The Ontario Securities Commission

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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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Notices / News Releases

1.1 Notices

1.1.1 Current Proceedings Before The Ontario Securities Commission

November 5, 2010

CURRENT PROCEEDINGS

BEFORE

ONTARIO SECURITIES COMMISSION

- -

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

The Harry S. Bray Hearing Room
Ontario Securities Commission
Cadillac Fairview Tower
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Patrick J. LeSage	—	PJL
Carol S. Perry	—	CSP
Charles Wesley Moore (Wes) Scott	—	CWMS

SCHEDULED OSC HEARINGS

November 8, 2010 10:00 a.m.	**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** s. 127 H. Craig in attendance for Staff Panel: MGC
November 8, 2010 10:00 a.m.	**Global Energy Group, Ltd. and New Gold Limited Partnerships** s. 127 H. Craig in attendance for Staff Panel: MGC
November 12, 2010 10:00 a.m.	**Imagin Diagnostic Centres Inc., Patrick J. Rooney, Cynthia Jordan, Allan McCaffrey, Michael Shumacher, Christopher Smith, Melvyn Harris and Michael Zelyony** s. 127 and 127.1 J. Feasby in attendance for Staff Panel: MGC/MCH
November 18, 2010 10:00 a.m.	**QuantFX Asset Management Inc., Vadim Tsatskin, Lucien Shtromvaser and Rostislav Zemlinsky** s. 127 H. Craig in attendance for Staff Panel: TBA

November 22, 2010
10:00 a.m.
Georges Benarroch, Linda Kent, Marjorie Ann Glover and Credifinance Securities Limited
s. 21.7
A. Heydon in attendance for Staff
Panel: JDC/CSP

November 23, 2010
2:30 p.m.
Majestic Supply Co. Inc., Suncastle Developments Corporation, Herbert Adams, Steve Bishop, Mary Kricfalusi, Kevin Loman and CBK Enterprises Inc.
s. 37, 127 and 127.1
D. Ferris in attendance for Staff
Panel: TBA

November 29, 2010
9:30 a.m.
Irwin Boock, Stanton Defreitas, Jason Wong, Saudia Allie, Alena Dubinsky, Alex Khodjiaints Select American Transfer Co., Leasesmart, Inc., Advanced Growing Systems, Inc., International Energy Ltd., Nutrione Corporation, Pocketop Corporation, Asia Telecom Ltd., Pharm Control Ltd., Cambridge Resources Corporation, Compushare Transfer Corporation, Federated Purchaser, Inc., TCC Industries, Inc., First National Entertainment Corporation, WGI Holdings, Inc. and Enerbrite Technologies Group
s. 127 and 127.1
H. Craig in attendance for Staff
Panel: MGC

November 29, 2010
10:00 a.m.
Paladin Capital Markets Inc., John David Culp and Claudio Fernando Maya
s. 127
C. Price in attendance for Staff
Panel: JEAT

November 29, 2010
10:00 a.m.
Abel Da Silva
s. 127
M. Boswell in attendance for Staff
Panel: JDC

November 30, 2010
10:00 a.m.
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

November 30, 2010
2:30 p.m.
Locate Technologies Inc., Tubtron Controls Corp., Bradley Corporate Services Ltd., 706166 Alberta Ltd., Lorne Drever, Harry Niles, Michael Cody and Donald Nason
s. 127
A. Heydon in attendance for Staff
Panel: JDC

December 1-3 and December 8-17, 2010
10:00 a.m.
Coventree Inc., Geoffrey Cornish and Dean Tai
s. 127
J. Waechter in attendance for Staff
Panel: JEAT/MGC/PLK

December 2, 2010
9:30 a.m.
Richvale Resource Corp., Marvin Winick, Howard Blumenfeld, Pasquale Schiavone, and Shafi Khan
s. 127(7) and 127(8)
H. Craig in attendance for Staff
Panel: TBA

December 3, 2010
9:00 a.m.
Shaun Gerard McErlean, Securus Capital Inc., and Acquiesce Investments
s. 127
M. Britton in attendance for Staff
Panel: MGC

December 7, 2010 2:00 p.m.	**Mega–C Power Corporation, Rene Pardo, Gary Usling, Lewis Taylor Sr., Lewis Taylor Jr., Jared Taylor, Colin Taylor and 1248136 Ontario Limited**
December 8, 2010 10:00 a.m.	s. 127 M. Britton/J.Feasby in attendance for Staff Panel: JDC/KJK
December 9-10, 2010 10:00 a.m.	**Sextant Capital Management Inc., Sextant Capital GP Inc., Otto Spork, Robert Levack and Natalie Spork** s. 127 T. Center in attendance for Staff Panel: JDC/CSP
December 15-16, 2010 10:00 a.m.	**Questrade Inc.** s. 21.7 A. Heydon in attendance for Staff Panel: JDC/CSP
January 7, 2011 2:30 p.m.	**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** s. 127 H. Craig in attendance for Staff Panel: TBA
January 10, January 12-21, 2011 10:00 a.m.	**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, Networth Financial Group Inc., and Networth Marketing Solutions** s. 127 and 127.1 H. Daley in attendance for Staff Panel: TBA
January 10, January 12-21, January 26 – February 1, 2011 10:00 a.m.	**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** s. 127 A. Perschy/C. Rossi in attendance for Staff Panel: TBA
January 17-21, 2011 10:00 a.m.	**Merax Resource Management Ltd. carrying on business as Crown Capital Partners, Richard Mellon and Alex Elin** s. 127 H. Craig in attendance for Staff Panel: TBA
January 25, 2011 2:00 p.m.	**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
January 26, 2011 10:00 a.m.	**Rezwealth Financial Services Inc., Pamela Ramoutar, Chris Ramoutar, Justin Ramoutar, Tiffin Financial Corporation, Daniel Tiffin, 2150129 Ontario Inc. and Sylvan Blackett** s. 127(1) and (5) A. Heydon in attendance for Staff Panel: CSP
January 31 – February 7, February 9-18, February 23, 2011 10:00 a.m.	**Anthony Ianno and Saverio Manzo** s. 127 and 127.1 A. Clark in attendance for Staff Panel: TBA

January 31, February 1-7, February 9-11, 2011 10:00 a.m.	**Nest Acquisitions and Mergers, IMG International Inc., Caroline Myriam Frayssignes, David Pelcowitz, Michael Smith, and Robert Patrick Zuk** s. 37, 127 and 127.1 C. Price in attendance for Staff Panel: TBA
February 8, 2011 2:30 p.m.	**Ameron Oil and Gas Ltd. and MX-IV, Ltd.** s. 127 M. Boswell in attendance for Staff Panel: TBA
February 11, 2011 10:00 a.m.	**Shallow Oil & Gas Inc., Eric O'Brien, Abel Da Silva, Gurdip Singh Gahunia aka Michael Gahunia and Abraham Herbert Grossman aka Allen Grossman** s. 127(7) and 127(8) M. Boswell in attendance for Staff Panel: TBA
February 14-18, February 23-28, March 7, March 9-11, March 28-31, 2011 10:00 a.m.	**Agoracom Investor Relations Corp., Agora International Enterprises Corp., George Tsiolis and Apostolis Kondakos (a.k.a. Paul Kondakos)** s. 127 T. Center in attendance for Staff Panel: TBA
February 14-18, February 23 – March 1, 2011 10:00 a.m.	**Nelson Financial Group Ltd., Nelson Investment Group Ltd., Marc D. Boutet, Stephanie Lockman Sobol, Paul Manuel Torres, H.W. Peter Knoll** s. 127 P. Foy in attendance for Staff Panel: TBA
February 25, 2011 10:00 a.m.	**Hillcorp International Services, Hillcorp Wealth Management, Suncorp Holdings, 1621852 Ontario Limited, Steven John Hill, and Danny De Melo** s. 127 A. Clark in attendance for Staff Panel: TBA
March 1-7, March 9-11, March 21 and March 23-31, 2011 10:00 a.m.	**Paul Donald** s. 127 C. Price in attendance for Staff Panel: TBA
March 7, 2011 10:00 a.m.	**Firestar Capital Management Corp., Kamposse Financial Corp., Firestar Investment Management Group, Michael Ciavarella and Michael Mitton** s. 127 H. Craig in attendance for Staff Panel: TBA
March 21 and March 23-31, 2011 May 2 and May 4-16, 2011 10:00 a.m.	**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** s. 127 H. Craig in attendance for Staff Panel: TBA
March 30, 2011 10:00 a.m.	**Oversea Chinese Fund Limited Partnership, Weizhen Tang and Associates Inc., Weizhen Tang Corp., and Weizhen Tang** s. 127 and 127.1 M. Britton in attendance for Staff Panel: TBA

April 4 and April 6-7, 2011 April 11-18 and April 20, 2011 10:00 a.m.	**Uranium308 Resources Inc., Michael Friedman, George Schwartz, Peter Robinson, and Shafi Khan** s. 127 M. Boswell in attendance for Staff Panel: TBA
April 4 and April 6-15, 2011 10:00 a.m.	**New Life Capital Corp., New Life Capital Investments Inc., New Life Capital Advantage Inc., New Life Capital Strategies Inc., 1660690 Ontario Ltd., L. Jeffrey Pogachar, Paola Lombardi and Alan S. Price** s. 127 M. Britton in attendance for Staff Panel: TBA
April 5, 2011 2:30 p.m.	**Lehman Brothers & Associates Corp., Greg Marks, Kent Emerson Lounds and Gregory William Higgins** s. 127 H. Craig in attendance for Staff Panel: TBA
April 11-18, April 20-21 and April 26-29, 2011 10:00 a.m.	**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** s. 127 Y. Chisholm in attendance for Staff Panel: JDC
April 26-27, 2011 10:00 a.m.	**Biovail Corporation, Eugene N. Melnyk, Brian H. Crombie, John R. Miszuk and Kenneth G. Howling** s. 127(1) and 127.1 J. Superina, A. Clark in attendance for Staff Panel: JEAT/PLK/MGC
June 6-8, 2011 10:00 a.m.	**Lehman Brothers & Associates Corp., Greg Marks, Kent Emerson Lounds and Gregory William Higgins** s. 127 H. Craig in attendance for Staff Panel: TBA
September 12-19 and September 21-30, 2011 10:00 a.m.	**FactorCorp Inc., FactorCorp Financial Inc. and Mark Twerdun** s. 127 C. Price in attendance for Staff Panel: TBA
TBA	**Yama Abdullah Yaqeen** s. 8(2) J. Superina in attendance for Staff Panel: TBA
TBA	**Microsourceonline Inc., Michael Peter Anzelmo, Vito Curalli, Jaime S. Lobo, Sumit Majumdar and Jeffrey David Mandell** s. 127 J. Waechter in attendance for Staff Panel: TBA
TBA	**Frank Dunn, Douglas Beatty, Michael Gollogly** s. 127 K. Daniels in attendance for Staff Panel: TBA

TBA

MRS Sciences Inc. (formerly Morningside Capital Corp.), Americo DeRosa, Ronald Sherman, Edward Emmons and Ivan Cavric

s. 127 and 127(1)

D. Ferris in attendance for Staff

Panel: TBA

TBA

Goldpoint Resources Corporation, Lino Novielli, Brian Moloney, Evanna Tomeli, Robert Black, Richard Wylie and Jack Anderson

s. 127(1) and 127(5)

M. Boswell in attendance for Staff

Panel: TBA

TBA

Goldbridge Financial Inc., Wesley Wayne Weber and Shawn C. Lesperance

s. 127

C. Johnson in attendance for Staff

Panel: TBA

TBA

Borealis International Inc., Synergy Group (2000) Inc., Integrated Business Concepts Inc., Canavista Corporate Services Inc., Canavista Financial Center Inc., Shane Smith, Andrew Lloyd, Paul Lloyd, Vince Villanti, Larry Haliday, Jean Breau, Joy Statham, David Prentice, Len Zielke, John Stephan, Ray Murphy, Alexander Poole, Derek Grigor and Earl Switenky

s. 127 and 127.1

Y. Chisholm in attendance for Staff

Panel: TBA

TBA

Innovative Gifting Inc., Terence Lushington, Z2A Corp., and Christine Hewitt

s. 127

M. Boswell in attendance for Staff

Panel: TBA

TBA

Gold-Quest International, 1725587 Ontario Inc. carrying on business as Health and Harmoney, Harmoney Club Inc., Donald Iain Buchanan, Lisa Buchanan and Sandra Gale

s. 127

H. Craig in attendance for Staff

Panel: TBA

TBA

Lyndz Pharmaceuticals Inc., James Marketing Ltd., Michael Eatch and Rickey McKenzie

s. 127(1) and (5)

J. Feasby in attendance for Staff

Panel: TBA

TBA

M P Global Financial Ltd., and Joe Feng Deng

s. 127 (1)

M. Britton in attendance for Staff

Panel: TBA

TBA

Peter Robinson and Platinum International Investments Inc.

s. 127

M. Boswell in attendance for Staff

Panel: TBA

TBA

Sunil Tulsiani, Tulsiani Investments Inc., Private Investment Club Inc., and Gulfland Holdings LLC

s. 127

J. Feasby in attendance for Staff

Panel: TBA

TBA

Shane Suman and Monie Rahman

s. 127 and 127(1)

C. Price in attendance for Staff

Panel: JEAT/PLK

TBA	**Gold-Quest International, Health and Harmoney, Iain Buchanan and Lisa Buchanan** s. 127 H. Craig in attendance for Staff Panel: JEAT/CSP/SA
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	**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	**Juniper Fund Management Corporation, Juniper Income Fund, Juniper Equity Growth Fund and Roy Brown (a.k.a. Roy Brown-Rodrigues)** s. 127 and 127.1 D. Ferris in attendance for Staff Panel: TBA

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. Boultbee and Peter Y. Atkinson

1.1.2 CSA Staff Notice 31-321 – Further Omnibus / Blanket Orders Exempting Registrants from Certain Provisions of National Instrument 31-103 Registration Requirements and Exemptions

CSA STAFF NOTICE 31-321

FURTHER OMNIBUS / BLANKET ORDERS
EXEMPTING REGISTRANTS FROM CERTAIN PROVISIONS OF
NATIONAL INSTRUMENT 31-103 REGISTRATION REQUIREMENTS AND EXEMPTIONS

Since the coming into force of National Instrument 31-103 *Registration Requirements and Exemptions* (NI 31-103), the Canadian Securities Administrators (the CSA or we) have received requests for relief from certain provisions of NI 31-103. The CSA is in the process of considering certain amendments to NI 31-103 and these provisions will be reconsidered in the course of the amendments process.

In the interim, each of the CSA members has issued parallel orders (the "orders") that provide relief:

- from the requirement under section 13.2(2)(b) of NI 31-103 to establish whether a client is an insider in respect of trades of securities listed in section 7.1(2)(b) or (c) of NI 31-103; and

- from the requirement under section 13.2(3)(b)(i) of NI 31-103 to establish the identity of any individual who owns or controls more than 10% of the voting rights attached to the voting securities of a corporation that is a client of a mutual fund dealer.

This Notice summarizes the orders. We are publishing the orders with this Notice. The orders are also available on websites of CSA members, including:

www.lautorite.qc.ca

www.albertasecurities.com

www.bcsc.bc.ca

www.msc.gov.mb.ca

www.gov.ns.ca/nssc

www.nbsc-cvmnb.ca

www.osc.gov.on.ca

www.sfsc.gov.sk.ca

1. Relief from the requirement under section 13.2(2)(b) of NI 31-103 to establish whether a client is an insider

Section 13.2(2)(b) of NI 31-103 provides that a registrant must take reasonable steps to establish whether a client is an insider of a reporting issuer or any other issuer whose securities are publicly traded. On February 26, 2010, each regulator issued an order that exempts a mutual fund dealer from section 13.2(2)(b). This order is revoked and replaced by parallel orders issued by the CSA which will take effect on November 5, 2010.

Considering that it is unlikely for a trade in securities listed in sections 7.1(2)(b) or 7.1(2)(c) of NI 31-103 to give rise to insider trading concerns, the new order provides that section 13.2(2)(b) does not apply to a registrant in respect of a client so long as the registrant only trades securities for that client that are listed in those sections.

The securities listed in sections 7.1(2)(b) and 7.1(2)(c) of NI 31-103 are the following:

- mutual funds;

- except in Québec, investment funds that are labour-sponsored investment fund corporations or labour-sponsored venture capital corporations under legislation of a jurisdiction of Canada; and

- securities of a scholarship plan, an educational plan or an educational trust.

We remind registrants that they remain subject to the requirement in section 13.2(2)(b) when they trade any other securities than those listed in sections 7.1(2)(b) and 7.1(2)(c) of NI 31-103.

2. Relief from the requirement under section 13.2(3)(b)(i) of NI 31-103 for mutual fund dealers

As part of the know your client requirements, section 13.2(3)(b)(i) of NI 31-103 requires a registrant to collect information about the identity of any individual who owns or controls more than 10% of the voting rights attached to the voting securities of a corporate client. The purpose of this requirement is to identify the client, and if there is cause for concern, to make reasonable inquiries as to the reputation of the client in order to protect market integrity.

Considering that mutual fund dealers trade primarily in publicly offered mutual funds which have restrictions on investments and that these dealers are required to identify any person who owns or controls 25% or more of the shares of a corporate client under the *Proceeds of Crime (Money Laundering) and Terrorist Financing Act* (Canada), compliance with section 13.2(3)(b)(i) of NI 31-103 presents significant costs that exceed any investor benefit.

Since investment fund managers are not subject to section 13.2 of NI 31-103, registration of a mutual fund dealer in this category does not preclude use of this relief.

Each regulator has therefore issued an order that exempts a mutual fund dealer from the application of the requirements of section 13.2(3)(b)(i) of NI 31-103, provided that:

- the mutual fund dealer is not registered in any other category of registration other than investment fund manager; and
- the mutual fund dealer complies with the provisions of the *Proceeds of Crime (Money Laundering) and Terrorist Financing Act (Canada)* requiring them to identify any person who owns or controls 25% or more of the shares of a corporate client.

Questions

If you have questions regarding this Notice or the orders please direct them to any of the following:

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November 5, 2010

1.3 News Releases

1.3.1 Canadian Securities Regulators Seek Comments on Proposed Over-the-Counter Derivatives Regulation

FOR IMMEDIATE RELEASE
November 2, 2010

CANADIAN SECURITIES REGULATORS SEEK COMMENTS
ON PROPOSED OVER-THE-COUNTER DERIVATIVES REGULATION

Montréal – The Canadian Securities Administrators (CSA) is seeking input from the financial industry and the public in relation to the CSA's proposals regarding the regulation of over-the-counter (OTC) derivatives. The proposals were today released in CSA Consultation Paper 91-401 – *Over-the-Counter Derivatives Regulation in Canada*.

The CSA consultation paper is related to Canada's response to the G20's commitments to develop more robust oversight of the financial markets, including OTC derivatives. After its summit in Pittsburgh in 2009, the G20 said:

- All standardized OTC derivative contracts should be traded on exchanges or electronic trading platforms, where appropriate, and cleared through central counterparties by end-2012 at the latest.
- OTC derivative contracts should be reported to trade repositories.
- Non-centrally cleared contracts should be subject to higher capital requirements.

"As an active participant in the global financial markets, it is fundamental for Canada to respect its G20 commitments" said Jean St-Gelais, Chair of the CSA and President and Chief Executive Officer of the Autorité des marchés financiers (Quebec). "The comments received from this consultation will help the CSA to develop appropriate legislative and regulatory proposals for Canada's OTC derivatives markets."

The consultation paper summarizes recommendations that are intended to strengthen the regulation of Canada's financial markets and manage specific risks related to OTC derivatives. The CSA aims to implement Canada's G20 commitments in a manner appropriate for the Canadian markets and harmonize regulatory oversight to the extent possible with international jurisdictions.

The CSA is encouraging the public to comment on the consultation paper's recommendations generally and to respond to specific issues raised in the paper. These issues include :

- mandatory reporting of all derivatives trades by Canadian counterparties to a trade repository;
- Provincial regulators obtain regulatory authority to mandate electronic trading of OTC derivative products in the near term. Such power should, in time, only be used to mandate the electronic trading of those products which are capable of being traded on an organized trading platform (e.g. products which are sufficiently standardized and liquid) and which pose a systemic risk to the market;
- the mandatory central clearing of OTC derivatives that are determined to be appropriate for clearing, and capable of being cleared;
- the use of a risk-based approach by imposing capital and collateral requirements to reflect appropriately the risks that an entity assumes; and,
- exemptions from the regulatory proposals outlined in this paper for defined categories of end-users.

Copies of the consultation paper are available on the following websites: Alberta Securities Commission, Autorité des marchés financiers, British Columbia Securities Commission, Manitoba Securities Commission, New Brunswick Securities Commission, Ontario Securities Commission and Saskatchewan Financial Services Commission.

The Consultation Paper 91-401 comment period for all stakeholders is open until January 14, 2011.

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:

Theresa Ebden
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416-593-8307

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Ken Gracey
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Wendy Connors-Beckett
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Natalie MacLellan
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Barbara Shourounis
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Janice Callbeck
PEI Securities Office
Office of the Attorney General
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709-729-2594

Graham Lang
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867-667-5466

Louis Arki
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867-975-6587

Donn MacDougall
Northwest Territories
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867-920-8984

1.4 Notices from the Office of the Secretary

1.4.1 Sulja Bros. Building Supplies, Ltd. et al.

FOR IMMEDIATE RELEASE
October 29, 2010

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

AND

IN THE MATTER OF
SULJA BROS. BUILDING SUPPLIES, LTD.,
PETAR VUCICEVICH, KORE INTERNATIONAL MANAGEMENT INC., ANDREW DEVRIES,
STEVEN SULJA, PRANAB SHAH,
TRACEY BANUMAS, AND SAM SULJA

TORONTO – The Panel released the following Reasons and Decision in the above noted matter:

1. Reasons and Decision dated October 28, 2010 following the hearing held on September 13 and 14, 2010 with respect to the respondents, Petar Vucicevich, Tracey Banumas and Pranab Shah.

2. Reasons and Decision dated October 28, 2010 following the hearing held on September 24, 2010 with respect to the respondents, Steven Sulja and Sam Sulja.

A copy of the above Reasons and Decision are available at **www.osc.gov.on.ca**.

OFFICE OF THE SECRETARY
JOHN P. STEVENSON
SECRETARY

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Robert Merrick
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416-593-2315

For investor inquiries:

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

1.4.2 Sulja Bros. Building Supplies, Ltd. et al.

FOR IMMEDIATE RELEASE
October 29, 2010

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

AND

IN THE MATTER OF
SULJA BROS. BUILDING SUPPLIES, LTD.,
PETAR VUCICEVICH, KORE INTERNATIONAL MANAGEMENT INC., ANDREW DEVRIES,
STEVEN SULJA, PRANAB SHAH,
TRACEY BANUMAS, AND SAM SULJA

TORONTO – Take notice that a sanctions hearing is scheduled to commence on Tuesday, November 30, 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
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1.4.3 Shaun Gerard McErlean et al.

FOR IMMEDIATE RELEASE
October 29, 2010

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

AND

**IN THE MATTER OF **
SHAUN GERARD MCERLEAN,
SECURUS CAPITAL INC., AND
ACQUIESCE INVESTMENTS

TORONTO – The Commission issued a Temporary Order in the above named matter which provides that the Temporary Order be extended to December 6, 2010 and the hearing in this matter be adjourned to December 3, 2010 at 9:00 a.m.

A copy of the Temporary Order dated October 27, 2010 is available at **www.osc.gov.on.ca**.

OFFICE OF THE SECRETARY
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1.4.4 Maple Leaf Investment Fund Corp. et al.

FOR IMMEDIATE RELEASE
November 1, 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 – Staff of the Ontario Securities Commission filed an Amended Statement of Allegations dated October 29, 2010 with the Office of the Secretary in the above noted matter.

A copy of the Amended Statement of Allegations dated October 29, 2010 is available at **www.osc.gov.on.ca**.

OFFICE OF THE SECRETARY
JOHN P. STEVENSON
SECRETARY

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**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**

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

Staff of the Ontario Securities Commission (the "Commission") make the following allegations:

I. OVERVIEW

1. This proceeding relates to the sale of securities of Maple Leaf Investment Fund Corp. ("MLIF") to over 80 investors. Staff allege that the MLIF securities were sold to investors in breach of the *Securities Act*, R.S.O. 1990, c.S.5, as amended (the "Act") and in a manner that was contrary to the public interest.

2. Staff allege that the conduct at issue transpired during the period June 2007 up to and including April 2009 ("Material Time").

II. BACKGROUND

A. The Corporate Respondents

3. None of the corporate respondents were registered with the Commission in any capacity during the Material Time.

4. MLIF is an Ontario company incorporated on January 11, 2007. MLIF purports to be an investment company. During the Material Time, MLIF represented to investors that MLIF was going to construct and operate a hotel, casino and condominiums on the island of Curaçao in the Netherlands Antilles in the Caribbean (the "Project").

5. Tulsiani Investments Inc. ("Tulsiani Investments") is an Ontario company incorporated on May 28, 2007. Tulsiani Investments purports to offer investors high-yield revenue properties that hold great potential for growth. During the period of at least December 2008 up to and including January 2009, Tulsiani Investments operated an investment club named Private Investment Club ("PIC") which provided investment opportunities to fee paying members.

B. The Individual Respondents

6. None of the individual respondents were registered in any capacity with the Commission during the Material Time.

7. Joe Henry Chau, also known as Henry Joe Chau, Shung Kai Chow and Henry Shung Kai Chow ("Chau") was a resident of Markham, Ontario during part of the Material Time. Chau is the president, chief executive officer and a director of MLIF.

8. Sunil Tulsiani ("Sunil") is a resident of Brampton, Ontario. Sunil is the president and a director of Tulsiani Investments.

9. Ravinder Tulsiani ("Ravinder") is a resident of Brampton, Ontario. From at least December 2008 up to and including January 2009, Ravinder was the chief executive officer and a director of Tulsiani Investments. Ravinder is a former registrant in various capacities, whose registration with the Commission ended on April 25, 2006.

C. The Sale and Promotion of MLIF securities

10. From June 2007 up to and including January 2009, MLIF and Chau sold four series of MLIF bonds to the public, namely the 100, 200, 300 and 400 bond series. In particular, Chau and MLIF:

    a. maintained a website for MLIF promoting the Project and MLIF bonds;

    b. placed advertisements in newspapers promoting the MLIF bonds;

    c. employed and/or contracted tele-marketers to promote and sell MLIF bonds;

    d. conducted seminars and meetings and provided written materials to investors promoting the Project and MLIF bonds;

    e. accepted funds from investors for the purchase of MLIF bonds;

    f. drafted and provided forms to investors for the purchase of MLIF bonds, including subscription agreements (the "Forms"); and/or

    g. assisted and directed investors on how to complete the Forms.

11. From December 2008 up to and including January 2009, Sunil, Ravinder and Tulsiani Investments sold the MLIF 400 bond series to the public, mainly to PIC members. In particular, Sunil, Ravinder and/or Tulsiani Investments:

a. invited potential investors to attend meetings and/or seminars to learn about the MLIF bond series;

b. made representations to potential investors about the bonds at meetings, seminars and/or in emails;

c. accepted funds from investors for the purchase of bonds and delivered the funds to a lawyer to be placed in his trust account;

d. controlled the use of investor funds; and/or

e. assisted and directed investors on how to complete forms relating to the bonds;

12. In addition, in selling the MLIF 400 bond series, Sunil and Tulsiani Investments provided advice to potential investors with regard to the MLIF 400 bond series, including providing opinions on the merits of the investments and their level of risk and by expressly or impliedly recommending or endorsing them.

13. In total, Chau, MLIF, Sunil, Ravinder and Tulsiani Investments raised over $4.5 million from the sale of MLIF bonds to over 80 investors. Approximately $1.4 million of this amount was returned to investors as "interest" and/or "redemptions".

TRADING IN SECURITIES OF MLIF

14. Staff allege that, in relation to the conduct referred to above, Chau, MLIF, Sunil, Ravinder and Tulsiani Investments traded in securities of MLIF and that Sunil and Tulsiani Investments advised investors to invest in MLIF securities.

15. The sale of MLIF bonds referred to above were trades in securities not previously issued and were therefore distributions. MLIF has never filed a preliminary prospectus or a prospectus with the Commission, and no prospectus receipt has ever been issued to qualify the sale of MLIF securities.

16. During the Material Time, none of Chau, MLIF, Sunil, Ravinder or Tulsiani Investments was registered with the Commission to trade in securities and none of Sunil or Tulsiani Investments was registered with the Commission to advise in securities.

PROHIBITED REPRESENTATIONS

17. Staff allege that Chau and MLIF made prohibited representations to investors with the intention of effecting a trade in securities of MLIF or shares of other companies represented to be associated with MLIF, that such security would be listed on a stock exchange. In particular,

a. Chau and MLIF represented to potential investors of MLIF bonds that the bonds were convertible into MLIF founder shares or other MLIF shares which shares would be listed on the Toronto Stock Exchange ("TSX") or TSX Venture Exchange; and/or

b. Chau and MLIF represented to potential investors of MLIF founder shares or other MLIF shares or the shares of other companies represented to be associated with MLIF that MLIF expected that these shares would be listed on the TSX or TSX Venture Exchange.

FRAUDULENT CONDUCT

18. Staff allege that Chau and MLIF engaged in acts, practices or courses of conduct relating to securities that they knew or reasonably ought to have known perpetrated a fraud on investors and that was contrary to the public interest by:

a. making representations to investors in the 100 or 200 bond series, which they knew or reasonably ought to have known were false, inaccurate and misleading, that:

i. investor funds would be placed in a GIC at the TD Bank or another bank, where they would remain for a two year term;

ii. investor funds would be placed in a GIC at the TD Bank or another bank until needed to pay for the purchase of land for the Project;

iii. investor funds were to be used as collateral to assist MLIF in obtaining a construction loan for the Project;

iv. investors would be paid interest on their bonds, partly from the GIC at the TD Bank or another bank and partly from MLIF; and/or

v. that their principal and at least part of the interest on their bonds was guaranteed and/or at very little or no risk;

b. failing to maintain investor funds in the 100 and/or 200 bond series in GICs as represented to investors and cashing the GICs shortly after purchasing them;

c. paying amounts purporting to be "interest" to investors in the 100, 200, 300 and/or 400 bond series in the absence of any revenue, profit or retained earnings by MLIF;

d. paying earlier investors "interest" and "redemptions" with new investor funds;

e. using investor funds, in part, for Chau's personal purposes and for purposes unrelated to the Project; and/or

f. failing to disclose to investors and potential investors relevant information about MLIF, the Project and/or MLIF bonds.

STAFF'S ALLEGATIONS – Conduct Contrary to Ontario Securities Law and Contrary to the Public Interest

19. The specific allegations advanced by Staff are:

a. Chau, MLIF, Sunil, Ravinder and Tulsiani Investments traded in securities of MLIF without being registered to trade in securities, contrary to section 25(1)(a) of the Act and contrary to the public interest;

b. Sunil and Tulsiani Investments engaged in advising with respect to investing in securities of MLIF without being registered to advise in securities, contrary to section 25(1)(c) of the Act and contrary to the public interest;

c. Chau and MLIF made representations without the written permission of the Director, with the intention of effecting a trade in securities of MLIF that such security would be listed on a stock exchange or quoted on any quotation and trade reporting system, contrary to section 38(3) of the Act and contrary to the public interest;

d. Chau and MLIF traded in securities of MLIF when a preliminary prospectus and a prospectus had not been filed and receipts had not been issued for them by the Director, contrary to section 53(1) of the Act and contrary to the public interest;

e. Chau and MLIF engaged or participated in acts, practices or courses of conduct relating to MLIF securities that Chau and MLIF knew or reasonably ought to have known perpetrated a fraud on persons or companies, contrary to section 126.1(b) of the Act and contrary to the public interest;

f. Chau being a director and officer of MLIF, did authorize, permit or acquiesce in the commission of the violations of sections 25, 38, 53 and 126.1 of the Act, by MLIF; and

g. Sunil and Ravinder, being directors of Tulsiani Investments did authorize, permit or acquiesce in the commission of the violations of section 25 of the Act, set out above, by Tulsiani Investments.

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

Dated at Toronto this 29th day of October, 2010

1.4.5 Biovail Corporation et al.

FOR IMMEDIATE RELEASE
November 2, 2010

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

AND

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

TORONTO – Take notice that a sanctions hearing in the above named matter is scheduled to commence on Tuesday, April 26, 2011 at 10:00 a.m. and shall continue on April 27, 2011, or such other dates as may be agreed to by the parties and fixed by the Secretary to the Commission.

OFFICE OF THE SECRETARY
JOHN P. STEVENSON
SECRETARY

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Chapter 2

Decisions, Orders and Rulings

2.1 Decisions

2.1.1 TD Split Inc.

Headnote

National Policy 11-203 – Process for Exemptive Relief Applications in Multiple Jurisdictions – Exemptive relief granted to an exchange traded fund from certain mutual fund requirements and restrictions on; investments, calculation and payment of redemptions, preparation of compliance reports, and date of record for payment of distributions – Since investors will generally buy and sell units through the TSX, there are adequate protections and it would not be prejudicial to investors – National Instrument 81-102 – Mutual Funds.

Applicable Legislative Provisions

National Instrument 81-102 Mutual Funds, ss. 2.1(1), 10.3, 10.4(1), 12.1(1), 14.1, 19.1.

October 27, 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
TD SPLIT INC.

DECISION

Background

The principal regulator in the Jurisdiction has received an application from TD Split Inc. (the "**Filer**") for a decision under the securities legislation of the Jurisdiction of the principal regulator (the "**Legislation**") under National Policy 11-203 *Process for Exemptive Relief Applications in Multiple Jurisdictions* for relief from the following sections of National Instrument 81-102 *Mutual Funds* ("**NI 81-102**") with respect to the class C preferred shares, series 1 (the "**Preferred Shares**") and class C capital shares, series 1 (the "**Capital Shares**") proposed to be issued by the Filer as described in a preliminary prospectus dated September 27, 2010 (the "**Preliminary Prospectus**"):

(a) subsection 2.1(1), which prohibits a mutual fund from purchasing a security of an issuer if, immediately after the transaction, more than 10 percent of the net assets of the mutual fund, taken at market value at the time of the transaction, would be invested in securities of the issuer;

(b) section 10.3, which requires that the redemption price of a security of a mutual fund to which a redemption order pertains shall be the net asset value of a security of that class, or series of class, next determined after the receipt by the mutual fund of the order;

(c) subsection 10.4(1), which requires that a mutual fund shall pay the redemption price for securities that are the subject of a redemption order within three business days after the date of calculation of the net asset value per security used in establishing the redemption price;

(d) subsection 12.1(1), which requires a mutual fund that does not have a principal distributor to complete and file a compliance report, and accompanying letter of the auditor, in the form and within the time period mandated by subsection 12.1(1); and

(e) section 14.1, which requires that the record date for determining the right of securityholders of a mutual fund to receive a dividend or distribution by the mutual fund shall be calculated in accordance with section 14.1

("**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 Multinational Instrument 11-102 *Passport System* ("**MI 11-102**") is intended to be relied upon in the jurisdictions of British Columbia, Alberta, Saskatchewan, Manitoba, Quebec, New Brunswick, Nova Scotia, Prince Edward Island, and Newfoundland and Labrador.

Interpretation

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

Representations

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

The Filer

1. The Filer was incorporated under the *Business Corporations Act* (Ontario) on July 31, 2000 and completed an initial public offering of class A capital shares ("**Class A Capital Shares**") and class A preferred shares ("**Class A Preferred Shares**") on September 7, 2000.

2. The registered and head offices of the Filer and its investment fund manager are in Toronto, Ontario.

3. All of the Class A Preferred Shares and Class A Capital Shares were redeemed by the Filer on November 15, 2005 in accordance with their terms. On November 15, 2005, the Filer completed a $95,699,824 public offering through the issuance of 1,700,000 class B preferred shares (the "**Class B Preferred Shares**") at $28.10 per share and 1,700,000 class B capital shares (the "**Class B Capital Shares**") at $31.16 per share in order to maintain the leveraged "split share" structure of the Filer such that there would be an equal number of Class B Preferred Shares and Class B Capital Shares outstanding after that offering.

4. Currently there are 712,861 Class B Capital Shares and 712,861 Class B Preferred Shares issued and outstanding.

5. The Filer is offering Preferred Shares and Capital Shares pursuant to the Preliminary Prospectus (the "**Offering**"). The Filer will make the Offering to the public pursuant to a final prospectus in respect of which the Preliminary Prospectus has already been filed.

6. The Class B Capital Shares and the Class B Preferred Shares will be delisted from trading on The Toronto Stock Exchange (the "**TSX**") and the Capital Shares and Preferred Shares are expected to be listed and posted for trading on the TSX on November 15, 2005. Pursuant to the provisions attaching to the Class B Capital Shares and Class B Preferred Shares, all the issued and outstanding Class B Capital Shares and Class B Preferred Shares will be redeemed by the Filer on November 15, 2010 in accordance with their terms. An application requesting conditional listing approval has been made by the Filer to the TSX.

7. The Filer is a passive investment company whose principal investment objective is to invest in a portfolio of common shares (the "**TD Bank Shares**") of The Toronto-Dominion Bank in order to generate fixed cumulative preferential distributions for holders of the Filer's Preferred Shares and to allow the holders of the Filer's Capital Shares to participate in the capital appreciation of the TD Bank Shares after payment of administrative and operating expenses of the Filer. It will be the policy of the Board of Directors of the Filer to pay dividends on the Capital Shares in an amount equal to the dividends received by the Filer on the TD Bank Shares minus the distributions payable on the Preferred Shares and all administrative and operating expenses of the Filer.

