.I. Funds to Clients provided that:

- (a) securities of the G.I. Funds distributed pursuant to the relief from the Prospectus Requirement contained in this ruling shall only be distributed to Managed Accounts;
- (b) for each Client that becomes a Client of the Filer after the date of this ruling that will invest in securities of one or more G.I. Funds through a Managed Account pursuant to this ruling, the Filer shall deliver to such Client, prior to effecting a trade in securities of a G.I. Fund in reliance on this ruling, written disclosure advising of:
  - (i) the nature of the relief granted under this ruling, and
  - (ii) the fact that the ruling permits the Client to invest in an investment fund product which the Client otherwise would not be allowed to invest in on an exempt basis through their Managed Account; and
- (c) this ruling will terminate upon the coming into force of any legislation or rule of the Commission exempting a trade by a fully managed account in Ontario in securities of investment funds from the Prospectus Requirement.

“C. Wesley M. Scott”  
Commissioner  
Ontario Securities Commission

“James D. Carnwath”  
Commissioner  
Ontario Securities Commission

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## Chapter 3

# Reasons: Decisions, Orders and Rulings

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### 3.1 OSC Decisions, Orders and Rulings

#### 3.1.1 Maple Leaf Investment Fund Corp. et al.

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

AND

IN THE MATTER OF  
MAPLE LEAF INVESTMENT FUND CORP.,  
JOE HENRY CHAU (aka: HENRY JOE CHAU,  
SHUNG KAI CHOW and HENRY SHUNG KAI CHOW),  
TULSIANI INVESTMENTS INC.,  
SUNIL TULSIANI and RAVINDER TULSIANI

#### REASONS FOR DENYING A MOTION FOR AN ELECTRONIC HEARING (Rules 3 and 10.2 of the *Ontario Securities Commission Rules of Procedure*)

<b>Hearing:</b>	August 12, 2010		
<b>Reasons:</b>	October 12, 2010		
<b>Panel:</b>	James E. A. Turner	–	Vice-Chair
<b>Appearances:</b>	Anna Perschy Carlo Rossi	–	For Staff of the Commission
	Kevin Richard	–	For Ravinder Tulsiani (via telephone conference)
	Joe Henry Chau	–	On his own behalf and for Maple Leaf Investment Fund Corp. (via telephone conference)

#### REASONS FOR DENYING A MOTION FOR AN ELECTRONIC HEARING

##### I. INTRODUCTION

[1] The respondent Joe Henry Chau (a.k.a. Henry Joe Chau, Shung Kai Chow and Henry Shung Kai Chow) (“**Chau**”) brought a motion to the Ontario Securities Commission (the “**Commission**”) for an order that the hearing on the merits in this matter be conducted electronically by video conference.

[2] The motion hearing was held before me on August 12, 2010. Counsel for staff of the Commission (“**Staff**”) attended in person and Chau and counsel for Ravinder Tulsiani attended via telephone conference call.

[3] Staff contested Chau’s motion for an electronic hearing. None of the other respondents took a position regarding the motion.

[4] Chau currently resides in China (and participated in the hearing by telephone conference call from China) and makes the motion for an electronic hearing on the grounds that he is unable for financial reasons to travel to Ontario for an oral hearing or to retain counsel to represent him.

[5] On August 13, 2010, I issued an order dismissing the motion. These are my reasons for that order.

## II. BACKGROUND

[6] Rule 10.2 of the *Ontario Securities Commission Rules of Procedure* (2009), 32 O.S.C.B. 1991 (the “**Rules of Procedure**”) permits the Commission to make an order for the holding of an electronic hearing. That Rule provides as follows:

**10.2 Electronic Hearings** – A hearing may be conducted by way of an electronic hearing, unless a party objects as provided by subsection 5.2(2) of the SPPA.

[7] Section 5.2(2) of the *Statutory Powers Procedure Act*, R.S.O. 1990, c. S.22 (the “**SPPA**”) states:

**5.2 (1)** A tribunal whose rules made under section 25.1 deal with electronic hearings may hold an electronic hearing in a proceeding.

(2) The tribunal shall not hold an electronic hearing if a party satisfies the tribunal that holding an electronic rather than an oral hearing is likely to cause the party significant prejudice.

[8] The Commission’s rules made pursuant to section 25.1 of the SPPA deal with electronic hearings. Accordingly, if a party objects to a motion for an electronic hearing and we are satisfied that an electronic hearing is likely to cause significant prejudice to that party, an electronic hearing must not be held. In all other cases, it is in the Commission’s discretion as to when hearings will be conducted electronically. Staff is a party to this proceeding and has objected to the motion for an electronic hearing.

[9] Rule 1.2(3) of the Rules of Procedure states that:

The Rules shall be construed to secure the most expeditious and least expensive determination of every proceeding before the Commission on its merits, consistent with the requirements of natural justice.

[10] The hearing on the merits in this matter involves five parties and, based on submissions from Staff, is scheduled to run for at least fifteen hearing days. Staff intends to call ten witnesses, some of whom will require interpreters. The matters involved are serious and Chau has made statements to the effect that his regulatory problems are the result of alleged inappropriate conduct of Staff.

[11] Staff provided evidence that the daily cost of a hearing using the Commission’s video conference technology would be in the thousands of dollars. Chau submitted that he is not able, and does not intend, to contribute to the costs of holding an electronic hearing.

[12] Chau submitted that he is, for financial reasons, unable to travel to Toronto for the hearing on the merits or to retain counsel to represent him. Chau made that statement in the course of the hearing on the motion but did not provide evidence to support his statement in the form of an affidavit or otherwise. Accordingly, Staff has not been able to cross-examine Chau with respect to that statement. Accordingly, Staff submits that Chau has not provided any evidence in support of his motion.

[13] I should add that any electronic hearing would be conducted during usual business hours in Toronto. Chau would participate during the night, local time, in China.

## III. ANALYSIS

[14] While the Commission has in the past permitted certain witnesses to testify at a hearing by video conference, the Commission does not appear to have conducted a lengthy hearing on the merits by video conference. To that extent, this is a matter of first instance.

[15] The question of whether to conduct a hearing electronically has been addressed by other administrative tribunals. In *Pinkney v. Datex Billing Services*, 2009 HRTO 1732 (“**Pinkney**”), the Human Rights Tribunal of Ontario denied an applicant’s motion that a hearing be conducted by teleconference because she had moved to Nova Scotia. In their reasons, that tribunal stated:

There are serious credibility issues involved. The ordinary expectation is that participants, especially parties, make themselves available in person to testify and submit to cross-examination and also be present in person to question other witnesses. There have been circumstances where the Tribunal has permitted witnesses to participate by telephone where the extent and the nature of their testimony made such arrangements fair, just and expeditious.

*Pinkney v. Datex Billing Services*, 2009 HRTO 1732 at para. 6.

[16] In *Woodman v. G.R.M. Contracting Ltd.*, 2000 CanLII 10389 (ON L.R.B.) ("**Woodman**"), the Ontario Labour Relations Board rejected the applicant's request that the hearing be conducted by telephone conference. In its reasons for this decision, the board stated at para. 5:

... conducting an electronic hearing where oral testimony is to be adduced should only take place in extraordinary circumstances and where the Board can be assured that the witness giving evidence in another location is not being assisted, whether by another person who is present but cannot be seen or heard, or by having notes or other forms of an aide-mémoire to which the witness might refer. Furthermore, a party adverse in interest to the witness must have the ability to put documents or other exhibits to the witness in cross-examination during the course of a hearing.

[17] We note that in *Pinkney* and *Woodman* it appears that the person making the request for an electronic hearing was the same person who had, in the first instance, made an application for review by the Human Rights Commission. Accordingly, the conclusions in *Pinkney* and *Woodman* may have somewhat limited application. Having said that, I accept the statements in paragraphs 15 and 16 of these reasons as reflecting appropriate considerations.