8. The net proceeds from the Offering will be used by the Filer to fund the purchase of additional TD Bank Shares. Holders of Preferred Shares and Capital Shares will have no voting rights with respect to the TD Bank Shares.

9. The policy of the Filer is to maintain a fixed portfolio and not engage in trading except in limited circumstances, including to fund retractions of Preferred Shares and Capital Shares.

10. Preferred Share distributions will be funded from the dividends received on the TD Bank Shares. If necessary, any shortfall in the distributions on the Preferred Shares will be funded by proceeds from the sale of TD Bank Shares.

11. The record date for the payment of Preferred Share distributions, Capital Share dividends or other distributions of the Filer will be set in accordance with the applicable requirements of the TSX.

12. The Capital Shares and Preferred Shares may be surrendered for retraction at any time. Retraction payments for Capital Shares and Preferred Shares will be made on the Retraction Payment Date (as defined in the Preliminary Prospectus) provided the Capital Shares and the Preferred Shares have been surrendered for retraction at least 10 business days prior to the Retraction Payment Date (as defined in the Preliminary Prospectus). While the Filer's Unit Value (as defined in the Preliminary Prospectus) is calculated weekly, the retraction price for the Capital Shares and the Preferred Shares will be determined based on the Unit Value in effect as at the Valuation Date (as defined in the Preliminary Prospectus).

13. Any outstanding Capital Shares or Preferred Shares will be redeemed by the Filer on November 15, 2015.

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 is that the Exemption Sought is granted as follows:

(a) subsection 2.1(1) – to enable the Filer to invest all of its net assets in the TD Bank Shares, provided that the Filer does not become an insider of The Toronto-Dominion Bank as a result of such investment;

(b) section 10.3 – to permit the Filer to calculate the retraction price for the Capital Shares and Preferred Shares in the manner described in the Preliminary Prospectus and on the applicable Valuation Date as defined in the Preliminary Prospectus;

(c) subsection 10.4(1) – to permit the Filer to pay the retraction price for the Capital Shares and Preferred Shares on the Retraction Payment Date, as defined in the Preliminary Prospectus;

(d) subsection 12.1(1) – to relieve the Filer from the requirement to file the prescribed compliance reports; and

(e) section 14.1 – to relieve the Filer from the requirement relating to the record date for the payment of dividends or other distributions on the Capital Shares and Preferred Shares, provided that it complies with the applicable requirements of the TSX.

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

2.1.2 Franklin Templeton Investments Corp. and Franklin Templeton Canadian Small Cap Fund

Headnote

National Policy 11-203 Process for Exemptive Relief Applications in Multiple Jurisdictions – Approval of mutual fund mergers – approval required because merger does not meet the criteria for pre-approved reorganizations and transfers in National Instrument 81-102 – the merger will not be a "qualifying exchange" or a tax-deferred transaction under the Income Tax Act (Canada) – unitholders of terminating fund provided with timely and adequate disclosure regarding the merger.

Applicable Legislative Provisions

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

October 28, 2010

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

AND

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

AND

IN THE MATTER OF
FRANKLIN TEMPLETON INVESTMENTS CORP.
(the "Manager")

AND

FRANKLIN TEMPLETON CANADIAN
SMALL CAP FUND (the "Terminating Fund")

DECISION

Background

The principal regulator in the Jurisdiction has received an application (the "Application") from the Manager and the Terminating Fund (together, the "Filers") for a decision under the securities legislation of the Jurisdiction of the principal regulator (the "Legislation") for approval of the merger (the "Merger") of the Terminating Fund into the Continuing Fund (as defined below) under section 5.5(1)(b) of National Instrument 81-102 ("NI 81-102") (the "Exemption Sought").

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

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

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

Interpretation

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

"Continuing Fund" means Bissett Small Cap Fund;

"Effective Date" means the close of business on November 26, 2010 or as soon as practicable thereafter;

"Fund" or **"Funds"** means, individually or collectively, the Terminating Fund and the Continuing Fund; and

"Tax Act" means the *Income Tax Act* (Canada).

Representations

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

1. The Manager is a corporation existing under the laws of Ontario. The Manager is the manager of each of the Funds. The registered head office of the Manager is located in Toronto, Ontario.

2. Each of the Funds is an open-ended mutual fund trust established under the laws of Ontario by declarations of trust.

3. Units of the Funds are currently qualified for sale by a simplified prospectus and annual information form dated June 14, 2010, as amended September 13, 2010, which has been filed and receipted in the Jurisdiction and each of the Non-Principal Jurisdictions.

4. Each of the Funds is a reporting issuer in the Jurisdiction and each of the Non-Principal Jurisdictions. Neither the Filers nor the Continuing Fund is in default of the securities legislation in the Jurisdiction or in any of the Non-Principal Jurisdictions.

5. Other than circumstances in which the principal regulator or the securities regulatory authority of a Non-Principal Jurisdiction has expressly exempted a Fund therefrom, each of the Funds follows the standard investment restrictions and practices set out in NI 81-102.

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

7. The Manager intends to merge the Terminating Fund into the Continuing Fund.

8. Pursuant to the Merger, unitholders of the Terminating Fund will receive units with the same value and in the same series of the Continuing Fund as they currently own in the Terminating Fund.

9. Unitholders of the Terminating Fund will be asked to approve the Merger at a meeting to be held on November 19, 2010.

10. The Funds' independent review committee ("IRC") has reviewed and made a positive recommendation with respect to the Merger, having determined that the Merger, if implemented, achieves a fair and reasonable result for the Terminating Fund. The decision of the IRC has been included in the notice of meeting as required by section 5.1(2) of National Instrument 81-107.

11. If the approval of the unitholders of the Terminating Fund is not received at the special meeting in respect of a Merger, the Merger will not proceed. However, in the view of the Manager, because continued operation of the Terminating Fund is no longer viable, if the Merger is not approved by the unitholders, the Terminating Fund will be wound up and terminated on or about December 29, 2010.

12. All costs attributable to the Merger (consisting primarily of legal, proxy solicitation, printing and mailing costs) will be borne by the Manager and will not be borne by the Terminating Fund or the Continuing Fund.

13. Unitholders of the Terminating Fund will continue to have the right to redeem units of the Terminating Fund for cash at any time up to the close of business on the business day immediately before the Effective Date. The management information circular mailed to unitholders of the Terminating Fund discloses that a unitholder's deferred sales charge schedule is not changed or eliminated as a result of the Merger, and that investors who redeem their units of the Terminating Fund may be subject to redemption charges as outlined in the simplified prospectus.

14. Effective as of the close of business on November 19, 2010, the Terminating Fund will cease distribution of units (except purchases under existing pre-authorized chequing plans). Following the Merger, all systematic investment programs and systematic withdrawal programs, like pre-authorized chequing plans and systematic withdrawal programs that had been established

with respect to the Terminating Fund, will be re-established on a series-for-series basis in the Continuing Fund unless a unitholder advises the Manager otherwise. Unitholders may change or cancel any systematic program at any time and unitholders of the Terminating Fund who wish to establish one or more systematic programs in respect of their holdings in the Continuing Fund may do so following the Merger.

15. A material change report, press release and amendments to the simplified prospectus and annual information form, which gave notice of the proposed Merger, were filed via SEDAR on September 13, 2010.

16. A notice of meeting, management information circular and a proxy in connection with the meeting of unitholders were mailed to unitholders of the Terminating Fund and filed via SEDAR on October 25, 2010.

17. On October 7, 2005, in connection with a prior fund merger, the Manager received an exemption from the requirement to deliver:

    (a) the Franklin Templeton Investment Funds simplified prospectus to security-holders of terminating funds in connection with all future mergers of mutual funds managed by the Manager (the "Future Mergers") pursuant to paragraph 5.6(1)(f)(ii) of NI 81-102; and

    (b) the most recent annual and interim financial statements of the continuing fund to securityholders of the terminating funds in connection with all Future Mergers pursuant to paragraph 5.6(1)(f)(ii) of NI 81-102;

    (the relief outlined in (a) and (b) is referred to as the "Prospectus and Financial Statement Delivery Relief").

18. In accordance with the conditions of the Prospectus and Financial Statement Delivery Relief, the material sent to unitholders of the Terminating Fund included a tailored simplified prospectus consisting of:

    (a) the current Part A of the simplified prospectus of the Continuing Fund, and

    (b) the current Part B of the simplified prospectus of the Continuing Fund.

19. In accordance with the conditions of the Prospectus and Financial Statement Delivery Relief,

    (a) the information circular sent to unitholders in connection with the Merger provided sufficient information about the Merger to permit unitholders to make an informed decision about the Merger;

    (b) each of the Terminating Fund and the Continuing Fund has an unqualified audit report in respect of its last completed financial period;

    (c) the information circular sent to unitholders in connection with the Merger prominently discloses that unitholders can obtain the most recent interim and annual financial statements of the Continuing Fund by accessing the SEDAR website at www.sedar.com, by accessing the Manager's website at www.franklintempleton.ca, by calling a toll-free number or by contacting the Manager at service@franklintempleton.ca; and

    (d) upon request by a unitholder for financial statements, the Manager will make best efforts to provide the unitholder with financial statements of the Continuing Fund in a timely manner so that the unitholder can make an informed decision regarding the Merger.

20. Provided the necessary unitholder and regulatory approvals are obtained, the Terminating Fund will merge into the Continuing Fund on the close of business on the Effective Date.

21. Following the Merger, the Continuing Fund will continue as a publicly offered open-end mutual fund governed by the laws of Ontario.

22. No sales charges will be payable in connection with the exchange of units of the Terminating Fund into units of the Continuing Fund.

23. The proposed Merger will be implemented pursuant to the following steps:

    (a) Unitholders of the Terminating Fund are being asked to approve the merger of the Terminating Fund into the Continuing Fund. The Merger is conditional on the majority of the unitholders of the Terminating Fund that cast their votes voting for the approval of the Merger and on regulatory approval. If the necessary approvals are obtained, the Manager will carry out the following steps to complete the Merger.

    (b) Because the investment objective and strategy of the Terminating and Continuing Fund are the same, it is expected that the Terminating Fund will transfer all of its assets which will consist

of cash and portfolio securities, less an amount required to satisfy the liabilities of the Terminating Fund to the Continuing Fund in exchange for units of the Continuing Fund.

(c) The Terminating Fund will distribute to its unitholders sufficient net income and net realized capital gains so that it will not be subject to tax under the Tax Act for its taxation year ending on the Merger.

(d) Immediately following the above-noted transfer, each outstanding unit of the Terminating Fund will be exchanged on a dollar-for-dollar basis into an equivalent series of the Continuing Fund, so that the unitholders of the Terminating Fund shall become direct unitholders of the Continuing Fund holding the identical series of units.

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

24. Approval of the Merger is required because the Merger does not satisfy all of the criteria for pre-approved reorganizations and transfers set out in section 5.6 of NI 81-102, as the Merger will not be a "qualifying exchange" or a tax-deferred transaction under the Tax Act.

25. The Merger cannot be carried out as a "qualifying exchange" within the meaning of section 132.2 of the Tax Act or a tax-deferred transaction under subsection 85(1), 85.1(1), 86(1) or 87(1) of the Tax Act because the Terminating Fund does not currently qualify as a "mutual fund trust" under the Tax Act.

26. Except as noted herein, the Merger will otherwise comply with all of the other criteria for pre-approved reorganizations and transfers set out in section 5.6 of NI 81-102.

27. The Filers submit that the Merger will result in the following benefits:

(a) The Continuing Fund qualifies as a "mutual fund trust" for tax purposes while the Terminating Fund does not so qualify;

(b) There will be a savings in brokerage charges over a straight liquidation of the portfolio of units of the Terminating Fund if it was terminated;

(c) The Merger will eliminate the administrative and regulatory costs of operating the Terminating Fund as a separate mutual fund; and

(d) The Continuing Fund will have a portfolio of greater value, allowing for increased portfolio diversification opportunities.

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.

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

2.1.3 Western Areas NL

Headnote

Application under Section 104(2)(c) of the Securities Act (Ontario) and Part 9 of Multilateral Instrument 61-101 – exemption from sections 94 to 94.8 and 97 to 98.7 of the Securities Act (Ontario) and Part 3 of MI 61-101 – issuer bid by Australian issuer to holders of convertible bonds – despite a limited connection to Canada, Filer does not technically fit within the foreign issuer bid exemption because Canadians hold approximately 13% of the outstanding bonds subject to the issuer bid – holders of bonds resident in Canada are sophisticated institutions – offer subject to conditions, including requirement that Canadians are entitled to participate in the bid on terms at least as favourably as the terms that apply to the general body of bondholders.

Applicable Legislative Provisions

Securities Act, R.S.O. 1990, c. S.5, as am., ss. 94 to 94.8, 97 to 98.7, 104(2)(c).
OSC Rule 62-504 – Take-over Bids and Issuer Bids.
MI 61-101 Protection of Minority Security Holders in Special Transactions.

October 22, 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
WESTERN AREAS NL
(the Filer)

DECISION

Background

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

(a) exemptions from sections 94 to 94.8 and 97 to 98.7 of the *Securities Act* (Ontario) (the "**Act**"), as listed in Appendix "D" of Multilateral Instrument 11-102 – *Passport System* ("**MI 11-102**") and the related provisions set out in the regulations to the Act, relating to, among other things, commencement and delivery of an issuer bid circular and any notices of change or variation thereto, minimum deposit periods and withdrawal rights, take-up of and payment for securities tendered to an issuer bid, disclosure, restrictions upon purchases of securities, formal valuation, identical consideration and collateral benefits (the "**Issuer Bid Exemption**"); and

(b) exemptive relief from Part 2 of Multilateral Instrument 61-101 – *Protection of Minority Security Holders in Special Transactions* (**MI 61-101**) as it would otherwise apply to the Offer (as defined below) (the "**61-101 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 MI 11-102 is intended to be relied upon in each of British Columbia, Alberta, Manitoba, Saskatchewan, Québec, Nova Scotia, New Brunswick, Newfoundland and Labrador and Prince Edward Island.

Interpretation

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

Representations

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

1.1 The Filer is a company limited by shares incorporated under the Australian *Corporations Act 2001* (Cth) on December 24, 1999. The registered office of the Filer is located at Suite 3, Level 1, 11 Ventnor Avenue, West Perth WA 6005, Australia.

1.2 The Filer is a reporting issuer in British Columbia, Alberta, Saskatchewan, Manitoba, Ontario, New Brunswick, Nova Scotia, Prince Edward Island, Newfoundland and, to the best of its knowledge, is not in default of securities legislation in any Jurisdiction.

1.3 The Filer is authorized to issue an unlimited number of Ordinary Shares. The Ordinary Shares are listed for trading on the TSX and the Australian Stock Exchange (the "**ASX**") under the symbol "WSA". As at the date of this Application, there are 179,735,899 Ordinary Shares issued and outstanding. On the date prior to the date of this Application, the TSX closing price for an Ordinary Share was C$6.35 and the ASX closing price for an Ordinary Share was A$6.51.

1.4 On June 29, 2007, the Filer issued an aggregate principal amount of A$225,000,000 of unsecured convertible bonds (the "**Bonds**") in an international private placement to institutional investors, including certain Canadian "accredited investors". The Bonds bear interest at 8.0% per annum, payable semi-annually, and will mature and be fully payable on July 2, 2012. The Bonds are convertible at any time prior to maturity at the holders' option at a conversion rate of one Ordinary Share per A$8.06 of principal amount, subject to certain adjustments as set out in the terms and conditions of the Bonds.

1.5 Upon issuance, the Bonds were listed as specialist debt securities by Singapore Stock Exchange Trading Limited (the "**SGX-ST**").

1.6 To date, no Ordinary Shares have been issued pursuant to the conversion rights of the Bonds, as the conversion of a principal amount of A$11,500,000 was settled in cash. As at the date of this Application, the conversion rights of approximately 92.6% of the aggregate principal amount of the Bonds have not been exercised.

1.7 Based on information provided by the clearing systems, as at the date of the Application, there were three Canadian accountholders holding Bonds, holding in the aggregate approximately A$28,000,000 principal amount of the Bonds, which represents approximately 13% of the total issued and outstanding Bonds.

1.8 The Filer intends to launch an offer to the holders of all the issued and outstanding Bonds (the "**Offer**"). Pursuant to the Offer, holders of the Bonds will be given the option to (i) exchange their Bonds for new unsecured convertible bonds ("**New Bonds**") or (ii) retain their Bonds until maturity. The terms of the Offer will be contained in an offer memorandum which will be provided to existing holders of the Bonds.

1.9 The Filer expects the terms of the New Bonds to include an extension of the term for repayment of principal by two years to July 2, 2014 with an interest rate of 6.375% per annum, payable semi-annually and a conversion price of A$7.7125.

1.10 The Offer will constitute an "issuer bid" under the Legislation solely because these debt securities are convertible, notwithstanding that the current conversion prices are significantly "out of the money". The exemptions from the Issuer Bid Requirements contained in the Legislation are not available to the Filer.

1.11 An issuer bid is also subject to "issuer bid" requirements of MI 61-101 and no exemption from those requirements is available to the Filer.

1.12 The Filer is an Australian incorporated issuer and the principal trading market for its Ordinary Shares is the ASX, where approximately 93% of the trading of its Ordinary Shares occurred in the past 12 months.

1.13 The Bonds have a limited connection to Canada, with a listing on the SGX-ST and the large majority of the holders being resident outside of Canada. There are only three Canadian accountholders holding Bonds resident in Canada, all of whom the Company believes to be large institutional investors.

1.14 The Filer intends to make the Offer to all holders of the Bonds in accordance with applicable foreign laws.

1.15 All holders of the Bonds will be treated equally and will be offered the opportunity to participate in the Offer, to the extent permitted by applicable legislation. Should a holder not wish to participate in the Offer, such holder can retain its existing Bonds.

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 Issuer Bid Exemption is granted provided that:

(a) the Filer will not exchange Bonds for New Bonds upon request by a Canadian holder without first obtaining from such holder written confirmation that such holder: (a) is an "eligible institutional investor" as defined in National Instrument 62-103 *The Early Warning System and Related Take-Over Bid and Insider Reporting Issues* and, (b) understands that the Offer does not comply with the issuer bid requirements of applicable Canadian securities laws,

(b) Bondholders resident in Canada are entitled to participate in the Offer on terms at least as favourably as the terms that apply to the general body of Bondholders, and

(c) at the same time as material relating to the bid is sent by or on behalf of the Filer to Bondholders, the material is filed and sent to Bondholders whose last address as shown on the books of the Filer is in Canada or who are known to the Filer to be resident in Canada.

"James Turner"
Commissioner
Ontario Securities Commission

"Margot Howard"
Commissioner
Ontario Securities Commission

The decision of the principal regulator under the Legislation is that the 61-101 Exemption is granted provided the Filer complies with the conditions of the Issuer Bid Exemption.

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

2.1.4 General Motors Company

Headnote

National Policy 11-203 Process for Exemptive Relief Applications in Multiple Jurisdictions – relief from registration and prospectus requirements in connection with the use of electronic roadshow materials – cross-border offering of securities – conducting offer in typical U.S. manner leads to non-compliance with Canadian regime – relief granted from sections 25 and 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, 74.
National Policy 47-201 Trading Securities Using the Internet and Other Electronic Means, s. 2.7.

October 29, 2010

IN THE MATTER OF
THE SECURITIES LEGISLATION OF
THE PROVINCE OF ONTARIO
(THE JURISDICTION)

AND

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

AND

IN THE MATTER OF
GENERAL MOTORS COMPANY
(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 a decision exempting the posting of certain roadshow materials on one or more commercial services such as www.retailroadshow.com and/or www.netroadshow.com during the "waiting period" from the prospectus requirement and the registration requirement under the Legislation (collectively, the **Exemption Sought**).

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

(a) the Ontario Securities Commission (the **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* (**M1 11-102**) is intended to be relied on in British Columbia, Alberta, Saskatchewan, Manitoba, Québec, New Brunswick, Nova Scotia, Prince Edward Island, Newfoundland and Labrador, The Northwest Territories, Yukon and Nunavut (collectively, the **Passport Jurisdictions** and together with the Jurisdiction, the **Canadian Jurisdictions**).

Interpretation

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

Representations

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

1. The Filer was incorporated under the laws of the State of Delaware on August 11, 2009.

2. The Filer's principal office is located at 300 Renaissance Center, Detroit, Michigan, 48265-3000, United States of America.

3. The Filer is proposing an initial public offering of shares of its Series B preferred stock and a secondary offering of shares of its common stock (collectively, the **Offered Shares**) in Canada and the United States. It is anticipated that the proposed initial and secondary public offerings (the **Offerings**) will result in the common stock and Series B preferred stock of the Applicant being listed on the New York Stock Exchange and the common stock of the Applicant being listed on the Toronto Stock Exchange.

4. On August 18, 2010 the Filer filed a registration statement with the U.S. Securities and Exchange Commission (the **SEC**) in respect of the Offerings, and filed an amendment thereto on September 23, 2010, in order to register the Offered Shares under the U.S. Securities Act of 1933, as amended (the **1933 Act**).

5. On August 18, 2010 the Filer filed preliminary MJDS prospectuses in each of the provinces and territories of Canada in respect of the Offerings.

6. On September 23, 2010 the Filer filed amended and restated preliminary MJDS prospectuses in each of the provinces and territories of Canada in respect of the Offerings.

7. On October 14, 2010 the Filer filed further amended and restated preliminary MJDS prospectuses in each of the provinces and territories of Canada in respect of the Offerings.

8. On October 25, 2010 the Filer filed further amended and restated preliminary MJDS prospectuses in each of the provinces and territories of Canada in respect of the Offerings.

9. The Filer also intends to file further amended and restated preliminary MJDS prospectuses in connection with the Offerings in Canada (the **Further Amended Preliminary Prospectuses**) and to commence the marketing of the Offerings in both Canada and the U.S. after a receipt is obtained evidencing receipt of the Further Amended Preliminary Prospectuses from the Commission under MI 11-102 filed after the date of this order.

10. The Filer intends to use electronic roadshow materials (the **Website Materials**) to promote the Offerings, as is now typical for initial public offerings in the United States.

11. Compliance with U.S. securities laws for typical initial public offerings (that is, offerings by an issuer not already subject to SEC reporting requirements), 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 Electronic Data-Gathering Analysis and Retrieval System (known by its acronym, **EDGAR**), which will have the same effect of affording unrestricted access. We understand that, in practice, making documents "available without restriction" means that no restrictions on access or viewing may be imposed, both with respect to persons inside and outside of the United States.

12. The Filer and its underwriters wish to carry out the Offerings in a manner that is typical for public offerings in the United States by posting the Website Materials on an Internet-based commercial service such as www.retailroadshow.com or www.netroadshow.com, without password or other restriction.

13. Applicable securities laws in Canada do not permit the Website Materials to be made generally available to the public without restriction during the waiting period. Thus, absent relief, the Filer could not conduct the Offerings in the United States in the typical manner and comply with Canadian securities laws at the same time.

14. The Website Materials will contain a statement informing readers that the Website Materials do not contain all of the information in the Further Amended Preliminary Prospectuses, or any amendment thereto, or the final MJDS prospectuses (the **Final Prospectuses**), or any amendment thereto, and that prospective purchasers should review all of those documents, in addition to the Website Materials, for complete information regarding the Offered Shares.

15. The Filer will include a hyperlink in the Website Materials to the documents referred to in paragraph 14, if and when such documents are filed.

16. The Website Materials will be fair and balanced.

17. The Filer will state in the Website Materials, any amendment to the Further Amended Preliminary Prospectuses filed after the date of this order and in the Final Prospectuses that, in connection with the information contained in the Website Materials posted on one or more commercial sites, such as such as www.retailroadshow.com and/or www.netroadshow.com, purchasers of the Offered Shares in the Canadian Jurisdictions will have a contractual right against the Filer and the Canadian underwriters.

18. All information about the Filer's securities will be contained in the Further Amended Preliminary Prospectuses and will be contained in the Final Prospectuses.

19. At least one underwriter signing the Further Amended Preliminary Prospectuses, and any amendments thereto, and the Final Prospectuses, and any amendments thereto, will be registered in each of the Canadian Jurisdictions

20. Canadian purchasers will only be able to purchase the Offered Shares through an underwriter that is registered in the respective Canadian Jurisdiction of residence of the Canadian purchaser, unless an applicable exemption from the registration requirements is available.

21. The Filer acknowledges that the Exemption Sought relates only to the posting of Website Materials on one or more commercial services, such as www.retailroadshow.com and/or www.netroadshow.com, and not in respect of the Further Amended Preliminary Prospectuses and the Final Prospectuses.

22. The Filer is not in default of securities legislation.

Decision

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

The decision of the principal regulator under the Legislation is that the Exemption Sought is granted provided that:

1. Each amendment to the amended and restated preliminary MJDS prospectuses after the date of this order, the Final Prospectuses, and any amendment thereto, state that purchasers of shares of common stock or Series B preferred stock, as applicable, in each of the provinces and territories of Canada have a contractual right of action against the Filer 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 or www.netroadshow.com under the heading "General Motors Company" during the period prior to obtaining a final receipt for the final MJDS prospectus relating to this offering (the "**Final Prospectus**") from the securities regulatory authorities in each of the provinces and territories of Canada. In order to give purchasers in each of the provinces and territories of Canada 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 authority in each of the provinces and territories of Canada. 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 a province or territory of Canada who purchases the shares offered hereby pursuant to the Final Prospectus during the period of distribution shall have, without regard to whether the purchaser relied on the misrepresentation, rights against us and each Canadian underwriter with respect to such misrepresentation as are equivalent to the rights under section 130 of the *Securities Act* (Ontario) or the comparable provision of the securities legislation of the particular province or territory where that purchaser is resident, as the case may be, subject to the defences, limitations and other terms thereof, as if such misrepresentation were contained in the Final Prospectus.

2. The Website Materials will not include comparables unless the comparables are also included in the Further Amended Preliminary Prospectuses, including any amendments to it, that is filed prior to the Website Materials being made available.

"Mary G. Condon"
Commissioner
Ontario Securities Commission

"Paulette L. Kennedy"
Commissioner
Ontario Securities Commission

2.1.5 Seven Seas Capital Management Inc. and Seven Seas Capital Appreciation Fund

Headnote

National Policy 11-203 Process for Exemptive Relief Applications in Multiple Jurisdictions – exemptions granted from the mutual fund conflict of interest investment restrictions of the Securities Act (Ontario) and self-dealing prohibition of National Instrument 31-103 Registration Requirements and Exemptions to permit pooled funds to invest with fund-on-fund structure in other pooled funds, including limited partnerships.

Applicable Legislative Provisions

Securities Act, R.S.O. 1990, c. S.5, as am., ss. 111(2)(b), 111(2) (c) (i) and (ii), 111(3), 113.
National Instrument 31-103 Registration Requirements and Exemptions, ss. 13.5(2)(a), 15.1 111(3), 113.

October 26, 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
SEVEN SEAS CAPITAL MANAGEMENT INC.
(the Filer)

AND

SEVEN SEAS CAPITAL APPRECIATION FUND

DECISION

Background

The principal regulator in the Jurisdiction has received an application from the Filer on its behalf and on behalf of Seven Seas Capital Appreciation Fund (the **First Top Fund**) and other mutual funds to be established by the Filer from time to time (together with the First Top Fund, the **Top Funds**), none of which are reporting issuers, that will invest their assets in the Seven Seas Capital Appreciation Fund LP (the **First Underlying Fund**) and other investment funds which are not reporting issuers, established, advised and managed by the Filer after the date hereof (together with the First Underlying Fund, the **Underlying Funds**), for a decision under the securities legislation of the Jurisdiction of the principal regulator (the **Legislation**) exempting the Top Funds and the Filer from:

(a) the restriction in the Legislation which prohibits a mutual fund from knowingly making or holding an investment in a person or company in which the mutual fund, alone or together with one or more related mutual funds, is a substantial security holder;

(b) the restriction in the Legislation which prohibits a mutual fund from knowingly making or holding an investment in an issuer in which any officer or director of the mutual fund, its management company or distribution company or an associate of any of them has a significant interest;

(c) the restriction in the Legislation which prohibits a mutual fund from knowingly making or holding an investment in an issuer in which any person or company who is a substantial security holder of the mutual fund, its management company or its distribution company has a significant interest; and

(d) the restriction in the Legislation which prohibits a registered adviser from knowingly causing an investment portfolio managed by it, including an investment fund for which it acts as an adviser, to purchase a security of an issuer in which

a responsible person or an associate of a responsible person is an officer or a director unless the specific fact is disclosed to the client and the written consent to the investment is obtained before the purchase.

(Paragraphs (a), (b) and (c) together are referred to as the **Related Issuer Relief**; paragraph (d) is the **Related Party Relief**.)

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

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

(b) in respect of the Related Issuer Relief, 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 Alberta; and

(c) in respect of the Related Party Relief, Filer has provided notice that Subsection 4.7(1) of MI 11-102 is intended to be relied upon in British Columbia, Alberta, Saskatchewan, Manitoba, Québec, New Brunswick, Nova Scotia, Prince Edward Island, Newfoundland and Labrador, the Northwest Territories, Nunavut and Yukon Territory (together with the Jurisdiction, the **Relief Jurisdictions**).

Interpretation

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

Representations

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

The Manager

1. The Filer is a corporation incorporated under the laws of the Province of Ontario with its head office located in Toronto, Ontario.

2. The Filer is registered as a portfolio manager, exempt market dealer and investment fund manager in the Province of Ontario and has applied for registration as an exempt market dealer in the Provinces of British Columbia, Alberta and Québec.

3. The Filer will be the portfolio manager for the Top Funds and the Underlying Funds (together, the **Funds**) and, as such, will be responsible for making investment decisions on behalf of the Funds. Furthermore, the Filer assists or will assist in the marketing of the Funds and acts, or will act, as a distributor of securities of the Funds not otherwise sold through another registered dealer.

4. The Filer will be the investment fund manager of each Top Fund and of each Underlying Fund.

The Top Funds

5. Each of the Top Funds is or will be organized under the laws of Ontario and is or will be a “mutual fund in Ontario” under the Ontario Act and a “mutual fund” under the *Securities Act* (Alberta).

6. The Top Funds will not be reporting issuers in any Jurisdiction. Securities of each of the Top Funds will only be distributed pursuant to exemptions from the prospectus requirement.

7. None of the Filer, the Top Funds nor the Underlying Funds is or will be in default of securities legislation in any Jurisdiction.

The Fund-on-Fund Structure

8. Each Top Fund will allow investors in the Top Fund to obtain indirect exposure to the investment portfolio of one or more Underlying Funds and its investment strategies primarily through direct investments by the Top Fund in securities of the Underlying Fund or Funds.

9. Each Top Fund will manage its investments in an Underlying Fund with discretion to buy and sell securities of the Underlying Fund, selected in accordance with the Top Fund’s investment objective, as well as to alter its holdings in any Underlying Fund in which it invests.

10. Investing in the Underlying Funds will allow the Top Funds to achieve their investment objectives in the most cost-effective way. Such an investment can provide greater diversification for a Top Fund in particular asset classes, on a less expensive basis, than investing directly in the securities held by the applicable Underlying Fund. This investment structure will also allow investors with smaller investments to have access to a larger variety of investments than might otherwise be available.

11. Securities of an Underlying Fund will be acquired by a Top Fund under an exemption from the prospectus requirement and the Filer will act as the dealer in respect of the trade.

12. The investment objectives and restrictions applicable to a Top Fund will be described in the declaration of trust or trust agreement of the Top Fund, as it may be amended or restated from time to time (the **Declaration of Trust**).

13. The Declaration of Trust will also describe the fees, compensation and expenses payable by a Top Fund, the calculation of net asset value, distributions, the powers and duties of the investment fund manager and all other matters material to the Top Fund, including the fact that in pursuing its investment objectives, the Top Fund may invest in one or more Underlying Funds as an investment strategy.

14. Each Top Fund will also have an offering memorandum (**Offering Memorandum**) that describes the investment objectives and restrictions, fees, compensation and expenses payable by the Top Fund, the calculation of net asset value, distributions, the powers and duties of the investment fund manager, the relationship that the investment fund manager has with the Top Fund and each Underlying Fund, and all other matters material to the Top Fund, including the fact that in pursuing its investment objectives a Top Fund may invest in one or more Underlying Funds as an investment strategy.

15. Purchasers of securities of a Top Fund are expected to subscribe for securities of the Top Funds pursuant to a subscription agreement (the **Subscription Agreement**). From time to time, purchasers of securities of a Top Fund may instead enter into an investment management agreement (the **IMA**) with the Filer that provides authority to the Filer to invest the purchaser's assets in one or more Top Funds and to rebalance such investment, when there is an investment in more than one Top Fund, from time to time.

16. If a purchaser invests in securities of a Top Fund under an IMA, then prior to the execution of the IMA, the purchaser will be provided with details about the Top Fund and disclosure respecting relationships and potential conflicts of interest, as well as fees that are charged at the managed account level and those charged to the Funds, and advised that a copy of the Declaration of Trust or other constating document is available on request.

17. If a purchaser invests in securities of a Top Fund pursuant to a Subscription Agreement, then prior to the execution of Subscription Agreement, the purchaser will be provided with a copy of the Offering Memorandum or, if no offering memorandum is prepared in respect of the Top Fund, will be provided with details about the Top Fund and given disclosure respecting relationships and potential conflicts of interest, as well as fees that are charged at the managed account level and those charged to the Funds, and advised that a copy of the Declaration of Trust or other constating document is available on request.

18. Clients who hold securities of a Top Fund will receive an account statement, prepared and delivered in accordance with National Instrument 31-103 *Registration Requirements and Exemptions*, showing the client's holdings of securities of a Top Fund.

19. Each of the Top Funds will prepare annual audited financial statements and interim unaudited financial statements in accordance with National Instrument 81-106 *Investment Fund Continuous Disclosure* (**NI 81-106**) and will otherwise comply with the requirements of NI 81-106 applicable to them. Each of the Underlying Funds will prepare annual audited financial statements and interim unaudited financial statements. The holdings by a Top Fund of securities of an Underlying Fund will be disclosed in the financial statements of the Top Fund.

20. Security holders of a Top Fund will receive, on request, a copy of the offering memorandum of the Underlying Funds, if available, and the audited annual financial statements and interim unaudited financial statements of any Underlying Fund in which the Top Fund invests.

21. There will be no sales fees or redemption fees payable by a Top Fund in respect of an acquisition, disposition or redemption of securities of an Underlying Fund by the Top Fund other than brokerage fees incurred on the purchase or disposition of securities of an Underlying Fund that are purchased or disposed of in the secondary market.

22. The Filer will ensure that the arrangements between or in respect of a Top Fund and an Underlying Fund are such as to avoid the duplication of management fees or incentive fees.

23. The investment fund manager of a Top Fund will not cause the securities of an Underlying Fund held by the Top Fund to be voted at any meeting of the security holders of an Underlying Fund, unless the Top Fund is the sole owner of the securities of the Underlying Fund at the time of the meeting or the effective date of the written resolution.

24. A Top Fund may become a substantial security holder of an Underlying Fund in a number of circumstances, including where the Underlying Fund is an appropriate investment for the Top Fund for tax, cost and administrative reasons. In the absence of the Decision, a Top Fund may be prohibited from investing in such Underlying Fund.

25. An officer or director of the Filer or of a Top Fund (or an associate of any of them), or a person who is a substantial security holder of the Filer or of a Top Fund, may have a significant interest in an Underlying Fund in a number of circumstances, including if such a person provides the seed capital for an Underlying Fund or an Underlying Fund is an appropriate investment for such a person as principal. In the absence of the Decision, a Top Fund may be prohibited from investing in such Underlying Fund.

26. The Fund-on-Fund Structure may also result in a situation where one or more officers and/or directors of the Filer (considered a 'responsible person' within the meaning of the Legislation) is or may also be an officer and/or director of the Underlying Fund, including, for greater certainty, an officer and/or director of the general partner of the Underlying Fund where the Underlying Fund is a limited partnership.

Generally

27. In the absence of this Decision, the Top Funds would be precluded from implementing the Fund-on-Fund Structure due to certain investment restrictions contained in the Legislation.

28. The Fund-on-Fund Structure represents the business judgment of responsible persons uninfluenced by considerations other than the best interests of the Top Fund.

Decision

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

The decision of the principal regulator under the Legislation is that the Related Issuer Relief and the Related Party Relief is granted provided that, in connection with each Top Fund:

(a) securities of the Top Fund are distributed in Canada's private placement markets solely pursuant to available prospectus exemptions in accordance with National Instrument 45-106 Prospectus and Registration Exemptions;

(b) the investment by the Top Fund in each Underlying Fund is compatible with the fundamental investment objectives of the relevant Top Fund;

(c) no management fees or incentive fees are payable by the Top Fund that, to a reasonable person, would duplicate a fee payable by an Underlying Fund for the same service;

(d) no sales fees or redemption fees are payable by the Top Fund in relation to its purchases or redemptions of securities of an Underlying Fund;

(e) each Top Fund will not vote any of the securities it holds of an Underlying Fund, except that the Top Fund may, if the Filer so chooses, arrange for the securities it holds of an Underlying Fund to be voted by the beneficial holders of securities of the Top Fund; and

(f) the offering memorandum (or other similar document) of the Top Fund will disclose:

(i) that the Top Fund may purchase units of the Underlying Funds;

(ii) the fact that the Filer is the portfolio manager to both the Top Fund and the Underlying Fund; and

(iii) the approximate or maximum percentage of net assets of the Top Fund that is intended be invested in securities of the Underlying Fund.

The Related Party Relief

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

The Related Issuer Relief

"Kevin J. Kelly"
Commissioner
Ontario Securities Commission

"Wes. M. Scott"
Commissioner
Ontario Securities Commission

2.1.6 Black Marlin Energy Holdings Limited – 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 29, 2010

Torys LLP
Suite 3300, 79 Wellington St. W.
Box 270, TD Centre
Toronto, ON M5K 1N2

Attention: Raymond Archer

Dear Sir:

Re: Black Marlin Energy Holdings Limited (the Applicant) – Application for a decision under the securities legislation of Alberta, Saskatchewan and Ontario (the Jurisdictions) that the Applicant is not a reporting issuer

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

As the Applicant has represented to the Decision Makers that:

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

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

(c) the Applicant is applying for a decision that it is not a reporting issuer in all of the jurisdictions in Canada in which it is currently a reporting issuer; and

(d) the Applicant is not in default of any of its obligations under the Legislation as a reporting issuer,

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

"Blaine Young"
Associate Director, Corporate Finance

2.1.7 BV! Media Inc. – s. 1(10)

Headnote

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

Applicable Legislative Provisions

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

October 28, 2010

BV! MEDIA INC.
333 Bloor Street East
10th Floor
Toronto, Ontario, M4W 1G9

Dear Sir/Mesdames:

Re: BV! Media Inc. (the "Applicant") – Application for a decision under the securities legislation of Québec, Ontario and Alberta (the "Jurisdictions") that the Applicant is not a reporting issuer

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

As the Applicant has represented to the Decision Makers that:

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

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

(c) the Applicant is applying for a decision that it is not a reporting issuer in all of the jurisdictions in Canada in which it is currently a reporting issuer; and

(d) the Applicant is not in default of any of its obligations under the Legislation as a reporting issuer,

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

"Alida Gualtieri"
Manager, Continuous Disclosure

2.1.8 Piper Jaffray & Co.

Headnote

Filer exempted from section 13.12 [Restriction on lending to clients] of National Instrument 31-103 – Filer is a registered broker-dealer with the SEC and a member of FINRA – Filer is applying for registration under the legislation as an exempt market dealer provided that: (a) the head office or principal place of business of the Filer remains in the United States; (b) the Filer remains licensed or registered under the securities legislation of the United States in a category of licensing or registration that permits it to carry on the activities in that jurisdiction that registration as an investment dealer would permit it to carry on in the local jurisdiction; and (c) the Filer remains subject to requirements in respect of its lending money, extending credit or providing margin to clients (including clients that are located in Canada) that are substantially similar to the capital and margin requirements of IIROC that would be applicable to the Filer if it were registered under securities legislation as an investment dealer and were a member of IIROC.

Applicable Legislative Provisions

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

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.

Decision Cited

In the Matter of AXA Rosenberg Investment Management LLC, Bloomberg Tradebook (Bermuda) Ltd., Bloomberg Tradebook LLC, BNY Mellon Capital Markets LLC, Credit Suisse Securities (Europe) Limited, Credit Suisse Securities (USA) LLC, Goldman Sachs Execution & Clearing, L.P., Goldman, Sachs & Co., Morgan Stanley & Co. Incorporated and Morgan Stanley Smith Barney LLC., (2009) 32 OSCB 8030

October 29, 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
NATIONAL INSTRUMENT 31-103 REGISTRATION REQUIREMENTS AND EXEMPTIONS

AND

IN THE MATTER OF
PIPER JAFFRAY & CO.
(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 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 review application):

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

(b) the Filer has provided notice that section 4.7(1) of Multilateral Instrument 11-102 *Passport System* (**MI 11-102**) is intended to be relied upon in British Columbia, Manitoba and Québec (and together with the Jurisdiction, the **Jurisdictions**).

Interpretation

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

Representations

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

1. The Filer is a corporation formed under the laws of the State of Delaware. Its head office is located at 800 Nicollet Mall Minneapolis, MN 55402-7020.

2. The Filer is a directly wholly owned subsidiary of the Piper Jaffray Companies.

3. The Filer is registered as a broker-dealer with the U.S. Securities and Exchange Commission (**SEC**), and is a member of the Financial Industry Regulatory Authority (**FINRA**). The Filer is a member of all major U.S. stock exchanges.

4. The Filer is permitted to carry on in the United States the same activities that registration as an investment dealer would authorize it to carry on in Canada if the Filer were registered in the Jurisdictions as an investment dealer.

5. The Filer currently acts as a dealer in reliance on the international dealer exemption under s. 8.18 of NI 31-103 in each of the Jurisdictions.

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, investment banking and derivatives dealing for governments, corporate, financial institutions and retail customers. The Filer also conducts proprietary trading activities. The Filer may engage in other activities which may be considered lending money, extending credit or providing margin to its clients, including clients in Canada, in connection with and as an integral part of its brokerage services.

7. The Filer is subject to regulations of the Board of Governors of the U.S. Federal Reserve System (the **Board**), the SEC, FINRA and the NYSE regarding the lending of money, extension of credit and provision of margin to clients (the **U.S. Margin Regulations**) that are designed to provide protections that are substantially similar to the protections provided by the regulations regarding the lending of money, extension of credit and provision of margin to which dealer members of the Investment Industry Regulatory Organization of Canada (**IIROC**) are subject, and the Filer is in compliance in all material respects with all applicable U.S. Margin Regulations. 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.

8. The Filer is in compliance with the U.S. Margin Regulations imposed by the Board, including Regulations T, U and X, under applicable SEC rules and under NYSE Rule 431 and maintains internal written policies and procedures governing its margin lending and arranging activities, as required by the U.S. Margin Regulations.

Exempt Market Dealer Registration

9. The Filer has applied for registration, as an exempt market dealer in each of the Jurisdictions in order to permit it to act as a market intermediary in respect of trades in the exempt market across Canada.

10. Section 13.12 of NI 31-103 prohibits a registrant from lending money, extending credit or providing margin to a client. Upon registration as an EMD the Filer will be subject to the prohibition contained in s.13.12 of NI 31-103.

11. 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 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".

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 head office or principal place of business of the Filer is in the United States;

(b) the Filer is licensed or registered under the securities legislation of the United States in a category of licensing or registration that permits it to carry on the activities in the United States 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
Compliance and Registrant Regulation

2.1.9 San Anton Resource Corporation

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).

November 2, 2010

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

AND

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

AND

IN THE MATTER OF
SAN ANTON RESOURCE CORPORATION
(the Filer)

DECISION

Background

The securities regulatory authority or regulator in each of the Jurisdictions (the **Decision Maker**) has received an application from the Filer for a decision under the securities legislation of the Jurisdictions (the **Legislation**) for a decision that the Filer be deemed to have ceased to be a reporting issuer under the Legislation (the **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 corporation existing by amalgamation under, and governed by, the *Canada Business Corporations Act* (the **CBCA**).

2. The head and registered office of the Filer is located in Toronto, Ontario.

3. The Filer is a reporting issuer in each of the Jurisdictions.

4. On September 21, 2010, San Anton Resource Corporation (the **Predecessor**), a predecessor corporation to the Filer, completed a previously announced business combination (the **Business Combination**) with Kings Minerals NL (**Kings Minerals**), a corporation incorporated under the *Corporations Act 2001* (Commonwealth of Australia) (the **ACA**). Kings Minerals is an Australian public company which has its ordinary shares listed for trading on the Australian Securities Exchange.

5. Prior to the completion of the Business Combination, the Predecessor had 127,276,042 common shares (**Predecessor Shares**) issued and outstanding and Kings Minerals, through its wholly-owned subsidiary Kings Minerals Mexico Pty Ltd. (**Kings Mexico**), a corporation incorporated under the ACA, owned 93,750,001 Predecessor Shares, representing approximately 73.7% of the issued and outstanding Predecessor Shares. Pursuant to the Business Combination, Kings Minerals acquired all of the Filer Shares it did not own in exchange for ordinary shares of Kings Minerals on the basis of two and one-half (2.5) Kings Minerals shares for each Predecessor Share.

6. The Business Combination was effected by way of a three-cornered amalgamation under the CBCA on September 21, 2010 pursuant to which the Predecessor was amalgamated with 7651112 Canada Ltd., a corporation incorporated under the CBCA and a wholly-owned subsidiary of Kings Mexico, to form the Filer. As a result of the amalgamation:

   (a) Kings Minerals acquired all of the Predecessor Shares which it did not previously own and the Filer, as the successor corporation to the Predecessor, became an indirect wholly-owned subsidiary of Kings Minerals (through Kings Mexico); and

   (b) each of the 33,526,041 Predecessor Shares which were not owned by Kings Minerals was exchanged for two and

one-half (2.5) ordinary shares of Kings Minerals, and Kings Minerals issued an aggregate of 83,815,102 shares to the holders of such Predecessor Shares.

7. In connection with the Business Combination, a management information circular of the Predecessor dated August 3, 2010 was mailed to the Predecessor's shareholders and subsequently filed under the Predecessor's SEDAR profile at www.sedar.com. The Business Combination was approved by the Predecessor's shareholders at a special meeting of the shareholders held on August 30, 2010, including by a majority of the Predecessor's minority shareholders in accordance with the provisions of Multilateral Instrument 61-101 *Protection of Minority Security Holders in Special Transactions*.

8. The authorized capital of the Filer consists of an unlimited number of common shares (the **Filer Shares**). As a result of the completion of the Business Combination, Kings Minerals (through Kings Mexico), owns all of the issued and outstanding Filer Shares, and the Filer has no other securities outstanding. Accordingly, 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 of Canada and less than 51 security holders in total in Canada.

9. The Predecessor Shares were listed and posted for trading on the Toronto Stock Exchange (the **TSX**) under the symbol "SNN" in December 2006. The Predecessor Shares were delisted from the TSX on September 28, 2010.

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

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

12. As a result of the completion of the Business Combination, Kings Minerals has become a reporting issuer in each of the Jurisdictions.

13. In connection with the Business Combination, Kings Minerals applied to the TSX Venture Exchange (the **TSXV**) to list its ordinary shares for trading on the TSXV. The ordinary shares of Kings Minerals commenced trading on the TSXV on September 29, 2010 under the symbol "KMN".

14. The Filer is not in default of any of its obligations under the Legislation as a reporting issuer, except for its obligation to file and deliver on or before September 28, 2010 the Filer's annual financial statements for the year ended June 30, 2010 and accompanying management's discussion and analysis, as required under National Instrument 51-102 *Continuous Disclosure Obligations*, and the related certification of such financial statements as required under National Instrument 52-109 *Certification of Disclosure in Issuers' Annual and Interim Filings*. Because Kings Minerals now owns all of the issued and outstanding Filer Shares, the Filer does not intend to prepare or file these financial statements and related documents.

15. The Filer does not intend to voluntarily 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 10-day waiting period under the BC Instrument.

16. The Filer is not eligible to use the simplified procedure under CSA Staff Notice 12-307 *Application for a Decision that an Issuer is not a Reporting Issuer* in order to apply for the Exemptive Relief Sought because it is in default of certain filing obligations under the Legislation as described in paragraph 14 above.

17. Upon the granting of the Exemptive Relief Sought, the Filer will not be a reporting issuer or its 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.

"Mary Condon"
Commissioner
Ontario Securities Commission

"Paulette Kennedy"
Commissioner
Ontario Securities Commission

2.1.10 Scotia Securities Inc. and other Mutual Fund Dealers registered as of the date of this decision

Headnote

MI 11-102 and NP 11-203 – Relief from requirement to obtain information required by section 13.2(3)(b)(i) of NI 31-103 – Mutual fund dealers already subject to federal legislation requiring information concerning holders of 25% of voting securities of corporate clients, unnecessary to obtain information concerning holders of 10% of voting securities when trading limited to mutual funds.

Applicable Legislative Provisions

NI 31-103 Registration Requirements and Exemptions, ss. 13.2(3)(b)(i), 15.1.

November 2, 2010

IN THE MATTER OF
NATIONAL INSTRUMENT 31-103 REGISTRATION REQUIREMENTS AND EXEMPTIONS
("NI 31-103" or the "Instrument")

AND

IN THE MATTER OF
SCOTIA SECURITIES INC. (the "Lead Filer") AND OTHER MUTUAL FUND DEALERS REGISTERED AS OF THE DATE OF THIS DECISION

DECISION

Interpretation

Unless otherwise defined in this decision or the context otherwise requires, terms used in this decision that are defined in NI 31-103 or National Instrument 14-101 *Definitions* have the same meaning.

Background

As part of the know your client requirements, section 13.2(3)(b)(i) of NI 31-103 requires a registrant (other than an investment fund manager) to establish the identity of any individual who owns or exercises control or direction over more than 10% of the voting rights attached to the outstanding voting securities of a corporation that is a client.

The costs incurred by mutual fund dealers in order to comply with section 13.2(3)(b)(i) of NI 31-103 exceed the benefit because mutual fund dealers:

(a) trade primarily in securities of mutual funds that are bound by certain restrictions on investments; and

(b) comply with the provisions of the *Proceeds of Crime (Money Laundering) and Terrorist Financing Act* (Canada), in order to obtain certain information about all persons who own or control 25% or more of the shares of a corporation that is a client.

Decision

1. Section 13.2(3)(b)(i) of NI 31-103 does not apply to a registrant that is a mutual fund dealer in respect of a client that is a corporation, provided that the mutual fund dealer:

   (a) is not registered in any other category of registration other than as a mutual fund dealer or as both a mutual fund dealer and an investment fund manager; and

   (b) complies with the provisions of the *Proceeds of Crime (Money Laundering) and Terrorist Financing Act* (Canada) requiring the identification of any person who owns or controls 25% or more of the shares of a corporation that is a client.

2. This order comes into effect on November 5, 2010.

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

2.1.11 USC Education Savings Plans Inc. and others registered as of the date of this decision

Headnote

Relief from the requirement under section 13.2(2)(b) of NI 31-103 to establish whether a client is an insider if the client is only trading securities listed in section 7.1(2)(b) or 7.1(2)(c) of NI 31-103.

November 2, 2010

IN THE MATTER OF
NATIONAL INSTRUMENT 31-103 REGISTRATION REQUIREMENTS AND EXEMPTIONS
("NI 31-103")

AND

IN THE MATTER OF
USC EDUCATION SAVINGS PLANS INC.
(the "Lead Filer") AND OTHERS REGISTERED AS OF THE DATE OF THIS DECISION

DECISION

Interpretation

Unless otherwise defined in this decision or the context otherwise requires, terms used in this decision that are defined in NI 31-103 or National Instrument 14-101 *Definitions* have the same meaning.

Background

1. Section 13.2(2)(b) of NI 31-103 requires registrants to take reasonable steps to establish whether their clients are insiders of reporting issuers or any other issuers whose securities are publicly traded.

2. Because a trade in securities referred to in sections 7.1(2)(b) and 7.1(2)(c) of NI 31-103 is unlikely to give rise to insider trading concerns, the cost of requiring compliance with section 13.2(2)(b) of NI 31-103 for trades in such securities exceeds the benefit.

Application

1. The Lead Filer has applied to the Director, under section 15.1 of NI 31-103, for exemptions for itself and each registrant registered as of the date of this decision (together with the Lead Filer, the **Filers** or, individually, a **Filer**) from section 13.2(2)(b) of NI 31-103, subject to the conditions and restrictions set out in this decision.

Decision

1. The decision of the Director is that section 13.2(2)(b) of NI 31-103 does not apply to a Filer in respect of a client for which the Filer only trades securities referred to in sections 7.1(2)(b) and 7.1(2)(c) of NI 31-103.

2. The following order, made on February 26, 2010, is hereby revoked: *In the matter of National Instrument 31-103 Registration Requirements and Exemptions and Scotia Securities Inc. and other Mutual Fund Dealers registered as of the date of this Decision*.

3. This order comes into effect on November 5, 2010.

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

2.2 Orders

2.2.1 Shaun Gerard McErlean et al. – ss. 127(1), 127(7)

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

AND

**IN THE MATTER OF **
SHAUN GERARD MCERLEAN,
SECURUS CAPITAL INC., AND
ACQUIESCE INVESTMENTS

TEMPORARY ORDER
(Subsections 127(1) & 127(7))

WHEREAS on the 12th day of August, 2010, pursuant to subsections 127(1) and 127(5) of the *Securities Act*, R.S.O. 1990, c. S.5, as amended (the "Act"), the Ontario Securities Commission (the "Commission") made an order against Shaun Gerard McErlean ("McErlean"), Acquiesce Investments ("Acquiesce") and Securus Capital Inc. ("Securus") (collectively the "Respondents");

AND WHEREAS on the 12th day of August, 2010, pursuant to subsection 127(6) of the Act, the Commission ordered that the following Temporary Order shall expire on the 15th day after its making unless extended by order of the Commission;

AND WHEREAS by Commission Order dated August 12, 2010, the Commission made the following temporary order (the "Temporary Order");

1. pursuant to clause 2 of subsection 127(1) of the Act, that trading of securities by the Respondents shall cease; and

2. pursuant to clause 3 of subsection 127(1) of the Act, that the exemptions contained in Ontario securities law do not apply to the Respondents.

AND WHEREAS the Commission held a hearing on August 25, 2010;

AND WHEREAS on the 25th day of August, 2010, the Commission ordered that the Temporary Order be extended to September 29, 2010 and the hearing in this matter be adjourned to September 28, 2010 at 2:30 p.m.;

AND WHEREAS on the 27th day of September, 2010, on the consent of the parties, the Commission ordered that the Temporary Order be extended to October 28, 2010 and the hearing in this matter be adjourned to October 27, 2010 at 1:00 p.m.;

AND WHEREAS the Commission held a hearing on October 27, 2010;

AND WHEREAS at the hearing on October 27, 2010, the Respondents requested that the Commission adjourn this matter for approximately one month and Staff were not opposed to the request and the Respondents consented to the extension of the Temporary Order for approximately one month;

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

IT IS ORDERED that the Temporary Order be extended to December 6, 2010 and the hearing in this matter be adjourned to December 3, 2010 at 9:00 a.m.

DATED at Toronto this 27th day of October, 2010.

"Mary G. Condon"

2.2.2 Silvermet Inc.

Headnote

Related party transaction – issuer and related party to issuer each agree to transaction with arm's length third party – as a step in the transaction, the issuer will acquire assets of the related party and then transfer the assets to the arm's length party – direct acquisition of assets of the related party by the arm's length party would not be subject to MI 61-101 – transaction is related party transaction in form but not in substance.

Applicable Legislative Provisions

Multilateral Instrument 61-101 Protection of Minority Security Holders in Special Transactions, ss. 5.6, 9.1.

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

AND

IN THE MATTER OF
SILVERMET INC.

ORDER

UPON the application (the "**Application**") of Silvermet Inc. ("**Silvermet**" or the "**Filer**") to the Director pursuant to section 9.1 of Multilateral Instrument 61-101 *Protection of Minority Security Holders in Special Transactions* ("**MI 61-101**") for a decision that the requirements to call a meeting of shareholders and send an information circular to such sharholders set out in section 5.3 of MI 61-101 and to obtain minority approval for a related party transaction set out in section 5.6 of MI 61-101 do not apply to the Filer with respect to the Transaction (as defined below) (the "**Requested Relief**");

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

AND WHEREAS defined terms contained in the Instrument have the same meaning in this order unless they are defined in this order;

AND UPON Silvermet having represented to the Director as follows:

1. Silvermet is a corporation organized under the laws of the Province of Ontario and its head and registered office is located at 8 King Street East, Suite 1700, Toronto, Ontario, M5C 1B5.

2. Silvermet is a reporting issuer in the provinces of Alberta, British Colombia and Ontario and is not in default of securities legislation in any such jurisdiction.

3. Silvermet's authorized share capital consists of an unlimited number of common shares without par value (the "**Common Shares**"). As at October 4, 2010, 134,405,216 Common Shares were issued and outstanding.

4. The Common Shares are listed for trading on the TSX Venture Exchange (the "**TSX-V**"). Based on the closing price of $0.17 of the Common Shares on the TSX-V on October 4, 2010, the current market capitalization of Silvermet is approximately $22.85 million.

5. Silvermet is the owner of a 58.5% interest in Straits Metals Recycling Corp. Pte. Ltd. ("**Straits Metals**"), a corporation organized under the laws of Singapore, which owns a 100% interest in SYI Metalurji Madencilik Sanayi ve Ticaret A.S. ("**SYI**"), a corporation organized under the laws of Turkey. SYI is the operator of a Waelz kiln facility in Iskenderun, Turkey that processes electronic arc furnace dust to produce a zinc oxide concentrate for sale to smelters throughout the world.

6. Straits Metals is the owner of a 100% interest in Straits Metals Sales Corp. ("**Straits Sales**"), a corporation organized under the laws of Ontario, a commercial company that manages SYI's relationship with smelters by acquiring concentrate from SYI and arranging for sales to smelters.

7. MRH Residuos Metálicos, S.L.U. ("**Befesa**") is a corporation organized under the laws of Spain and its head office is located at Ctra. Bilbao-Plencia, 21, 48950 Erandio, Spain.

8. Befesa is not a reporting issuer or a registrant in any Canadian jurisdiction and is not in default of securities legislation in any Canadian jurisdiction.

9. Cooper Island, LLC ("**Cooper Island**") is a corporation organized under the laws of the State of Delaware and its head office is located at 5910 North Central Expressway, Suite 1350, Dallas, Texas, 75206.

10. Cooper Island is not a reporting issuer or a registrant in any Canadian jurisdiction and is not in default of securities legislation in any Canadian jurisdiction.

11. Cooper Island is the owner of a 41.5% interest in Straits Metals.

12. Cooper Island owns 367,000 Common Shares and Greyling Investments Inc., an affiliated entity of Cooper Island, owns 13,850,000 Common Shares. Collectively, Cooper Island and Greyling Investments Inc. own approximately 10.58% of the issued and outstanding Common Shares, and Cooper Island is thus considered a related party of Silvermet under MI 61-101.

13. Befesa is not a related party to either of Silvermet or Cooper Island and has at all times acted at arm's length in its dealings with both Silvermet and Cooper Island.

14. Cooper Island is not a related party to Befesa and has at all times acted at arm's length in its dealings with Befesa.

15. Befesa and Cooper Island entered into a letter of intent dated July 28, 2010 pursuant to which Befesa agreed to acquire the 41.5% equity interest of Cooper Island in Straits Metals for aggregate cash consideration of US$4,000,000 (the "**Cooper Island Agreement**").

16. Silvermet and Befesa entered into a letter of intent dated July 28, 2010, followed by an investment agreement dated September 27, 2010 (the "**Investment Agreement**") pursuant to which Silvermet and Befesa agreed to enter into a series of strategic transactions that will result in (a) Befesa and Silvermet holding 51% and 49% participating interests, respectively, in Befesa Silvermet Turkey, S.L. ("**Befesa Silvermet**"), a corporation organized under the laws of Spain, which will be formed to own and operate SYI, and (b) Befesa owning approximately 10% of the issued and outstanding Common Shares.

17. Each of the Investment Agreement and the Cooper Island Agreement were negotiated at arm's length by the respective parties thereto and their legal counsel.

18. Silvermet issued and filed a press release on SEDAR on September 27, 2010 disclosing certain terms of the Investment Agreement, including the aggregate investment amount by Befesa of US$10,000,000.

19. Pursuant to the Investment Agreement, on the closing date thereof, the following transactions (the "**Transaction**") will occur in the order set out below:

    (a) Befesa will subscribe for and purchase 16,000,000 Common Shares, representing approximately 10% of the issued and outstanding Common Shares, at a price of Cdn.$0.125 per Common Share for aggregate consideration of Cdn.$2,000,000;

    (b) Silvermet will subscribe for and purchase the number of shares of Befesa Silvermet determined by the Euro equivalent of the amount referred to in paragraph 19(a);

    (c) Befesa will subscribe for and purchase the number of shares of Befesa Silvermet determined by the Euro equivalent of US$4,000,000;

    (d) Befesa Silvermet will advance a loan of US$4,000,000 to Silvermet (Singapore) Pte. Ltd., a corporation organized under the laws of Singapore ("**Silvermet Singapore**"), in exchange for a promissory note from Silvermet Singapore;

    (e) Befesa will cause the shares of Straits Metals owned by Cooper Island to be delivered to Silvermet Singapore for aggregate consideration of US$4,000,000 paid to Cooper Island by Befesa Silvermet;

    (f) Silvermet Singapore will assign the loan referred to in paragraph 19(d) to Straits Metals pursuant to an assignment and assumption agreement;

(g) Pursuant to an assignment and assumption agreement, and in exchange for the cancellation of the promissory note and in full satisfaction of the repayment of the loan referred to in paragraph 19(d), the following will occur:

(i) Straits Metals will (A) sell 2,490,000 shares of SYI (representing approximately 41.5% of the outstanding shares of SYI) plus intercompany receivables to Befesa Silvermet and (B) sell 100% of the shares of Straits Sales to Silvermet;

(ii) Silvermet will transfer all of the assets of Straits Sales to Befesa Silvermet; and

(iii) Befesa Silvermet will assume certain liabilities of Straits Metals and Straits Metals and Straits Sales;

(h) Straits Metals will transfer 3,510,000 shares of SYI (representing approximately 58.5% of the outstanding shares of SYI) to Silvermet for the equivalent fair market value per share paid by Befesa Silvermet for the shares of SYI referred to in paragraph 19(g)(i);

(i) Silvermet will transfer the 3,510,000 shares of SYI acquired in the previous step to Befesa Silvermet in exchange for the number of shares of Befesa Silvermet equal to the Euro equivalent of the 3,510,000 shares of SYI to be transferred to Befesa Silvermet; and

(j) Befesa will subscribe for and purchase from Befesa Silvermet the number of shares of Befesa Silvermet that will result in Befesa and Silvermet holding 51% and 49%, respectively, of the shares of Befesa Silvermet for aggregate consideration of US$6,000,000 less the U.S. dollar equivalent of the amount referred to in paragraph 19(a).

20. The closing of the transaction contemplated by the Cooper Island Agreement will occur concurrently with the closing of the Transaction.

21. Upon completion of the Transaction: (i) Cooper Island will cease to hold its indirect interest in SYI; (ii) Befesa and Silvermet will become the 51% and 49% holders, respectively, of Befesa Silvermet; and (iii) SYI will continue to exist as an operating subsidiary of Befesa Silvermet.

22. For tax planning purposes, the Transaction has been structured in a manner such that the indirect interest of Cooper Island in SYI will be acquired by a subsidiary of Silvermet and subsequently transferred to Befesa. By virtue of this intermediary step, the Transaction is technically a related party transaction under MI 61-101. This step of the Transaction, however, is a purely structural step and the Transaction is, in substance, an arm's length transaction.

23. Silvermet is relying upon the exemption set out in section 5.5(b) of MI 61-101 from the requirement under section 5.5 of MI 61-101 to obtain a formal valuation for a related party transaction as no securities of Silvermet are listed or quoted on any of the markets specified in section 5.5(b) of MI 61-101.

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

IT IS ORDERED by the Director pursuant to section 9.1 of MI 61-101 that the Requested Relief is granted.

DATED October 25, 2010.

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

2.2.3 Great Lakes Nickel Limited – s. 144

Headnote

Section 144 – application for variation of cease trade order – issuer cease traded due to failure to file with the Commission annual financial statements – issuer has applied for a variation of the cease trade order to permit the issuer to proceed with a private placement – potential investors to be accredited investors and to receive copy of cease trade order and partial revocation order prior to making investment decision – partial revocation granted subject to conditions.

Applicable Legislative Provisions

Securities Act, R.S.O. 1990, c. S.5, as am., ss. 127, 144.
National Instrument 45-106 Prospectus and Registration Exemptions.

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

AND

IN THE MATTER OF
GREAT LAKES NICKEL LIMITED

ORDER
(Section 144)

WHEREAS the securities of Great Lakes Nickel Limited (**GLN**) are currently subject to a cease trade order issued by the Ontario Securities Commission (the **Commission**) dated December 4, 2002 pursuant to paragraph 2 of subsection 127(1) and 127(5) of the Act, which order was extended by a further order of the Commission dated December 16, 2002 (collectively, the **Cease Trade Order**), directing that all trading in the securities of GLN cease;

AND WHEREAS Robin Lowe, an individual resident in Kitchener, Ontario (the **Applicant**) who currently owns approximately 7% of the common shares of GLN wishes to enter into certain transactions;

AND WHEREAS the Applicant has made an application to the Commission pursuant to section 144 of the Act (the **Application**) for an order partially revoking the Cease Trade Order;

AND WHEREAS the Applicant has represented to the Commission that:

1. GLN was incorporated by amalgamation under the *Business Corporations Act* (Ontario) on August 20, 1969.

2. GLN's registered and head office is located at 1183 King Street East, Kitchener, Ontario, N2G 2N3.

3. GLN is a reporting issuer under the securities legislation (the **Legislation**) of the provinces of Ontario, British Columbia, Alberta and Quebec and is not a reporting issuer or the equivalent under the securities legislation of any other jurisdiction in Canada.

4. The Cease Trade Order was issued due to the failure of GLN to file with the Commission its interim financial statements for the nine-month period ended September 30, 2002. GLN has not filed any financial statements since that date.

5. GLN is also subject to cease trade orders issued by the British Columbia Securities Commission on December 11, 2002, by the Alberta Securities Commission on February 21, 2003, and the Autorité des marches financiers on December 4, 2002, all relating to the failure of the Applicant to file its financial statements for the period ended September 30, 2002 (the **Other Orders**).

6. GLN is not, to the Applicant's knowledge, in default of any of the requirements of the Act, or the rules and regulations made pursuant thereto, other than the following:

   (a) for the failure to file audited annual financial statements and accompanying management discussion and analysis (**MD&A**) for the years ended December 31, 2002 to 2009 (including the certification of disclosure required under National Instrument 52-109 – *Certification of Disclosure in Issuers' Annual and Interim Filings*

(the **Certificates**)) and interim financial statements, accompanying MD&A and Certificates for the period ended September 30, 2002, and the interim financial statements, accompanying MD&A and Certificates for the periods ended March 31, June 30 and September 30, for the years 2003 to 2009, as well as the interim financial statements, accompanying MD&A and Certificates for the interim periods ended March 31 and June 30, 2010 (collectively, the **Outstanding Continuous Disclosure Documents**); and

(b) GLN failed to pay annual participation fees.

7. Prior to the date hereof, GLN had not remedied the deficiencies described in paragraph 6 (a) as it did not have sufficient funds to do so. The Applicant will pay GLN's annual participation fees prior to the issuance of the full revocation order.

8. Other than a cease trade order of the Commission issued on June 12, 1998 which was revoked on June 26, 1998, the Cease Trade Order and the Other Orders, GLN has not been subject to any other cease trade order of the Commission or in any other jurisdictions.

9. According to public disclosure documents, GLN's authorized capital consists of an unlimited number of common shares (the **Common Shares**), of which approximately 5,641,225 Common Shares are issued and outstanding.

10. The Applicant is an individual who currently owns or exercises control directly or indirectly over approximately 7% of the Common Shares of GLN. Jacobus Hanemaayer, a current director and President of GLN, currently owns or exercises control indirectly over 2,574,001 Common Shares or approximately 45.63% of the Common Shares (the **Purchased Shares**).

11. The Applicant proposes to enter into a share purchase agreement with Jacobus Hanemaayer, Community Expansion Inc. (**CEI**) and 153078 Canada Inc. (**153 Co**) to acquire all of the issued and outstanding shares of 153 Co from CEI and any shares which CEI may hold in GLN (the **Share Purchase Agreement**). 153 Co holds approximately 45% of the Common Shares of GLN. The Share Purchase Agreement will be negotiated between the Applicant and Jacobus Hanemaayer at arm's length.

12. GLN acquired its interest in certain mining properties, mining leases, land rights and land located in the Pardee Township, Ontario in 1974 (the **Pardee Property**). GLN has explored the Pardee Property with respect to its nickel-copper potential. The Pardee Property is the sole asset of the GLN. A producing issuer has recently expressed interest to the Applicant and Mr. Hanemaayer with respect to acquiring the Pardee Property held by GLN.

13. GLN does not have an effective management team to negotiate with the producing issuer. The Applicant does not believe that Mr. Hanemaayer, a controlling shareholder, director and President of GLN, has the interest or the time available to bring the management team of GLN into a position to begin negotiations and to finalize a favourable agreement with the producing issuer.

14. An independent mineral consultant will be retained by the Applicant in order to determine the value (the **Preliminary Opinion of Value**) of the Pardee Property. As the Pardee Property is the only asset of GLN and no published market exists for any securities of GLN, the enterprise value of GLN equals the Preliminary Opinion of Value. The Applicant will not acquire the Purchased Shares for more 115 per cent of the pro-rated value (45.63%) of the Preliminary Opinion of Value.

15. The Applicant will rely on the private agreement exemption as provided by section 100.1(1) of the Act to enter into the Share Purchase Agreement. The acquisition of the Purchased Shares by the Applicant is exempt from the formal bid requirements as: (i) the acquisition of the Purchased Shares is made from not more than five persons or companies; (ii) there are more than five security holders of Common Shares of GLN and the bid has not been made generally to security holders of Common Shares; and (iii) there is no published market for the Purchased Shares and a reasonable basis exists for the determination that the value of the consideration paid for the Purchased Shares is not greater than 115 per cent of the value of the Purchased Shares.

16. The Applicant will undertake the following steps (the **Steps**) in connection with the Share Purchase Agreement:

(a) upon issuance of this Order, enter into the Share Purchase Agreement and complete the transactions contemplated thereby, which would include among other things, an escrow provision for the Purchased Shares which shall include a restriction on any voting rights of the Purchased Shares except for the matters contemplated in (c) below until the issuance of a full revocation of the Cease Trade Order;

(b) upon issuance of this Order, issue a press release and file a material change report announcing the Share Purchase Agreement;

(c) upon closing of the Share Purchase Agreement, the Applicant will proceed to; (i) meet with the board of directors of GLN to put forth the proposed transaction for the sale of the Pardee Property; and (ii) organize a shareholders' meeting of GLN in order for the Applicant to be elected as a director of the GLN, to approve the sale of the Pardee Property, and to begin to the preparation of the necessary filings to bring GLN into good standing and apply for a full revocation of the Cease Trade Order; and

(d) to apply for a full revocation of the Cease Trade Order in due course which application shall include the filing with the Commission annual financial statements, accompanying MD&A and Certificates for the years ended December 31, 2007 to 2009 as well as the interim statements, accompanying MD&A and Certificates for the periods ended March 31 and June 30, 2010.

17. Subject to the completion of the acquisition of the Purchased Shares, the Applicant will provide the required funds to GLN to pay for:

(a) the preparation of interim financial statements, accompanying MD&A and Certificates for the period ended March 31 and June 30, 2010;

(b) the preparation and audit of annual financial statements for the periods ended December 31, 2007 to 2009;

(c) the preparation of the required shareholder meeting materials in connection with the GLN shareholders' meeting to approve, among other things, the election of the Applicant as a director of GLN and the sale of the Pardee Property;

(d) the services of legal counsel with regard to the negotiation of the Share Purchase Agreement and the application for the Order and the final revocation order; and

(e) payment of the outstanding annual participation fees owing to the Commission in the amount of $22,137.50.

18. The Applicant reasonably believes that it will have the sufficient resources upon completion of the acquisition of the Purchased Shares to complete all of the items referred to in section 16 above.

19. As the acquisition of the Purchased Shares will involve trades in securities of GLN (including, for greater certainty, acts in furtherance of trades in securities of GLN), it cannot be competed without this partial revocation of the Cease Trade Order.

20. Concurrent with the entering into of the Share Purchase Agreement, each of the board of directors of GLN, the Applicant and Mr. Hanemaayer shall:

(a) receive a copy of the Cease Trade Order;

(b) receive a copy of this Order;

(c) receive written notice from GLN, and acknowledge, in a form acceptable to the Commission, that all of the GLN's securities, will remain subject to the Cease Trade Order following the acquisition of the Purchased Shares by the Applicant; and

(d) enter into separate agreements with GLN, and an escrow agent providing for the escrow of the Purchased Shares.

21. The Applicant has applied for a partial revocation of the Cease Trade Order so as to permit GLN, its directors, the Applicant and Mr. Hannemaayer to enter into the Steps on substantially the terms described in this Order.

22. GLN is not considering, nor is it involved in any discussion relating to a reverse take-over, merger, amalgamation or other form of combination or transaction similar to any of the foregoing.

23. The Applicant has undertaken to the Commission that, in the event GLN convenes a meeting of shareholders within twelve months of the date of this Order to consider and approve any transaction described in the previous paragraph, the Applicant will deliver to the Commission a copy of the information circular relating to such meeting not less than twenty days prior to the date of such information circular is delivered to shareholders.

24. Following the completion of the Steps, GLN intends to make a further application for a full revocation of the Cease Trade Order so as to permit trading of its securities.

25. Other than the promissory note in the principal amount of $975,823.00 held by 153 Co. (the Note) and the Common Shares, GLN has no securities outstanding, including any stock options granted to directors.

26. The Applicant undertakes to cancel the Note upon the acquisition of the Purchased Shares for the benefit of all GLN shareholders.

27. Trades in the Common Shares of GLN were previously reported on the TSX Venture Exchange. GLN has no securities, including debt securities, listed or quoted on any exchange or market.

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

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

IT IS ORDERED, pursuant to section 144 of the Act, that the Cease Trade Order be and is hereby partially revoked solely to permit the trades or the acts in furtherance of trades as contemplated in the Steps as set out in paragraph 15.