[18] In considering the motion, I weighed the following factors:

1. The matters involved in this matter are serious and Chau has put in issue Staff's conduct in the circumstances.
2. Conducting a fifteen-day hearing on the merits by video conference would present many challenges. It would be more difficult (i) for Staff to conduct any cross-examination of Chau, if Chau decides to testify, and to submit documents to him; (ii) for the hearing Panel to assess Chau's credibility; and (iii) for the hearing Panel to appropriately manage the hearing process and ensure that any party outside the hearing room that is participating by video conference is acting appropriately and follows the accepted rules of procedure before the Commission;
3. No matter what arrangements are put in place for a video conference hearing, there would be a significant risk that the hearing would be disrupted or delayed by failure of the electronic arrangements;
4. In my view, the rules of natural justice do not require that the hearing on the merits in this matter be conducted electronically. Chau has the opportunity to attend the hearing on the merits in person or by counsel and to make full answer and defence. Regardless of the outcome of this motion, Staff will continue to provide Chau with notice of this proceeding and Chau will be able to obtain transcripts of the testimony given at the hearing on the merits and to arrange to obtain documents and other materials tendered in evidence;
5. Chau's conduct that is the subject matter of the hearing on the merits took place in Ontario at a time when Chau was a resident of Ontario. He left the jurisdiction after he was interviewed by Staff as part of the investigation that gave rise to this proceeding. That is not to suggest that there was necessarily any connection between those two events; only to note that Chau voluntarily left the jurisdiction knowing that a Commission investigation was on-going that could lead to a proceeding before the Commission;
6. Chau submitted that he is not able or prepared to contribute to the costs of conducting the hearing electronically. That is certainly not a determining factor, but it is a consideration. In effect, the Commission is being requested to conduct a hearing on the merits in a manner that may create disruption, delay and a less efficient and fair process while incurring substantial costs in doing so; and
7. Staff is objecting to an electronic hearing on the merits on the basis that, in all of the circumstances, Staff would be significantly prejudiced by such a hearing.

[19] Based on the foregoing, I concluded that conducting an electronic hearing on the merits in this matter would likely cause Staff significant prejudice. In any event, I was not prepared in these circumstances to exercise the Commission's discretion to permit an electronic hearing. I am particularly concerned that the hearing Panel be able to maintain the integrity of the hearing process and be able to fully assess the credibility of the testimony of witnesses at the hearing.

[20] I would add that this decision does not address the question whether Chau should be permitted to testify electronically at the hearing on the merits if he wishes to do so. Testifying in that manner may give rise to a number of the concerns identified in these reasons. Having said that, it is a separate question whether Chau should be permitted to do so and Chau is entitled to raise that issue with the Panel of the Commission hearing this matter on the merits. This decision is not intended to restrict the discretion of that Panel to conduct the hearing in any manner the Panel considers to be fair and appropriate in the circumstances.

**IV. CONCLUSION**

[21] For the reasons discussed above, I dismissed the motion brought by Chau for the holding of an electronic hearing on the merits.

Dated this 12th day of October, 2010.

“James E. A. Turner”

3.1.2 Chartcandle Investments Corporation et al. – ss. 127, 127.1

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

AND

IN THE MATTER OF  
CHARTCANDLE INVESTMENTS CORPORATION, CCI FINANCIAL, LLC,  
CHARTCANDLE INC., PSST GLOBAL CORPORATION,  
STEPHEN MICHAEL CHESNOWITZ AND CHARLES PAULY

HEARING HELD PURSUANT TO SECTIONS 127 AND 127.1 OF THE ACT

REASONS AND DECISION FOR THE HEARING ON THE MERITS

HEARING: September 27, 2010

PANEL: James D. Carnwath – Commissioner and Chair of the Panel  
Patrick J. Lesage – Commissioner

APPEARANCES: Sean Horgan – for Staff of the Ontario Securities Commission  
Amanda Heydon

No one appeared for any of the Respondents

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] First, we are satisfied that the requirements of service have been met. Second, the motion to proceed in writing has been granted. We are satisfied that the requirements of the *Statutory Powers Procedure Act*, R.S.O. 1990, c. S.22 pursuant to s. 7(1) have been met. We were further satisfied that we would hear the matter in writing having concluded that the requirements of s. 5.1 of the *Statutory Powers Procedure Act* have been met. We are further satisfied that we may receive and consider hearsay evidence pursuant to s. 15(1) of the *Statutory Powers Procedure Act*. The weight to be given is of course for the panel to consider. Mr. Chesnowitz has failed to attend and we may and we do take that as his waiver of any objection to the use of hearsay evidence.

[2] On the basis of Mr. Panchuk's affidavit filed as Exhibit 1 and the attached exhibits entered as A, B, C and D, we find firstly the respondents were selling securities, contrary to s. 25(1)(a) of the *Securities Act*, R.S.O. 1990, c. S.5, as amended (the "Act") and contrary to the public interest. They were not registered and no exemptions were available to them notwithstanding vague references by the respondents regarding the accredited investor status.

[3] We further find that Mr. Chesnowitz acted as an advisor with respect to investing in and buying and selling securities without registration in respect of which there was no exemption available contrary to s. 25(1)(c) of the *Act* and contrary to the public interest. We find further that the respondents directly or indirectly engaged or participated in acts, practices or course of conduct relating to the securities they knew or reasonably ought to have known would perpetrate a fraud on persons contrary to s. 126.1 of the *Act* and contrary to the public interest. We base that finding on our acceptance of staff's submissions found at para. 109 of their submissions filed (Appendix "A" attached). We find it unnecessary to make a finding under s. 129.2 of the *Act* having regard to the facts, which make such a finding superfluous.

Approved by the Panel at this 14th day of October, 2010.

"James D. Carnwath"  
James D. Carnwath

"Patrick J. LeSage"  
Patrick J. Lesage

## Appendix A

109. It is submitted that there is a body of compelling evidence in this case to establish that the Respondents engaged in an ongoing course of conduct that can only be described as deceit, falsehoods or other fraudulent means as follows:

(i) *Type of Trading/Use of Investor Funds*

- Chesnowitz caused the Chartcandle Brochure to be distributed to potential investors indicating that investor funds would be traded in equities, equity options, and foreign exchange;
- Chesnowitz caused the PPM to be distributed to potential investors indicating that investor funds would be traded in equity securities, stocks, bonds, debentures, notes, options, American Depository Receipts, warrants and futures contracts; and
- When each of the Chartcandle Brochure and the PPM are read as a whole, an investor would have been left with the impression that all funds in the Chartcandle Fund would be traded in equities of one form or another. Nowhere in either of these documents does it state that investor funds would be used for personal expenses, or for purchasing assets such as cars, trucks, jet skis, snowmobiles and a residential property.

(ii) *Chesnowitz Background and Training*

- The Chartcandle Brochure stated that Chesnowitz had been mentored by MacKinnon, a prominent trader, and had developed a trading system that produced consistent returns over long periods;
- MacKinnon had never traded in securities and never mentored Chesnowitz;
- Chesnowitz had not developed a trading system that produced consistent returns, in fact he admitted that at certain points in time, he was trading with no strategy;
- Other similar misleading information regarding Chesnowitz's background and false trading results for the Chartcandle Fund were posted on the internet, including a statement that Chesnowitz created a hedge fund in 2003 that achieved greater than 20% annual returns for its investors. Chesnowitz admitted that those facts were false since the Chartcandle Fund started in 2005 and there were no trading results for 2003 or 2004; and
- Although Chesnowitz purported not to know how some of this information came to be posted on the internet, Staff submit that there is a strong inference to be drawn that Chesnowitz caused that information to be publicly available on the internet to assist in soliciting potential investors.

(iii) *Misappropriating Investor Funds*

- Chesnowitz directly or indirectly caused the acquisition of at least five (5) vehicles with investor funds totalling approximately \$205,000;
- Chesnowitz directly or indirectly caused the acquisition of a trailer with investor funds valued at approximately \$70,000;
- Chesnowitz directly or indirectly caused the acquisition of a jet ski and a snowmobile with investor funds that were not used for business purposes;
- Chesnowitz directly or indirectly caused mortgage payments to be made with investor funds towards a residential property in Mar, Ontario;
- Chesnowitz directly or indirectly caused payments to be made for personal or business expenses that were not authorized, including car insurance premiums, car parts, a truck driving course and a trip to the Cayman Islands; and
- Chesnowitz directly or indirectly caused payments to be made with investor funds to his own personal bank accounts.

(iv) *Misleading Investors Regarding Trading Results*

- Chesnowitz directed the creation of the Website;
- Chesnowitz directed Pauly to maintain the Website as the sole means of reporting to Chartcandle Fund investors. Despite significant trading losses, Chesnowitz directed Pauly to post false returns on the Website that did not reflect actual trading results; and
- Based on the false postings on the Website, investors believed their funds were safe and that they were earning the returns that were posted.

(v) *Using Investor Funds to Pay Returns and Redemptions to Other Investors*

- Chesnowitz, directly or indirectly provided some investors with purported monthly returns on their investment using capital from other investors;
- During the period from August 2005 to January 2006, the Chartcandle Fund did not make any trading profits, nonetheless some investors received purported returns and redemptions during this period; and
- Chesnowitz used funds from one investor to satisfy a redemption request from another investor.