DATED this 2nd day of November, 2010.

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

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Chapter 3

Reasons: Decisions, Orders and Rulings

3.1 OSC Decisions, Orders and Rulings

3.1.1 Sulja Bros. Building Supplies, Ltd. et al.

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

AND

IN THE MATTER OF
SULJA BROS. BUILDING SUPPLIES, LTD.,
PETAR VUCICEVICH, KORE INTERNATIONAL
MANAGEMENT INC., ANDREW DEVRIES,
STEVEN SULJA, PRANAB SHAH,
TRACEY BANUMAS, AND SAM SULJA

REASONS AND DECISION

Hearing:	September 13 and 14, 2010		
Decision:	October 28, 2010		
Panel:	Patrick J. LeSage	–	Commissioner and Chair of the Panel
	Sinan O. Akendiz	–	Commissioner
Appearances:	Jonathon T. Feasby Usman M. Sheikh	–	For Staff of the Ontario Securities Commission
	Petar Vucicevich	–	For himself
	Tracey Banumas	–	For herself
	Pranab Shah	–	For himself

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REASONS AND DECISION

1. Overview

A. History of the Proceeding

[1] This was a hearing before the Ontario Securities Commission (the "Commission") pursuant to section 127 of the *Securities Act*, R.S.O. 1990, c. S.5, as amended (the "Act"), to consider whether Sulja Bros. Building Supplies, Ltd., (Nevada) ("Sulja Nevada"), Petar Vucicevich ("Vucicevich"), Kore International Management Inc. ("Kore International"), Andrew DeVries ("DeVries"), Steven Sulja, Pranab Shah ("Shah"), Tracey Banumas ("Banumas") and Sam Sulja breached the Act and acted contrary to the public interest.

[2] A temporary cease trade order ("TCTO") in this matter was issued on December 22, 2006 with respect to Sulja Nevada, Sulja Bros. Building Supplies Ltd., (Ontario) ("Sulja Ontario"), Kore International, Vucicevich and DeVries. The Commission issued periodic extensions of the TCTO, which now continues until the completion of the hearing on the merits.

[3] A Notice of Hearing and a Statement of Allegations were issued on December 27, 2006 with respect to Sulja Nevada, Sulja Ontario, Kore International, Vucicevich and DeVries. On June 16, 2008, a second Notice of Hearing and an Amended Statement of Allegations were issued to add the following respondents: Steven Sulja, Shah, Banumas and Sam Sulja. Staff of the Commission ("Staff") removed Sulja Ontario as a respondent on the same day.

[4] The hearing on the merits in this matter commenced on September 13, 2010. Vucicevich and Banumas were present. Shah attended on September 14, 2010. During the hearing on September 14, 2010, Vucicevich, Banumas and Shah advised they did not contest Staff's allegations. The proceeding related to these three respondents (the "Non-Contesting Respondents") was severed and dealt with on September 14, 2010.

[5] In oral reasons, we made perfunctory findings against the Non-Contesting Respondents with the understanding that more complete reasons would follow. These are those reasons.

2. Evidence

A. Modified Amended Statement of Allegations and Staff's Memorandum of Findings Requested

[6] At the commencement of the hearing on September 13, 2010, Vucicevich and Banumas stated that they desired a timely resolution to this matter and would like to move directly to a sanctions hearing. Vucicevich and Banumas indicated they would not be calling witnesses nor would they contest evidence put forward by Staff. In an effort to expedite the hearing, the Panel invited discussions between Staff and the Non-Contesting Respondents to allow the parties to identify relevant evidence that the Non-Contesting Respondents would not challenge. After some considerable discussion, first with Vucicevich and Banumas and later with Shah, the parties agreed that the uncontested evidence on which Staff would rely would be a modified version of the Amended Statement of Allegations.

[7] After reviewing the Amended Statement of Allegations, as modified and read into the record (the "Modified Amended Statement of Allegations"), the Panel invited Staff to provide submissions on the findings of fact that Staff were seeking to be drawn from the evidence. The Panel also invited Staff to revise the allegations to avoid duplication, in keeping with the principle articulated in *R. v. Kienapple*, [1975] 1 S.C.R. 729.

[8] This was a novel process arising from a set of unusual circumstances. We invited the parties to engage in discussions and on consent, evidence was put forward as already indicated by way of a Modified Amended Statement of Allegations and Staff's Memorandum of Findings Requested ("Staff's Memorandum"). The Non-Contesting Respondents understood the Modified Amended Statement of Allegations and Staff's Memorandum were not Agreed Statements of Facts but, rather, it was agreed it would be evidence upon which the Panel would make its findings on a no-contest basis.

[9] In agreeing with the parties to proceed in this manner, we took into consideration that tribunals are meant to operate in a less formal manner than courts. Further, we take comfort in the fact that the Non-Contesting Respondents were present, and in fact, it was their comments that triggered the discussions and the resultant procedure.

[10] The Modified Amended Statement of Allegations and Staff's Memorandum have been admitted on this hearing solely as it relates to the Non-Contesting Respondents, Vucicevich, Banumas and Shah.

B. Uncontested Evidence

[11] The evidence in this proceeding, namely, the Modified Amended Statement of Allegations and Staff's Memorandum, relates to a "pump and dump" scheme, a fraudulent behaviour in which promoters artificially inflate a stock's price by making

false claims about the issuer. In this case, Staff allege that Vucicevich profited by issuing materially misleading statements in press releases and subsequently selling shares into a market inflated by those false press releases. His involvement in this scheme was facilitated and concealed by the use of nominee accounts held by Banumas and Shah. A summary of the uncontested evidence, found below, is based on the Modified Amended Statement of Allegations and Staff's Memorandum.

[12] The scheme in this case is alleged to have occurred over the period of February 6, 2006 to January 31, 2007 (the "Material Time") and involved the promotion and sale of shares issued by Sulja Nevada and its predecessor companies. Approximately $5.6 million (USD) of trading profit was incurred as a result of this scheme.

[13] Sulja Nevada is a company incorporated in the State of Nevada, U.S.A., with a registered office at CRA of America, Inc., 3638 N. Ranchero Drive, Suite 6, Las Vegas, Nevada. It was originally incorporated as Loftworks, Inc. on April 19, 2005, and then changed its name to Loftwerks, Inc. ("Loftwerks") on May 4, 2005. It was renamed Sulja Brothers Building Products, Inc. on July 20, 2006 and changed its name to Sulja Bros. Building Supplies, Ltd. on July 21, 2006. Loftwerks was quoted on Pink Sheets, an over-the-counter quotation system in the United States. It continued that quotation as Sulja Nevada and did not trade on any exchange or trading system in Canada.

i. The Role of Vucicevich

[14] Vucicevich is a resident of Colchester, Ontario. He is not registered under the Act to trade securities or to act as an adviser. During the Material Time, Vucicevich engaged in both the promotion and the sale of shares issued by Sulja Nevada and its predecessor Loftwerks ("Sulja Nevada Shares").

a. Promotion of Sulja Nevada Shares

[15] The means by which Vucicevich promoted Sulja Nevada Shares during the Material Time was to create or cause to be created press releases which would then be broadcast to the market. These press releases contained statements about the company's merger opportunities, revenue potential and audit arrangements which proved to be false.

[16] From February 2006 to April 2006, Vucicevich issued press releases that made a number of claims about the Loftwerks' merger opportunities. For example, these press releases claimed that Loftwerks would merge with Sulja Ontario and Consultech Management Inc. ("Consultech"), another company controlled by Vucicevich at all material times. The press releases claimed that the merging companies were negotiating, and would be entering into large and profitable urban renewal contracts in the United States. They also described Sulja Ontario as a division of Consultech and Steven Sulja as an employee of Consultech.

[17] Steven Sulja was not an employee of Consultech, Sulja Ontario was not a division of Consultech, Consultech was not involved in merger discussions with Loftwerks, and Loftwerks never did merge with Sulja Ontario.

[18] The press releases issued during this period also made statements announcing, among other things, that Steven Sulja was the Chief Executive Officer of Sulja Brothers Specialty Building Materials, Ltd. ("Sulja Specialty Building Materials"), and that Loftwerks would merge with variously named Sulja companies, when in fact, Sulja Specialty Building Materials appeared never to have been incorporated, some of the Sulja companies named in the press releases did not exist, and Loftwerks never did merge with any of the Sulja companies. In the end, Loftwerks simply changed its name to Sulja Nevada.

[19] Vucicevich also caused Sulja Nevada to issue press releases containing statements about Sulja Nevada's revenue potential. After Loftwerks changed its name to Sulja Nevada, Vucicevich caused Sulja Nevada to issue press releases from April 2006 to November 2006 announcing present and future business opportunities from which Sulja Nevada would earn large revenue. Many of these press releases spoke of contracts for building materials that Sulja Nevada had in the Middle East. However, Sulja Nevada had not entered into these contracts, nor did it ever earn revenue from them.

[20] For example, on September 5, 2006, Vucicevich caused Sulja Nevada to issue a press release (the "September 5 Press Release") announcing that it had signed a contract (the "Cement Contract") to supply cement to Ramada General Contracting in Abu Dhabi, one of the United Arab Emirates. The press release stated that the Cement Contract would produce yearly revenues of $350,000,000.

[21] In fact, the Cement Contract did not exist and Sulja Nevada earned no revenue from it. Sulja Nevada did not correct the September 5 Press Release until it issued another press release dated December 5, 2006, stating that the "concrete commodities mentioned in that release [the September 5 Press Release] were indeed cancelled and no contract, even if drafted to finality, was consummated".

[22] Yet another example involving press releases caused to be issued by Vucicevich is a series of press releases beginning on December 6, 2006 announcing that Sulja Nevada was pursuing other cement deals in the Middle East. On December 11, 2006, Sulja Nevada issued a press release announcing a cement contract (the "Second Cement Contract"),

totalling 25,300,000 tonnes over three years, paying a commission of $0.90 USD per tonne to Sulja Nevada. In fact, the Second Cement Contract did not exist either, and Sulja Nevada never received the revenue set out.

[23] Finally, Vucicevich also caused Sulja Nevada to issue press releases regarding its audit arrangements. These press releases stated that KPMG and PWC were Sulja Nevada's auditors, and that Sulja Nevada was negotiating with those firms to handle all of its future SEC filings and reporting. Those press releases were also untrue. Neither KPMG nor PWC had done any work for Sulja Nevada. When advised by those firms that its representations were untrue, Sulja Nevada did not advise investors of the true facts or correct its public disclosure.

b. Sale of Sulja Nevada Shares

[24] Sulja Nevada Shares were issued from the company's treasury through its transfer agent, Transfer Online, a transfer agent located in Portland, Oregon. After their issuance, the shares were sent electronically to nominee trading accounts controlled by Vucicevich (the "Nominee Accounts"), but held in the names of Banumas and Shah. The Nominee Accounts would then sell Sulja Nevada Shares in the market on Vucicevich's instructions, at prices inflated by the misrepresentations in the press releases. By using the Nominee Accounts, Vucicevich concealed his involvement in the trading of Sulja Nevada Shares.

[25] Vucicevich continued, until October 2006, the practice of selling shares through the Nominee Accounts, over which he had beneficial control.

ii. The Role of Banumas and Shah

[26] Banumas is a resident of Harrow, Ontario. She was an employee of Kore International during the Material Time.

[27] Pranab Shah is a resident of Windsor, Ontario. He was also an employee of Kore International during the Material Time.

[28] Banumas and Shah participated in the issuance of misleading press releases, described above. Further, Banumas and Shah held Nominee Accounts for the benefit of Vucicevich and traded Sulja Nevada Shares in the market on Vucicevich's instructions, at prices inflated by the misrepresentation in the press releases. By holding Nominee Accounts and trading heavily as nominees for Vucicevich at his behest, Banumas and Shah concealed Vucicevich's involvement in the trading of Sulja Nevada Shares.

3. Issues

[29] This case raises the following issues:

(i) Did Vucicevich trade Sulja Nevada Shares while not registered in accordance with Ontario securities law, contrary to subsection 25(1)(a) of the Act?

(ii) Did Vucicevich advise with respect to Sulja Nevada Shares while not registered in accordance with Ontario securities law, contrary to subsection 25(1)(c) of the Act?

(iii) Did Vucicevich engage in distribution of Sulja Nevada Shares without a prospectus, contrary to subsection 53(1) of the Act?

(iv) Did Vucicevich directly or indirectly engage or participate in an act, practice or course of conduct relating to Sulja Nevada Shares that he knew or reasonably ought to have known perpetrated a fraud on other persons or companies, contrary to subsection 126.1(b) of the Act?

(a) In the alternative, did Vucicevich make statements in press releases being documents required to be furnished under Ontario securities law that, in a material respect and at the time and in light of the circumstances under which they were made, were misleading or untrue or did not state a fact that was required to be stated or that was necessary to make the statement not misleading, contrary to subsection 122(1)(b) of the Act?

(b) In the alternative, did Vucicevich directly or indirectly engage or participate in an act, practice, or course of conduct relating to Sulja Nevada Shares that he knew or reasonably ought to have known resulted in or contributed to a misleading appearance of trading activity in, or an artificial price for, Sulja Nevada Shares contrary to subsection 126.1(a) of the Act?

(c) In the alternative, did Vucicevich make statements in press releases of Sulja Nevada that he knew or reasonably ought to have known in a material respect and at the time and in light of all the

circumstances under which they were made, were misleading or untrue or did not state a fact that was required to be stated or that was necessary to make the statement not misleading and would reasonably be expected to have a significant effect on the market price or value of Sulja Nevada Shares, contrary to subsection 126.2(1) of the Act?

(v) Did Banumas and Shah directly or indirectly engage or participate in an act, practice, or course of conduct relating to Sulja Nevada Shares that they knew or reasonably ought to have known resulted in or contributed to a misleading appearance of trading activity in, or an artificial price for, Sulja Nevada Shares contrary to subsection 126.1(a) of the Act?

4. Analysis

A. Did Vucicevich breach subsection 25(1)(a) of the Act?

[30] Subsection 25(1)(a) of the Act prohibits trading in securities without being registered:

> **25(1) Registration for trading** – No person or company shall,
>
> (a) trade in a security or act as an underwriter unless the person or company is registered as a dealer, or is registered as a salesperson or as a partner or as an officer of a registered dealer and is acting on behalf of the dealer;
>
> …
>
> and the registration has been made in accordance with Ontario securities law and the person or company has received written notice of the registration from the Director and, where the registration is subject to terms and conditions, the person or company complies with such terms and conditions.

[31] As set out in the Modified Amended Statement of Allegations, although the Nominee Accounts were held in the names of Banumas and Shah, Vucicevich was the one exercising control over those accounts. It was Vucicevich who in fact directed the sales of Sulja Nevada Shares in the Nominee Accounts. However, he was not registered under the Act to trade securities. Therefore, we find that Vucicevich traded Sulja Nevada Shares without registration, contrary to subsection 25(1)(a) of the Act.

B. Did Vucicevich breach subsection 25(1)(c) of the Act?

[32] In the same vein, subsection 25(1)(c) of the Act prohibits advising without registration:

> **25(1) Registration for trading** – No person or company shall,
>
> …
>
> (c) act as an adviser unless the person or company is registered as an adviser, or is registered as a representative or as a partner or as an officer of a registered adviser and is acting on behalf of the adviser,
>
> and the registration has been made in accordance with Ontario securities law and the person or company has received written notice of the registration from the Director and, where the registration is subject to terms and conditions, the person or company complies with such terms and conditions.

[33] There is not sufficient, clear and convincing evidence before the Panel to support a finding of conduct by Vucicevich which is contrary to subsection 25(1)(c) of the Act. That allegation is therefore dismissed.

C. Did Vucicevich breach subsection 53(1) of the Act?

[34] Subsection 53(1) of the Act sets out the prospectus requirement for trades that would be a distribution:

> **53(1) Prospectus required** – No person or company shall trade in a security on his, her or its own account or on behalf of any other person or company where such trade would be a distribution of such security, unless a preliminary prospectus and a prospectus have been filed and receipts therefor obtained from the Director.

[35] The definition of a "distribution" under subsection 1(1) of the Act is:

> "distribution", where used in relation to trading in securities, means,
>
> (a) a trade in securities of an issuer that have not been previously issued;
>
> …

[36] As discussed above, Sulja Nevada Shares were first issued from the company's treasury and then sent to the Nominee Accounts to be sold to the public on Vucicevich's instructions. Sales of Sulja Nevada Shares in the Nominee Accounts as directed by Vucicevich were "distributions" within the meaning of the Act. However, these sales were neither qualified by prospectus, nor was there exemption from the prospectus requirement available to Vucicevich. Therefore, we find that Vucicevich's actions were in breach of subsection 53(1) of the Act.

D. Did Vucicevich breach subsection 126.1(b) of the Act?

[37] Staff maintain that the essence of the illegal conduct in this matter is a fraud under the Act, set out in subsection 126.1(b):

> **126.1 Fraud and market manipulation** – A person or company shall not, directly or indirectly, engage or participate in any act, practice or course of conduct relating to securities or derivatives of securities that the person or company knows or reasonably ought to know,
>
> …
>
> (b) perpetrates a fraud on any person or company.

[38] The deceit, falsehood, or other fraudulent means that make up the fraud in this case was committed by way of market manipulation achieved through the issuance of a series of materially misleading statements in press releases. The uncontested evidence establishes that Vucicevich created or caused to be created press releases containing both misleading and false representations about, among other things, Sulja Nevada's merger opportunities, revenue potential and audit arrangements.

[39] Vucicevich profited from selling Sulja Nevada Shares into a market inflated by those false press releases, and investors were correspondingly deprived of money paid to purchase the securities. Approximately $5.6 million (USD) of trading profit was incurred as a result of these misleading press releases, of which $2,990,000 (CDN) and $367,000 (USD) accrued to the benefit of Vucicevich.

[40] Accordingly, we find that the Vucicevich's selling and promoting of Sulja Neveda Shares was in contravention of subsection 126.1(b) of the Act.

E. Did Vucicevich breach subsections 122(1)(b), 126.1(a) and 126.2(1) of the Act?

[41] To avoid unnecessary duplication, it is not necessary to also find that Vucicevich additionally breached subsections 122(1)(b), 126.1(a), and 126.2(1) of the Act, since the conduct establishing Vucicevich's breach of subsection 126.1(b) encompasses the conduct that would establish those breaches. Nonetheless, we agree with Staff's submissions that the evidence would also be sufficient to make out breaches of subsections 122(1)(b), 126.1(a), and 126.2(1) of the Act.

F. Did Banumas and Shah breach subsection 126.1(a) of the Act?

[42] Subsection 126.1(a) of the Act provides that:

> **126.1 Fraud and market manipulation** – A person or company shall not, directly or indirectly, engage or participate in any act, practice or course of conduct relating to securities or derivatives of securities that the person or company knows or reasonably ought to know,
>
> (a) results in or contributes to a misleading appearance of trading activity in, or an artificial price for, a security or derivative of a security;
>
> …

[43] The uncontested evidence shows that Banumas and Shah participated in the issuance of misleading press releases, which resulted in or contributed to an artificially inflated price for Sulja Nevada Shares. Further, by trading heavily as nominees for the benefit of Vucicevich, Banumas and Shah played a significant role in concealing Vucicevich's involvement in the trading

of Sulja Nevada Shares, creating a misleading appearance of trading activity. Therefore, we find that Banumas and Shah breached subsection 126.1(a) of the Act.

5. Conclusion

[44] For the reasons stated above, we find that:

(i) Vucicevich breached subsection 25(1)(a) of the Act;

(ii) Vucicevich breached subsection 53(1) of the Act;

(iii) Vucicevich breached subsection 126.1(b) of the Act; and

(iv) Banumas and Shah breached subsection 126.1(a) of the Act.

Dated at Toronto at this 28th day of October, 2010.

"Patrick J. Lesage"
Patrick J. LeSage

"Sinan O. Akdeniz"
Sinan O. Akdeniz

3.1.2 Sulja Bros. Building Supplies, Ltd. et al.

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

AND

**IN THE MATTER OF
SULJA BROS. BUILDING SUPPLIES, LTD.,
PETAR VUCICEVICH, KORE INTERNATIONAL
MANAGEMENT INC., ANDREW DEVRIES,
STEVEN SULJA, PRANAB SHAH,
TRACEY BANUMAS, AND SAM SULJA**

REASONS AND DECISION

Hearing:	September 24, 2010		
Decision:	October 28, 2010		
Panel:	Patrick J. LeSage	–	Commissioner and Chair of the Panel
	Sinan O. Akendiz	–	Commissioner
Appearances:	Jonathon T. Feasby Usman M. Sheikh	–	For Staff of the Ontario Securities Commission
	Khalid Sheikh	–	For Steven Sulja and Sam Sulja

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REASONS AND DECISION

1. Overview

A. History of the Proceeding

[1] This was a hearing before the Ontario Securities Commission (the "Commission") pursuant to section 127 of the *Securities Act*, R.S.O. 1990, c. S.5, as amended (the "Act"), to consider whether Sulja Bros. Building Supplies, Ltd., (Nevada) ("Sulja Nevada"), Petar Vucicevich ("Vucicevich"), Kore International Management Inc. ("Kore International"), Andrew DeVries ("DeVries"), Steven Sulja, Pranab Shah ("Shah"), Tracey Banumas ("Banumas") and Sam Sulja breached the Act and acted contrary to the public interest.

[2] A temporary cease trade order was issued in this matter on December 22, 2006 with respect to Sulja Nevada, Sulja Bros. Building Supplies Ltd., (Ontario) ("Sulja Ontario"), Kore International, Vucicevich and DeVries. The Commission issued periodic extensions of the temporary cease trade order, which now continues until the completion of the hearing on the merits.

[3] On December 27, 2006, the Commission issued a Notice of Hearing and a Statement of Allegations with respect to Sulja Nevada, Sulja Ontario, Kore International, Vucicevich and DeVries. On June 16, 2008, a second Notice of Hearing and an

Amended Statement of Allegations were issued to add the following respondents to this matter: Steven Sulja, Shah, Banumas and Sam Sulja. Staff of the Commission ("Staff") removed Sulja Ontario as a respondent on the same day.

[4] The hearing on the merits in this matter commenced on September 13, 2010. Vucicevich and Banumas were present. Shah attended on September 14, 2010. During the hearing on September 14, 2010, Vucicevich, Banumas and Shah advised that they did not contest Staff's allegations. The proceeding related to those three respondents was severed and dealt with on September 14, 2010.

[5] The hearing resumed on September 24, 2010. Counsel for Steven Sulja and Sam Sulja advised the Panel that they wished to proceed in the same manner as Vucicevich, Banumas and Shah. The proceeding related to those two respondents (the "Non-Contesting Respondents") was severed and dealt with on September 24, 2010.

[6] In oral reasons, we made summary findings against the Non-Contesting Respondents with the understanding that more complete reasons would follow. These are those reasons.

2. Evidence

A. Modified Amended Statement of Allegations

[7] At the commencement of the hearing on September 13, 2010, Vucicevich and Banumas stated that they desired a timely resolution to this matter and would like to move directly to a sanctions hearing. Vucicevich and Banumas indicated they would not be calling witnesses nor would they contest evidence put forward by Staff. In an effort to expedite the hearing, the Panel invited discussions between Staff and the respondents to allow the parties to identify relevant evidence that the respondents would not challenge. After some considerable discussion, first with Vucicevich and Banumas and later with Shah, the parties agreed that the uncontested evidence on which Staff would rely would be a modified version of the Amended Statement of Allegations.

[8] After reviewing the Amended Statement of Allegations, as modified and read into the record, the Panel invited Staff to provide submissions on the findings of fact that Staff was seeking to be drawn from the evidence. The Panel also invited Staff to revise the allegations to avoid duplication, in keeping with the principle articulated in *R. v. Kienapple*, [1975] 1 S.C.R. 729.

[9] When the hearing resumed against the remaining respondents on September 24, 2010, counsel for Sam Sulja and Steven Sulja requested that the Panel proceed with these two respondents in the same way as Vucicevich, Banumas and Shah. Upon leave of the Panel, Staff read in a modified version of the Amended Statement of Allegations (the "Modified Amended Statement of Allegations") much in the same way as on September 13 and 14, 2010.

[10] This was a novel process arising from a set of unusual circumstances. We invited the parties to engage in discussions and on consent, evidence was put forward as already indicated by way of a Modified Amended Statement of Allegations. The Non-Contesting Respondents understood the Modified Amended Statement of Allegations was not an Agreed Statement of Facts but, rather, it was agreed it would be evidence upon which the Panel would make its findings.

[11] In agreeing with the parties to proceed in this manner, we took into consideration that tribunals are meant to operate in a less formal manner than courts. Further, we take comfort in the fact that the Non-Contesting Respondents and their counsel were present, and in fact, they were the ones who requested to proceed in this manner.

[12] The Modified Amended Statement of Allegations has been admitted on this hearing solely as it relates to the Non-Contesting Respondents, Sam Sulja and Steven Sulja.

B. Uncontested Evidence

[13] The evidence in this proceeding, namely, the Modified Amended Statement of Allegations, relates to a "pump and dump" scheme, a fraudulent behaviour in which promoters artificially inflate a stock's price by making false claims about the issuer. A summary of the uncontested evidence, found below, is based on the Modified Amended Statement of Allegations.

i. The Non-Contesting Respondents

[14] Steven Sulja is a resident of Oldcastle, Ontario. He was the CEO of Sulja Nevada.

[15] Sam Sulja is a resident of McGregor, Ontario.

ii. Related Parties

[16] Vucicevich is a resident of Colchester, Ontario.

[17] Sulja Nevada is a company incorporated in the State of Nevada, U.S.A., with a registered office at CRA of America, Inc., 3638 N. Ranchero Drive, Suite 6, Las Vegas, Nevada. It was originally incorporated as Loftworks, Inc. on April 19, 2005, and then changed its name to Loftwerks, Inc. ("Loftwerks") on May 4, 2005. It was renamed Sulja Brothers Building Products, Inc. on July 20, 2006 and changed its name to Sulja Bros. Building Supplies, Ltd. on July 21, 2006. Loftwerks was quoted on Pink Sheets, an over-the-counter quotation system in the United States. It continued that quotation as Sulja Nevada and did not trade on any exchange or trading system in Canada.

iii. The Investment Scheme

Promotion of Sulja Nevada Shares

[18] The investment scheme in this case is alleged to have occurred over the period of February 6, 2006 to January 31, 2007 (the "Material Time") and involved the promotion and sale of shares issued by Sulja Nevada and its predecessor companies ("Sulja Nevada Shares"). Approximately $5.6 million (USD) of trading profit was incurred as a result of this scheme.

[19] The means by which Sulja Nevada Shares were promoted during the Material Time was press releases which would be broadcast to the market. These press releases contained statements about the company's merger opportunities, revenue potential and audit arrangements which proved to be false.

[20] Press releases issued during the period between February 2006 and April 2006 made a number of claims about the Loftwerks' merger opportunities. For example, these press releases claimed that Loftwerks would merge with Sulja Ontario and Consultech Management Inc. ("Consultech"), a company controlled by Vucicevich at all material times. The press releases claimed that the merging companies were negotiating, and would be entering into large and profitable urban renewal contracts in the United States. They also described Sulja Ontario as a division of Consultech and Steven Sulja as an employee of Consultech.

[21] Steven Sulja was not an employee of Consultech, Sulja Ontario was not a division of Consultech, Consultech was not involved in merger discussions with Loftwerks, and Loftwerks never did merge with Sulja Ontario.

[22] The press releases issued during this period also made statements announcing, among other things, that Steven Sulja was the Chief Executive Officer of Sulja Brothers Specialty Building Materials, Ltd. ("Sulja Specialty Building Materials") and that Loftwerks would merge with variously named Sulja companies, when in fact, Sulja Specialty Building Materials appeared never to have been incorporated, some of the Sulja companies named in the press releases did not exist, and Loftwerks never did merge with any of the Sulja companies. In the end, Loftwerks simply changed its name to Sulja Nevada.

[23] Press releases containing statements about Sulja Nevada's revenue potential were also issued. After Loftwerks changed its name to Sulja Nevada, press releases from April 2006 to November 2006 announced present and future business opportunities from which Sulja Nevada would earn large revenue. Many of these press releases spoke of contracts for building materials that Sulja Nevada had in the Middle East. However, Sulja Nevada had not entered into these contracts, nor did it ever earn revenue from them.

[24] For example, on September 5, 2006, a press release (the "September 5 Press Release") announced that Sulja Nevada had signed a contract (the "Cement Contract") to supply cement to Ramada General Contracting in Abu Dhabi, one of the United Arab Emirates. The press release stated that the Cement Contract would produce yearly revenues of $350,000,000.

[25] In fact, the Cement Contract did not exist and Sulja Nevada earned no revenue from it. The September 5 Press Release was not corrected until December 5, 2006, when another press release was issued to announce that "concrete commodities mentioned in that release [the September 5 Press Release] were indeed cancelled and no contract, even if drafted to finality, was consummated".

[26] Yet another example of misleading press releases is a series of press releases beginning on December 6, 2006 announcing that Sulja Nevada was pursuing other cement deals in the Middle East. On December 11, 2006, there was a press release announcing a cement contract (the "Second Cement Contract"), totalling 25,300,000 tonnes over three years, paying a commission of $0.90 USD per tonne to Sulja Nevada. In fact, the Second Cement Contract did not exist either, and Sulja Nevada never received the revenue set out.

[27] Finally, there were press releases which discussed Sulja Nevada's audit arrangements. These press releases stated that KPMG and PWC were Sulja Nevada's auditors, and that Sulja Nevada was negotiating with those firms to handle all of its future SEC filings and reporting. Those press releases were also untrue. Neither KPMG nor PWC had done any work for Sulja Nevada. When advised by those firms that its representations were untrue, Sulja Nevada did not advise investors of the true facts or correct its public disclosure.

Sale of Sulja Nevada Shares

[28] Sulja Nevada Shares were issued from the company's treasury through its transfer agent, Transfer Online, a transfer agent located in Portland, Oregon. After their issuance, the shares were sent electronically to nominee trading accounts controlled by Vucicevich (the "Nominee Accounts"), some of which were held in the name of Sam Sulja. The Nominee Accounts would then sell Sulja Nevada Shares in the market on Vucicevich's instructions, at prices inflated by the misrepresentations in the press releases. The Nominee Accounts served to conceal Vucicevich's involvement in the trading of Sulja Nevada Shares.

[29] The practice of Nominee Accounts selling on behalf of Vucicevich continued until October 2006.

3. Issues

[30] This case raises the following issues:

(i) Did Steven Sulja make statements in press releases of Sulja Nevada that he knew or reasonably ought to have known in a material respect and at the time and in light of all the circumstances under which they were made, were misleading or untrue or did not state a fact that was required to be stated or that was necessary to make the statement not misleading and would reasonably be expected to have a significant effect on the market price or value of Sulja Nevada Shares, contrary to subsection 126.2(1) of the Act?

(ii) Did Sam Sulja directly or indirectly engage or participate in an act, practice, or course of conduct relating to Sulja Nevada Shares that he knew or reasonably ought to have known resulted in or contributed to a misleading appearance of trading activity in, or an artificial price for, Sulja Nevada Shares contrary to subsection 126.1(a) of the Act?

4. Analysis

A. Did Steven Sulja breach subsection 126.2(1) of the Act?

[31] Subsection 126.2(1) provides that:

> **126.2 (1) Misleading or untrue statements** – A person or company shall not make a statement that the person or company knows or reasonably ought to know,
>
> (a) in a material respect and at the time and in the light of the circumstances under which it is made, is misleading or untrue or does not state a fact that is required to be stated or that is necessary to make the statement not misleading; and
>
> (b) would reasonably be expected to have a significant effect on the market price or value of a security.

[32] It is clear from the uncontested evidence that the press releases contained representations about, among other things, Sulja Nevada's merger opportunities, revenue potential and audit arrangements which were found to be false. As the CEO of Sulja Nevada, Steven Sulja ought to have taken sufficient steps to ascertain the accuracy of these press releases. However, he did nothing to stop the issuance of the press releases or to correct the false statements contained in the press releases. As such, we find that Steven Sulja breached subsection 126.2(1) of the Act.

B. Did Sam Sulja breach subsection 126.1(a) of the Act?

[33] Subsection 126.1(a) of the Act provides that:

> **126.1 Fraud and market manipulation** – A person or company shall not, directly or indirectly, engage or participate in any act, practice or course of conduct relating to securities or derivatives of securities that the person or company knows or reasonably ought to know,
>
> (a) results in or contributes to a misleading appearance of trading activity in, or an artificial price for, a security or derivative of a security;
>
> …

[34] The uncontested evidence shows that Sam Sulja, by trading heavily as a nominee at Vucicevich's behest, played a significant role in concealing Vucicevich's involvement in the trading of Sulja Nevada Shares, which created a misleading appearance of trading activity. Therefore, we find that Sam Sulja breached subsection 126.1(a) of the Act.

5. Conclusion

[35] For the reasons stated above, we find that:

(i) Steven Sulja breached subsection 126.2(1) of the Act; and

(ii) Sam Sulja breached subsection 126.1(a) of the Act.

Dated at Toronto at this 28th day of October, 2010.

"Patrick J. Lesage"
Patrick J. LeSage

"Sinan O. Akdeniz"
Sinan O. Akdeniz

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

THERE ARE NO ITEMS FOR THIS WEEK.

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 6

Request for Comments

6.1.1 CSA Consultation Paper 91-401 on Over-the-Counter Derivatives Regulation in Canada

CANADIAN SECURITIES ADMINISTRATORS
CONSULTATION PAPER 91-401 ON OVER-THE-COUNTER DERIVATIVES REGULATION IN CANADA

Canadian Securities Administrators Derivatives Committee
November 2, 2010

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Executive Summary

The global financial crisis brought the over-the-counter ("OTC") derivatives market into the limelight, and highlighted the considerable risks that OTC derivatives can pose to the financial system. For the past year, the CSA Derivatives Committee ("Committee") has been closely following international regulatory proposals and legislative developments, consulting with Canada's OTC derivatives market participants and collaborating with other Canadian regulators to determine the most appropriate approach to enhancing the regulatory framework for our markets.

This public consultation paper addresses some of the deficiencies that have become apparent in the OTC derivatives market, and outlines the Committee's high level proposals regarding the regulation of OTC derivatives. The options and recommendations outlined by the Committee are intended to strengthen Canada's financial markets and manage specific risks related to OTC derivatives, implement G20 commitments in a manner appropriate for our markets, harmonize regulatory oversight to the extent possible with international jurisdictions, all while avoiding causing undue harm to our markets.

In each of the subject areas addressed in the paper, the Committee notes that clear jurisdictional authority in each province, as well as specific rule-making powers, need to be set out in provincial securities and derivatives legislation. Furthermore, in order to implement many of the recommendations in this paper, the CSA will need to develop information sharing and co-operation agreements with international regulators, as well as foreign trade repositories and central counterparty clearing houses ("CCPs").

The Committee is seeking input from the financial industry and the public in relation to the Committee's proposals regarding the regulation of OTC derivatives. The Committee is particularly interested in receiving comments which respond to the various questions outlined in the paper relating to the Committee's recommendations and options. The following is a summary of the Committee's key recommendations for consideration:

Clearing

The Committee recommends the mandatory central clearing of OTC derivatives that are determined to be appropriate for clearing and capable of being cleared. Further input and study is required regarding the location and type of CCP to be used, including an assessment of the necessity of a Canadian solution versus the use of international CCPs.

Trade Repositories

The Committee recommends that Canadian provincial securities laws be amended to mandate the reporting of all derivatives trades by Canadian counterparties to a trade repository.

Electronic Trading

In the near term, the Committee recommends that provincial regulators obtain regulatory authority to mandate electronic trading of OTC derivative products. However, such power should, in time, only be used to mandate the electronic trading of those products which are capable of being traded on an organized trading platform (e.g. products which are sufficiently standardized and liquid) and which pose a systemic risk to the market.

Capital and Collateral

The Committee recommends using a risk-based approach by imposing capital and collateral requirements to reflect appropriately the risks that an entity assumes. Specifically, the Committee recommends implementing higher capital and collateral requirements for non-centrally cleared bilateral arrangements as compared to transactions involving a CCP, subject to certain exceptions.

End-User Exemptions

The Committee recommends establishing exemptions from the regulatory proposals outlined in this paper for defined categories of end-users. This approach necessitates further study to define categories of end-users which should be permitted to use exemptions, conditions end-users will need to satisfy to rely on the exemptions and whether there should be a threshold test as part of the end-user exemptions.

Other Recommendations and Considerations

In addition to the above mentioned recommendations, the Committee also addresses the following issues:

i) ***Enforcement, market abuse, surveillance –***The Committee recommends that provincial regulators obtain authority to conduct surveillance on OTC derivatives markets, develop robust market conduct standards applicable to OTC

derivatives trading and obtain authority to investigate and enforce against abusive practices in the OTC derivatives marketplace.

ii) ***Segregation of Capital –*** The Committee recognizes that further analysis is required before making a recommendation regarding the segregation of capital in the Canadian OTC derivatives context.

Comments and Submissions

The Committee invites participants to provide input on the issues outlined in this public consultation paper. You may provide written comments in hard copy or electronic form. The comment period expires on January 14, 2011.

The Committee will publish all responses received on the websites of the Autorité des marchés financiers (www.lautorite.qc.ca) and the Ontario Securities Commission (www.osc.gov.on.ca).

Please address your comments to each of the following:

Alberta Securities Commission
Autorité des marchés financiers
British Columbia Securities Commission
Manitoba Securities Commission
New Brunswick Securities Commission
Ontario Securities Commission
Saskatchewan Financial Services Commission

Please send your comments only to the following addresses. Your comments will be forwarded to the remaining jurisdictions:

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1. Background

This paper sets out the Committee's high level proposals regarding the regulation of OTC derivatives. In the paper, we shall describe the risks each proposal is intended to mitigate, the international regulatory context for each issue addressed herein, our options for dealing with each of the issues, proposals for legislative development and questions for public consultation.

The recent financial crisis began in the U.S. housing sector, however the economic environment, along with inadequate credit and risk management practices, little regulatory oversight and excessive leverage meant that the crisis spiraled out of the U.S. mortgage market and touched all sectors of the global economy. Although not considered the primary cause of the recent financial crisis, OTC derivatives did play a role in both its exacerbation and in the difficulty that regulators faced in understanding the scope of the crisis as well as the interactions between market participants. The complexity of OTC derivatives contracts was compounded by the lack of transparency within the OTC derivatives markets, making it challenging for regulators to identify risk before and during the crisis.

Innumerable reports have been drafted since the start of the financial crisis proposing regulatory and industry reforms. It is not our intent here to reiterate all the proposals we have seen, nor would it be feasible to attempt to do so. This paper will instead highlight the major regulatory proposals from the United States, the United Kingdom and Europe. Our options and recommendations are geared toward:

i) strengthening our financial markets and managing specific risks relating to OTC derivatives;

ii) implementing the G20 commitments made at the Pittsburgh Summit in 2009 and reaffirmed at the Toronto Summit in June 2010 in a manner that is appropriate for our markets;

iii) harmonizing regulatory oversight to the extent possible with international jurisdictions in order to facilitate global markets and limit the potential for regulatory arbitrage and a flight of capital; and

iv) avoiding causing undue harm to our markets.

To further assist with the identification of issues and regulatory proposals impacting the OTC derivatives markets, certain members of the Committee are also members of the Heads of Agencies Derivatives Working Group, the OTC Derivatives Regulators' Forum and the International Organization of Securities Commissions ("IOSCO") Commodities Task Force. This has provided the Committee with insight into the views of these other groups and is reflected in our analysis contained in this paper.

1.1 Derivatives

Simply put, a derivative can be defined as an agreement where the price, value, delivery or payment obligation is derived from an underlying interest. Derivatives are used to transfer the financial risk that an underlying interest poses to a company, an institution or an individual to another entity that is willing to accept the risk.

Derivative trades are executed in one of two ways: on an exchange or through bilateral negotiation, also known as over-the-counter (OTC). When traded on an exchange, such as the Montréal Exchange or ICE Futures Canada, contracts are standardized and traded anonymously through an electronic trade-matching engine[1]. The trading of derivatives on regulated exchanges did not experience any significant failures during the recent financial crisis.

Once a trade is executed on an exchange, the information relating to that trade is sent to a clearinghouse so that the trade can be cleared. Through the process of novation, the clearinghouse then inserts itself between the buyer and the seller, becoming the counterparty to each. In doing so, the central counterparty mitigates counterparty credit risk between both original counterparties. The use of initial margin and variation margin, as well as a default fund set up by each clearinghouse, ensures that the counterparties to the trade are able to continue to meet their obligations to their clearing house counterparties. Should a clearing member nonetheless fail in meeting its obligations, the use of margin reduces the exposure of a particular position in the CCP, and the capital committed by clearing members provides additional insurance.

Trading OTC derivatives differs from trading derivatives on an exchange as transactions are negotiated bilaterally between two counterparties who each take on the credit risk associated with financial exposure to the other. All aspects of the contract are negotiable, although the OTC derivatives industry has developed highly structured master agreements with standard terms for

[1] Historically exchange traded derivatives were executed on the floor of the exchange through an open outcry auction.

derivative contracts[2]. While the standardized master agreement is commonly used, it is still subject to modification by the parties. The tailoring of individual contracts allows market participants to mitigate specific risks, for example entering into an interest rate swap whose payment obligations precisely match a loan obligation of the contract participant.

Regardless of how derivatives are transacted, these markets are essential to the global economy, as they facilitate the transfer and mitigation of risks that, if they were not addressed, could potentially limit a number of important economic factors including the ability of manufacturers to enter into long-term contracts or corporations to do business in multiple currencies. Parties entering into derivatives transactions for speculative purposes are necessary participants in the market as they provide liquidity and accept the risks of their derivatives counterparties.

1.2 Canadian OTC Markets

Derivatives are overseen differently in various Canadian jurisdictions, with regulatory authority being derived through a variety of legislative regimes[3]. Canada's OTC derivatives markets are relatively small. However, it is a vital market for all sectors of our economy. Market participants on both the sell side[4] and the buy side have provided input to the Committee, including some data and more qualitative discussions in roundtables and bilateral meetings.

1.3 G20 Commitments

The global financial crisis has focused attention on the OTC derivatives markets. Regulators and market participants were hard pressed to understand the complex deals that, due to the failure or near failure of significant market participants (i.e. Lehman, Bear Stearns, AIG), put the world economy in peril. The G20 leaders looked at the financial structures that had failed or undergone significant distress, and at their meeting in September 2009 in Pittsburgh, committed to the following:

"All standardized OTC derivative contracts should be traded on exchanges or electronic trading platforms, where appropriate, and cleared through central counterparties by end-2012 at the latest. OTC derivative contracts should be reported to trade repositories. Non-centrally cleared contracts should be subject to higher capital requirements."

This commitment was reaffirmed by the G20 leaders at the June 2010 summit in Toronto, where the leaders committed to "*strengthen financial market infrastructure by accelerating the implementation of strong measures to improve transparency and regulatory oversight of hedge funds, credit rating agencies and over-the-counter derivatives in an internationally consistent and non-discriminatory way."*[5]

Canada, as signatory to the G20 commitment, is expected to meet the end of 2012 deadline. In order to meet these ambitious commitments, Canadian and international regulators must quickly develop a framework within which they have the legal authority to implement new regulations to facilitate compliance with their commitments.

1.4 Other Canadian Working Groups

The Canadian OTC Derivatives Working Group (OTCDWG), which was formed in December 2009, was tasked by the Heads of Regulatory Agencies (HoA) with providing advice and coordinating efforts to meet Canada's G20 commitments related to OTC derivatives in a manner consistent with the continuing stability and vibrancy of the Canadian financial system. Its members include representatives from the Bank of Canada, the Office of the Superintendent of Financial Institutions, the federal

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2 While there are a variety of standardized master agreements utilized globally, a significant proportion of OTC derivatives transactions are documented using standard form documentation developed by the International Swaps and Derivatives Association, or ISDA. The ISDA is a global financial trade association with over 820 member institutions from 57 countries on six continents. Its members include most of the world's major institutions that deal in privately negotiated derivatives, as well as many of the businesses, governmental entities and other end-users using OTC derivatives. The ISDA Master Agreement is the umbrella agreement governing individual trade confirmations between a pair of counterparties.

3 As examples: (i) Quebec's *Derivatives Act*, R.S.Q. c.1-14.01 gives the AMF jurisdiction over all derivatives contracts, with a clear definition of a derivative and a separate regime from securities oversight; (ii) In Ontario, the OSC derives its jurisdiction from the province's *Securities Act*, R.S.O. 1990, c.S.5 and *Commodity Futures Act*, R.S.O. 1990, c.C.20; (iii) in Manitoba exchange-traded derivatives are regulated under *The Commodity Futures Act*, C.C.S.M.c.C152 while OTC derivatives are regulated under *The Securities Act*, C.C.S.M.c.S50; (iv) in a number of jurisdictions OTC derivatives are securities and regulated under the terms of the province's *Securities Act*.

4 The Industry Advisory Group, comprised of the six largest Canadian banks, was created in January 2010 for the purpose of assessing international developments, collecting data on Canadian OTC derivatives markets and developing policy recommendations related to implementing the G20 recommendations. It has since then added members, major dealers and buy-side participants active in Canadian derivatives markets, and is now known as Canadian Market Infrastructure Committee (CMIC).

5 "The G-20 Toronto Summit Declaration", online: G20 Information Centre, University of Toronto: <http://www.g20.utoronto.ca/2010/to-communique.html>.

Department of Finance and the Canadian Securities Administrators. The work of the OTCDWG and the Committee is aligned both from a subject matter and timetable perspective.[6]

In addition, the OTCDWG has suggested a Canadian approach to addressing some issues, such as relying on capital incentives and the stated policy intentions of Canadian authorities to motivate industry reform. It suggested that significant public-sector input is expected to guide the industry in the development of market infrastructure. Also, the OTCDWG has asked the Canadian Market Infrastructure Committee (CMIC)[7] to address issues such as clearing, trade repositories, and standardization.

1.5 International Efforts

Several members of the Committee are participating in international efforts to improve the regulatory oversight of OTC derivatives markets. A variety of international efforts are ongoing, including:

- IOSCO has set up several task forces that have provided reports to the technical committee and have ongoing work such as the Task Force on Unregulated Markets and Products and the Task Force on Commodities.

- The Committee on Payment and Settlement Systems (CPSS) and IOSCO are jointly revising their Recommendations for Central Counterparties to include OTC derivatives, and are also proposing recommendations for Trade Repositories. These recommendations will be incorporated into a general review of the international standards for financial market infrastructures that was launched by the CPSS and the Technical Committee of IOSCO in February this year. Sub groups have been formed, and are currently aggregating the information from the three Financial Market Infrastructure (FMI) standards: Systemically Important Payment Systems (SIPS), Recommendations for Securities Settlement Systems (RSSS), and Recommendations for Central Counterparties (RCCP).

- IOSCO is co-chairing a working group set up by the Financial Stability Board (FSB). Its goal is to identify factors that make derivatives clearable and set out policy options to support the consistency of implementation of both clearing and electronic trading requirements across jurisdictions. They are also addressing the scope for any exemptions from clearing and electronic trading requirements. They will be releasing a report in October 2010.

- The IOSCO Technical Committee has announced the creation of a Task Force on OTC derivatives. This group will endeavor to develop consistent international standards related to OTC derivatives regulation, coordinate certain international initiatives relating to OTC derivative regulation and serve as a centralized group through which IOSCO members can consult and coordinate generally on issues relating to OTC derivatives regulation.[8]

- The IOSCO Emerging Markets Committee this summer published a report entitled *OTC Markets and Derivatives Trading in Emerging Markets.*

- The Basel Committee on Banking Supervision also recently agreed to revise its capital requirements.

- The Federal Reserve Bank of New York along with prudential and market regulators, central banks and other international organizations have formed the OTC Derivatives Regulators' Forum, which is focused on the practical operational and oversight issues regarding CCPs and trade repositories.

- Supervisors of the Major OTC Derivatives Dealers[9] held consultations with the G14[10] dealers and buy-side institutions (the "G14 Dealers") continue to work collaboratively to deliver structural improvements to the global

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6 The OTCDWG has recently released a public paper on this issue.

7 See *supra* note 4.

8 IOSCO Technical Committee Task Force on OTC Derivatives Regulation, "Terms of Reference".

9 Such supervisors consist of the Board of Governors of the Federal Reserve System, Connecticut State Banking Department, Federal Deposit Insurance Corporation, Federal Reserve Bank of New York, Federal Reserve Bank of Richmond, French Secrétariat Général de la Commission Bancaire, German Federal Financial Supervisory Authority, Japan Financial Services Agency, New York State Banking Department, Office of the Comptroller of the Currency, Securities and Exchange Commission, Swiss Financial Market Supervisory Authority and United Kingdom Financial Services Authority.

10 As of March 1st 2010, the G14 members were: AllianceBernstein, Bank of America-Merrill Lynch, Barclays Capital, BlackRock, Inc., BlueMountain Capital Management LLC, BNP Paribas, Citadel Investment Group, L.L.C., Citi, Credit Suisse, Deutsche Bank AG, D.E. Shaw & Co., L.P., DW Investment Management LP, Goldman Sachs & Co., Goldman Sachs Asset Management, L.P., HSBC Group, International Swaps and Derivatives Association, Inc., J.P.Morgan, Managed Funds Association, Morgan Stanley, Pacific Investment Management Company, LLC, The Royal Bank of Scotland Group, Asset Management Group of the Securities Industry and Financial Markets Association, Société Générale, UBS AG, Wachovia Bank, N.A. and Wellington Management Company, LLP.

OTC derivatives markets. This effort by the G14 Dealers has been undertaken as part of their ongoing partnership with supervisors, government departments, trade associations, industry utilities and private vendors[11].

The discussions and work product from all these committees serve to help each country develop appropriate regulatory infrastructure and encourage harmonization in an effort to avoid regulatory arbitrage. CSA participants are active in subgroups, providing the perspective of smaller markets such as Canada. The Committee, on an ongoing basis, monitors the activities of all appropriate international committees to ensure that their recommendations are given appropriate weight.

1.6 Risk of inaction

Canadian firms and financial institutions are active in derivatives trading, but account for a small part of the international OTC derivatives markets, and were not heavily active in the type of OTC derivative trading, such as credit default swaps, that was a factor in the recent financial turmoil. Nonetheless, the recent financial turmoil has highlighted the risks of permitting OTC derivatives trading to continue unfettered and without some regulatory oversight. In addition, jurisdictions where many of our Canadian firms' counterparties are based, such as the EU and the United States, are poised to impose new regulations on OTC derivatives markets. This means Canadian entities may be required to adhere to new requirements, in those jurisdictions as well.

Regulatory inaction is not an option given the commitments Canada has made as part of the G20. Notwithstanding Canada's G20 commitments, there are compelling reasons to introduce regulation. Because OTC derivatives trading takes place across borders, if other countries adopt stringent regulations, and Canada does not act, it may gain a reputation as a haven, resulting in regulatory arbitrage and a flight of risky trading to Canada. In addition, Canadian entities may face difficulties operating across jurisdictions if their home jurisdiction is deemed to have a lax regulatory regime. While Canada's banks may have weathered the financial crisis better than counterparts in other jurisdictions, Canadian investors have been impacted.

The CSA is analysing the regulatory reform stemming from the US and EU, but any regulatory proposals we develop will reflect the reality of the derivatives market in Canada and issues or risks that might exist. While ensuring consistency with the G20 recommendations, the CSA intends to avoid regulation that will impose costs that are not proportionate to the CSA's objective to strengthening our financial markets and reducing the chances of a reoccurrence of the events which led up to the recent financial crisis.

1.7 Standardization

Both the G20 and the FSB reference the importance of standardization of OTC derivatives. The largest international derivatives dealers have made commitments to their regulators, and it is important to mention that similar efforts are currently on-going in Canada to assess standardization. A certain level of standardization of the various facets of OTC derivatives trading is a precursor for the industry to meet potential regulatory requirements such as reporting to a trade repository, CCP clearing or trading on an OTC derivatives execution facility or on an exchange.

Standardization of both OTC derivative contract terms and the processes by which the contracts are reported is also clearly necessary for the success of a trade repository and its utility to both industry and regulators. As contracts become more standardized, they will be more likely to be clearable and subsequently tradable on an electronic platform with the goal of being fungible[12].

Therefore it is in the financial industry's best interest to continue their current work in identifying and demonstrating to regulators which OTC derivative products are clearable and eligible for electronic trading, thereby establishing the requisite initial level of standardization. At the same time, regulators are assessing the levels of standardization that exist or can soon exist in each market segment. Through the analysis of the trade repository data, regulators will be in a better position to accurately define and measure standardization.

The Committee agrees that the development of appropriate market infrastructure, within the regulatory framework developed by both market and prudential regulators, will assist in ensuring that Canada can meet its obligations while ensuring its competitiveness in the global market.

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[11] Letter to the Honorable William C. Dudley (1 March 2010), online: The Federal Reserve Bank of New York: <http://www.newyorkfed.org/newsevents/news/markets/2010/100301_letter.pdf>.

[12] "Fungible" means Identical contract specifications and therefore capable of being freely exchangeable or replaceable.

1.8 Registration

The issue of the applicability of registration exemptions and the scope of registration requirements is not covered in this paper and will be the subject of future consultation.

2. Risk

The derivatives markets allow entities to manage risk exposure by divesting risks that they did not want to retain or accepting risks that they can tolerate. Some entities that accept others' risks are utilizing the derivatives market for speculative purposes, in most cases with the expectation of profiting from their speculation. In this complex web of risk transfer, considerable risk is brought upon the financial system itself. It is important to understand not only the risks that market participants wish to transfer to another party but also the additional risks to the system these transactions can bring, both individually and in the aggregate. In addition, it is important to understand the risks to the system that can result from each potential regulatory solution.

2.1 Counterparty Risk

OTC derivatives contracts are predominantly bilateral by nature; each party is subject to the terms of its contract which typically only provides recourse against the other party for performance of the contract. Throughout the duration of a derivative contract, which may range from a few days to many years, counterparties build up claims against one another based on the changing value of the underlying asset from which the contract is derived or due to events defined in the contract. This results in counterparty risk (also referred to as counterparty credit risk): the risk that a party to a contract may fail to fulfil its obligations under the contract, such as its payment and delivery obligations.

Counterparty risk is exacerbated by the opaque nature of OTC derivatives markets (discussed in detail under "Transparency Risk" below). Participants may have difficulty assessing the creditworthiness of a counterparty, the extent of a counterparty's overall derivatives exposures, and accordingly such counterparty's risk of defaulting on its obligations under a derivatives contract.

Parties to an OTC derivatives trade have traditionally mitigated counterparty risk by employing various risk management techniques. The most common risk management tool for institutional derivatives trades is the posting of collateral, to cover amounts owing after bilateral netting has taken place. Parties typically enter into a credit support annex, a negotiated document that forms part of the derivative contract, to define the terms or rules under which a party must post collateral.[13]. A credit support annex is a supplementary document and entry into a credit support annex (or equivalent collateral arrangement) is voluntary.

Adequate bilateral collateralization can be effective in reducing counterparty risk. For example, there were instances during the recent crisis where bilateral collateralization mitigated some of the consequences of a default where some participants were able to net out multiple positions where a defaulting entity was the counterparty, and realize on collateral provided by that party to offset some or all of their losses. However, the recent financial turmoil has shown that the bilateral collateral management prior to the turmoil did not successfully prevent the build-up of overall risk in the derivatives market. Essentially, bilateral collateralization depends on the ability of individual parties to design risk management models that can anticipate and measure market risk, something that has become increasingly difficult given the interconnectedness and complexity of OTC derivatives markets.

2.2 Transparency Risk

Exchange-traded derivatives provide transparency in terms of price discovery and publicizing trades, whereas OTC derivatives markets are more opaque. Lack of transparency negatively affects market participants' ability to properly price positions and value the a*ssociated risk, and the ability of regulators to identify build-up of risk in the system.*

Effect of lack of transparency risk on the market

Market participants may have little relevant public information to rely upon when entering into OTC derivatives trades as these transactions are generally privately negotiated. As a result, market participants do not have even the basic elements of the extensive information needed to assess the default risk of their counterparties.

As illustrated by the collapse of Bear Stearns, Lehman Brothers, and near collapse of AIG, lack of market transparency can lead to the drying up of liquidity, with market participants unwilling to trade with each other. Market participants could not determine the extent of their counterparties' exposure to these entities, resulting in uncertainty as to everyone's credit worthiness and seizure of the credit markets due to the interconnectedness of financial institutions and their contracts.

[13] The terms of the Credit Support Annex include frequency of net credit exposure monitoring, minimum transfer amounts, thresholds, securities and currencies eligible to be used as collateral (and applicable haircuts), as well as rules for the settlement of disputes with respect to valuation of positions.

Lack of transparency also makes price discovery very difficult and affects the efficiency of establishing fair pricing, particularly where certain parties do have an information advantage. Factors such as credit ratings have, on occasion, proven to be unreliable indicators of credit quality, with increasing product complexity and market instability forcing parties to revisit credit rating organizations' methodologies and their own risk assessment models when attempting to price a transaction. Prices and spreads determined in the OTC derivatives markets may influence the calculation of price for other instruments, such as bonds.

Effect of lack of transparency on regulators

Opaque derivatives markets may also facilitate market abuse, including price manipulation, insider trading, and cornering, as these actions are difficult to detect in the absence of aggregated market data and complete audit trails.

The opacity of the OTC derivatives market also prevents regulators from being able to monitor and identify the potential build-up of risk in the market and address potential systemic risk issues before such risks can have a destabilizing effect on the overall market. During the crisis, with large multinational organizations trading various OTC derivative products in many jurisdictions, the accumulation of massive, leveraged positions in exotic, complex OTC derivatives was not apparent until these entities faced distress.

Lack of information on who is participating in OTC derivatives trading and their positions and exposures, and lack of information on the types of instruments traded and the underlying or reference entity, limits the ability of regulators to identify built-up risk in the system and take appropriate steps to manage such risk.

2.3 Systemic Risk

The risks outlined above, namely counterparty risk and transparency risk, illustrate the large potential for systemic risk in the OTC derivatives market. The interlinkages between firms participating in derivatives trading, the global nature of OTC derivatives trading, and the large number of derivatives contracts means that the default or even downgrade of one significant party can have consequences for the creditworthiness of its counterparties. This in turn can have spillover effects into other markets and into the wider economy.

The bailout of AIG in September 2008 was an instance where counterparty risk in one derivatives market – credit default swaps – transformed into systemic risk. Another factor aggravating the potential for systemic risk is the concentration of activity and trade volume among a relatively small number of dealers and other major industry participants.

The lack of transparency in derivatives markets contributes to systemic risk because:

(i) market participants cannot accurately measure their counterparties' exposures; and

(ii) regulators cannot identify areas or markets of concentrated risk, or systemically important entities before it is too late to prevent a shock in the capital markets.

In order to assess areas of systemic risk in derivatives trading, regulators and supervisory authorities must be equipped with relevant information about the OTC derivatives market and the behaviour of its most active traders.

2.4 Other Risks

We have chosen to focus on counterparty risk, transparency risk, and systemic risk as these are the most significant risks that can be effectively addressed through regulation, as described later in this paper. However, these risks are not exhaustive and other risks present in other financial markets have also been associated with derivatives trading.

One of these additional risks is operational risk. Operational risk in OTC derivatives trading arises from the potential losses that can result from human error or from the failure of trading systems and controls. Operational risk is exacerbated by the rapid growth in trade volumes, the increasing complexity of new products and the entry of new active traders such as hedge funds into the OTC derivatives market. Another risk is market risk, which is the risk of the fluctuation in value of an investment due to market pressures. In light of the complexities inherent to the OTC derivatives markets and the global nature of such markets, legislators and regulators also face the risk of under or over regulation.

3. Clearing

The debate between the current market structure as it pertains to the bilateral clearing and its associated risk management, and the proposed increased use of CCPs for OTC derivatives has raised concerns from various industry participants. This section lays out issues regulators have identified with the current market processes, what we hope to achieve through increasing the use of CCPs, why regulators need the power to mandate the use of CCPs, the various options for the use of CCPs by Canadian derivatives participants and questions on clearing for public consultation.

3.1 Bilateral Clearing

Currently bilateral transactions in the OTC derivatives market are cleared between the two parties to the trade. The valuation parts of the clearing functions are usually performed by the valuation agent designated in the agreement between the two parties.

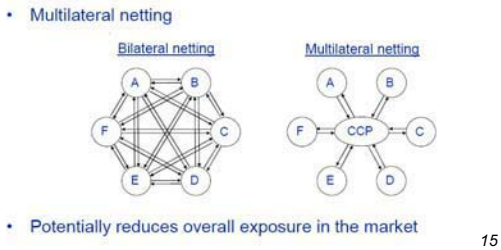
Although transactions in the OTC derivatives market are tailored to the needs of the counterparties, many aspects of these contracts have been standardized through the use of standardized master agreements and schedules, along with bespoke credit support annexes. Under these standardized contracts, if a derivatives counterparty were to default, all open derivatives positions and their related gains or losses would be terminated and netted. Close-out netting gives legal certainty that the liquidator/bankruptcy trustee, applying the laws of the jurisdiction, will be unable to accept profitable transactions and disclaim unprofitable transactions. Legal opinions in support of close-out netting are necessary to obtain a netting benefit for the purpose of capital relief for financial institutions.

Even though some aspects of the bilateral clearing of OTC contracts have been standardized, the *"main problem with bilateral clearing is that is has resulted in a proliferation of redundant overlapping contracts, exacerbating counterparty risk and adding to the complexity and opacity of the interconnections in the financial system. Redundant contracts proliferate because counterparties usually write another offsetting contract rather than closing them out".*[14]

3.2 Clearing by a Central Counterparty

Although, regulators were already analysing the use of CCPs to clear OTC derivative transactions, the benefits of CCP clearing became quite apparent in the midst of the crisis. The following sections lay out the issues facing regulators and their desire to create incentives to increase the use of CCPs to clear derivatives.

The role of a CCP is to interpose itself between counterparties to derivatives contracts traded in one or more markets, becoming the buyer to every seller and the seller to every buyer. This concept is shown in the diagram below labelled Multilateral netting. (The current method for OTC derivatives netting is depicted in the diagram labelled Bilateral netting.) Multilateral netting through CCPs has long been used by derivatives exchanges and a few securities exchanges and trading systems:



15

CCPs also provide legal and operational efficiencies, such as settlement, collateral management, and the centralization of rules and mechanisms.

A CCP has the potential to reduce risks to market participants by imposing more robust risk controls on all participants and, in many cases, by achieving multilateral netting of trades[16]. It also tends to enhance the liquidity of the markets it serves, because it tends to reduce risks to participants. However, a CCP also concentrates risks and responsibility for risk management in the CCP. Consequently the effectiveness of a CCP's risk controls and the adequacy of its financial resources are critical aspects of the infrastructure of the markets it serves. A risk management failure by a CCP has the potential to disrupt the markets it serves and also other components of the settlement systems for instruments traded in those markets. The disruptions may spill over to payment systems and to other settlement systems. Because of the potential for disruptions to securities and derivatives markets and to payment and settlement systems, securities regulators and central banks have a strong interest in CCP risk management.[17]

As described above, when the CCP inserts itself as the counterparty to each of the contract participants, the relationship between the participants is broken. The CCP has no market exposure as the two new contracts offset each other, but it does assume the credit risk of both initial counterparties.

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[14] International Monetary Fund (IMF), "Making Over-The Counter Derivatives Safer: The Role of Central Counterparties" (April 2010) 2.

[15] Gregory, Dr. Jon: *Pros And Cons Of Central Counterparty Clearing*.

[16] The reduction in counterparty credit exposures may be reflected in a reduction in economic or regulatory capital beyond that achieved through bi-lateral netting and collateralization.

[17] "Recommendations for Central Counterparties" (November 2004) CPSS, Bank for International Settlements.

CCPs make use of several mechanisms to reduce their credit risk exposure, such as access restrictions, risk-management tools and loss mutualisation. Membership requirements include creditworthiness and operational capability. Risk-management tools include the netting of trading obligations and payment requirements on a multilateral basis and collateral requirements, known as initial margin. The amount of initial margin is typically calculated based on the worst-case scenario of having the CCP inherit a position from a defaulting member.[18]

The margin held by the CCP is adjusted daily, sometimes intraday on volatile days, up or down dollar for dollar with the estimated change in market value of the position. The cumulative amount of these incremental margin adjustments is called variation margin.[19] Further, the CCP clearly establishes the steps to be taken by the CCP in dealing with the obligations of a defaulting member.

Should the losses incurred in a default be greater than the collateral posted by the defaulting member, the CCP will typically draw the funds from the default fund to which all members have contributed. Should this fund be exhausted, the CCP will demand a further contribution from clearing members, followed by recourse to a backstop such as third party insurance or banking support. This process is generally referred to as the mutualisation of losses.

Presently, CCPs mostly clear exchange-traded derivatives contracts and some categories of OTC derivative contracts that have achieved a relatively high degree of standardization. CCP risk management and expertise must be such that they are able to properly assess the risk of introducing new contracts and reduce model risk. CCPs analyze the clearability of a derivative contract and they are screened by the CCP's risk committee, which has strong member representation. Currently, derivatives exchanges will offer the trading of a derivative contract when their CCP has approved the product and they have demonstrated to their regulator that they meet the statutory requirements.

A CCP is designed to be transparent both through its rules and procedures concerning the flow of funds and methodologies for valuations, as well as managing the default of a member. This levels the playing field for its members.

CCP clearing also allows the central collection of information about who the major market participants are, what volumes of derivatives are being written by which entities and at what prices such derivatives are trading.[20]

3.3 Risks and concerns

The Committee believes that regulators will need to develop standards in relation to principles governing risk management, membership criteria, regulatory framework and legal certainty, with the ability for each CCP to customize its rules and requirements based on the unique elements and specific risks relating to each type of derivative. These standards will be transparent and will apply to all CCPs operating in Canada.

Below are some risks and concerns relating to the increased use of CCPs:

i) Tie-up of capital: if margin and capital requirements are excessive, cash that would otherwise be used for business operations or investment would no longer be available. In a worst-case scenario this would reduce liquidity in the entire market. Market participants would be forced to either divert resources to meet large margin and collateral requirements or decide not to use derivatives to hedge business risks. This could lead to an internalization of risk within the business and likely increased costs in operations.

ii) Collateral management: dealers currently permit a market participant to calculate its total margin and collateral requirements across all positions held with the dealer. This collateral management function currently offered by dealers is not easily transposed to a CCP model. If a CCP is structured in a way that sets margin and collateral requirements for individual positions (and not the overall position of a market participant) or if there is insufficient volume between counterparties on a CCP platform to reflect true net positions across all business commitments, there will be increased costs for the market participant.

iii) Race to the bottom: competition in the CCP space (considering most CCPs are for-profit enterprises) could have the unwanted consequence of encouraging clearinghouses to compete on risk models, resulting in modeling to find the lowest amount of collateral necessary in order to attract volume. Regulators must set an acceptable risk standards floor to prevent a race to the bottom.

iv) Critical mass of participation: the creation of a Canadian CCP will be feasible only if there are multilateral netting benefits which will only occur if there is significant participation by the major derivatives market participants.

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[18] *Ibid* at 3.16 and 3.17.

[19] "Statement on Reforming the OTC Derivatives Markets" (29 June 2010) Financial Economists Roundtable.

[20] The regulatory drive towards central counterparty clearing of OTC credit derivatives and the necessary limits on this, Adam Glass, Capital markets law journal, vol. 4, number S1, June 2009.

v) Maximizing efficiencies: there have been questions as to whether regulators should encourage the creation of only one international CCP per asset class, or whether a CCP should manage multiple asset classes, in order to achieve maximum netting efficiency. Each model has benefits and drawbacks for market participants.

vi) Access by smaller participants: part of the design of a CCP is the membership criteria and it is often very restrictive, limiting access to only the largest players, especially on a global scale. This could prevent smaller market participants from becoming direct clearing members and force them to clear through larger firms, further increasing their costs and harming their ability to compete.

vii) Issues with disclosure: some large buy side participants active in the bilateral derivative space, who desire protection from disclosure of their trading information, could find themselves obliged to clear their trades and thereby potentially indirectly divulging their trade information creating potential impact costs.

viii) Model risk: Market participants using complex risk management processes and valuations are exposed to the CCP's model risk. The importance of model risk increases as all clearing members are exposed to the same model risk at the CCP. As well, the validity of a risk model and whether it should be used by the CCP will take on additional considerations, such as the implications of applying it to a broad spectrum of members with possibly differing objectives.

ix) Valuation: For margining processes, a CCP must be able to establish a settlement price. For this process to be fully transparent, the calculations used to determine the settlement price - or from the third-party provider of settlement prices - may prove to be a complex operation for the CCP; it does not benefit from the same price transparency as for publicly traded derivatives (e.g. on exchange or electronic platform). As well, a CCP may not have a view to the entire portfolio of its members and as such, it may be very difficult for the CCP to offer portfolio margining. For example a Canadian participant may have a sizable offsetting position in a foreign CCP, however a Canadian CCP may not be able to consider this position in determining local margining requirements. Regulators recognize the benefits of portfolio margining; a global CCP or a CCP clearing multiple asset classes may be one way to address this issue.

Governance and ownership matters are increasingly a concern, as all the above mentioned risks must be properly addressed on a continual basis. Anti-competitive behaviour is a particular risk due to the many inherent conflicts of interest that must be managed, particularly when participants are also CCP owners. Regulators will need to establish consistent global authorization, supervision and operational standards.

3.4 International Proposals

In its work, the Committee has reviewed the recent legislation passed in the U.S., the paper released by the European Commission (the "EC") and legislation passed in Japan for a greater understanding of the regulatory framework being proposed by these jurisdictions.

United States of America

President Obama signed the U.S. *Dodd-Frank Wall Street Reform and Consumer Protection Act*[21] (the "*Dodd-Frank Act*") on July 21, 2010. Much of the detail will be developed through rulemaking by the U.S. Securities and Exchange Commission (the "SEC") and the U.S. Commodity Futures Trading Commission (the "CFTC").

The legislation mandates the clearing of most swap[22] and security-based swap[23] transactions (equivalent to OTC derivatives contracts) by a clearinghouse. If the CFTC or SEC determines a swap or category of swaps must be cleared, then the contract must be cleared unless an exception applies. [24]

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21 *Dodd-Frank Wall Street Reform and Consumer Protection Act*, Pub.L.III-203, H.R. 4173, sec. 721(a)(47) [Dodd-Frank Act], online: U.S. Government Printing Office <http://frwebgate.access.gpo.gov/cgi-bin/getdoc.cgi?dbname=111_cong_bills&docid=f:h4173enr.txt.pdf>.

22 A "swap" is defined in the Dodd-Frank Act and includes (but is not limited to) a broad range of contracts, agreements, or transactions, including options that are based on other rates, currency commodities, securities, debt instruments, indices, quantitative measures, or other financial or economic interests; transactions that provide for purchase, sale, payment or delivery that is dependent on the occurrence or non-occurrence of a contingency associated with financial consequences; transactions that provide for payments based on interest or other rates; or transactions that are commonly known in the trade as swap**s** or swap agreements. For the complete definition, see Dodd-Frank Act, *ibid* at sec 721 (a) (47).

23 The definition of "Security-based swap" in the Dodd-Frank Act includes any transaction based on a narrow-based security index or on a single security or loan, and thus should also cover credit derivatives. See Dodd-Frank Act, *supra* note 21, section 761.

24 Dodd-Frank Act, *supra* note 21, section 723.

Exclusions provide that if one counterparty to a swap is not a financial entity and it is using the swap to hedge a commercial risk, the swap need not be cleared provided that the non-financial counterparty notifies the SEC or the CFTC on how it generally meets its financial obligations associated with the non-cleared swap.

The CFTC and the SEC, on an ongoing basis, must review all swap contracts to determine if a swap contract (or a group or category of swap contracts) should be required to be cleared. This is a considerable task set before the regulatory agencies. As well, clearinghouses must submit to the CFTC or the SEC any swap it plans on accepting for clearing; the regulator will determine if the swap should be required to be cleared.

The *Dodd-Frank Act* also prohibits the SEC and CFTC from adopting *"rules requiring a derivatives clearing organization to list for clearing a swap, group, category, type, or class of swaps if the clearing of the swap, group, category, type, or class of swaps would threaten the financial integrity of the derivatives clearing organization*"[25].

The preceding prohibition on mandating the clearing of a derivative by a particular clearinghouse if such activity would threaten the financial integrity of the derivatives clearing organization implies, therefore, in the absence of such a threat, that the Commission could require a CCP to clear a particular derivative. This would put the Commission in the position of determining the risk a product could pose to the CCP[26].

Finally, the *Dodd-Frank Act* provides for clearing exclusions for swaps that had been entered into before its enactment, but which, nonetheless, must be reported to benefit from the exclusion. As well, the SEC and the CFTC must develop rules, within one year, regarding the determinations set out above, and to prevent evasion of the mandatory clearing provisions of the *Act*.

Europe

The EC considers that the G20 obligation for mandatory clearing should be directed at clearable contracts, noting that more is needed to make a contract clearable than simply standardization. In its June 2010 paper, the EC stated that it is:

> *…considering a process that takes into account all of the potential aspects of risks connected to mandatory clearing. This should be devised in such a manner as to ensure that a clearing obligation for OTC derivative contracts will in practice achieve its final objective of reducing risk in the financial system, rather than increasing risk.*
>
> *In doing so, two approaches are suggested:*
>
> *1) a bottom-up approach according to which a CCP decides to clear certain contracts and submits its proposal to the competent authority. The competent authority, will inform the European Securities Market Authority ("ESMA") once it approves the CCP to clear such contracts. ESMA would then decide whether a clearing obligation should apply to those contracts;*
>
> *2) a top-down approach according to which ESMA, together with the European Systemic Risk Board, would determine which contracts should potentially be subject to the clearing obligation, but for which a clearing facilities* [sic] *does not yet exist in practice. Both approaches are necessary because, on the one hand, meeting the G20 commitment cannot be left entirely to the initiative of the clearing industry. On the other hand, a regulatory check at European level of the appropriateness of certain arrangements is necessary before the clearing obligation enters into force.*

On 15 September 2010 the EC published its formal legislative proposal for a Regulation on OTC derivatives, and central counterparties, confirming the approaches mentioned above. The EC describes what the regulators need to consider in determining if a contract or category of contracts should be subject to mandatory clearing. As well, it describes the operational, governance and risk mitigation standards that the EC believes should apply to all clearinghouses.