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## Chapter 4

# Cease Trading Orders

### 4.1.1 Temporary, Permanent & Rescinding Issuer Cease Trading Orders

Company Name	Date of Temporary Order	Date of Hearing	Date of Permanent Order	Date of Lapse/Revoke
Coalcorp Mining Inc.	29 Sept 10	12 Oct 10	12 Oct 10	
ConjuChem Biotechnologies Inc.	04 Oct 10	15 Oct 10	15 Oct 10	
Chai Cha Na Mining Inc.	04 Oct 10	15 Oct 10	15 Oct 10	
Lands End Resources Ltd.	05 Oct 10	18 Oct 10	18 Oct 10	
Yaletown Capital Corp.	08 Oct 10	20 Oct 10		15 Oct 20
TLC Vision Corporation	08 Oct 10	20 Oct 10	20 Oct 10	

### 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

THERE ARE NO ITEMS FOR THIS WEEK.

### 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

THERE ARE NO ITEMS FOR THIS WEEK.

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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	No of Purchasers	Issuer/Security	Total Purchase Price (\$)	No of Securities Distributed
09/20/2010	5	ABI Escrow Corporation - Notes	57,204,000.00	5.00
07/19/2010 to 07/26/2010	118	Africa Oil Corp. - Common Shares	25,000,000.00	25,000,000.00
09/30/2010	1	Ambit Biosciences (Canada) Corporation - Notes	1,695,356.14	N/A
09/28/2010	2	American Capital Agency Corp. - Common Shares	8,710,000.00	325,000.00
10/06/2010	1	Bank of Montreal - Debt	1,000,000.00	1.00
09/24/2010	3	Bending Lake Iron Group Limited - Flow-Through Shares	420,000.00	262,500.00
04/19/2010	8	Caldera Resources Inc. - Units	440,923.50	N/A
07/26/2010 to 08/04/2010	24	Calgary Scientific Inc. - Common Shares	2,307,900.00	769,300.00
10/08/2010	18	Canamex Silver Corp. - Units	300,000.00	6,000,000.00
07/29/2010	1	Canso Credit Trust - Trust Units	6,064,000.00	608,725.33
09/28/2010	13	CareVest Blended Mortgage Investment Corporation - Preferred Shares	459,382.00	459,382.00
09/28/2010	10	CareVest Capital Blended Mortgage Investment Corp. - Preferred Shares	518,859.00	518,677.00
09/28/2010	4	CareVest Capital First Mortgage Investment Corp. - Preferred Shares	189,410.00	189,410.00
09/28/2010	4	CareVest First Mortgage Investment Corporation - Preferred Shares	460,203.00	460,203.00
09/16/2010 to 09/21/2010	11	Carmen Energy Inc. - Common Shares	414,950.00	6,699,500.00
07/14/2010	1	Castle Resources Inc. - Units	2,200,000.00	N/A
09/30/2010	19	CGS Flow-Through 2010 LP - Limited Partnership Units	815,000.00	32,600.00
09/30/2010	17	Chieftain Metals Inc. - Flow-Through Shares	1,225,740.00	395,400.00
09/29/2010	5	Chieftain Metals Inc. - Units	4,034,994.10	1,301,611.00
10/07/2010	18	CHOP Exploration Inc. - Units	200,000.00	2,000,000.00
09/16/2010	34	Cobalt Coal Corp. - Units	930,000.00	7,200,000.00
09/27/2010 to 09/30/2010	14	Cowichan District Financial Centre Limited Partnership - Units	692,500.00	692,500.00

**Notice of Exempt Financings**

Transaction Date	No of Purchasers	Issuer/Security	Total Purchase Price (\$)	No of Securities Distributed
09/09/2010 to 09/10/2010	102	Cutpick Energy Inc. - Common Shares	45,000,000.00	10,000,000.00
09/30/2010	4	CVG Chile Limited Par - Units	6,361,871.00	6,361,871.00
08/04/2010		Cynapsus Therapeutics Inc. - Common Shares		662,400.00
10/06/2010	3	DinEquity, Inc. - Notes	4,482,485.00	4,450.00
09/24/2010	12	Emgold Mining Corporation - Units	728,540.00	5,203,856.00
10/05/2010	1	First Leaside Expansion Limited Partnership - Units	10,000.00	10,000.00
10/01/2010	22	Freegold Ventures Limited - Common Shares	2,899,999.50	8,975,759.00
10/01/2010	1	GeoEye, Inc. - Notes	2,040,000.00	1.00
10/06/2010	1	Gold World Resources Inc. - Units	80,000.00	1,600,000.00
07/16/2010	13	Greybrook Keystone LP - Limited Partnership Units	1,895,600.00	20,790.00
06/17/2010	1	Gryphon Gold Corporation - Units	209,240.00	1,464,429.00
04/01/2009 to 03/31/2010	1	GWLIM Corporate Bond Fund - Units	5,874,922.12	N/A
04/01/2009 to 03/31/2010	1	GWLIM North American Mid Cap Fund - Units	1,351,118.97	N/A
09/24/2010	10	Harvest operations Corp. - Notes	56,446,500.00	55,000.00
09/27/2010	97	HSBC USA Inc. - Notes	759,711,960.00	N/A
10/04/2010	2	ICON Health and Fitness, Inc. - Notes	13,742,339.41	13,500.00
07/19/2010 to 07/22/2010	3	IGW Real Estate Investment Trust - Units	154,075.36	N/A
09/01/2010	109	INNOKA POINT RESORT CORPORATION - Common Shares	15,000,000.00	15,000,000.00
09/01/2010	109	INNOKA POINT RESORT CORPORATION - Common Shares	15,000,000.00	15,000,000.00
09/30/2010	5	Intelsat Jackson Holdings S.A. - Notes	19,055,000.00	5.00
04/01/2009 to 03/31/2010	1	Keystone AGF Equity Fund - Units	1,833,388.89	N/A
04/09/2009 to 03/31/2010	1	Keystone Balanced Growth Portfolio - Units	140,553.52	N/A
04/01/2009 to 03/31/2010	1	Keystone Balanced Portfolio - Units	473,767.24	N/A
04/01/2009 to 03/31/2010	1	Keystone Conservative Portfolio Fund - Units	211,849.56	N/A
04/01/2009 to 03/31/2010	1	Keystone Manulife U.S. Value Fund - Units	1,568,028.06	N/A
04/01/2009 to 03/31/2010	1	Keystone Maximum Growth Fund - Units	18,318.61	N/A

**Notice of Exempt Financings**

<b>Transaction Date</b>	<b>No of Purchasers</b>	<b>Issuer/Security</b>	<b>Total Purchase Price (\$)</b>	<b>No of Securities Distributed</b>
09/29/2010	6	KingSett Canadian Real Estate Income Fund LP - Units	5,388,915.36	5,155.87
09/02/2010	115	KingSett Canadian Real Estate Income Fund LP - Units	16,538,351.81	15,823.14
04/01/2009 to 03/31/2010	1	London Capital Canadian Diversified Equity Fund - Units	5,525,873.36	N/A
04/01/2009 to 03/31/2010	1	London Capital Canadian Dividend Fund - Units	516,124.20	N/A
04/01/2009 to 03/31/2010	1	London Capital Income Plus Fund - Units	11,040,391.77	N/A
04/01/2009 to 03/31/2010	1	London Capital U.S. Value Fund - Units	1,177,703.00	N/A
09/28/2010	1	Lord Lansdowne Holdings Inc. - Common Shares	150,000.60	1.00
04/01/2009 to 03/31/2010	1	Mackenzie Maxxum Dividend Growth Fund - Units	10,950,081.27	N/A
04/01/2009 to 03/31/2010	1	Mackenzie Sentinel Bond Fund - Units	3,169,141.41	N/A
04/01/2009 to 03/31/2010	1	Mackenzie Sentinel Canadian Short-Term Yield Pool - Units	495,219,179.60	N/A
04/01/2009 to 03/31/2010	1	Mackenzie Sentinel Real Return Bond Fund - Units	338,530.86	N/A
04/01/2009 to 03/31/2010	1	Mackenzie Sentinel Registered North American Corporate Bond Fund - Units	0.00	N/A
04/01/2009 to 03/31/2010	1	Mackenzie Sentinel Registered Strategic Income Fund - Units	10,577,501.57	N/A
10/07/2010	1	Marret HYS Trust - Units	157,393,203.36	12,867,681.00
09/03/2010	44	MENA Hydrocarbons Inc. - Common Shares	2,822,248.70	9,407,496.00
09/07/2010	5	MetroPCS Wireless, Inc. - Notes	10,141,145.53	5.00
07/22/2010	1	Micromem Technologies Inc. - Common Shares	100,000.00	312,500.00
10/01/2010 to 10/07/2010	4	Miocene Metals Limited - Flow-Through Shares	122,500.00	500,000.00
08/03/2010 to 08/09/2010	27	Mooncor Oil & Gas Corp. - Units	1,204,060.20	N/A
09/29/2010	3	NeuLion, Inc. - Common Shares	10,306,090.80	17,176,818.00
10/04/2010	2	Newpark Resources, Inc. - Notes	1,432,760.00	2.00
09/16/2010	2	Nippon Sheet Glass Company, Limited - Common Shares	2,276,799.00	1,050,000.00
09/29/2010	1	Nordea Bank AB (publ) - Notes	4,107,598.80	N/A
09/30/2010	2	Noveko International Inc. - Common Shares	4,440,000.00	7,400,000.00
09/29/2010	4	Petroleo Brasileiro S.A. - Petrobras - Common Shares	15,230,784.00	441,600.00