The clearing obligation under the proposed EC Regulation applies to financial counterparties that enter into eligible derivatives contracts with other financial counterparties. Under the proposed EU Regulation, a non-financial counterparty may become subject to the mandatory clearing obligation (and have to notify the relevant regulator) if its positions (excluding certain hedges) exceed a clearing threshold (to be set by regulatory standards).[27]

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[25] *Ibid*.

[26] The Committee does not feel it appropriate for regulators to oblige a particular CCP to clear a particular OTC derivative; the decision to clear an OTC derivative or category of OTC derivatives should, it is felt, rest with the CCP based on its risk models, subject to regulatory assurance that a decision not to clear is not made for anti-competitive reasons.

[27] Clifford Chance, International Swaps and derivatives Association, "Regulation of OTC derivatives markets, A comparison of EU and US initiatives", (September 2010).

Japan

In May 2010, Japan's Parliament approved a bill that will require some OTC derivatives trades be cleared through a clearing agency, which should be implemented no later than 2012. The bill sets out two kinds of rules on centralizing clearing of OTC derivatives depending on the type of products:

Securities companies and banks are required to clear certain OTC derivatives through either a domestic clearing institution, a domestic clearing institution acting in co-ordination with a foreign clearing institution, or a foreign clearing institution permitted by Japanese authorities.

While not specified, it is anticipated that the initial type of OTC derivatives to be covered will be plain-vanilla interest rate swaps (denominated in Japanese yen).

Securities companies and banks are obliged to develop a domestic central clearance system for derivatives for which the clearing criteria relate closely to bankruptcy procedures under Japanese law and of which transaction volume in Japan is above a certain level. For example, credit default swaps (CDS) with the iTraxx Japan index as the underlying is considered for inclusion, and single name CDS may be added at a later date. [28]

3.5 Canadian Context

Should international CCPs not develop the ability to clear Canadian denominated or Canadian specific OTC derivative products or if a substantial proportion of Canadian market participants are unable to access such international CCPs on reasonable terms, a Canadian solution or solutions may be necessary.[29]

CCPs can clear a specific asset class of swaps or OTC derivatives or can permit clearing of multiple asset classes of swaps and OTC derivatives. Although some would argue that one global CCP for each specific category of OTC derivatives could be one solution, greater netting benefits may come from multi-asset netting, under certain circumstances. A Canadian multi-asset CCP could provide efficient netting, contribute to lowering the burden of gross margin requirements of multiple CCPs for Canadian participants and facilitate Canadian regulation of CCP operations. Despite the advantages a Canadian multi-asset CCP, sufficient liquidity is required for a clearing solution to be successful and cost effective. In the Canadian context, further analysis is needed to prove that sufficient liquidity could be achieved in a single-product or multi-asset Canadian CCP.

If such a Canadian CCP were to exist, it would be primarily regulated by the securities regulators in the jurisdiction or jurisdictions where it operates. This model is similar to the current oversight framework for Canadian equity exchanges.

The Committee elicited views on CCPs when it held roundtable meetings in Montreal, Calgary and Toronto with entities that enter into derivatives with financial intermediaries (“end-users”). During these meetings, it was expressed that:

- End-user market participants did not support the concept of central clearing for their own trades.
- One of the key concerns of end-users is the effect that mandatory clearing will have on their organization’s working capital. Non-financial end-users have a limited amount of working capital to operate their businesses. If these entities are required to post capital for derivatives trades when hedging their business risks, that working capital will not be available to fund business operations. End-user participants cautioned that mandatory clearing may force a firm to make a decision as to whether it should hedge its risks or use its capital to operate its business.
- Roundtable participants also mentioned that there is a need to ensure the maximum amount of netting is included in the reforms to lessen the impact of any collateral requirements applied to individual contracts. Furthermore, they indicated their preference that collateral requirements should take into account the overall position of a market participant and not be based solely on applying collateral requirements on a contract-by-contract basis.
- Some participants expressed the concern that the use of a CCP would increase the risk to their particular operations, as they believe their risk management skills to be superior to that provided by a CCP. This sophistication allows for flexibility in managing their counterparty credit exposure and provides a competitive advantage. Mandated clearing would remove this flexibility in both choosing their counterparties and managing their exposures to the CCP, as everyone would use the same risk model.

[28] Atsumi & Partners, PLC Global Finance April 2010, “Japan moves to centralize clearing of OTC derivatives”, (May 2010).

[29] Some Canadian dollar denominated derivatives, such as a Canadian debt index or Canadian-dollar denominated interest rate swaps, may not be candidates for clearing by a global CCP, for example.

- Most companies that participate in the OTC derivatives market do so to hedge their risk – that is, they take actions to mitigate or offset the financial risks that arise from their activities. Participants noted that the regulatory reforms would hinder their ability to make use of hedge accounting as the increased standardization of OTC derivatives would lead to greater mismatches (for example, with different maturity dates) between the hedged risk and the hedging derivative. Hedge accounting seeks to reflect the results of effective hedging activities, in particular hedging using derivatives, by reporting the effects of the derivative and the risk being hedged in the same period. Hedge accounting "avoids much of the volatility that would arise if the derivative gains and losses were recognized in the income statement, as required by normal accounting principles."[30] The use of custom OTC derivatives transactions facilitates hedging activities that qualify for hedge accounting as the derivatives are created specifically to hedge an asset or liability.

- Participants brought up concerns about how new users or smaller users would access CCPs, the accessibility of the information collected by CCPs, and whether there would be regulatory arbitrage if there were both a Canadian CCP and a international CCP.

- Overall, participants questioned whether CCPs are appropriate for end-users, considering the costs associated with the CCP structure and a concern that financial intermediaries will pass on the increased costs of clearing or the capital charges for not clearing to the end-users.

3.6 Options

The two general options that the Committee has considered are:

a. a general obligation to clear all OTC derivatives, or

b. an obligation only to clear derivatives trades that are appropriate for clearing, such as standardized derivatives which have sufficient liquidity and would not threaten the risk model of a CCP.

Regardless of the final option chosen, in order to meet the G20 commitments, appropriate legislative changes will need to be made compelling the clearing of OTC derivatives that are not exempt, and regulators will need rulemaking authority to implement the regime and avoid regulatory arbitrage.

The first option is to mandate that all OTC derivatives be cleared by a CCP with broad exemptive relief provided where the relevant market regulator believes that central clearing is not appropriate. This option may force the CSA to define exemptions before international standards have been developed. It presupposes clearability and offers regulators less flexibility, and does not provide industry with upfront certainty as to which contracts must be cleared.

Under both options, securities regulators can provide an end-user exemption from clearing for non financial corporate end-users of OTC derivatives that enter into the transactions solely for hedging purposes. This would address a strong concern expressed in the roundtable discussions that mandatory clearing would raise costs for these end-users whose open contracts (only those used for hedging purposes) would not cause systemic risk concern. Non financial corporate end-users considered to be systemically important by regulators would potentially not be included in these exemptions; further analysis is needed from regulators, with input from Canadian OTC derivatives market participants.

The second option is to mandate central clearing of OTC derivatives that are determined to be appropriate for clearing and capable of being cleared. This is the approach in the *Dodd-Frank Act*. Regulators would identify OTC derivatives appropriate for clearing and capable of being cleared. This process will take into consideration such factors as contract standardization, outstanding notional amounts, trading liquidity, operational clearing expertise and resources and risk mitigation. Regulators should develop anti-evasion rules so that OTC derivative contracts are not intentionally customized to avoid mandatory clearing.

With either option, the mandating of clearing leaves it to the counterparties to decide where the trades will be cleared, subject to regulatory approval of the CCP. Regulators would need authority to mandate clearing despite the potential non-existence of local CCPs, as well as the ability to recognize or designate a foreign CCP. Such a recognition or designation would be contingent upon factors such as appropriate risk management models, access models and information sharing arrangements to permit regulators to monitor market activity and investigate possible violations of laws. As different CCPs in various jurisdictions may potentially offer clearing services for similar OTC derivatives, regulators will need to further analyse the risks of interoperability[31] between CCPs and how these risks can be mitigated through regulations and international co-operation.

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[30] PricewaterhouseCoopers International Limited, International "Financial Reporting Standards, IAS 39 – Achieving hedge accounting in practice", (December 2005).

[31] "Interoperability" between CCPs can be generally defined as the ability of one system (in this case a CCP) to work with other systems (other CCPs) entering into an arrangement that would involve a cross-system movement of transactions.

Possible options for Canadian derivatives relating to the location and type of CCP to be used are:

- Creation and Use of Canadian Multi-Asset CCP – The marked increase in the demand for collateral or margin for derivative trades to be cleared on a CCP has the industry searching for capital efficiencies. Netting opportunities could arise if a CCP clears several asset classes, as opposed to a market participant having to tie up capital at several CCPs, if no CCP linkages existed;

- Accessing Global Single and/or Multi-Asset CCPs, with Additional Collateral Requirements for Non-Cleared Trades not Available for Clearing Globally – Should a Canadian solution not exist, market participants will have to look internationally for CCPs capable of clearing their trades, otherwise the trades would be subject to higher capital requirements; or

- Creation and Use of Canadian Single Asset or Multi-Asset CCPs used in combination with Global Single and Multi- Asset CCPs with collateral linkages between the CCPs – This option would involve linking trade positions and/or margin requirements to obtain netting efficiencies. Linkages would have to ensure they do not significantly increase risk to Canadian financial markets and its participants and ensure any new risks will be mitigated, adequately managed and supervised.

3.7 Recommendations

The Committee recommends the mandatory clearing of OTC derivative trades that are determined to be appropriate for clearing; the second option above. Further study is necessary to determine whether regulators would self-initiate the review of OTC derivatives contracts (or categories of contracts) or make a determination on contracts submitted for review by derivatives clearing organizations. As previously mentioned, most major financial industry participants have made a commitment to their regulators to increase standardization of OTC derivatives trading and migrate to CCP clearing where practical. This exercise will give the regulators and the industry a starting point, initially representing interdealer or wholesale trades. Thereafter, an analysis of the information provided to the trade repositories and concurrent efforts abroad will allow regulators to further develop detailed parameters as to how mandatory clearing will apply going forward.

The Committee does not believe that all participants in the Canadian OTC derivatives markets should be subject to mandatory clearing. The benefits of central clearing will have to be weighed against the inefficiencies this would bring to smaller non-systemically important participants, such as non-financial corporate end-users. Regulators will set requirements to benefit from any such exemption, though it may require the entity to provide the regulator with details as to how it is mitigating its risks and demonstrate that it is applying the current industry best practices, as occurs in the *Dodd-Frank Act*.

Further input and study is needed on a Canadian CCP solution versus accessing international CCPs before any specific recommendation can be made. The CSA is of the opinion that any solution proposed should be optimal for the Canadian markets as a whole and cooperation from all interested parties is a necessary cornerstone for this endeavour to succeed, regardless of the location of a CCP.

Questions:

1. Do you agree with the recommendations on the approach to implementing mandatory central clearing? What factors should be taken into consideration by regulators in identifying OTC derivatives appropriate for clearing and which are capable of being cleared?

2. What is your view on possible solutions for accessing CCPs and allowing for the most efficient use of capital? Considerations should account for risk models, collateral netting, membership criteria, etc. Possible iterations are, but are not limited to:

   a) Creation and Use of Canadian Multi-Asset CCP;

   b) Accessing Global Single and/or Multi-Asset CCPs, with additional collateral requirements for non-cleared trades not available for clearing globally; or

   c) Creation and Use of Canadian Single Asset or Multi-Asset CCPs used in combination with Global Single and Multi- Asset CCPs with collateral linkages between the CCPs.

3. Is there sufficient liquidity in each of the individual Canadian derivatives markets (eg. equities, interest rate, commodities, foreign exchange, etc.) to support the creation of a Canadian CCP? Which derivatives markets may pose challenges to the operation of a Canadian CCP?

4. Is there a willingness and an ability of Canadian market participants to use, create or participate in the creation of a Canadian CCP solution?

5. How should non-financial intermediary users of derivatives be able to clear their derivative trades? Should this occur through direct access and membership in a CCP or should this be done through an indirect clearing model with financial intermediary CCP members acting as agents for the non-member CCP derivative participants?

4. Trade Repositories

A trade repository centrally collects and maintains the records of OTC derivatives trades, providing a central source of transaction and position[32] data for a given OTC derivatives market. It collects data, derived from centrally cleared or bilateral transactions as inputted by parties to a transaction. Other market infrastructure or service providers that centrally maintain OTC derivative contract information may also function as a trade repository.[33] The type of information that can be collected includes the number of outstanding contracts, the size of outstanding positions in a particular derivative contract and the exposures of specific parties[34].

Trade repositories can increase transparency in various forms (which will also be explained further below):

i) increase market transparency through the public dissemination of aggregate data on open positions (for example, the total notional value of outstanding credit derivatives denominated in Canadian dollars) and trading volumes[35] on a periodic basis;

ii) increase post-trade transparency (for example, by publicly disclosing price information on reported OTC derivatives); and

iii) increase regulatory transparency by providing regulators with periodic reporting and enabling regulators to access information through *ad hoc* requests (for example, for enforcement purposes).

The G20 as part of its commitment to increase regulatory oversight of OTC derivatives stated that "OTC derivative contracts should be reported to trade repositories".

Trade repositories, and the related availability and transparency of transaction data information for both regulators and the public, are arguably the most important component of OTC derivatives regulatory reform. The recent financial crisis highlighted a severe lack of market transparency in OTC derivatives markets[36]. Regulators cannot assess potential risks of derivatives transactions traded by systemically important market participants if they cannot access both aggregate and transaction level data for all Canadian entities participating in derivatives activities and those derivative transactions that have a material position in a Canadian reference underlying the derivative.

Timely access to data collected by trade repositories will enable Canadian securities regulators to monitor concentration of positions of market participants, detect potential market manipulations, and assist in the performance of systemic risk analysis on these markets. Trade repositories are also key building blocks of proposals made by other countries to comply with their G20 commitments. For example, data will be needed to determine whether a particular OTC derivative product is a candidate for mandatory central clearing. In addition, in the U.S., position limits relating to derivatives would require information on individual trades or net positions of each entity in order to determine if the limits need to be set or, if set, have been reached.

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[32] A "Transaction" refers to a discrete, unitary economic relation between two counterparties that can be defined by a single contract. Transactions can be viewed as units which may be summed to produce a position. A "Position" refers to a sum of a set of Transactions. Regulators will need to have access to both transaction and position reports from trade repositories.

[33] CESR, "Trade Repositories in the European Union" (Sept 2009).

[34] "The future of regulation of derivatives markets: is the EU on the right track? – Report with Evidence" published by the authority of the House of Lords (31 March 2010) at 22.

[35] The Committee on Payment and Settlement Systems and the Technical Committee of the International Organization of Securities Commissions' consultative report entitled *Considerations for trade repositories in OTC derivatives markets* (May 2010) at 7.

[36] *Ibid*, pg.iii.

The publication of aggregate position and settlement data by trade repositories will increase post-trade transparency and could be an important factor in price determination where there is no exchange-trading activity (i.e. comparable listed contract). Trade repositories can help promote standardization and improve the quality of transaction data on OTC derivatives through the standardization of formats required to be used for the submission of trades to a repository. Depending on the structure of the trade repository, trade repository data may also be utilized as the official trade confirmation of the transaction and be used for all subsequent trade processing purposes[37].

4.1 Global Efforts Regarding Trade Repositories

Regulators globally are working to encourage the establishment of trade repositories and to mandate the reporting of all OTC derivative positions to trade repositories. The Committee on Payment and Settlement Systems and the Technical Committee of the International Organization of Securities Commissions have released a consultative report entitled *Considerations for trade repositories in OTC derivatives markets* ("CPSS-IOSCO Report"). The CPSS-IOSCO Report contains policy guidance on international standards for a trade repository and outlines twelve factors that should be considered in the management and oversight of a trade repository. These are all relevant issues to be considered in the Canadian context and should be included as requirements of any regulatory oversight relating to trade repositories.

The *Dodd-Frank Act* contains provisions regarding the mandatory reporting of derivative transactions to trade repositories. The *Dodd-Frank Act* requires all OTC derivative transactions to be reported to registered swap or security-based swap data repositories.[38] In addition, real-time public reporting is required for OTC derivatives which are subject to mandatory clearing.[39] Uncleared swaps for which there is no data repository willing to accept the transaction, must be reported to the CFTC or SEC. Swap and security-based data repositories which accept such data must be registered with the CFTC or SEC and will be subject to inspection and examination.[40] Under the *Dodd-Frank Act*, a derivatives clearing organization can be registered as a data repository. Swap and security-based swap data repositories will be required to designate a chief compliance officer and will have to comply with certain "core principles" outlined in the *Dodd-Frank Act* relating to antitrust, conflict of interest and governance considerations.[41]

The proposed EC Regulation contains similar provisions. Financial counterparties would have to report the details of all OTC derivative contracts which they enter into, to a registered trade repository.[42] As with the EC Regulation's proposed clearing requirement, non-financial counterparties would only have to report their OTC derivative contracts if their positions exceeded a certain threshold set by regulators.[43] The proposed Regulation confers powers on the EC to determine the format and frequency of the reports submitted to the repositories.[44] Although the proposed Regulation allows for the registration of trade repositories located in the EC only, repositories located in third party countries may be recognized by ESMA if it is shown that they are subject to similar rules and appropriate surveillance in their home country.[45] Registered trade repositories would be subject to organisational and operational requirements, as well as provisions ensuring the safeguarding and transparency of data.[46]

End-User Roundtable Meetings with the CSA Derivatives Committee

Market participants were comfortable with the idea of local regulators obtaining information on their OTC derivative trades. They had some concerns as to who would be responsible for reporting the information and where the information would be stored.

The concept of a trade repository also raised questions as to who would own the data and who would be able to access it. The information on the specifics of the trade could be used against the reporting participants should it be leaked to competitors or other market participants. For example, there were concerns from the larger players that their trading could potentially be reverse engineered due to their size while others felt information should be accessed only under specific conditions and for justified reasons – even by governments and regulators – as some competitors are crown corporations or public organizations. There was a definite concern that information should not be made available to the public from which any inference could be drawn about any participant's market positions. Whether the trade repository was located in Canada or internationally was not a concern as long as these other concerns are addressed.

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37 *Ibid*, pg. 1

38 Dodd-Frank Act, *supra* note 21 at sections 727 and 763.

39 *Ibid*.

40 *Ibid* at section 728 and 763.

41 *Ibid*.

42 Proposal *for a Regulation of the European Parliament and of the Council on OTC derivatives, central counterparties and trade repositories*, Brussels, COM(2010) 484/5 – 2010/0250 (COD) at Article 6, section 1.

43 *Ibid* at Article 7, section 1.

44 *Ibid* at Article 6, section 5.

45 *Ibid* at Article 63, section 2.

46 *Ibid*, Title VI.

The IAG supports the establishment and use of trade repositories for OTC derivative transactions by Canadian market participants.[47]

4.2 Options for Trade Repositories - Structure and Timeliness of Reporting

One structural option is to establish a single global trade repository for each asset class of derivatives that would be accessible by all regulators. This would avoid information being collected separately in multiple locations and would make it far more efficient for regulators to have a full understanding of the aggregate systemic risks being created by market participants.

However, this concentration of data at one trade repository per asset class would result in concentrated operational risk that would have to be addressed in addition to cross-jurisdictional legal issues.[48] In addition, it is unclear whether information accumulated through such a repository will be readily available to Canadian regulators or whether the information could or should be made available to the public.

It appears to be more realistic to envision, in the current environment, trade data flowing from multiple sources to a Canadian trade data repository acting on behalf of securities regulators. If the global regulatory/market developments in this area result in multiple repositories/CCPs holding this information, there will likely be a need to develop a Canadian trade repository which will collect and consolidate all available information relating to certain asset classes. This eventuality may be more costly and inefficient than a single global repository but would address the concentration of operational risk and keep the data under the direct regulatory supervision of a Canadian securities regulator and may facilitate the publication of specific data, as appropriate. It may also be necessary if no existing trade repository will accept certain Canadian trades.

In the absence of the above, the problem is raised of having to deal with information that is not consolidated. It would greatly assist the ability of Canadian securities regulators to oversee the derivatives markets if there was a technological solution to the issue of trade data required for regulatory purposes being held in various places in an unconsolidated form.

As for the issue of whether real time data reporting should be required for derivatives trades, the IAG recommended that reporting to a trade repository initially should be with a time lag of at least one day from the trade date given the capabilities of existing trading information systems. The Committee believes that the delay would reduce the effectiveness of the reporting regime and believes that real time reporting is the optimal goal. The IAG advised that real-time reporting of transactions requires technology and systems changes that could take years to implement.[49]

4.3 Recommendations

1) We applaud the financial industry's efforts to create and use trade repositories or CCPs acting as trade repositories for certain OTC derivative classes. However, to achieve the objectives discussed earlier and to be consistent with international developments in this area, we recommend that Canadian provincial securities laws be amended to permit mandating the reporting of all derivatives transactions and positions by Canadian counterparties to a trade repository.

2) Further legislative changes will be necessary to allow for the recognition or registration of a trade repository and to ensure regulatory access to the reported data and clarify confidentiality issues re information sharing with and between the repositories and regulators, including foreign regulators. ISDA has provided an example of suggested statutory language to EC authorities to address this issue. For repositories outside of Canada, memorandums of understanding ("MOU") between regulators, both domestically and internationally, will have to be established to ensure appropriate access to trade data related to Canadian interests. The regulators that make up the CSA will need to be able to access the information from any trade repository that relates to participants in derivatives in its jurisdiction or has a relevant connection to the jurisdiction through an underlying reference in a derivative.

The CSA will continue to participate in international cooperative efforts to establish a framework for the sharing of derivative data on a cross-jurisdictional basis among regulators.

3) It is recommended that all of the factors referenced above under "Global Efforts re: Trade Repositories" be part of the regulatory oversight/management related to data repositories.

4) Assuming there is no single global repository per asset class, the Committee feels that a Request for Proposal may be appropriate to encourage industry to develop a data consolidator[50] to assist in the collection of trade data from multiple trade repositories for Canadian securities regulators. Any ability to aggregate data from a variety of sources (eg. multiple CCPs and

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47 Industry Advisory Group for OTC Derivatives, "Policy Paper: Developments in the Canadian Over-the Counter Derivatives Markets" at 20.

48 *Supra* note 6.

49 *Supra* note 47.

50 Some third party providers already perform these functions by collecting trade and position reports from various sources and supply this information to trade repositories and CCPs.

trade repositories) would address some of the issues related to not having a single source for information per asset class and would also minimize the potential increase of regulator resources thereby increasing the frequency and efficiency of market oversight.

5) It is premature to recommend a specific time requirement for reporting of derivatives trades to a trade repository. We will monitor market and regulatory developments to determine what the appropriate requirement should be. The Committee believes that ultimately, real-time reporting requirements should be required.

6) We recommend that for derivatives trades between financial intermediaries and non-financial intermediaries, the financial intermediaries be required to report the transaction to a trade repository, unless it is cleared in which case the relevant CCP will either a) be required to report the transaction to a trade repository, b) act as a trade repository for the information directly, or c) send the data to regulators who will aggregate the data themselves.[51]

7) For cleared transactions between financial intermediaries, we recommend the same options as are stated above for cleared transactions. For transactions that are not cleared, both financial intermediaries should be required to report the transaction.

8) We recommend that for derivatives trades between non-financial intermediaries, both non-financial intermediaries be required to report the transaction to a trade repository. For cleared transactions, we recommend for non-financial intermediaries the same options as are stated above for cleared financial intermediary transactions.

9) If transactions cannot be reported to a trade repository that provincial securities regulators are able to access, then a Canadian trade repository should be developed. Any such Canadian trade repository would need to be subject to regulatory oversight by the relevant local securities regulator.[52] If the financial industry does not develop such a solution on its own then we will need to consider a regulatory solution. In the interim, consideration should be given to requiring trades be reported to the relevant Canadian securities commission.

10) Further study will have to be carried out regarding a number of other issues raised by the creation and use of trade repositories including:

i) ownership of the data in the repository;

ii) safeguards when sharing information with parties in potential conflicts of interest within their organizations or related entities;

iii) what data, if any, will be published; and

iv) if data is published, how the data would be published so as to preserve proprietary or sensitive information relating to the trading entities or their strategies.

Questions:

1. Do you agree with a mandatory reporting requirement for all OTC derivatives trades? If not, should there be a threshold below which reporting would not be required?

2. With mandatory reporting of derivatives trades, should dealers have to report non-cleared trades to a global trade repository or to a Canadian trade repository?

3. What impediments currently stand in the way of implementing real-time reporting of data to trade repositories?

4. What information, if any, should be made publicly available? Should this information be available on a real-time, same day or historical basis?

5. Should a trade repository be able to publish its non-confidential data for fees?

[51] Financial Services Authority & HM Treasury "Reforming OTC Derivatives Markets – A UK Perspective" at 24.

[52] This would follow the Lead Regulator model that the Canadian Securities Administrators developed for SROs and Exchanges.

5. Electronic Trading

The G20 agreed that "all standardized OTC derivative contracts should be traded on exchanges or electronic trading platforms, where appropriate." In the EU and U.S., this has been interpreted to mean that eligible trades for exchange-trading take place on organized trading venues.

Currently, trading on derivatives exchanges usually implies that the trade will be subsequently cleared through a CCP. The addition of mandatory exchange-trading to mandatory central clearing would eliminate the bilateral nature of concluding trades, resulting in highly visible prices, volumes and open interests, as well as facilitating market access. Accordingly, the defining aspects of exchange trading that provide added value to central clearing are:

i) a multi-lateral trading system;

ii) pre- and post-trade transparency, to provide high visibility to prices, volumes and open interests; and

iii) easy market access.

Some characteristics of organized trading functionalities that may further clarify these criteria for electronic trading are (1) non-discretionary and transparent rules, (2) objective criteria for the efficient execution of orders, (3) non-discriminatory access, (4) authorization/regulation and monitoring by competent authorities, (5) operational resilience and (6) surveillance of compliance with the electronic trading venue's rules[53].

The U.S., in the *Dodd-Frank Act*, considers that standard OTC derivatives should be traded on exchanges or *swap execution facilities*.[54] The comparison between an OTC derivative execution facility and derivatives exchange is similar to the comparison between an alternative trading system ("ATS") and an exchange in the equities world. OTC DEF and ATSs are simply mechanisms for linking buyers and sellers, whereas exchanges have much broader mandates.[55]

Organized trading, however, requires a substantial degree of standardization to ensure sufficient liquidity to facilitate trading. The type of contracts needed to facilitate organized trading may therefore not include the full range of derivatives users' risk management needs. The ability to build tailor-made derivatives contracts according to the specific needs of counterparties (covering specific risks) cannot be met with an exchange traded product: wholesale market participants use OTC derivatives to address specific clients' needs such as hedging and accounting risks.

In the view of the Committee of European Securities Regulators ("CESR"), the cornerstone for eligibility for trading on an organized trading platform requires the following:

i) Legal standardization: this includes standard transaction documentation and definitions;

ii) Process standardization: this includes straight-through-processing matching, confirmation, settlement and event handling; and

iii) Product standardization: this includes standard valuation, payment structures and dates.

5.1 Risks & Concerns

The liquidity of financial markets was severely impaired during the financial crisis with heightened concerns over counterparty risk resulting in an unwillingness of some participants to trade. Many participants wishing to trade struggled to find a willing counterparty; there was also an absence of price transparency, which hindered the price formation process and valuation of existing positions.

Trading through organised electronic trading platforms provides regulators with the ability to conduct timely surveillance of trading and market conduct, and can provide market participants with a centralized pool of liquidity, tradable through a transparent central order book under standardized terms and conditions and predominantly cleared through a CCP.

However, mandating organised electronic trading could prove detrimental as:

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53 That being said, there are electronic platforms, which although are not considered organised platforms, offer both OTC bilateral trading functionality and an additional level of transparency and electronic audit trail for regulators.

54 An exception would be provided in respect of transactions for which there is no swap execution facility available to execute the trade. As well, only cleared swaps would be subject to such a requirement. See sections 723 and 763 of the Dodd-Frank Act, *supra* note 21.

55 Kevin McPartland, TABB Group, *SEF 1010: Deconstructing the Swap Execution Facility* (21 July 2010) at 36.

a) OTC markets allow for contracts with customized terms to be traded. This enables hedging of specific risks and the management of risk in a way that would not be possible through the use of standardized electronic trading of contracts.

b) It could severely impact the OTC market, as there is insufficient liquidity in some contracts to sustain electronic trading in a cost-effective way.

c) Marketplace trading may facilitate abusive trading practices and therefore requires a comprehensive regulatory regime including surveillance systems.

5.2 End-User Roundtable Meetings with the CSA Derivatives Committee

During the industry roundtables this spring, participants expressed concerns with mandatory exchange trading or electronic trading. These trading platforms require a certain level of operational sophistication for margin and trading management to account for the mismatches which might exist between the actual underlying position and a standardized contract. Some participants stated that the trading of exchange contracts brought about different risks to the end-user, such as risks of rolling a futures position due to the shorter expiries associated with futures. Participants argued that highly customized swaps would be impossible to trade electronically through standardized contracts. Also, end-users expressed concern that the use of standardized derivatives contracts may not allow them to use the International Accounting Standards for hedge accounting. This is further discussed in Section 7 of this paper.

5.3 International Proposals/Legislation

United States

According to the *Dodd-Frank Act*, swaps and security-based swaps that are subject to the mandatory clearing requirement must also be executed on a regulated exchange, including newly created categories of trading venues known as swap execution facilities and security-based swap execution facilities.[56] The mandatory exchange-trading requirement will not apply to a swap/security-based swap if no exchange lists it for trading or if an end-user exemption applies.

Europe

According to the EC consultation document: *Possible Initiatives to Enhance the Resilience of OTC Derivatives Markets*, ("EC Document"), "the next logical step" for derivatives cleared by a CCP would be for trading of these contracts to take place on an organized trading venue where prices and other trade-related information are publicly displayed, such as a regulated market (e.g., derivatives exchange).

According to the summary in the EC Document a majority of stakeholders submit that forcing all derivatives trading to public venues would have limited added value if central depositary and CCP clearing are implemented, and could damage liquidity for some markets. These participants argue that a natural evolution should be favoured over a mandatory approach.

United Kingdom

The United Kingdom's Financial Services Authority, or FSA, in a document titled "Reforming OTC Derivative Markets", submits that the risks associated with OTC derivatives should be mitigated through the use of CCP clearing for "clearing eligible products," enhanced risk management procedures for non-cleared trades and a calibrated transparency regime. Once these requirements are in place, the FSA contends that market forces can be expected to naturally move greater trade flow through organized trading platforms. At this stage, however, the FSA is unclear what additional benefits mandating trading of standardized derivatives on organized trading platforms will deliver.

5.4 Options

The following are the main options to address the G20 commitment on OTC derivatives trading:

a) Mandate trading of all OTC derivatives on an organized platform, with such a requirement being contingent on the availability of a trading platform that we recognize or designate.

b) Mandate trading of only those transactions with sufficient standardization and liquidity and/or that pose systemic risks to the integrity of the markets.[57]

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[56] As mentioned above, an exception would be provided in respect of transactions for which there is no swap (or security-based swap) execution facility available to execute the trade. See sections 723 and 763 of the Dodd-Frank Act, *supra* note 21.

[57] In the Dodd-Frank Act, products that must be cleared are the same with those that must trade via an Swap Execution Facility (SEF); therefore, SEFs must have access to a clearinghouse. This is stated in the section pertaining to clearing, which requires OTC derivative

c) Permit market participants to choose whether or not to trade on an organized platform.[58]

The above options are not necessarily mutually exclusive. Mandating trading of products subject to mandatory clearing, for example, may only target those products that are standardized and liquid enough to trade on an exchange, a category that may be substantially more narrow than products suitable for central clearing.

5.5 Discussion

Mandated trading on an execution facility, by exposing to the market in real time the volumes and prices of derivatives transactions, facilitates more accurate and timely margining by parties to derivatives contracts and provides a transparent pool of liquidity accessible by all participating parties. Exchange trading, coupled with pre-trade and post-trade transparency, might narrow trading spreads (the difference between offers to buy and sell), and thus benefit end-users of derivatives or investors. Indeed, it is possible that with more price transparency and organized trading, many end-users would be able and would want to access trading platforms directly, without the need to use dealers as intermediaries, just as has happened with stock trading on electronic platforms.

Notwithstanding this, customized derivatives enable parties to refine their hedges to specific financial risks, which are not fungible or standardized for central clearing or exchange trading. In addition, to be efficient and cost effective, organized trading platforms require a substantial degree of liquidity to allow them to maintain an order book that will be able to facilitate transactions. It is likely to require more liquidity than would be required to facilitate central clearing. Nonetheless, as some users or dealers of customized contracts can be so interconnected with other parties that their failure may pose risks to the health of the financial system, regulators must ensure that capital and margins for the parties to these customized contracts take proper account of externalities of potential failures.

5.6 Recommendations

Although the benefits of trading on an execution facility are considerable, from a regulatory point of view, much can be achieved through post-trade transparency utilizing data gathered by repositories and mandated central clearing. There are many valid reasons why OTC derivatives trade separately from exchange markets, such as the ability to hedge specific risks, lower trading costs, and increased flexibility.

Due to the bespoke nature of most OTC derivatives products and the sheer number of their variations, it is unlikely that all of them can be traded successfully on exchange or organized trading platforms.

Nonetheless, the Committee feels that the benefits of pre-trade transparency are significant, both to the regulator and the marketplace. Further study, in collaboration with market participants, will be necessary to determine the eventual scope of a regulatory mandate for electronic trading. In the near term, the Committee feels that the regulatory authority to impose such a requirement needs to be included in any legislative development. Such power could be used only to mandate the electronic trading of those products which are tradable on an organized marketplace, meaning that they have sufficient standardization and liquidity, and which pose a systemic risk.[59]

Questions:

1. Should regulators choose to implement mandatory electronic trading, which of the frameworks discussed above should regulators use in respect of such implementation (ie. mandatory trading of products subject to mandatory clearing; mandatory trading contingent on the availability of a trading platform; allowing participants to determine whether or not to trade on a platform)?

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clearinghouses to "provide for non-discriminatory clearing of a swap…executed bilaterally or on or through the rules of an unaffiliated designated contract market or swap execution facility." See Dodd-Frank Act, *supra* note 21 at section 723.

The terms "facility," "trading system" and "platform" are not defined under the Act. Therefore, the definitions of SEF and security-based-SEF in the Act may be sufficiently broad to include so-called "voice brokers," thus potentially permitting such an entity to register and be regulated as an SEF or security-based-SEF using its existing business model.

[58] Trade flow can naturally migrate to the most efficient trading venues appropriate to those products and clients. This is evidenced through the recent growth of e-commerce platforms; the efficiency of these platforms has provided a natural incentive for market participants to increase their scope and scale.

[59] Mandating exchange trading of OTC derivatives would potentially render them "exchange contracts" under the securities legislation of jurisdictions such as British Columbia. "Exchange contracts" are contracts that are guaranteed by a clearing agency and traded on an exchange with standardized terms. In these jurisdictions, exchange contracts are carved out of the definition of "security", but continue to be subject to various requirements. (For example, the prospectus requirement would not apply to derivatives that are exchange contracts but the registration requirement would apply to exchange contracts.) If the CSA eventually mandates exchange trading, jurisdictions would need to consider the effect of treating exchange-traded derivatives as "exchange contracts" instead of securities under their securities legislation.

2. Should regulators impose specific requirements on facilities where OTC derivatives trade? What specific elements should these requirements include (i.e. should these requirements be comparable to the requirements established in National Instrument 21-101 – *Marketplace Operation* and National Instrument 23-101 – *Trading Rules*?

3. Do you agree with the criteria on assessing the degree of standardization necessary for mandating trading of OTC derivatives on an organized trading platform (namely, legal, process and product standardization)? Is there any other element that the CSA should take into account?

4. Is the availability of CCP clearing an essential pre-determining factor for a derivative contract to be traded on an organized trading platform?

6. Capital and Collateral

In general terms, capital requirements mandate the amount of assets that an entity must have available to meet its obligations. Also, from a regulator's point of view, capital requirements may be used as a tool when assessing the integrity of market participants. A failure to maintain regulatory capital may be a signal or warning of potential problems with a market participant.

Collateral is a pledge of assets by a party to secure their obligation to another party. In the OTC derivatives context, one party to a derivatives contract will often be obliged pursuant to the terms of a derivatives contract to pledge collateral to secure its outstanding obligations to the counterparty to the contract, including in situations where the counterparty is a CCP. Collateral typically takes the form of cash or liquid securities.

6.1 International Standards

At present, the approaches to capital regulation in the banking, insurance and securities sectors reflect differences in core business activities and risk exposures in each sector but also reflect underlying differences in appropriate time horizons and differences in supervisory objectives in each sector[60]. These differences have led to substantially different standards regarding the regulation of capital. In the banking sector the dominant approach is based on the Basel Accords. The securities and insurance sectors do not have a similar international standard relating to capital regulation and instead utilize a variety of approaches. While the Committee believes that the standards set in the Basel Accords, represent excellent standards, these standards may not be suitable for all sectors.

Differences in capital frameworks are apparent in reviewing the different approaches to even the most fundamental elements of capital regulation, such as: the definition of eligible capital, charges applied to individual risks, and aggregation methodologies.

In the U.S., the *Dodd-Frank Act* imposes new capital requirements on:

- Swap dealers, which are defined as persons who: i) hold themselves out as dealers in swaps; (ii) make a market in swaps; (iii) regularly enter into swaps with counterparties in the ordinary course of the business for their own account, or (iv) engage in other activities that would cause it to be known as a dealer or market maker in swaps; and

- Major swap participants, which are defined as persons that are not swap dealers but which hold substantial positions[61] that create counterparty exposure to the point that they could have a serious impact on financial markets. For banks, which fall under the definition of major swap participant, capital requirements will continue to be set by prudential banking regulators rather than under the terms of the Dodd-Frank Act.

In addition, the *Dodd-Frank Act* establishes margin requirements on uncleared swaps which will be applicable to non-bank entities. As the result of concerns that the margin requirements may cause swap dealers to increase the prices of swap instruments or require clients to post margin as well, the drafters of the Act provided clarity that the Act did not intend to impose additional costs on end-users and urged regulators to consider the impact on end-users when determining margin requirements. By not imposing margin requirements on cleared swaps, the Act provides substantial incentives to clear transactions through a CCP.

In the UK, the FSA and the Treasury have indicated that they support capital requirements that are proportionate to the risks related to a position.[62] The report does not support punitive capital charges to transactions that are not cleared through a CCP

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[60] The Joint Forum on Risk Management Practices and Regulatory Capital involving the Basel Committee on Banking Supervision, the International Organization of Securities Commissions, and International Association of Insurance Supervisors published a cross-sectorial comparison in November, 2001, which provides substantial analysis in relation to the differing standards.

[61] The meaning of "substantial position" will be defined by SEC and the CFTC.

[62] See Financial Services Authority and the UK Treasury, "Reforming OTC Derivatives Markets" (December 2009).

but instead acknowledged that bilateral arrangements result in increased risk and therefore should be subject to higher capital requirements.

6.2 Current Capital Requirements in Canada

In order to establish capital requirements for participants in the OTC derivatives market, we need to understand existing capital requirements relating to such activity. Currently there are a variety of capital obligations applicable to OTC derivative activity imposed by a number of authorities. In practice, these requirements are intended to be appropriate to the business models used by the entities that are being regulated.

Banks

Banks are subject to the requirements established by the Office of the Superintendent of Financial Institutions ("OSFI"). OSFI capital requirements are consistent with the requirements set out in the Basel II Accord. Capital requirements are established utilizing consolidated financial statements and determining the entities risk of loss from defaults, valuation changes and operational activities utilizing a value-at-risk concept.

Investment Dealers

Investment dealers are required to be members of the Investment Industry Regulatory Organization of Canada ("IIROC") which establishes capital requirements with the objective of ensuring that a dealer member is able to shut down its operations in an efficient manner. IIROC has adopted a model where each member's risk adjusted capital is determined by deducting the required margin as set out in IIROC rules.

Mutual Fund Dealers

The Mutual Fund Dealers Association of Canada ("MFDA") has adopted capital requirements that are substantially similar to IIROC's. However there are two key differences. The first difference is that the MFDA's stated objective for imposing capital requirements is to ensure that its members have sufficient liquidity to allow them to carry on business. A second difference is that the minimum capital requirements are based on the member's business model and are not uniform. Firms which hold client assets, including both cash and securities, are subject to a higher minimal capital requirement than firms that do not hold client assets.[63]

Insurance Companies and other Financial Institutions

The regulation of insurance companies and other financial institutions such as credit unions and trust companies differs from jurisdiction to jurisdiction within Canada. Some of these entities will be governed by OSFI requirements while others will be subject to provincial requirements which in many cases are similar to OSFI requirements.

6.3 Other Entities registered under securities legislation

National Instrument 31-103 Registration Requirements and Exemptions ("NI 31-103") establishes capital requirements for registered entities other than IIROC and MFDA members. Capital requirements are calculated using a risk-weighted formula with minimum amounts of $50,000 for exempt market dealers, $25,000 advisers and $100,000 for investment fund managers. NI 31-103 exempts registrants from these capital requirements where they are members of IIROC or the MFDA. The stated objectives of the capital requirements in NI 31-103 are to ensure registered firms can meet their financial obligation when they come due. NI 31-103 does not provide specific capital treatment for OTC derivative positions.

6.4 Collateral Requirements

Collateral obligations for OTC derivatives transactions are in many cases governed by an ISDA Master Agreement and related Credit Support Annex. The Credit Support Annex normally sets forth collateralisation rules that apply to the whole portfolio of OTC derivatives. Trade-level margining is seldom used. The Credit Support Annex covers all agreed contractual terms related to collateral margin calls, their frequency, exposure calculations and the definition of eligible collateral.

In addition, the Credit Support Annex specifies the threshold and minimum transfer amounts relating to the contract, and the posting of independent amounts. The threshold amount is the amount of exposure that one party to a contract is willing to have to the other party before requesting additional collateral payments. The independent amount or initial margin refers to an upfront payment demanded by one party on some OTC derivatives transactions. For hedge funds and less creditworthy counterparties, independent amounts are often negotiated on a trade-by-trade basis and serve as a form of additional collateral support.

[63] Mutual Fund Dealer Association of Canada Rules, Section 3.1.1.

Generally, collateral criteria for OTC derivatives trades did not change during the recent crisis, possibly because the renegotiation and modification of a Credit Support Annex is quite a time-consuming process. Cash dominates the collateral received (constituting roughly 85%). The remainder is mostly made up of government bonds or other highly rated bonds with appropriate haircuts.[64]

6.5 Recommendations

The Committee understands the importance of adopting capital requirements that are not inconsistent with other major jurisdictions but that address the unique risks that exist in Canada without creating unnecessary harm to our markets.

The Committee believes that the primary objective of adopting capital requirements and related margin requirements is to address a variety of risks including systemic risk, counterparty risk and market risk. These risks will be addressed by ensuring that Canadian participants in the OTC derivative market have sufficient financial resources to allow them to meet their ongoing financial obligations, particularly obligations arising because of their participation in the OTC derivatives market. A secondary objective of capital requirements will be to encourage the structuring of OTC derivatives contracts to facilitate the use of central clearing facilities to clear OTC derivatives trades.

In accordance with the recommendations of the Basel II Accord, the Committee believes that capital requirements should be proportionate to the risks that an entity assumes and ideally should not provide any category of entity with a competitive advantage. As such, capital requirements should not constitute a penalty for entities that are not in a position to utilize CCPs but rather should reflect the increased risk caused by bilateral arrangements. In all situations, bilateral arrangements should trigger higher capital or collateral requirements than transactions that utilize a central counter-party, subject to exemptions for non-financial end-users. This risk-based approach will provide incentives to encourage and reward standardization of contracts and use of a CCP.

Capital or Collateral requirements should apply to:

- all entities acting as financial intermediaries to facilitate trading of OTC derivatives on behalf of third parties; and
- end-users of OTC derivatives except where their use of OTC derivatives: (i) is restricted to hedging risks related to the end-user's business activities, and (ii) does not increase systemic risk to the market.

Specific challenges in defining the scope of the requirements will include:

- providing clarity regarding the concept of hedging. While it may not be reasonable to require every user of derivatives to constitute a perfect hedge to be exempted from capital requirements, the use of OTC derivatives must be primarily intended to reduce risk rather than generate a return for the party using the OTC derivative for the purposes of relying on any hedging exemption.
- determining whether a person's use of OTC derivatives results in an increase in systemic risk to the market. In making this determination, the person's impact on systemic risk must be considered in the aggregate rather than on a transaction-by-transaction basis.

The Committee believes that capital requirements that are currently in place should be reviewed to assess their adequacy to address applicable, key risks relating to OTC derivatives. While the Committee acknowledges that regulations must be appropriate for the business model of the entity being regulated, we must ensure that capital requirements appropriately address and manage systemic risk, counterparty risk and market risk while not creating competitive advantage or disadvantage for any category of OTC derivatives market participant. CSA staff should work together with the staff of other regulatory agencies to assess the effectiveness and burden of existing regulatory regimes and suggest amendments to such regimes to ensure satisfactory risk management and fair and appropriate burdens taking into account the businesses conducted by each regulator's regulated parties.

The CSA regulation regime should include a comprehensive capital regime (which may include specific margin and collateral requirements) that addresses systemic risk issues as well as other key risks. OTC derivative market participants that are subject to other satisfactory regulatory regimes that do address key risks should be exempt from complying with CSA requirements. This will require considerable policy development with prudential regulators and consultation with industry.

The Committee also believes that regulators require the authority to mandate that all contracts contain provisions requiring appropriate collateral for all transactions that are not cleared through a CCP. To mitigate credit and counterparty risk, regulators

[64] From the report "The role of margin requirements and haircuts in procyclicality", issued by the Study Group established by the Committee on the Global Financial System of the Bank for International Settlements.

will need the authority to mandate the use of two-way collateral transfer agreements which could contain specific provisions such as daily margining practices and zero threshold amounts. Collateral requirements could apply to all participants in the Canadian OTC derivatives market, including financial intermediaries and other parties, subject to the exemptions discussed above.

Questions:

1. What are the consequences that you foresee from higher capital requirements for financial institutions for derivative transactions not cleared through a CPP?

2. What are the consequences of mandatory collateral requirements for non-financial entities for non-cleared trades?

3. Do the differing capital standards currently imposed by Canadian regulators result in a level playing field for OTC derivatives market participants?

7. End-Users and Significant Market Participants

The proposals outlined in this paper are directed at strengthening financial market infrastructure and honouring the G20 commitments relating to the trading of OTC derivatives. Ideally, the proposals are most effective if they apply to all OTC derivatives and to all end-users of those products.

However, there are a large variety of end-users of OTC derivatives such as large and small corporations and Crown corporations and governments that use OTC derivatives to hedge a variety of risks. These hedging activities are supported by accounting rules that permit a side by side matching of a business risk with the corresponding derivatives position on the financial statements of the end-user.

It is likely that the additional regulatory requirements that are being proposed may make it difficult − and possibly prohibitive − for some of these end-users to continue to trade in OTC derivatives as part of their hedging of business risk. Authorities such as the FSA have pointed out that requirements such as daily margin adjustments will not be practical for some end-users and could be counterproductive to the extent additional requirements discourage participation in the markets.[65] To mitigate the risk of making the use of OTC derivatives prohibitive to these end-users it will be necessary to develop limited exemptions from some of the proposals set out in this paper.[66]

Any end-user exemptions will need to be narrowly drafted and would not be available to financial institutions or other market participants acting in a capacity similar to a financial institution, due to systemic risk concerns. The availability of an end-user exemption should not introduce an increase in systemic risk to the market. The G20 commitments also include an objective of ensuring any requirements are consistent and non-discriminatory. Finally, any end-user exemption will need to take into consideration and be consistent with exemptions that may be developed internationally.

7.1 End-User Roundtable Meetings with the CSA Derivatives Committee

Our consultations, as well as representations made by end-users during the development of legislation in the United States, have identified a variety of end-users that use OTC derivatives predominantly for hedging purposes. The use of OTC derivatives by these end-users is focused on transferring a risk arising from the end-user's business to a third party and is not intended to create a profit through speculation. In these cases the OTC derivative is tailored to the business of the end-user and in some situations may not be considered to be a standardized OTC derivative for the purpose of the application of the various regulatory proposals. Although the volume of OTC derivatives trading may be significant to the business of the end-user, in most situations, it will not be significant to the overall market unless the end-user is in effect acting as an intermediary by holding a large number of positions with multiple parties. A default by an end-user is, in most cases, less likely to pose a systemic risk to the market.[67]

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65 FSA Paper, "Reforming OTC Derivatives Markets a UK Perspective", (December 2009).

66 For example, the Dodd-Frank Act allows for a swap to be exempted from the mandatory clearing requirement if one of the two counterparties: *"(i) is not a financial entity; (ii) is using swaps to hedge or mitigate commercial risk; and (iii) notifies the Commission, in a manner set forth by the Commission, how it generally meets its financial obligations associated with entering into noncleared swaps."* See section 723 of the Dodd-Frank Act, *supra* note 21. The Dodd-Frank Act gives a non-financial end-user the choice as to whether to clear or not, and where to clear the trade – see *supra* note 21, section 723.

67 End-users default will typically only represent a systemic risk where the end-user is, as a result of their size or the nature of their activity, systemically important to an economy.

In this limited situation, the roundtable participants indicated their belief that mandatory clearing requirements are not efficient, necessary or cost effective. They also argued that capital and collateral requirements are not necessary as the parties themselves are in a position to negotiate the terms of the OTC derivatives contract.

7.2 Options

The wide variety of end-users of OTC derivatives contracts, and the variety of situations where they can be used, leads to difficulty in developing exemptions. Any exemption will need to define a limited category of end-users and types of transaction in a manner that does not frustrate attempts to increase the use of central counterparties, collateral and margin and standardized contracts. Caution must be taken not to create an unlevel playing field, or create a business incentive to structure operations or transactions in a manner that is designed to circumvent the proposals set out in this paper.

It will also be necessary to define any exemption in a manner that does not inadvertently exempt an end-user or counterparty that is in substance conducting the activity of a financial intermediary or other regulated market participant. An end-user that is in substance acting as a financial institution would generally be expected to satisfy the regulatory requirements applicable to a financial institution.

Some of the specific definitional challenges in defining the scope and application of an exemption include the following:

- Who would qualify to use an exemption? How is end-user to be defined and do all end-user transactions have to be hedged? An end-user may have multiple businesses and business objectives, some of which may be truly hedging, others which are intended to generate a return on investment for the end-user [68].

- What activity is exempted? What is meant by hedging? Many derivatives transactions entered into for the purposes of hedging risks are not perfect hedges. The standard for an acceptable hedge would need to be developed.

- Should all OTC derivatives contracts qualify? If the contract is not unique or is essentially equivalent to a standardized contract should the requirement for clearing and collateral apply?

- Does the availability of an exemption depend on the counterparty to the derivatives transaction? Should there be a limit on the type of counterparty?

- Should the volume of transactions be a factor in determining whether an exemption would be available? If the volume of trading is large and a default would impact on other market activity outside of the transaction between the parties using the exemption, the trading may pose a systemic risk and should not be subject to an exemption. The parties should be subject to the same regulatory safeguards in place for the general OTC market.

7.3 Recommendations

The Committee recommends establishing exemptions from most of the regulatory proposals discussed herein, for defined categories of hedging end-users. However it may be the case that an entity may be an end-user hedging risks in one transaction while speculating in their next transaction. We do not feel it would be appropriate to provide an exemption for speculative derivative trades. We also do not believe it would be appropriate to provide an exemption from the requirements discussed herein to financial entities including but not limited to banks, dealers and hedge funds.

While it may be acceptable from a policy perspective to exempt a defined category of end-users from collateral or capital requirements or the requirement to use a central counterparty where the transaction is executed for the purposes of hedging a risk, it is not acceptable to exempt any end-user from the requirement to report trades to a trade repository. The reporting requirements are critical to the ability of regulators to monitor all market activity, identify systemic risks and monitor the use of an exemption.

It is also necessary to retain authority within the regulator to remove the ability of a market participant to rely on an exemption in cases where it is in the public interest. In this situation the exercise of public interest jurisdiction by the regulator would include situations where there is evidence of trading activity which:

- is effectively equivalent to the nature and type of business conducted by a financial institution or other regulated market participant,

[68] The CFTC has been asked to do a study to define commercial risk.

- involves the trading of an OTC derivative that presents a significant risk to the market, or

- results in a material risk to an entity which is systemically important to the market or the overall economy.

Without this residual authority, unintended consequences arising from the use of an exemption by a particular end-user or category of end-users could reintroduce an unacceptable level of systemic risk back into the market.

The development of an end-user exemption will require the balancing of competing policy objectives. As an example, a narrow or limited end-user exemption would create incentives for the use of clearing, collateral or exchange-traded derivatives which may increase costs and complexity for end-users which do not qualify for the exemption. An expansive exemption would preserve the ability of end-users to continue to use OTC derivatives to hedge business risks, but might also discourage the development of new regulated derivatives products or provide an exemption to parties that should be subject to appropriate regulations. When developing an end-user exemption we must consider the primary policy and business objectives that need to be addressed.

While there has been discussion in other jurisdictions such as the United States with respect to the types of end-users that should be granted an exemption from the proposals set out in this paper, as of yet, there are no defined exemptions or standards. Much of this work will form part of the work to be done by the CSA and regulators such as the SEC and CFTC to implement financial reform legislation. Further study will need to be done to define what category of end-user should be permitted to use an exemption to hedge its business risks, as well as the conditions an end-user will need to satisfy to rely on the exemption and whether there should be a threshold test as part of the end-user exemption.

Questions:

1. What are your views on the general approach of providing commercial hedging end-users of OTC derivatives with exemptions from the mandatory clearing, electronic trading, margin and/or collateral requirements? If such trades are exempt, what would the effect be on financial institutions on the other side of these trades?

2. Should there be any other exemption from the mandatory clearing or from capital margin and/or collateral requirements for any category of end-users?

8. Enforcement

In Canada, the overall aim in regulating securities and derivatives markets is to provide protection to investors from unfair, improper or fraudulent practices while maintaining the integrity of the markets. Regulators seek to prevent market abuse as far as possible, as it can significantly harm the financial system. Specifically, attempts at manipulating markets, using large positions to control prices or mask ownership and the use of insider information can cause financial and reputational harm to the markets. In order to avoid market abuse in OTC derivatives markets or use of OTC derivatives markets to profit from improper activity on the markets for underlying assets, regulators must be able to monitor, detect, deter and enforce against fraudulent trade practices and market abuse.

8.1 International proposals

Concerns have been raised globally by international regulators about market conduct and abusive practices. In the United States, the Dodd-Frank Act addresses business conduct obligations that are intended to lower risk and promote market integrity.[69] The Dodd-Frank Act requires that registered swap dealers and major swap participants conform to business conduct standards prescribed by the CFTC and SEC relating to fraud, supervision, adherence to position limits, and any other matters deemed appropriate. The requirements specifically include the following:

- Reporting and recordkeeping, including maintenance of daily trading records and a complete audit trail;

- Verification of counterparty eligibility as an eligible contract participant (“ECP”);

- Documentation and back office standards;

- Disclosure to counterparties of contract characteristics, any material incentives and conflicts of interest;

- Core principles for compliance and designation of compliance officers;

[69] Title VII of H.R. 4173, the Dodd-Frank Act, *supra* note 21.

- Antitrust considerations; and
- Disclosure of daily marks, at the requests of the counterparty.

The Dodd-Frank Act also provides regulators with increased authority related to enforcement and insider trading activities.

In Europe, CESR identified the need for authorities to enhance their ability to detect suspicious activities and to maintain the integrity of their markets. In a consultation paper related to transaction reporting, CESR advocates for transaction reporting of OTC derivatives to trade repositories for market abuse surveillance purposes.[70] CESR indicates that transaction reporting plays an important role in market monitoring, and would meet the G20 requirements to improve the regulation, functioning and transparency of financial and commodity markets.

8.2 Options

Portions of the Canadian OTC derivatives market are essentially unregulated in terms of market conduct and trading practices. Regulators do not receive market information from parties involved in OTC derivatives trading, and are therefore ill-equipped to detect potential fraudulent activities or an unwarranted and potentially harmful build-up of risk in the system. In order to address market conduct issues or potentially harmful market conditions, we have considered the following options:

Surveillance

It is essential that the CSA, as regulators, obtain authority in order to conduct surveillance on OTC derivatives markets. This will allow us to identify situations that could pose a threat of manipulation or abusive practice, allow regulators to monitor conditions in the market, keep us informed of significant positions and market development, and allow us to initiate preventive actions. Surveillance powers would include, but not be limited to:

- unfettered access to relevant data, irrespective of the location of the trade repository or CCP on both a periodic and ad hoc basis;
- access to data from repositories and execution facilities; and
- the legal right and ability to keep information received confidential as necessary and appropriate, in accordance with confidentiality laws applicable in each jurisdiction.

Surveillance helps address the various risks that exist within the OTC derivatives markets. Firstly, monitoring and surveillance deal with the lack of transparency inherent in these markets. Prior to the financial crisis, regulators were largely unaware of the risks that had built up, and therefore could not anticipate the wider effects on the overall markets. Surveillance addresses the lack of transparency by providing regulators with essential information necessary to monitor and detect abusive practices. Surveillance also addresses operational risks because it ensures access to information, disclosure of trades and implementation of reporting procedures. Monitoring positions and market conditions will allow regulators to understand potential increases in risk within the system and address these issues, including systemic risk issues, before significant problems arise. Finally, surveillance mitigates systemic risk by improving market infrastructure and shedding light on trade activities.

The implementation of certain regulatory proposals outlined in this paper help support the execution of market surveillance. For example, regulators can monitor the OTC derivatives market by reviewing data reported to trade repositories. Trade repositories will consolidate data which will facilitate monitoring concentration of positions, detecting potential manipulations, conducting systemic and economic analysis, and obtaining transparency of market data. In addition, regulators also have the option of obtaining market information from exchanges, ATSs, electronic trading platforms, or other execution facilities or CCPs. These facilities provide a method for capturing and preserving an audit trail, as well as monitoring market activity to prevent a build-up of risk, fraud and manipulation.

A comprehensive surveillance system will need to be implemented which provides regulators with a defined process for the ongoing surveillance and analysis of derivatives market activity. Systems already exist to conduct surveillance on the securities market, either through a self-regulatory organization or provincial securities regulators. These systems should be expanded to include surveillance of OTC derivatives products, or similar systems should be adopted which are specific to the derivatives market. Further work will need to be done in relation to the design and implementation of surveillance systems.

Monitoring derivatives markets necessitates collaboration with international regulators. Many derivatives contracts contain both Canadian and international aspects, with information reported to international regulators or trade repositories. As such, Canadian regulators will need to obtain trade information from international entities in order to conduct market surveillance while

[70] Committee for European Securities Regulators, "Consultation Paper: Transaction Reporting on OTC Derivatives and Extension of the Scope of Transaction Reporting Obligations" (19 July 2010).

also having the authority and capacity to provide Canadian trade information to regulators outside of Canada. Further consideration must be given to information sharing agreements between Canadian and international regulators.

Finally, regulators need to consider their management of the large volumes of information received from trade repositories. It is imperative that we, as regulators, have the necessary resources and expertise to conduct meaningful surveillance and analysis. In addition, new processes will need to be developed to analyze and review all the information received from trade repositories, and to monitor and conduct enforcement against parties who fail to report to the trade repositories.

Market Conduct Rules

Another proposal is that regulators develop robust market conduct standards which apply to OTC derivatives trading. Market conduct rules already exist in the securities industry, and should be similarly applied to derivatives markets, as they have been in Quebec. The following are examples of specific requirements which will be addressed in the market conduct rules:

- Prohibitions against market abuse, manipulation and deceptive trading;
- Record keeping and audit trail requirements to enhance surveillance and examination capabilities; and
- Authority to introduce position limits and monitor compliance with such limits.

Regulators could consider using existing rules which apply to securities, such as National Instrument 23-101 *Trading Rules*, and apply them to OTC derivatives trading, or develop specific market rules for OTC derivatives which are similar to the securities rules.

Regulators will also have the authority to conduct compliance reviews of market participants to ensure that participants in the OTC derivatives industry comply with market conduct rules.

Enforcement

It is essential that regulators have the ability to investigate and enforce against abusive practices found in the OTC derivatives marketplace. The prompt detection and sanctioning of market abuse is a key to the success of enforcement. The regulatory proposals outlined above, such as surveillance and explicit rules related to market conduct, will also assist regulators with enforcement activities.

8.3 Legislative/Regulatory Powers

To conduct market surveillance, regulators will require information housed with regulators in foreign jurisdictions. As such, we will require authority to share information and enter into information sharing agreements with international parties.

Certain provinces may require authority to make rules concerning market conduct for the OTC derivatives industry. This could include rules concerning the standards of practices and business conduct for dealers, advisers and representatives, or rules concerning derivatives transactions for the purpose of preventing fraud, manipulation or deceptive trade practices.

Finally, it may be necessary for certain provinces to obtain legislative powers to conduct compliance reviews, investigations and enforcement in relation to OTC derivatives. In other jurisdictions where derivatives are treated as securities, regulators already appear to have rule-making authority to deal with these issues.

8.4 Recommendations

The Committee wants to ensure that regulators are able to monitor, detect, deter and enforce against fraudulent trade practices and market abuse in OTC derivatives markets. As such, we recommend that all provincial securities regulators obtain authority to conduct surveillance on OTC derivatives markets, develop robust market conduct standards applicable to OTC derivatives trading and obtain authority to investigate and enforce against abusive practices in the OTC derivatives marketplace.

9. Segregation of Collateral

The principles of segregation provide that client assets must be kept separate from the assets of the market intermediary. The aim of segregating client assets is to ensure that clients have priority over unsecured creditors in the event of a bankruptcy and the client is able to recover the assets pledged as collateral/margin in an orderly and expeditious fashion.

However, in the OTC derivatives market, client assets pledged as collateral or margin are not currently segregated by counterparties, unless negotiated by the parties to the derivatives transaction, because the bank dealers do not have regulatory requirements to do so. If collateral is provided to a counterparty to a bilateral contract, any cash collateral is able to be reused

by the bank dealers as an unrestricted source of funding.[71] In the event of a counterparty bankruptcy, the clients must rely on the bankruptcy / insolvency laws of the various jurisdictions to recover their assets.

In the *Dodd-Frank Act*, the US is proposing a new regime for the segregation of collateral and bankruptcy treatment for collateral pledged for OTC derivatives transactions. This new regime is similar to the regime currently used in the US commodity futures industry[72]. In light of the new US requirements, a consistent legal framework - securities and derivatives framework and insolvency law – should be developed to provide consistency in the treatment of collateral in the event of an OTC derivatives dealer's default.

However, there are costs associated with the segregation of client assets and further analysis is required by the Committee before it is able to make a recommendation regarding segregation in a Canadian context.

Question:

1. What are your views regarding a regulatory rule requiring all collateral to be held in segregated accounts?

2. Should end-users have the ability to elect segregation of collateral/margin?

10. Conclusion

10.1 Recommendations Supporting G20

In order to ensure that Canada meets its G20 commitments, the Committee acknowledges that much work must be done to provide clear direction for legislative development, jurisdictional authority and scope of our proposed regulatory reform, as well as for industry development of the infrastructure, operational procedures and communications processes. This paper has set out the issues surrounding the following recommendations, and the Committee is aware that further policy development will be required as international standards crystallize over the coming months. We look forward to receiving comments on the questions raised herein to assist us in our analysis and determinations on these issues.

Each of our recommendations will require considerable resource and operational commitments both by industry and the official sector. In working with the HOA OTCDWG and the OTC derivatives industry, we will continue to develop precise legislative proposals and begin the process of drafting proposed rules that will govern OTC derivatives oversight in Canada.

Clearing

The Committee supports the increased use of CCPs to clear OTC derivatives transactions and the mandatory central clearing of OTC derivatives that are determined to be appropriate for clearing and capable of being cleared. Regulators will require rulemaking authority to compel the clearing of OTC derivatives which are not exempt. In addition, the Committee is recommending that capital requirements be adjusted to account for the risk in bilateral clearing as opposed to when the trade is cleared by a CCP and to follow best practices in terms of collateral management.These modifications will be developed in collaboration with the HOA OTCDWG and in consultation with the OTC derivatives industry.

Trade Repositories

The Committee recommends that all derivatives trades by Canadian counterparties be reported to a trade repository. This will provide regulators with appropriate access to information which is required to fulfill regulatory obligations. The trade repository need not necessarily be located within Canada, as long as regulators have appropriate access to relevant trade data.

Electronic Trading

The committee recognizes the benefits of organized trading, and will continue to examine whether any regulatory incentives are required to accelerate the natural evolution of trading of certain OTC derivatives to organized platforms. The Committee agrees that only those products which are capable of being traded on an organized trading platform (e.g. products which are sufficiently standardized and liquid) and pose a systemic risk to the market should be mandated to trade on an organized trading platform. The Committee has agreed to continue to consider this issue, in defining the characteristics of those products, as international regulators continue to debate this issue.

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[71] Squam Lake Working Group on Financial Regulation, "Working Paper Prime Brokerage and Dealers" (April 2010) : 4.

[72] Dodd-Frank Act, *supra* note 21 at 724.

Capital and Collateral

The Committee understands the importance of imposing capital requirements on all applicable participants in the Canadian OTC derivatives market to ensure that participants have sufficient financial resources to meet ongoing financial obligations. The Committee recommends that higher capital requirements be required for non-centrally cleared derivatives. The Committee further recommends that OTC derivatives market participants subject to other satisfactory regulatory regimes be exempt from capital requirements imposed by Canadian market regulators. Finally, the Committee recommends the imposition of industry best practices in terms of collateral requirements for transactions not cleared through a CCP.

End-User Exemptions

The Committee recommends establishing exemptions from the regulatory proposals outlined in this paper for defined categories of end-users. The Committee recommends that further study be done to define categories of end-users which should be permitted to use exemptions, as well as conditions end-users will need to satisfy to rely on the exemptions.

Enforcement, market abuse, surveillance

The Committee recommends that provincial regulators obtain authority to conduct surveillance on OTC derivatives markets, develop robust market conduct standards applicable to OTC derivatives trading and obtain authority to investigate and enforce against abusive practices in the OTC derivatives marketplace.

Segregation of Capital

The Committee recognizes that further analysis is required before making a recommendation regarding the segregation of capital in a Canadian context.

10.2 Going Forward

Legislative Development

In each of the subject areas addressed in the paper, the Committee notes that clear jurisdictional authority in each province, as well as specific rule-making powers, need to be set out in provincial securities and derivatives legislation.

International Co-operation

In order to implement many of the recommendations in this paper, the CSA will need to develop information sharing and co-operation agreements with international regulators, as well as foreign trade repositories and CCPs. The OTC DRF is developing a framework for the sharing of information which will need to be supported by legal tools such as memoranda of understanding.

Follow-up Paper

The operational implementation of the recommendations contained in this paper will involve considerable effort both in its design and implementation and will be the subject of another public consultation paper.

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Chapter 7

Insider Reporting

This chapter is available in the print version of the OSC Bulletin, as well as as in Carswell's internet service SecuritiesScource (see www.carswell.com).

This chapter contains a weekly summary of insider transactions of Ontario reporting issuers in the System for Electronic Disclosure by Insiders (SEDI). The weekly summary contains insider transactions reported during the seven days ending Sunday at 11:59 pm.

To obtain Insider Reporting information, please visit the SEDI website (www.sedi.ca).

Chapter 8

Notice of Exempt Financings

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

Transaction Date	No. of Purchasers	Issuer/Security	Total Purchase Price ($)	No. of Securities Distributed
10/06/2010	11	2258501 Ontario Inc. - Units	1,260,362.50	12,000,000.00
06/07/2010 to 06/11/2010	4	99 Capital Corporation - Common Shares	172,500.00	1,150,000.00
05/18/2010	33	Advanced Explorations Inc. - Units	1,946,900.00	8,849,545.00
10/13/2010	2	Allied Irish Banks, p.l.c. - Notes	17,437,500.00	225,000.00
08/07/2009	1	Armtec Infrastructure Income Fund - Units	364,831.30	19,562.00
06/25/2010	2	Beatrix Ventures Inc. - Flow-Through Units	210,000.00	2,800,000.00
10/25/2010	1	Beer Barons Inc. - Common Shares	50,000.00	667.00
08/05/2010	2	Better ATM Services, Inc. - Common Shares	58,762.21	40,000.00
06/07/2010	26	Blue Note Mining Inc. - Units	665,640.00	5,270,307.00
10/15/2010	7	Brant County Riverbend Development Investment Corporation - Common Shares	123,750.00	12,375.00
10/15/2010	12	Brant County Riverbend Development LP - Limited Partnership Units	453,750.00	45,375.00
10/11/2010	9	B.E.S.T. Actively Manged Income Fund 9 L.P. - Limited Partnership Units	2,550,000.00	2,550,000.00
10/18/2010	1	Canadian Auto Receivables Enterprise Network Trust II - Note	66,128,904.75	1.00
10/08/2010	1	Canadian Oil Recovery & Remediation Enterprises Inc. - Common Shares	192,500.00	962,500.00
09/30/2010	5	Carbon2Green Corporation - Debentures	190,000.00	5.00
10/04/2010	1	Carp Retirement Properties Limited Partnership - Units	1,000,000.00	20.00
10/08/2010	1	CD ROM Network Corp. - Common Shares	100,000.00	2,000,000.00
06/29/2010	1	Clearford Industries Inc. - Units	10,583.00	105,830.00
10/15/2010 to 10/21/2010	19	Clearford Industries Inc. - Units	1,160,500.00	4,642,000.00
07/15/2009	6	Colt Resources Inc. - Units	367,300.00	3,339,090.00
10/14/2010	3	Continuum Network Inc. - Debentures	45,000.00	3.00
10/15/2010	8	Copper Reef Mining Corporation - Common Shares	353,000.00	2,945,000.00
09/24/2010	2	Corsa Capital Ltd. - Common Shares	5,150,000.00	1,000,000.00

Transaction Date	No. of Purchasers	Issuer/Security	Total Purchase Price ($)	No. of Securities Distributed
09/28/2010 to 09/29/2010	2	CRESO Exploration Inc. - Common Shares	1,980,000.00	1,915,094.00
10/13/2010	1	Development Notes Limited Partnership - Units	150,000.00	150,000.00
09/29/2010	44	Drako Capital Corp. - Common Shares	1,000,000.00	4,000,000.00
10/07/2010	1	DuPont Fabros Technology, Inc. - Common Shares	406,640.00	16,000.00
10/14/2010	1	Ellerslie GT-SDM Limited Partnership - Loan Agreement	475,000.00	1.00
09/30/2010	1	Elster Group SE - American Depository Shares	1,004,055.00	16,200,000.00
09/30/2010	4	Emerald Bay Energy Inc. - Units	417,500.00	8,350,000.00
10/01/2010	1	Empire Capital Corp. - Common Shares	43,500.00	150,000.00
08/20/2010	21	Ethiopian Potash Corp. - Common Shares	860,750.00	6,886,000.00
07/09/2010	3	Excalibur Resources Ltd. - Flow-Through Units	500,000.00	2,702,702.00
09/24/2010	32	Fiber Optic Systems Technology, Inc. - Units	1,400,892.00	23,348,200.00
10/15/2010	1	First Leaside Expansion Limited Partnership - Units	25,000.00	25,000.00
10/15/2010	1	First Leaside Fund - Trust Units	56,642.00	56,642.00
10/15/2010	1	First Leaside Mortgage Fund - Trust Units	225,000.00	225,000.00
10/18/2010	1	First Leaside Ultimate Limited Partnership - Units	134,324.04	132,352.00
10/14/2010 to 10/19/2010	6	First Leaside Wealth Management Inc. - Preferred Shares	446,089.00	446,089.00
08/31/2010	1	Fleet Leasing Receivables Trust - Note	143,164,220.00	1.00
10/15/2010	3	Fleet Leasing Receivables Trust - Notes	43,992,861.12	3.00
08/25/2010	80	Geologix Explorations Inc. - Common Shares	2,299,000.00	10,450,000.00
09/18/2010	3	Global Atomic Fuels Corporation - Warrants	1,900,000.50	1,266,667.00
07/31/2009	4	Globex Mining Enterprises Inc. - Common Shares	279,550.00	217,000.00
05/19/2010	2	Goldeye Explorations Limited - Units	392,500.00	4,500,000.00
08/12/2009	11	Goldeye Explorations Limited - Units	281,000.00	7,025,000.00
06/11/2010	20	GTA Corpfin Capital Inc. - Units	1,734,971.00	13,524,710.00
10/08/2010	1	Hapag-Lloyd AG - Note	5,050,000.00	1.00
10/22/2010	1	Hersha Hospitality Trust - Common Shares	1,338,750.00	25,000,000.00
06/10/2010	4	Hy-drive Technologies Ltd. - Units	169,900.00	566,333.00
05/19/2010	22	Hy-drive Technologies Ltd. - Units	4,028,001.00	13,426,664.00
10/21/2010	46	ICN Resources Ltd. - Common Shares	4,200,069.90	14,000,233.00

Transaction Date	No. of Purchasers	Issuer/Security	Total Purchase Price ($)	No. of Securities Distributed
10/07/2010 to 10/15/2010	41	InfraReDx, Inc. - Preferred Shares	8,199,302.02	N/A
10/20/2010	7	Integrated Private Debt Fund III LP - Limited Partnership Units	275,000,000.00	275.00
05/25/2010	1	Lake Shore Gold Corp. - Common Shares	449,680.00	146,000.00
10/13/2010	17	LLoyds TSB Bank plc - Note	323,550,000.00	1.00
07/09/2007 to 07/23/2007	81	Lynden Energy Corp. - Units	15,348,000.00	19,021,952.00
09/27/2010	3	MassMutual Global Funding II - Notes	7,210,000.00	3.00
10/13/2010	1	MEPT Edgemoor LP - Limited Partnership Units	49,520,116.00	49,372.00
10/15/2010	9	Micromem Technologies Inc. - Units	238,500.00	1,325,000.00
10/13/2010	1	Mongolian Mining Corporation - Common Shares	1,814,000.00	719,424,500.00
10/13/2010	3	N-Dimension Solutions Inc. - Units	501,000.00	3.00
09/27/2010	1	National Australia Bank Limited - Notes	10,267,000.00	100,000.00
10/12/2010 to 10/13/2010	14	Neptune Technologies & Bioressources Inc. - Common Shares	2,646,499.00	1,430,540.00
10/01/2010	1	NeuLion, Inc. - Common Shares	0.00	17,820,650.00
09/23/2010	8	NexgenRx Inc. - Common Shares	300,000.00	1,200,000.00
10/21/2010	7	NMC Mining Corp. - Common Shares	2,067,249.80	5,906,428.00
07/05/2010	24	Northern Gold Mining Inc. - Common Shares	2,500,499.97	N/A
09/24/2010	1	NWM Mining Corporation - Common Shares	172,222.40	1,722,224.00
06/18/2010 to 07/14/2010	1	O'Leary Bond Portfolio Trust - Units	107,536,668.00	8,961,389.00
10/04/2010	3	Omega Healthcare Investors, Inc. - Note	19,714,500.00	1.00
10/19/2010	1	Open Access Limited - Units	250,000.00	10.00
09/30/2010 to 10/06/2010	50	Pele Mountain Resources Inc. - Units	3,765,380.00	21,538,964.00
10/14/2010	27	Playfair Mining Ltd. - Common Shares	700,000.00	7,000,000.00
09/21/2010		Prima Colombia Hardwood Inc. - Units		27,500,000.00
10/15/2010	7	RGHL US Escrow I LLC, RGHL Escrow I Inc. and RGHL Escrow Issuer (Lexembourg) I S.A. - Notes	24,492,500.00	7.00
10/15/2010	5	RGHL US Escrow I LLC, RGHL Escrow I Inc. and RGHL Escrow Issuer (Lexembourg) I S.A. - Notes	61,610,000.00	5.00
10/15/2010	1	Sage Gold Inc. - Flow-Through Units	400,000.00	1,818,181.00
09/22/2010	40	Slam Exploration Ltd. - Flow-Through Units	2,263,900.00	20,580,906.00