**Notice of Exempt Financings**

<b>Transaction Date</b>	<b>No of Purchasers</b>	<b>Issuer/Security</b>	<b>Total Purchase Price (\$)</b>	<b>No of Securities Distributed</b>
09/29/2010	13	Pinafore, LLC and Pinafore, Inc. - Notes	25,750,000.00	13.00
07/02/2010	2	Premium Exploration Inc. - Common Shares	518,950.00	1,421,800.00
07/28/2010	1	Quetzal Energy Ltd. - Common Shares	510,000.00	3,000,000.00
10/05/2010	12	Rainmaker Mining Corp. - Units	250,000.00	1,562,502.00
10/04/2010	36	Realm Energy International Corporation - Units	3,000,000.00	10,000,000.00
09/30/2010	18	Rupestris Mines Inc. - Non Flow-Through Shares	443,200.00	1,487,334.00
08/25/2010	112	Sama Resources Inc. - Units	3,000,000.00	7,500,000.00
09/30/2010	9	Sears Holdings Corporation - Notes	10,606,940.00	9.00
09/15/2010	1	Shaelynn Capital Inc. - Preferred Shares	6,950.00	6,950.00
07/23/2010	2	Silvermet Inc. - Debentures	500,000.00	500,000.00
08/17/2010	23	Skywest Energy Corp. - Flow-Through Shares	10,000,800.00	18,520,000.00
09/07/2010	85	Sprott Resource Lending Corp. - Common Shares	25,000,000.00	15,625,000.00
08/10/2010	34	TAD Minerals Exploration Inc. - Units	490,000.00	7,000,000.00
06/18/2010 to 09/24/2010	9	The Republic of Argentina - Bonds	0.00	0.00
07/30/2010	20	TinyMassive Technologies Inc. - Common Shares	171,500.00	3,430,000.00
10/01/2010	3	Titan International Inc. - Notes	3,204,445.50	N/A
09/09/2010	27	Treesdale Canada Limited Partnership - Limited Partnership Interest	1,680,000.00	1,680,000.00
07/23/2010	34	Turnstone Development Inc. - Bonds	962,100.00	887,100.00
09/21/2010	24	Typhoon Exploration Inc. - Units	4,000,000.12	4,878,049.00
09/28/2010	1	UBS AG, London Branch - Certificates	125,639.82	108.00
09/27/2010 to 10/01/2010	11	UC Resources Ltd. - Units	525,775.03	4,779,773.00
09/28/2010	6	Valeant Pharmaceutical International - Notes	737,394.32	N/A
09/28/2010	6	Valeant Pharmaceuticals International - Notes	1,507,407.09	N/A
10/08/2010	3	Vena Resources Inc. - Common Shares	546,000.45	2,373,915.00
09/29/2010	1	Vical Incorporated - Common Shares	1,624,000.00	700,000.00
09/29/2010	1	Virginia Commerce Bancorp, Inc. - Common Shares	2,060,961.14	1,904,766.00
08/13/2010	159	Walton Southern U.S. Land 2 Investment Corporation - Common Shares	3,770,880.00	377,088.00
10/05/2010	1	Wimberly Apartments Limited Partnership - Units	39,277.76	55,184.00



**Notice of Exempt Financings**

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<b>Transaction Date</b>	<b>No of Purchasers</b>	<b>Issuer/Security</b>	<b>Total Purchase Price (\$)</b>	<b>No of Securities Distributed</b>
10/05/2010	1	Wimberly Apartments Limited Partnership - Units	39,227.76	55,184.00
10/04/2010	1	Wimberly Fund - Trust Units	5,538.00	5,538.00
09/22/2010	1	Windstream Corporation - Notes	6,712,550.00	6,500.00
09/28/2010	1	Zions Bancorporation - Stock Option	238,907.25	N/A

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## Chapter 11

# IPOs, New Issues and Secondary Financings

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**Issuer Name:**

Arcan Resources Ltd.  
Principal Regulator - Alberta

**Type and Date:**

Preliminary Short Form Prospectus dated October 13, 2010  
NP 11-202 Receipt dated October 13, 2010

**Offering Price and Description:**

\$43,500,000.00 - 9,062,500 Common Shares Price: \$4.80  
per Common Share

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

Haywood Securities Inc.  
Paradigm Capital Inc.  
Wellington West Capital Markets Inc.  
National Bank Financial Inc.  
PI Financial Corp.  
Stifel Nicolaus Canada Inc.

**Promoter(s):**

-

**Project #1645003**

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**Issuer Name:**

Carpathian Gold Inc.  
Principal Regulator - Ontario

**Type and Date:**

Preliminary Short Form Prospectus dated October 19, 2010  
NP 11-202 Receipt dated October 19, 2010

**Offering Price and Description:**

\$44,990,000.00 - 81,800,000 Common Shares Price: \$0.55  
per Offered Share

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

Cormark Securities Inc.  
Canaccord Genuity Corp.  
Haywood Securities Inc.  
Jennings Capital Inc.

**Promoter(s):**

-

**Project #1646864**

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**Issuer Name:**

Brookfield Renewable Power Fund  
Principal Regulator - Quebec

**Type and Date:**

Preliminary Short Form Prospectus dated October 15, 2010  
NP 11-202 Receipt dated October 15, 2010

**Offering Price and Description:**

\$152,950,000.00 - 7,000,000 Trust Units Price: \$21.85 per  
Trust Unit

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

CIBC World Markets Inc.  
Scotia Capital Inc.  
RBC Dominion Securities Inc.  
TD Securities Inc.  
BMO Nesbitt Burns Inc.  
National Bank Financial Inc.  
HSBC Securities (Canada) Inc.  
Brookfield Financial Corp.  
Canaccord Genuity Corp.  
Clarus Securities Inc.  
Dundee Securities Corporation  
FirstEnergy Capital Corp.  
Macquarie Capital Markets Canada Ltd.

**Promoter(s):**

-

**Project #1645634**

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**Issuer Name:**

Canadian Utilities & Telecom Income Fund  
Principal Regulator - Ontario

**Type and Date:**

Preliminary Long Form Prospectus dated October 18, 2010  
NP 11-202 Receipt dated October 19, 2010

**Offering Price and Description:**

\$ \* Maximum - \* Units; Price: \$12.00 per Unit

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

RBC Dominion Securities Inc.  
CIBC World Markets Inc.  
BMO Nesbitt Burns Inc.  
National Bank Financial Inc.  
Scotia Capital Inc.  
TD Securities Inc.  
HSBC Securities (Canada) Inc.  
Raymond James Ltd.  
Canaccord Genuity Corp.  
Dundee Securities Corporation  
Mackie Research Capital Corporation  
Manulife Securities Incorporated

**Promoter(s):**

Mulvihill Capital Management Inc.

**Project #1646415**

**Issuer Name:**

Carmen Energy Inc.  
Principal Regulator - Alberta

**Type and Date:**

Preliminary CPC Prospectus dated October 18, 2010  
NP 11-202 Receipt dated October 18, 2010

**Offering Price and Description:**

Minimum Offering: \$200,000.00 - 2,000,000 Common  
Shares; Maximum Offering: \$300,000.00 3,000,000  
Common Shares Price: \$0.10 per Common Share

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

PI Financial Corp.

**Promoter(s):**

Archibal J. Nesbitt  
Gerald D. Facciani  
**Project #1646388**

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**Issuer Name:**

Chartwell Seniors Housing Real Estate Investment Trust  
Principal Regulator - Ontario

**Type and Date:**

Preliminary Short Form Prospectus dated October 18, 2010  
NP 11-202 Receipt dated October 18, 2010

**Offering Price and Description:**

\$130,173,750.00 - 13,775,000 Units Price: \$9.45 per Unit

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

RBC Dominion Securities Inc.  
CIBC World Markets Inc.  
BMO Nesbitt Burns Inc.  
Scotia Capital Inc.  
National Bank Financial Inc.  
TD Securities Inc.  
Canaccord Genuity Corp.  
HSBC Securities (Canada) Inc.

**Promoter(s):**

-

**Project #1646205**

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**Issuer Name:**

CNH Capital Canada Receivables Trust  
Principal Regulator - Ontario

**Type and Date:**

Preliminary Base Shelf Prospectus dated October 15, 2010  
NP 11-202 Receipt dated October 15, 2010

**Offering Price and Description:**

Up to \$ \* of Receivable-Backed Notes

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

-

**Promoter(s):**

CNH Capital Canada Ltd.  
**Project #1645781**

**Issuer Name:**

Eagle Energy Trust  
Principal Regulator - Alberta

**Type and Date:**

Preliminary Long Form Prospectus dated October 12, 2010  
NP 11-202 Receipt dated October 13, 2010

**Offering Price and Description:**

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

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

Scotia Capital Inc.  
BMO Nesbitt Burns Inc.  
CIBC World Markets Inc.  
TD Securities Inc.  
National Bank Financial Inc.  
Dundee Securities Corporation  
Canaccord Genuity Corp.  
FirstEnergy Capital Corp.  
GMP Securities L.P.  
HSBC Securities (Canada) Inc.  
Raymond James Ltd.

**Promoter(s):**

Richard W. Clark  
**Project #1644910**

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**Issuer Name:**

First Nickel Inc.  
Principal Regulator - Ontario

**Type and Date:**

Preliminary Short Form Prospectus dated October 19, 2010  
NP 11-202 Receipt dated October 19, 2010

**Offering Price and Description:**

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

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

Paradigm Capital Inc.  
Raymond James Ltd.

**Promoter(s):**

-

**Project #1646757**

---

**Issuer Name:**

General Motors Company  
Principal Regulator - Ontario

**Type and Date:**

Amended and Restated Preliminary MJDS Prospectus  
dated October 14, 2010  
NP 11-202 Receipt dated October 15, 2010

**Offering Price and Description:**

\$US \* - \* Shares of Common Stock

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

Morgan Stanley Canada Limited

**Promoter(s):**

-

**Project #1621247**

**Issuer Name:**

General Motors Company  
Principal Regulator - Ontario

**Type and Date:**

Amended and Restated Preliminary MJDS Prospectus  
dated October 14, 2010  
NP 11-202 Receipt dated October 15, 2010

**Offering Price and Description:**

US\$ \* - \* SHARES OF \* % SERIES B MANDATORY  
CONVERTIBLE JUNIOR PREFERRED STOCK

Price: US\$ \* per Common Shares

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

Morgan Stanley Canada Limited

**Promoter(s):**

-

**Project #**1621248

**Issuer Name:**

Ivanhoe Mines Ltd.  
Principal Regulator - British Columbia

**Type and Date:**

Preliminary Short Form Prospectus dated October 18, 2010  
NP 11-202 Receipt dated October 18, 2010

**Offering Price and Description:**

US\$ \*/ Cdn\$ \* - Rights to Subscribe for \* Common Shares  
at a Price of US\$ \* per Common Share or Cdn\$ \* per  
Common Share Maximum Rights (100%) Minimum Rights  
(85%)

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

Citigroup Global Markets Canada Inc.

**Promoter(s):**

-

**Project #**1646054

---

**Issuer Name:**

GWR Global Water Resources Corp.  
Principal Regulator - Ontario

**Type and Date:**

Preliminary Long Form Prospectus dated October 18, 2010  
NP 11-202 Receipt dated October 18, 2010

**Offering Price and Description:**

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

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

Clarus Securities Inc.

CIBC World Markets Inc.

**Promoter(s):**

Global Waters Resources Inc.

**Project #**1646204

---

**Issuer Name:**

Man Canada AHL DP Investment Fund  
Principal Regulator - Ontario

**Type and Date:**

Preliminary Long Form Prospectus dated October 12, 2010  
NP 11-202 Receipt dated October 14, 2010

**Offering Price and Description:**

Class G and T Units @ Net Asset Value per Unit.

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

-

**Promoter(s):**

Man Investments Canada Corp.

**Project #**1644658

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**Issuer Name:**

Homburg Canada Real Estate Investment Trust  
Principal Regulator - Quebec

**Type and Date:**

Preliminary Short Form Prospectus dated October 13, 2010  
NP 11-202 Receipt dated October 13, 2010

**Offering Price and Description:**

\$75,020,000.00 - 6,820,000 Units Price: \$11.00 per Unit

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

TD Securities Inc.

CIBC World Markets Inc.

Desjardins Securities Inc.

Scotia Capital Inc.

National Bank Financial Inc.

Canaccord Genuity Corp.

HSBC Securities (Canada) Inc.

Beacon Securities Ltd.

Dundee Securities Corporation

**Promoter(s):**

-

**Project #**1644843

---

**Issuer Name:**

Minera IRL Limited  
Principal Regulator - Ontario

**Type and Date:**

Preliminary Short Form Prospectus dated October 15, 2010  
NP 11-202 Receipt dated October 15, 2010

**Offering Price and Description:**

UP TO \$30,000,000.00 - ORDINARY SHARES Price: \$ \*  
per Common Share

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

Jennings Capital Inc.

National Bank Financial Inc.

**Promoter(s):**

-

**Project #**1645721

**Issuer Name:**

NorthWest Healthcare Properties Real Estate Investment Trust

Principal Regulator - Ontario

**Type and Date:**

Preliminary Short Form Prospectus dated October 15, 2010

NP 11-202 Receipt dated October 15, 2010

**Offering Price and Description:**

\$75,017,250.00 - 6,495,000 Units Price: \$11.55 per Unit

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

RBC Dominion Securities Inc.

BMO Nesbitt Burns Inc.

CIBC World Markets Inc.

National Bank Financial Inc.

Scotia Capital Inc.

TD Securities Inc.

Canaccord Genuity Corp.

Macquarie Capital Markets Canada Ltd.

**Promoter(s):**

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**Project #**1645662

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**Issuer Name:**

Pathway 2010 GORR Limited Partnership

Principal Regulator - Ontario

**Type and Date:**

Preliminary Long Form Prospectus dated October 13, 2010

NP 11-202 Receipt dated October 14, 2010

**Offering Price and Description:**

\$15,000,000.00 (Maximum Offering) - \$5,000,000.00

(Minimum Offering): A Maximum of 1,500,000 and a

Minimum of 500,000 Limited Partnership Units Minimum

Subscription: 500 Limited Partnership Units Subscription

Price: \$10.00 per Limited Partnership Unit

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

Wellington West Capital Inc.

HSBC Securities (Canada) Inc.

Burgeonvest Bick Securities Limited

Canaccord Genuity Corp.

Dundee Securities Corporation

Mackie Research Capital Corporation

Desjardins Securities Inc.

Industrial Alliance Securities Inc.

Raymond James Ltd.

Laurentian Bank Securities Inc.

Macquarie Capital Markets Canada Ltd.

M Partners Inc.

**Promoter(s):**

Pathway 2010 GORR Inc.

**Project #**1645024

**Issuer Name:**

Sprott Physical Silver Trust

Principal Regulator - Ontario

**Type and Date:**

Amended and Restated Preliminary Long Form PREP

Prospectus dated October 18, 2010

NP 11-202 Receipt dated October 18, 2010

**Offering Price and Description:**

US\$ \*- ( \*Units) - Minimum Subscription: US\$1,000 (100

Units) Price: US\$10.00 per Unit

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

RBC Dominion Securities Inc.

Morgan Stanley Canada Limited

TD Securities Inc.

Canaccord Genuity Corp.

National Bank Financial Inc.

BMO Nesbitt Burns Inc.

HSBC Securities (Canada) Inc.

GMP Securities L.P.

Wellington Capital Markets Inc.

Mackie Research Capital Corporation

**Promoter(s):**

Sprott Asset Management LP

**Project #**1605635

---

**Issuer Name:**

Sulliden Gold Corporation Ltd.

Principal Regulator - Quebec

**Type and Date:**

Preliminary Short Form Prospectus dated October 15, 2010

NP 11-202 Receipt dated October 15, 2010

**Offering Price and Description:**

\$20,000,000.00 - 16,000,000 Common Shares Price: \$1.25 per Common Share

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

Wellington West Capital Markets Inc.

Cormark Securities Inc.

Fraser Mackenzie Limited

GMP Securities L.P.

TD Securities Inc.

Raymond James Ltd.

**Promoter(s):**

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**Project #**1645674

**Issuer Name:**

Teranga Gold Corporation  
Principal Regulator - Ontario

**Type and Date:**

Preliminary Long Form Prospectus dated October 13, 2010  
NP 11-202 Receipt dated October 14, 2010

**Offering Price and Description:**

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

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

Cormark Securities Inc.  
GMP Securities L.P.

**Promoter(s):**

Mineral Deposits Limited

**Project #1645089**

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**Issuer Name:**

The Toronto-Dominion Bank  
Principal Regulator - Ontario

**Type and Date:**

Preliminary Base Shelf Prospectus dated October 15, 2010  
NP 11-202 Receipt dated October 19, 2010

**Offering Price and Description:**

\$10,000,000,000.00:

Debt Securities (subordinated indebtedness)

Common Shares

Class A First Preferred Shares

Warrants to Purchase Preferred Shares

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

-

**Promoter(s):**

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**Project #1646336**

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**Issuer Name:**

Tourmaline Oil Corp.  
Principal Regulator - Alberta

**Type and Date:**

Preliminary Long Form Prospectus dated October 13, 2010  
NP 11-202 Receipt dated October 13, 2010

**Offering Price and Description:**

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

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

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

Cormark Securities Inc.

**Promoter(s):**

-

**Project #1645004**

**Issuer Name:**

Valener Inc.  
Principal Regulator - Quebec

**Type and Date:**

Preliminary Short Form Prospectus dated October 18, 2010  
NP 11-202 Receipt dated October 18, 2010

**Offering Price and Description:**

\$40,556,425.00 - 2,344,302 Common Shares Price:  
\$17.30 per Common Share

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

BMO Nesbitt Burns Inc.  
Scotia Capital Inc.  
Desjardins Securities Inc.  
National Bank Financial Inc.  
CIBC World Markets Inc.  
RBC Dominion Securities Inc.  
Laurentian Bank Securities Inc.  
TD Securities Inc.

**Promoter(s):**

-

**Project #1646198**

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**Issuer Name:**

Atlantic Power Corporation  
Principal Regulator - Ontario

**Type and Date:**

Final Short Form PREP Prospectus dated October 13, 2010

NP 11-202 Receipt dated October 13, 2010

**Offering Price and Description:**

US\$70,020,750.00 - 5,245,000 Common Shares Price:  
US\$13.35 per Common Share

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

BMO Nesbitt Burns Inc.  
UBS Securities Canada Inc.  
RBC Dominion Securities Inc.  
CIBC World Markets Inc.  
National Bank Financial Inc.  
Scotia Capital Inc.  
TD Securities Inc.

**Promoter(s):**

-

**Project #1620681**

**Issuer Name:**

Atlantic Power Corporation  
Principal Regulator - Ontario

**Type and Date:**

Final Short Form Prospectus dated October 13, 2010  
NP 11-202 Receipt dated October 14, 2010

**Offering Price and Description:**

Cdn\$70,000,000.00 - 5.60% Series B Convertible  
Unsecured Subordinated Debentures due June 30, 2017

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

BMO Nesbitt Burns Inc.  
RBC Dominion Securities Inc.  
Scotia Capital Inc.  
TD Securities Inc.  
CIBC World Markets Inc.  
Desjardins Securities Inc.  
Macquarie Capital Markets Canada Ltd.  
National Bank Financial Inc.

**Promoter(s):**

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**Project #1619688**

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**Issuer Name:**

Renaissance Money Market Fund (Class A, O and Premium Units)  
Renaissance U.S. Money Market Fund (Class A and O units)  
Renaissance Canadian T-Bill Fund (Class A and O units)  
Renaissance Short-Term Income Fund (Class A, F, and O Units)  
Renaissance Corporate Bond Capital Yield Fund3 (Class A, F, O and Premium Class Units)  
Renaissance Canadian Bond Fund (Class A, F, and O Units)  
Renaissance High-Yield Bond Fund (Class A, F, and O Units)  
Renaissance Real Return Bond Fund (Class A, F, and O Units)  
Renaissance Global Bond Fund (Class A, F, and O Units)  
Renaissance Corporate Bond Fund4 (Class O Units)  
Renaissance Canadian Balanced Fund (formerly Renaissance Canadian Balanced Value Fund) (Class A, F, and O Units)  
Renaissance Optimal Income Portfolio (Class A, F, O, T6, T8, Select, Select-T6, Select-T8, Elite, Elite-T6, and Elite-T8 Units)  
Renaissance Canadian Dividend Fund (formerly Renaissance Canadian Dividend Income Fund) (Class A, F, and O Units)  
Renaissance Diversified Income Fund (Class A, F, and O Units)  
Renaissance Canadian Monthly Income Fund (Class A, F, and O Units)  
Renaissance Millennium High Income Fund (Class A, F, and O Units)  
Renaissance Canadian Core Value Fund (Class A, F, and O Units)  
Renaissance Canadian Small-Cap Fund (Class A, F, and O Units)  
Renaissance Canadian Growth Fund (Class A, F, and O Units)  
Renaissance U.S. Equity Value Fund (Class A, F, and O Units)  
Renaissance U.S. Equity Growth Currency Neutral Fund (Class A, F, and O Units)  
Renaissance U.S. Equity Growth Fund (Class A, F, and O Units)  
Renaissance U.S. Equity Fund (Class A, F, and O Units)  
Renaissance International Dividend Fund (Class A, F, and O Units)  
Renaissance Global Growth Currency Neutral Fund (Class A, F, and O Units)  
Renaissance International Equity Fund (Class A, F, and O Units)  
Renaissance Global Focus Fund (Class A, F, and O Units)  
Renaissance International Equity Currency Neutral Fund (Class A, F, and O Units)  
Renaissance Global Focus Currency Neutral Fund (Class A, F, and O Units)  
Renaissance Global Markets Fund (Class A, F, and O Units)  
Renaissance Global Small-Cap Fund (Class A, F, and O Units)  
Renaissance Optimal Global Equity Portfolio (Class A, F, O, T4, T6, T8, Select, Select-T4,



Select-T6, Select-T8, Elite, Elite-T4, Elite-T6, and Elite-T8 units)  
 Renaissance European Fund (Class A, F, and O Units)  
 Renaissance Optimal Global Equity Currency Neutral Portfolio (Class A, F, O, T4, T6, T8, Select, Select-T4, Select-T6, Select-T8, Elite, Elite-T4, Elite-T6, and Elite-T8 units)  
 Renaissance Asian Fund (Class A, F, and O Units)  
 Renaissance Global Value Fund (Class A, F, and O Units)  
 Renaissance China Plus Fund (Class A, F, and O Units)  
 Renaissance Global Growth Fund (Class A, F, and O Units)  
 Renaissance Emerging Markets Fund (Class A, F, and O Units)  
 Renaissance Global Infrastructure Fund (Class A, F, and O Units)  
 Renaissance Global Health Care Fund (Class A, F, and O Units)  
 Renaissance Global Infrastructure Currency Neutral Fund (Class A, F, and O Units)  
 Renaissance Global Resource Fund (Class A, F, and O Units)  
 Renaissance Global Real Estate Fund (Class A, F, and O Units)  
 Renaissance Global Science & Technology Fund (Class A, F, and O Units)  
 Renaissance Global Real Estate Currency Neutral Fund (Class A, F, and O Units)  
 Axiom Balanced Income Portfolio (Class A, T4, T6, T8, Select, Select-T4, Select-T6, Select-T8, Elite, Elite-T4, Elite-T6, Elite-T8, F, and O units)  
 Axiom Canadian Growth Portfolio (Class A, T4, T6, T8, Select, Select-T4, Select-T6, Select-T8, Elite, Elite-T4, Elite-T6, Elite-T8, F, and O units)  
 Axiom Diversified Monthly Income Portfolio (Class A, T6, T8, Select, Select-T6, Select-T8, Elite, Elite-T6, Elite-T8, F, and O units)  
 Axiom Global Growth Portfolio (Class A, T4, T6, T8, Select, Select-T4, Select-T6, Select-T8, Elite, Elite-T4, Elite-T6, Elite-T8, F, and O units)  
 Axiom Balanced Growth Portfolio (Class A, T4, T6, T8, Select, Select-T4, Select-T6, Select-T8, Elite, Elite-T4, Elite-T6, Elite-T8, F, and O units)  
 Axiom Foreign Growth Portfolio (Class A, T4, T6, T8, Select, Select-T4, Select-T6, Select-T8, Elite, Elite-T4, Elite-T6, Elite-T8, F, and O units)  
 Axiom Long-Term Growth Portfolio (Class A, T4, T6, T8, Select, Select-T4, Select-T6, Select-T8, Elite, Elite-T4, Elite-T6, Elite-T8, F, and O units)  
 Axiom All Equity Portfolio (Class A, T4, T6, T8, Select, Select-T4, Select-T6, Select-T8, Elite, Elite-T4, Elite-T6, Elite-T8, F, and O units)  
 Principal Regulator - Ontario  
**Type and Date:**  
 Final Simplified Prospectuses dated October 14, 2010  
 NP 11-202 Receipt dated October 15, 2010  
**Offering Price and Description:**  
 -Class A, F and O Units  
 -Class T4, T6, T8, Select, Select-T4, Select-T6, Select-T8, Elite, Elite-T4, Elite-T6, and Elite-T8 units  
 -Premium units  
 -Premium Class units  
**Underwriter(s) or Distributor(s):**  
 CIBC Asset Management Inc.

**Promoter(s):**  
 CIBC Asset Management Inc.  
**Project #1611709**

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**Issuer Name:**  
 BMO Nesbitt Burns Canadian Stock Selection Fund (Class A, F and I units)  
 BMO Nesbitt Burns U.S. Stock Selection Fund (Class A and F units)  
 BMO Nesbitt Burns Bond Fund (Class A and F units)  
 BMO Nesbitt Burns Balanced Fund (Class A and F units)  
 BMO Nesbitt Burns International Equity Fund (Class A and F units)  
 BMO Nesbitt Burns Balanced Portfolio Fund (Class A and F units)  
 BMO Nesbitt Burns Growth Portfolio Fund (Class A and F units)  
 BMO Nesbitt Burns Maximum Growth Portfolio Fund (Class A and F units)  
 Principal Regulator - Ontario  
**Type and Date:**  
 Final Simplified Prospectuses dated October 15, 2010  
 NP 11-202 Receipt dated October 19, 2010  
**Offering Price and Description:**  
 Class A, F and I units)  
**Underwriter(s) or Distributor(s):**  
 BMO Nesbitt Burns Inc.  
**Promoter(s):**  
 -  
**Project #1635697**

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**Issuer Name:**  
 Biovest Corp. I  
 Principal Regulator - Ontario  
**Type and Date:**  
 Final CPC Prospectus dated October 13, 2010  
 NP 11-202 Receipt dated October 18, 2010  
**Offering Price and Description:**  
 \$500,000.00 (2,500,000 COMMON SHARES) Price: \$0.20 per Common Share Minimum Subscription (per person): 1,000 Common Shares (or such lesser amount at the discretion of Biovest Corp. I)  
**Underwriter(s) or Distributor(s):**  
 Loewen, Ondaatje, McCutcheon Limited  
**Promoter(s):**  
 Gerald Slemko  
**Project #1594014**

**Issuer Name:**

Connacher Oil and Gas Limited  
Principal Regulator - Alberta

**Type and Date:**

Final Short Form Prospectus dated October 15, 2010  
NP 11-202 Receipt dated October 15, 2010

**Offering Price and Description:**

\$22,040,000.00 - 15,200,000 Flow-Through Common  
Shares Per Flow-Through Share \$1.45

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

RBC Dominion Securities Inc.  
TD Securities Inc.  
Macquarie Capital Markets Canada Ltd.  
Raymond James Ltd.  
BMO Nesbitt Burns Inc.  
GMP Securities L.P.  
Scotia Capital Inc.

**Promoter(s):**

-

**Project #**1643692

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**Issuer Name:**

Exeter Resource Corporation  
Principal Regulator - British Columbia

**Type and Date:**

Final Short Form Prospectus dated October 19, 2010  
NP 11-202 Receipt dated October 19, 2010

**Offering Price and Description:**

\$50,003,000.00 - 8,065,000 Common Shares PRICE:  
\$6.20 PER COMMON SHARE

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

Canaccord Genuity Corp.  
TD Securities Inc.  
BMO Nesbitt Burns Inc.  
GMP Securities L.P.

**Promoter(s):**

-

**Project #**1643934

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**Issuer Name:**

Gemoscan Canada, Inc.

**Type and Date:**

Final Long Form Prospectus dated October 13, 2010  
Receipted on October 14, 2010

**Offering Price and Description:**

13,000,000 CLASS A SHARES

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

-

**Promoter(s):**

Brian Kalish

**Project #**1611980

**Issuer Name:**

Global Educational Trust Plan  
Principal Regulator - Ontario

**Type and Date:**

Amendment #1 dated September 28, 2010 to the Long  
Form Prospectus dated August 27, 2010  
NP 11-202 Receipt dated October 14, 2010

**Offering Price and Description:**

-

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

Global Educational Marketing Corporation

**Promoter(s):**

Global Educational Trust Foundation

**Project #**1609228

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**Issuer Name:**

Golden Minerals Company  
Principal Regulator - Ontario

**Type and Date:**

Final Short Form Prospectus dated October 15, 2010  
NP 11-202 Receipt dated October 15, 2010

**Offering Price and Description:**

US\$75,017,500.00 - 4,055,000 Shares of Common Stock  
Price: US\$18.50 per Share

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

Canaccord Genuity Corp.  
Dundee Securities Corporation  
Haywood Securities Inc.

**Promoter(s):**

-

**Project #**1643103

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**Issuer Name:**

GrowthWorks Canadian Fund Ltd.  
Principal Regulator - Ontario

**Type and Date:**

Amendment #2 dated October 7, 2010 to the Long Form  
Prospectus dated November 10, 2009  
NP 11-202 Receipt dated October 18, 2010

**Offering Price and Description:**

-

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

GrowthWorks Capital Ltd.

**Promoter(s):**

-

**Project #**1480584

**Issuer Name:**

Lydian International Limited  
Principal Regulator - Ontario

**Type and Date:**

Final Short Form Prospectus dated October 18, 2010  
NP 11-202 Receipt dated October 18, 2010

**Offering Price and Description:**

\$17,253,000.00 - 8,100,000 Ordinary Shares Price: \$2.13  
per Ordinary Share

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

Cormark Securities Inc.  
Dundee Securities Corporation  
Canaccord Genuity Corp.  
TD Securities Inc.  
Stifel Nicolaus Canada Inc.

**Promoter(s):**

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**Project #1643896**

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**Issuer Name:**

Otelco Inc.  
Principal Regulator - Ontario

**Type and Date:**

Final Base Shelf Prospectus dated October 15, 2010  
NP 11-202 Receipt dated October 15, 2010

**Offering Price and Description:**

U.S.\$56,000,000.00 (C\$56,604,800.00) - Income Deposit  
Securities (IDSs) representing shares of Common Stock  
and 13% Senior Subordinated Notes due 2019

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

-

**Promoter(s):**

-

**Project #1642297**

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**Issuer Name:**

Platinum Group Metals Ltd.  
Principal Regulator - British Columbia

**Type and Date:**

Final Short Form Prospectus dated October 18, 2010  
NP 11-202 Receipt dated October 18, 2010

**Offering Price and Description:**

Cdn\$125,050,000.00 - 61,000,000 Common Shares Price:  
Cdn\$2.05 per Offered Share

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

BMO Nesbitt Burns Inc.  
GMP Securities Inc.  
RBC Dominion Securities Inc.  
Raymond James Ltd.  
Stifel Nicolaus Canada Inc.

**Promoter(s):**

-

**Project #1643683**

**Issuer Name:**

Pure Industrial Real Estate Trust  
Principal Regulator - British Columbia

**Type and Date:**

Final Short Form Prospectus dated October 14, 2010  
NP 11-202 Receipt dated October 14, 2010

**Offering Price and Description:**

\$18,615,000.00 - 5,100,000 Units Price: \$3.65 Per Unit

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

Canaccord Genuity Corp.  
Dundee Securities Corporation  
RBC Dominion Securities Inc.  
National Bank Financial Inc.  
HSBC Securities (Canada) Inc.  
Raymond James Ltd.

**Promoter(s):**

Sunstone Industrial Advisors Inc.

**Project #1643274**

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**Issuer Name:**

Sandstorm Resources Ltd.  
Principal Regulator - British Columbia

**Type and Date:**

Final Short Form Prospectus dated October 13, 2010  
NP 11-202 Receipt dated October 14, 2010

**Offering Price and Description:**

\$50,000,620.00 - 68,494,000 Units Price: \$0.73 per Unit

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

Paradigm Capital Inc.  
Cormark Securities Inc.  
Canaccord Genuity Corp.  
CIBC World Markets Inc.

**Promoter(s):**

-

**Project #1643261**

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**Issuer Name:**

Sprott Global Equity Fund  
(Series A, F and I units)  
Sprott All Cap Fund  
(Series A, F and I units)  
Principal Regulator - Ontario

**Type and Date:**

Amendment #1 dated October 7, 2010 to the Simplified  
Prospectuses and Annual Information Form dated May 6,  
2010  
NP 11-202 Receipt dated October 19, 2010

**Offering Price and Description:**

-

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

-

**Promoter(s):**

SPROTT ASSET MANAGEMENT L.P.

**Project #1552586**

**Issuer Name:**

THE GOODWOOD CAPITAL FUND

Principal Regulator - Ontario

**Type and Date:**

Amendment #1 dated October 14, 2010 to the Simplified Prospectus and Annual Information Form dated February 22, 2010

NP 11-202 Receipt dated October 18, 2010

**Offering Price and Description:**

-

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

Goodwood Inc.

**Promoter(s):**

Goodwood Inc.

**Project #1523641**

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**Issuer Name:**

VentureLink Innovation Fund Inc.

**Type and Date:**

Final Long Form Prospectus dated October 14, 2010

Received on October 15, 2010

**Offering Price and Description:**

Class A Shares, Series III, Class A Shares Series IV and

Class A Shares, Series VI @ Net Asset Value

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

VL Advisors Inc.

**Promoter(s):**

VL Advisors Inc.

CFPA Sponsor Inc.,

**Project #1640082**

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**Issuer Name:**

Summus Capital Corp.

Principal Jurisdiction - Alberta

**Type and Date:**

Preliminary Long Form Prospectus dated June 25, 2010

Withdrawn on October 18, 2010

**Offering Price and Description:**

Minimum: 40,000,000.00 Units (\$10,000,000); Maximum:

80,000,000.00 Units (\$20,000,000) Price: \$0.25 per Unit

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

Mackie Research Capital Corporation

Jacob Securities Inc.

Wellington West Capital Markets Inc.

**Promoter(s):**

Jason Krueger

Alan Withey

**Project #1601143**

## Chapter 12

# Registrations

### 12.1.1 Registrants

Type	Company	Category of Registration	Effective Date
Change in Registration Category	Epic Capital Management Inc.	From: Exempt Market Dealer and Portfolio Manager  To: Exempt Market Dealer, Portfolio Manager, and Investment Fund Manager	October 14, 2010
Change of Category	Twenty-First Century Investments Inc.	From: Mutual Fund Dealer and Exempt Market Dealer  To: Exempt Market Dealer	October 14, 2010
Change in Registration Category	Periscope Capital Inc.	From: Exempt Market Dealer and Portfolio Manager  To: Exempt Market Dealer, Portfolio Manager, and Investment Fund Manager	October 14, 2010
Voluntary Surrender of Registration	AXA Rosenberg Investment Management LLC	Exempt Market Dealer	October 14, 2010
Change in Registration Category	Industrial Alliance Investment Management Inc.	From: Exempt Market Dealer and Portfolio Manager and Commodity Trading Manager  To: Exempt Market Dealer, Portfolio Manager, Commodity Trading Manager and Investment Fund Manager	October 15, 2010
New Registration	Merlin Canada Ltd.	Investment Dealer	October 15, 2010

**Registrations**

<b>Type</b>	<b>Company</b>	<b>Category of Registration</b>	<b>Effective Date</b>
Change in Registration Category	FI Capital Inc.	From: Exempt Market Dealer and Portfolio Manager  To: Exempt Market Dealer, Portfolio Manager, and Investment Fund Manager	October 15, 2010
Consent to Suspension	Lazard Frères & Co. LLC	Exempt Market Dealer	October 15, 2010
Consent to Suspension	Parklea Capital Inc.	Exempt Market Dealer	October 15, 2010
Change of Category	B.E.S.T. Investment Counsel Limited	From: Portfolio Manager and Investment Fund Manager  To: Exempt Market Dealer, Portfolio Manager and Investment Fund Manager	October 18, 2010

## Chapter 13

# SROs, Marketplaces and Clearing Agencies

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### 13.2 Marketplaces

#### 13.2.1 Chi-X Canada ATS Limited – Summary of Comments and Response

##### CHI-X CANADA ATS LIMITED NOTICE

##### SUMMARY OF COMMENTS AND RESPONSE FOR PROPOSED PRE-TRADE VALIDATION CHECKS

One comment letter was received from the Canadian Security Traders Association (CSTA) in response to Notice of Proposed Changes and Request for Feedback published September 17, 2010 in accordance with OSC Staff Notice 21-703 – *Transparency of the Operations of Stock Exchanges and Alternative Trading Systems*. This letter was supportive of the initiative to implement pre-trade validation checks into Chi-Controls risk management tools, stating that having exchange level risk management tools allows risk to be applied to all orders with a uniform level of latency which does not disadvantage certain participants over others. We thank the CSTA for its comments.

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## Chapter 25

# Other Information

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### 25.1 Requests for Permission

#### 25.1.1 Enel Green Power S.p.A. – s. 38(3)

October 15, 2010

Stikeman Elliott LLP  
Dauntsey House  
4B Frederick's Place  
London EC2R 8AB England

Attention: Kathryn McDonald

**Re: Enel Green Power S.p.A. (the "Issuer")  
Request for Permission under s. 38(3) of the  
Securities Act (Ontario)**

Further to your letter of October 13, 2010 (the "**Letter**"), we understand that:

1. A selling shareholder is proposing to make an offering of ordinary shares of the Issuer (the "**Shares**") to, among others, certain institutional investors in the United States and elsewhere outside the United States, including Ontario, Canada.
2. Prospective Ontario purchasers, who must be Accredited Investors and/or Permitted Clients in Ontario, will receive a Canadian offering memorandum that includes an international offering circular (the "**Offering Circular**") and a Canadian supplement.
3. The managers for the offering will rely on appropriate exemptions from the prospectus requirements, and will either rely on the "international dealer" exemption to the registration requirements, or will be appropriately registered under the *Securities Act* (Ontario), when distributing securities to residents of Ontario.
4. The Issuer intends to make applications for the Shares to be listed on the Bolsa de Madrid, Bolsa de Barcelona, Bolsa de Valencia and Bolsa de Bilbao, and on the Sistema de Interconexión Bursátil Espanol (collectively, the "**Exchanges**").
5. The Offering Circular will contain one or more representations identical or substantially similar to the following (the "**Listing Representations**"): *"The Company plans to submit applications for the Shares to be listed on the Bolsa de Madrid, Bolsa de Barcelona, Bolsa de Valencia and Bolsa de Bilbao, and on the Sistema de Interconexión Bursátil Espanol (SIBE)."*

6. The Exchanges have not granted approval for the admission or listing of the Shares to the respective Exchanges, conditional or otherwise, nor have they consented to, nor indicated that they do not object to the Listing Representations.
7. The Offering Circular discloses that all dealings in the Shares on the respective Exchanges are conditional on admission of the Shares to the respective Exchanges.
8. The Issuer seeks permission to include the Listing Representation in the Offering Circular to be provided to or made available to prospective Ontario purchasers.

Based upon the representations above and the representations contained in the Letter, permission is hereby granted pursuant to subsection 38(3) of the Securities Act (Ontario) to include the Listing Representation in the Offering Circular to be provided to or made available to prospective Ontario purchasers.

Yours very truly,

"Michael Brown"  
Assistant Manager, Corporate Finance Branch  
Ontario Securities Commission

**25.1.2 Giełda Papierów Wartościowych w Warszawie  
S.A. - s. 38(3)**

October 14, 2010

Stikeman Elliott LLP  
Dauntsey House  
4B Frederick's Place  
London EC2R 8AB England

Attention: Kathryn McDonald

**Re: Giełda Papierów Wartościowych w Warszawie  
S.A. – the Warsaw Stock Exchange (the  
“Issuer”)  
Request for Permission under s. 38(3) of the  
Securities Act (Ontario)**

Further to your letter of October 7, 2010 and email of October 13, 2010 (collectively, the “**Letter**”), we understand that:

1. A selling shareholder is proposing to make an offering of ordinary bearer series B shares of the Issuer (the “**Shares**”) to, among others, certain institutional investors in Poland, the United States and elsewhere outside the United States, including Ontario, Canada.
2. Prospective Ontario purchasers, who must be Accredited Investors and/or Permitted Clients in Ontario, will receive a Canadian offering memorandum that includes an international offering circular (the “**Offering Circular**”) and a Canadian supplement.
3. The managers for the offering will rely on appropriate exemptions from the prospectus requirements, and will either rely on the “international dealer” exemption to the registration requirements, or will be appropriately registered under the *Securities Act* (Ontario), when distributing securities to residents of Ontario.
4. The Issuer intends to make application to the Warsaw Stock Exchange (the “**WSE**”) for admission and introduction of the Shares on WSE’s Main Market and for their listing on WSE in the continuous trading system.
5. The Offering Circular will contain one or more representations identical or substantially similar to the following (the “**Listing Representations**”):  
*“The Company intends to apply for the admission and introduction of up to 26,786,530 ordinary bearer series B shares, including all of the Sale Shares, on WSE’s Main Market and for their listing on WSE in the continuous trading system. It is the Company’s intention that trading in the Shares on WSE will commence on November 9, 2010.”*
6. The WSE has not granted approval for the admission and introduction of the Shares to

WSE’s Main Market or for their listing on WSE in the continuous trading system, conditional or otherwise, nor have they consented to, nor indicated that they do not object to the Listing Representations.

7. The Offering Circular discloses that all dealings in the Shares on the WSE are conditional on admission of the Shares to the WSE.
8. The Issuer seeks permission to include the Listing Representation in the Offering Circular to be provided to or made available to prospective Ontario purchasers.

Based upon the representations above and the representations contained in the Letter, permission is hereby granted pursuant to subsection 38(3) of the *Securities Act* (Ontario) to include the Listing Representation in the Offering Circular to be provided to or made available to prospective Ontario purchasers.

Yours very truly,

“Michael Brown”  
Assistant Manager, Corporate Finance Branch  
Ontario Securities Commission

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