Transaction Date	No. of Purchasers	Issuer/Security	Total Purchase Price ($)	No. of Securities Distributed
09/20/2010	1	Solar Income Fund Developments Inc. - Units	250,000.00	250.00
09/24/2010	1	Stoneridge, Inc. - Note	1,021,500.00	1.00
09/09/2010	27	Treesdale Canada Finance Limited Partnership - Limited Partnership Interest	2,820,000.00	2,820,000.00
09/29/2010	45	U.S. Silver Corporation - Units	6,906,900.00	26,565,000.00
09/27/2010	7	Vena Resources Inc. - Common Shares	400,000.00	2,000,000.00
10/20/2010	3	Vera Bardley, Inc. - Common Shares	2,655,504.00	162,000.00
10/18/2010	18	Virgin Metals Inc. - Units	611,400.00	3,057,000.00
09/30/2010	7	Vortaloptics, Inc. - Common Shares	264,629.25	670,443.00
10/15/2010	17	Walton AZ Vista Bonita Limited Partnership - Limited Partnership Units	400,954.04	39,667.00
08/03/2010	2	Westpae Banking Corporation - Notes	81,504,000.00	800,000.00
10/14/2010 to 10/15/2010	2	Wimberly Apartments Limited Partnership - Units	35,305.30	49,999.00
10/13/2010	1	Wimberly Fund - Units	67,898.00	67,898.00
10/13/2010	25	Z-Gold Exploration inc. - Common Shares	298,000.00	1,341,000.00

Chapter 11

IPOs, New Issues and Secondary Financings

Issuer Name:
ABCOURT MINES INC.
Principal Regulator - Quebec
Type and Date:
Preliminary Short Form Prospectus dated November 1, 2010
NP 11-202 Receipt dated November 1, 2010
Offering Price and Description:
$ * - * Units - Price: $ * per Unit
Underwriter(s) or Distributor(s):
Industrial Alliance Securities Inc.
Promoter(s):
-
Project #1651937

Issuer Name:
Angle Energy Inc.
Principal Regulator - Alberta
Type and Date:
Preliminary Short Form Prospectus dated October 27, 2010
NP 11-202 Receipt dated October 27, 2010
Offering Price and Description:
$25,004,400.00 - 2,488,000 Flow-Through Common Shares Price: $10.05 per Flow-Through Common Share
Underwriter(s) or Distributor(s):
National Bank Financial Inc.
FirstEnergy Capital Corp.
Cormark Securities Inc.
Dundee Securities Corporation
Macquarie Capital Markets Canada Ltd.
Peters & Co. Limited
CIBC World Markets Inc.
Promoter(s):
-
Project #1649638

Issuer Name:
Australian Banc Capital Securities Trust
Principal Regulator - Ontario
Type and Date:
Preliminary Long Form Prospectus dated October 29, 2010
NP 11-202 Receipt dated October 29, 2010
Offering Price and Description:
Maximum $ - * Class A Units and/or Class F Units; (Maximum * Class A Units and/or Class F Units)
Price: $10.00 per Class A Unit and Class F Unit
Underwriter(s) or Distributor(s):
BMO Nesbitt Burns Inc.
HSBC Securities (Canada) Inc.
Promoter(s):
Connor, Clark & Lunn Capital Markets Inc.
Project #1651054

Issuer Name:
Blind Creek Resources Ltd.
Principal Regulator - British Columbia
Type and Date:
Preliminary Long Form Prospectus dated October 29, 2010
NP 11-202 Receipt dated November 1, 2010
Offering Price and Description:
$5,683,000.00 - 11,366,000 COMMON SHARES AND 5,683,000 SHARE PURCHASE WARRANTS ISSUABLE UPON THE EXERCISE OR DEEMED EXERCISE OF 11,366,000 PREVIOUSLY ISSUED SPECIAL WARRANTS
Underwriter(s) or Distributor(s):
D & D Securities Company
Promoter(s):
J. Frank Callaghan
Project #1651637

Issuer Name:
Cabre Capital Corp
Principal Regulator - British Columbia
Type and Date:
Preliminary CPC Prospectus dated October 25, 2010
NP 11-202 Receipt dated October 27, 2010
Offering Price and Description:
$200,000.00 - 2,000,000 Common Shares Price: $0.10 per Common Share
Underwriter(s) or Distributor(s):
PI Financial Corp.
Promoter(s):
John Versfelt
Project #1649242

Issuer Name:
Canadian Overseas Petroleum Limited
Principal Regulator - Alberta
Type and Date:
Preliminary Long Form Prospectus dated October 28, 2010
NP 11-202 Receipt dated October 29, 2010
Offering Price and Description:
Minimum Offering: $60,000,000.00 - * Subscription Receipts Price: $ * per Subscription Receipt
Underwriter(s) or Distributor(s):
Canaccord Genuity Corp.
Promoter(s):
-
Project #1650828

Issuer Name:
Colossus Minerals Inc.
Principal Regulator - Ontario
Type and Date:
Preliminary Short Form Prospectus dated October 28, 2010
NP 11-202 Receipt dated October 29, 2010
Offering Price and Description:
$60,225,000.00 - 7,300,000 Common Shares Price: $8.25 per Common Share
Underwriter(s) or Distributor(s):
GMP Securities L.P.
Dundee Securities Corporation
Canaccord Genuity Corp.
Clarus Securities Inc.
TD Securities Inc.
Macquarie Capital Markets Canada Ltd.
Promoter(s):
-
Project #1650419

Issuer Name:
Distinction Balanced Class
Distinction Balanced Portfolio
Distinction Bold Class
Distinction Bold Portfolio
Distinction Conservative Class
Distinction Conservative Portfolio
Distinction Growth Class
Distinction Growth Portfolio
Distinction Monthly Income Class
Distinction Monthly Income Portfolio
Distinction Prudent Class
Distinction Prudent Portfolio
IA Clarington American Fund
IA Clarington Bond Fund
IA Clarington Canadian Balanced Fund
IA Clarington Canadian Conservative Equity Fund
IA Clarington Canadian Dividend Fund
IA Clarington Canadian Growth Class
IA Clarington Canadian Growth Fund
IA Clarington Canadian Income Fund
IA Clarington Canadian Leaders Class
IA Clarington Canadian Leaders Fund
IA Clarington Canadian Small Cap Class
IA Clarington Canadian Small Cap Fund
IA Clarington Dividend Growth Class
IA Clarington Dividend Growth Fund
IA Clarington Dividend Income Fund
IA Clarington Energy Class
IA Clarington Global Dividend Fund
IA Clarington Global Equity Class
IA Clarington Global Equity Fund
IA Clarington Global Small Cap Fund
IA Clarington Global Tactical Income Class
IA Clarington Global Tactical Income Fund
IA Clarington Global Value Fund
IA Clarington Inhance Balanced SRI Portfolio
IA Clarington Inhance Canadian Equity SRI Class
IA Clarington Inhance Conservative SRI Portfolio
IA Clarington Inhance Global Equity SRI Class
IA Clarington Inhance Growth SRI Portfolio
IA Clarington Inhance Monthly Income SRI Fund
IA Clarington Money Market Fund
IA Clarington Monthly Income Balanced Fund
IA Clarington Real Return Bond Fund
IA Clarington Sarbit U.S. Equity Fund
IA Clarington Short-Term Bond Fund
IA Clarington Short-Term Income Class
IA Clarington Tactical Bond Class
IA Clarington Tactical Bond Fund
IA Clarington Tactical Income Class
IA Clarington Tactical Income Fund
Principal Regulator - Quebec
Type and Date:
Amendment #1 dated October 29, 2010 to Final Simplified Prospectus and Annual Information Form (NI 81-101) dated July 6, 2010
NP 11-202 Receipt dated
Offering Price and Description:
Series A, F, I, O and T5 Units @ Net Asset Value
Underwriter(s) or Distributor(s):
-
Promoter(s):
IA Clarington Investments Inc.
Project #1589192

Issuer Name:
DMP Resource Class
Dynamic Advantage Bond Fund
Dynamic American Value Fund
Dynamic Aurion Total Return Bond Fund
Dynamic Canadian Bond Fund
Dynamic Canadian Dividend Fund
Dynamic Canadian Value Class
Dynamic Diversified Real Asset Fund
Dynamic Dividend Fund
Dynamic Dividend Income Fund
Dynamic Dollar-Cost Averaging Fund
Dynamic Energy Income Fund
Dynamic Equity Income Fund
Dynamic Financial Services Fund
Dynamic Focus+ Balanced Fund
Dynamic Focus+ Equity Fund
Dynamic Focus+ Resource Fund
Dynamic Global Discovery Fund
Dynamic Global Dividend Value Fund
Dynamic Global Value Fund
Dynamic High Yield Bond Fund
Dynamic Power Balanced Class
Dynamic Power Balanced Fund
Dynamic Power Canadian Growth Class
Dynamic Power Canadian Growth Fund
Dynamic Power Global Growth Class
Dynamic Power Small Cap Fund
Dynamic Precious Metals Fund
Dynamic Small Business Fund
Dynamic Strategic Gold Class
Dynamic Strategic Growth Portfolio
Dynamic Strategic Yield Class
Dynamic Strategic Yield Fund
Dynamic Value Balanced Class
Dynamic Value Balanced Fund
Dynamic Value Fund of Canada
DynamicEdge Balanced Class Portfolio
DynamicEdge Balanced Growth Class Portfolio
DynamicEdge Balanced Growth Portfolio
DynamicEdge Balanced Portfolio
DynamicEdge Equity Portfolio
DynamicEdge Growth Portfolio
Principal Regulator - Ontario
Type and Date:
Preliminary Simplified Prospectuses dated October 29, 2010
NP 11-202 Receipt dated November 2, 2010
Offering Price and Description:
Series F Units and Series G Securities
Underwriter(s) or Distributor(s):
Goodman & Company, Investment Counsel Ltd.
Promoter(s):
Goodman & Company, Investment Counsel Ltd
Project #1651947

Issuer Name:
Entree Gold Inc.
Principal Regulator - British Columbia
Type and Date:
Preliminary Base Shelf Prospectus dated November 2, 2010
NP 11-202 Receipt dated November 2, 2010
Offering Price and Description:
$100,000,000.00
Common Shares
Warrants
Subscription Receipts
Underwriter(s) or Distributor(s):
-
Promoter(s):
-
Project #1652718

Issuer Name:
Frontiers U.S. Equity Currency Neutral Pool
Principal Regulator - Ontario
Type and Date:
Preliminary Simplified Prospectus dated November 1, 2010
NP 11-202 Receipt dated November 2, 2010
Offering Price and Description:
Class O Units)
Underwriter(s) or Distributor(s):
-
Promoter(s):
CIBC Asset Management Inc
Project #1651995

Issuer Name:
General Motors Company
Principal Regulator - Ontario
Type and Date:
Amended and Restated Preliminary MJDS Prospectus dated October 29, 2010
NP 11-202 Receipt dated October 29, 2010
Offering Price and Description:
US$ * - * SHARES OF COMMON STOCK Price: US$ * per 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 29, 2010
NP 11-202 Receipt dated October 29, 2010
Offering Price and Description:
US$ * - * SHARES OF * % SERIES B MANDATORY CONVERTIBLE JUNIOR PREFERRED STOCK
Price: US$* per Share
Underwriter(s) or Distributor(s):
Morgan Stanley Canada Limited
Promoter(s):
-
Project #1621248

Issuer Name:
GT Canada Medical Properties Real Estate Investment Trust
Principal Regulator - Ontario
Type and Date:
Amended and Restated Preliminary Long Form Prospectus dated October 29, 2010
NP 11-202 Receipt dated October 29, 2010
Offering Price and Description:
Minimum $25,000,000 - Minimum * Units Price: $ * per Unit
Underwriter(s) or Distributor(s):
Raymond James Ltd.
HSBC Securities (Canada) Inc.
Dundee Securities Corporation
Desjardins Securities Inc.
M Partners Inc.
Promoter(s):
-
Project #1648028

Issuer Name:
GWR Global Water Resources Corp.
Principal Regulator - Ontario
Type and Date:
Amended and Restated Preliminary Long Form dated November 1, 2010
NP 11-202 Receipt dated November 2, 2010
Offering Price and Description:
$ * - * Common Shares Price: $ * per Common Share
Underwriter(s) or Distributor(s):
Clarus Securities Inc.
CIBC World Markets Inc.
RBC Dominion Securities Inc.
TD Securities Inc.
GMP Securities L.P.
National Bank Financial Inc.
Promoter(s):
Global Waters Resources Inc.
Project #1646204

Issuer Name:
Harvest Sustainable Income Fund
Principal Regulator - Ontario
Type and Date:
Preliminary Long Form Prospectus dated October 27, 2010
NP 11-202 Receipt dated October 28, 2010
Offering Price and Description:
Maximum: $ * - (* Units) Price: $12.00 per Unit
(Minimum Purchase: 200 Units)
Underwriter(s) or Distributor(s):
BMO Nesbitt Burns Inc.
CIBC World Markets Inc.
RBC Dominion Securities Inc.
Scotia Capital Inc.
HSBC Securities (Canada) Inc.
National Bank Financial Inc.
Canaccord Genuity Corp.
Dundee Securities Corporation
Raymond James Ltd.
Desjardins Securities Inc.
Macquarie Private Wealth Inc.
Wellington West Capital Markets Inc.
Industrial Alliance Securities Inc.
Mackie Research Capital Corporation
Promoter(s):
Harvest Portfolios Group Inc.
Project #1649902

Issuer Name:
Horizons Gold Yield Fund
Principal Regulator - Ontario
Type and Date:
Preliminary Long Form Prospectus dated October 29, 2010
NP 11-202 Receipt dated October 29, 2010
Offering Price and Description:
Maximum $* Class A Units and Class F Units (Maximum * Class A Units and/or Class F Units)
Price: $10.00 per Class A Unit and $10.00 per Class F Unit
Underwriter(s) or Distributor(s):
BMO Nesbitt Burns Inc.
CIBC World Markets Inc.
National Bank Financial Inc.
RBC Dominion Securities Inc.
HSBC Securities (Canada) Inc.
GMP Securities L.P.
Raymond James Ltd.
Dundee Securities Corporation
Mackie Research Capital Corporation
Macquarie Private Wealth Inc.
MGI Securities Inc.
Rothenberg Capital Management Inc.
Wellington West Capital Markets Inc.
Promoter(s):
AlphaPro Management Inc.
Project #1651047

Issuer Name:
Innovative Composites International Inc.
Principal Regulator - Ontario
Type and Date:
Preliminary Short Form Prospectus dated November 1, 2010
NP 11-202 Receipt dated November 1, 2010
Offering Price and Description:
Up to $6,050,000.00 - Up to 11,000,000 Common Shares
Price: $0.55 per Common Share
Underwriter(s) or Distributor(s):
Canaccord Genuity Corp.
Union Securities Ltd.
Promoter(s):
-
Project #1651774

Issuer Name:
INV Metals Inc.
Principal Regulator - Ontario
Type and Date:
Preliminary Short Form Prospectus dated October 27, 2010
NP 11-202 Receipt dated October 27, 2010
Offering Price and Description:
$13,052,500.00 - 11,350,000 Common Shares Price: $1.15 per Offered Share
Underwriter(s) or Distributor(s):
Raymond James Ltd.
GMP Securities L.P.
Dundee Securities Corporation
Promoter(s):
-
Project #1649463

Issuer Name:
MADALENA VENTURES INC
Principal Regulator - Alberta
Type and Date:
Preliminary Short Form Prospectus dated October 27, 2010
NP 11-202 Receipt dated October 27, 2010
Offering Price and Description:
$25,002,250.00 - 38,465,000 Common Shares Price: $0.65 per share
Underwriter(s) or Distributor(s):
Wellington West Capital Markets Inc.
Byron Securities Limited
Promoter(s):
-
Project #1649622

Issuer Name:
Magellan Minerals Ltd.
Principal Regulator - British Columbia
Type and Date:
Preliminary Short Form Prospectus dated October 29, 2010
NP 11-202 Receipt dated October 29, 2010
Offering Price and Description:
$23,040,000.00 - 19,200,000 Common Shares Issuable on Exercise of 19,200,000 Special Warrants at a price of $1.20 per Special Warrant
Underwriter(s) or Distributor(s):
Scotia Capital Inc.
Mackie Research Capital Corporation
Toll Cross Securities Inc.
Promoter(s):
Alan H. C. Carter
Project #1651257

Issuer Name:
O'Leary Canadian Income Opportunities Fund 2
Principal Regulator - Quebec
Type and Date:
Preliminary Long Form Prospectus dated October 27, 2010
NP 11-202 Receipt dated October 29, 2010
Offering Price and Description:
$ * - * Units Price: $12.00 per Unit
Underwriter(s) or Distributor(s):
CIBC World Markets Inc.
RBC Dominion Securities Inc.
National Bank Financial Inc.
Scotia Capital Inc.
Macquarie Private Wealth Inc.
Canaccord Genuity Corp.
Raymond James Ltd.
Wellington West Capital Markets Inc.
Dundee Securities Corporation
GMP Securities L.P.
HSBC Securities (Canada) Inc.
MGI Securities Inc.
Desjardins Securities Inc.
Mackie Research Capital Corporation
Manulife Securities Incorporated
Promoter(s):
O'Leary Funds Management Inc.
Project #1650958

Issuer Name:
Parex Resources Inc.
Principal Regulator - Alberta
Type and Date:
Preliminary Short Form Prospectus dated October 27, 2010
NP 11-202 Receipt dated October 27, 2010
Offering Price and Description:
$67,570,000.00 - 11,650,000 Common Shares Price: $5.80 per Common Share
Underwriter(s) or Distributor(s):
FirstEnergy Capital Corp.
Scotia Capital Inc.
Haywood Securities Inc.
Raymond James Ltd.
TD Securities Inc.
Peters & Co. Limited
Wellington West Capital Markets Inc.
Promoter(s):
-
Project #1649541

Issuer Name:
Petroamerica Oil Corp.
Principal Regulator - Alberta
Type and Date:
Preliminary Short Form Prospectus dated November 1, 2010
NP 11-202 Receipt dated November 1, 2010
Offering Price and Description:
$25,000,000.00 - 62,500,000 Units Price: $0.40 per Unit
Underwriter(s) or Distributor(s):
Raymond James Ltd.
GMP Securities L.P.
Haywood Securities Inc.
Canaccord Genuity Corp.
Jennings Capital Inc.
Promoter(s):
-
Project #1652085

Issuer Name:
PetroNova Inc.
Principal Regulator - Alberta
Type and Date:
Preliminary Long Form Prospectus dated October 28, 2010
NP 11-202 Receipt dated October 29, 2010
Offering Price and Description:
$35,000,000.00 (Minimum Offering) - $45,000,000.00 (Maximum Offering) A Minimum of 28,000,000 Common Shares and a Maximum of 36,000,000 Common Shares Price: $1.25 per Common Share
Underwriter(s) or Distributor(s):
Raymond James Ltd.
Canaccord Genuity Corp.
FirstEnergy Capital Corp.
GMP Securities L.P.
TD Securities Inc.
Promoter(s):
Antonio Vincentelli
Project #1651281

Issuer Name:
Pinecrest Energy Inc.
Principal Regulator - Alberta
Type and Date:
Preliminary Short Form Prospectus dated October 28, 2010
NP 11-202 Receipt dated October 28, 2010
Offering Price and Description:
$75,020,000.00 - 48,400,000 Common Shares Price: $1.55 per Common Share
Underwriter(s) or Distributor(s):
Canaccord Genuity Corp.
Cormark Securities Inc.
GMP Securities L.P.
Peters & Co. Limited
Paradigm Capital Inc.
Promoter(s):
-
Project #1650338

Issuer Name:
Pretium Resources Inc.
Principal Regulator - British Columbia
Type and Date:
Preliminary Long Form Prospectus dated October 28, 2010
NP 11-202 Receipt dated October 28, 2010
Offering Price and Description:
$ * - * Common Shares Price: $ * per Common Share
Underwriter(s) or Distributor(s):
CIBC Securities Inc.
Promoter(s):
Robert Quartermain
Project #1650710

Issuer Name:
Rock Energy Inc.
Principal Regulator - Alberta
Type and Date:
Preliminary Short Form Prospectus dated November 2, 2010
NP 11-202 Receipt dated November 2, 2010
Offering Price and Description:
$10,017,000.00 - 1,855,000 Flow Through Common Shares Price: $5.40 per Flow Through Share
Underwriter(s) or Distributor(s):
Cormark Securities Inc.
FirstEnergy Capital Corp.
Mackie Research Capital Corporation
Wellington West Capital Markets Inc.
Dundee Securities Corporation
Salman Partners Inc.
Promoter(s):
-
Project #1652717

Issuer Name:
Surrey Capital Corp.
Principal Regulator - Ontario
Type and Date:
Preliminary CPC Prospectus dated October 26, 2010
NP 11-202 Receipt dated October 28, 2010
Offering Price and Description:
MINIMUM OFFERING: $200,000.00 or 2,000,000 Common Shares; MAXIMUM OFFERING: $500,000.00 or 5,000,000 Common Shares PRICE: $0.10 per Common Share
Underwriter(s) or Distributor(s):
Leede Financial Markets Inc.
Promoter(s):
Claude Ayache
Project #1649960

Issuer Name:
TAG Oil Ltd
Principal Regulator - British Columbia
Type and Date:
Preliminary Short Form Prospectus dated November 2, 2010
NP 11-202 Receipt dated November 2, 2010
Offering Price and Description:
$53,560,000.00 - 10,300,000 Common Shares Price: $5.20 per Common Share
Underwriter(s) or Distributor(s):
GMP Securities L.P.
Wellington West Capital Markets Inc.
Promoter(s):
-
Project #1652685

Issuer Name:
Teranga Gold Corporation
Principal Regulator - Ontario
Type and Date:
Amended and Restated Preliminary Long Form Prospectus dated November 1, 2010
NP 11-202 Receipt dated November 2, 2010
Offering Price and Description:
$ * -* Common Shares Price: $* per Common Share
Underwriter(s) or Distributor(s):
Cormark Securities Inc.
GMP Securities L.P.
CIBC World Markets Inc.
RBC Dominion Securities Inc.
Mackie Research Capital Corporation
Paradigm Capital Inc.
Scotia Capital Inc.
Toll Cross Securities Inc.
Promoter(s):
Mineral Deposits Limited
Project #1645089

Issuer Name:
Yangarra Resources Ltd.
Principal Regulator - Alberta
Type and Date:
Preliminary Short Form Prospectus (NI 44-101) dated November 1, 2010
NP 11-202 Receipt dated November 2, 2010
Offering Price and Description:
$13,000,000.25 - 10,000,000 COMMON SHARES ISSUABLE ON THE EXERCISE OF 10,000,000 COMMON SHARE SPECIAL WARRANTS AND 8,666,667 COMMON SHARES ISSUABLE ON THE EXERCISE OF 8,666,667 FLOW-THROUGH SPECIAL WARRANTS Price: $0.65 per Common Share Special Warrant and $0.75 per Flow-Through Special Warrant
Underwriter(s) or Distributor(s):
Haywood Securities Inc.
Canaccord Genuity Corp.
Raymond James Ltd.
Promoter(s):
-
Project #1652283

Issuer Name:
Bear Creek Mining Corporation
Principal Regulator - British Columbia
Type and Date:
Final Short Form Prospectus dated October 29, 2010
NP 11-202 Receipt dated October 29, 2010
Offering Price and Description:
$112,960,000.00 17,650,000 Common Shares Price: $6.40 per Common Share
Underwriter(s) or Distributor(s):
BMO Nesbitt Burns Inc.
Canaccord Genuity Corp.
Paradigm Capital Inc.
Haywood Securities Inc.
Raymond James Ltd.
Cormark Securities Inc.
Scotia Capital Inc.
Promoter(s):
-
Project #1648199

Issuer Name:
Series of the following Classes of BMO Global Tax Advantage Funds Inc.:
BMO Short-Term Income Class
(BMO Guardian Short-Term Income Class Advisor Series and
BMO Guardian Short-Term Income Class Series H)
BMO American Equity Class
(BMO Guardian American Equity Class Advisor Series,
BMO Guardian American Equity Class Series H,
BMO Guardian American Equity Class Series F and
BMO Guardian American Equity Class Series I)
BMO Canadian Equity Class
(BMO Guardian Canadian Equity Class Advisor Series,
BMO Guardian Canadian Equity Class Series H and
BMO Guardian Canadian Equity Class Series F)
BMO Canadian Large Cap Equity Class
(BMO Guardian Canadian Large Cap Equity Class Advisor Series and
BMO Guardian Canadian Large Cap Equity Class Series H)
BMO Dividend Class
(BMO Guardian Dividend Class Advisor Series and
BMO Guardian Dividend Class Series H)
BMO Emerging Markets Class
(BMO Guardian Emerging Markets Class Advisor Series and
BMO Guardian Emerging Markets Class Series H)
BMO Enterprise Class
(BMO Guardian Enterprise Class Advisor Series and
BMO Guardian Enterprise Class Series H)
BMO Global Absolute Return Class
(BMO Guardian Global Absolute Return Class Advisor Series and
BMO Guardian Global Absolute Return Class Series H)
BMO Global Dividend Class
(BMO Guardian Global Dividend Class Advisor Series,
BMO Guardian Global Dividend Class Series H,
BMO Guardian Global Dividend Class Series F and
BMO Guardian Global Dividend Class Series T5)
BMO Global Energy Class
(BMO Guardian Global Energy Class Advisor Series,
BMO Guardian Global Energy Class Series H and
BMO Guardian Global Energy Class Series F)
BMO Global Equity Class
(BMO Guardian Global Equity Class Advisor Series and
BMO Guardian Global Equity Class Series H)
BMO Global Small Cap Class
(BMO Guardian Global Small Cap Class Advisor Series and
BMO Guardian Global Small Cap Class Series H)
BMO Global Technology Class
(BMO Guardian Global Technology Class Advisor Series and
BMO Guardian Global Technology Class Series H)
BMO Greater China Class
(BMO Guardian Greater China Class Advisor Series,
BMO Guardian Greater China Class Series H and
BMO Guardian Greater China Class Series F)
BMO International Value Class
(BMO Guardian International Value Class Advisor Series,
BMO Guardian International Value Class Series H and
BMO Guardian International Value Class Series F)
BMO Resource Class
(BMO Guardian Resource Class Advisor Series and
BMO Guardian Resource Class Series H)
BMO Sustainable Climate Class
(BMO Guardian Sustainable Climate Class Advisor Series,
BMO Guardian Sustainable Climate Class Series H and
BMO Guardian Sustainable Climate Class Series F)
BMO Sustainable Opportunities Class
(BMO Guardian Sustainable Opportunities Class Advisor Series,
BMO Guardian Sustainable Opportunities Class Series H and
BMO Guardian Sustainable Opportunities Class Series F)
BMO Asian Growth and Income Class
(BMO Guardian Asian Growth and Income Class Advisor Series and
BMO Guardian Asian Growth and Income Class Series H)
BMO SelectClass Security Portfolio
(BMO Guardian SelectClass Security Portfolio Advisor Series,
BMO Guardian SelectClass Security Portfolio Series H,
BMO Guardian SelectClass Security Portfolio Series T5 and
BMO Guardian SelectClass Security Portfolio Series T8
BMO SelectClass Balanced Portfolio
(BMO Guardian SelectClass Balanced Portfolio Advisor Series,
BMO Guardian SelectClass Balanced Portfolio Series H,
BMO Guardian SelectClass Balanced Portfolio Series T5 and
BMO Guardian SelectClass Balanced Portfolio Series T8)
BMO SelectClass Growth Portfolio
(BMO Guardian SelectClass Growth Portfolio Advisor Series,
BMO Guardian SelectClass Growth Portfolio Series H,
BMO Guardian SelectClass Growth Portfolio Series T5 and
BMO Guardian SelectClass Growth Portfolio Series T8)
BMO SelectClass Aggressive Growth Portfolio
(BMO Guardian SelectClass Aggressive Growth Portfolio Advisor Series,

BMO Guardian SelectClass Aggressive Growth Portfolio Series H,
BMO Guardian SelectClass Aggressive Growth Portfolio Series T5 and
BMO Guardian SelectClass Aggressive Growth Portfolio Series T8)
BMO Canadian Tactical ETF Class
(BMO Guardian Canadian Tactical ETF Class Advisor Series,
BMO Guardian Canadian Tactical ETF Class Series I,
BMO Guardian Canadian Tactical ETF Class Series F and
BMO Guardian Canadian Tactical ETF Class Series T6)
BMO Global Tactical ETF Class
(BMO Guardian Global Tactical ETF Class Advisor Series,
BMO Guardian Global Tactical ETF Class Series I,
BMO Guardian Global Tactical ETF Class Series F and
BMO Guardian Global Tactical ETF Class Series T6)
BMO Security ETF Portfolio
(BMO Guardian Security ETF Portfolio Advisor Series,
BMO Guardian Security ETF Portfolio Series I,
BMO Guardian Security ETF Portfolio Series F and
BMO Guardian Security ETF Portfolio Series T6)
BMO Balanced ETF Portfolio
(BMO Guardian Balanced ETF Portfolio Advisor Series,
BMO Guardian Balanced ETF Portfolio Series I,
BMO Guardian Balanced ETF Portfolio Series F and
BMO Guardian Balanced ETF Portfolio Series T6)
BMO Growth ETF Portfolio
(BMO Guardian Growth ETF Portfolio Advisor Series,
BMO Guardian Growth ETF Portfolio Series I,
BMO Guardian Growth ETF Portfolio Series F and
BMO Guardian Growth ETF Portfolio Series T6)
BMO Aggressive Growth ETF Portfolio
(BMO Guardian Aggressive Growth ETF Portfolio Advisor Series,
BMO Guardian Aggressive Growth ETF Portfolio Series I,
BMO Guardian Aggressive Growth ETF Portfolio Series F and
BMO Guardian Aggressive Growth ETF Portfolio Series T6)
BMO LifeStage 2017 Class
(BMO Guardian LifeStage 2017 Class Advisor Series,
BMO Guardian LifeStage 2017 Class Series H and
BMO Guardian LifeStage 2017 Class Series I)
BMO LifeStage 2020 Class
(BMO Guardian LifeStage 2020 Class Advisor Series,
BMO Guardian LifeStage 2020 Class Series H and
BMO Guardian LifeStage 2020 Class Series I)
BMO LifeStage 2025 Class
(BMO Guardian LifeStage 2025 Class Advisor Series,
BMO Guardian LifeStage 2025 Class Series H and
BMO Guardian LifeStage 2025 Class Series I)
BMO LifeStage 2030 Class
(BMO Guardian LifeStage 2030 Class Advisor Series,
BMO Guardian LifeStage 2030 Class Series H and
BMO Guardian LifeStage 2030 Class Series I)
BMO LifeStage 2035 Class
(BMO Guardian LifeStage 2035 Class Advisor Series,
BMO Guardian LifeStage 2035 Class Series H and
BMO Guardian LifeStage 2035 Class Series I)
BMO LifeStage 2040 Class
(BMO Guardian LifeStage 2040 Class Advisor Series,
BMO Guardian LifeStage 2040 Class Series H and
BMO Guardian LifeStage 2040 Class Series I)

Series of Units of:
BMO Money Market Fund
(BMO Guardian Money Market Fund Advisor Series and
BMO Guardian Money Market Fund Series F)
BMO U.S. Dollar Money Market Fund
(BMO Guardian U.S. Dollar Money Market Fund Advisor Series)
BMO Bond Fund
(BMO Guardian Bond Fund Advisor Series)
BMO Global High Yield Bond Fund
(BMO Guardian Global High Yield Bond Fund Advisor Series and
BMO Guardian Global High Yield Bond Fund Series F)
BMO U.S. High Yield Bond Fund
(BMO Guardian U.S. High Yield Bond Fund Advisor Series)
BMO Mortgage and Short-Term Income Fund
(BMO Guardian Mortgage and Short-Term Income Fund Advisor Series and
BMO Guardian Mortgage and Short-Term Income Fund Series F)
BMO U.S. Dollar Monthly Income Fund
(BMO Guardian U.S. Dollar Monthly Income Fund Advisor Series,
BMO Guardian U.S. Dollar Monthly Income Fund Series F and
BMO Guardian U.S. Dollar Monthly Income Fund Series T5)
BMO North American Dividend Fund
(BMO Guardian North American Dividend Fund Advisor Series)
BMO Precious Metals Fund
(BMO Guardian Precious Metals Fund Advisor Series)
BMO Resource Fund
(BMO Guardian Resource Fund Advisor Series and
BMO Guardian Resource Fund Series F)
BMO Special Equity Fund
(BMO Guardian Special Equity Fund Advisor Series and
BMO Guardian Special Equity Fund Series F)
BMO U.S. Special Equity Fund
(BMO Guardian U.S. Special Equity Fund Advisor Series)
BMO Global Infrastructure Fund
(BMO Guardian Global Infrastructure Fund Advisor Series,
BMO Guardian Global Infrastructure Fund Series F and
BMO Guardian Global Infrastructure Fund Series T5)
BMO Emerging Markets Fund
(BMO Guardian Emerging Markets Fund Advisor Series)
BMO European Fund
(BMO Guardian European Fund Advisor Series and
BMO Guardian European Fund Series T5)
BMO Asset Allocation Fund
(BMO Guardian Asset Allocation Fund Advisor Series,
BMO Guardian Asset Allocation Fund Series F and
BMO Guardian Asset Allocation Fund Series T5)
BMO LifeStage Plus 2017 Fund
(BMO Guardian LifeStage Plus 2017 Fund Advisor Series)
BMO LifeStage Plus 2020 Fund
(BMO Guardian LifeStage Plus 2020 Fund Advisor Series)
BMO LifeStage Plus 2022 Fund
(BMO Guardian LifeStage Plus 2022 Fund Advisor Series)
BMO LifeStage Plus 2025 Fund
(BMO Guardian LifeStage Plus 2025 Fund Advisor Series)
BMO LifeStage Plus 2026 Fund
(BMO Guardian LifeStage Plus 2026 Fund Advisor Series)

BMO LifeStage Plus 2030 Fund
(BMO Guardian LifeStage Plus 2030 Fund Advisor Series)
Principal Regulator - Ontario
Type and Date:
Final Simplified Prospectuses dated October 25, 2010
NP 11-202 Receipt dated November 1, 2010
Offering Price and Description:
Advisor Series, Series H, Series T8, Series I, Series F, Series T6, Series T5 Securities @ Net Asset Value
Underwriter(s) or Distributor(s):
BMO Investments Inc.
Promoter(s):
BMO Investments Inc.
Project #1642021

Issuer Name:
BMO Harris Canadian Money Market Portfolio
BMO Harris Canadian Bond Income Portfolio
BMO Harris Canadian Total Return Bond Portfolio
BMO Harris Canadian Corporate Bond Portfolio
BMO Harris Diversified Yield Portfolio
BMO Harris Canadian Income Equity Portfolio
BMO Harris Canadian Conservative Equity Portfolio
BMO Harris Canadian Growth Equity Portfolio
BMO Harris Canadian Special Growth Portfolio
BMO Harris U.S. Equity Portfolio
BMO Harris U.S. Growth Portfolio
BMO Harris International Equity Portfolio
BMO Harris International Special Equity Portfolio
BMO Harris Emerging Markets Equity Portfolio
Principal Regulator - Ontario
Type and Date:
Final Simplified Prospectuses dated October 28, 2010
NP 11-202 Receipt dated November 1, 2010
Offering Price and Description:
Mutual Fund Units @ Net Asset Value
Underwriter(s) or Distributor(s):
BMO Investments Inc.
Promoter(s):
BMO Harris Investment Management Inc.
Project #1641049

Issuer Name:
Carpathian Gold Inc.
Principal Regulator - Ontario
Type and Date:
Final Short Form Prospectus dated October 28, 2010
NP 11-202 Receipt dated October 28, 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

Issuer Name:
CNH Capital Canada Receivables Trust
Principal Regulator - Ontario
Type and Date:
Final Base Shelf Prospectus dated October 26, 2010
NP 11-202 Receipt dated October 27, 2010
Offering Price and Description:
Up to $1,200,000,000.00 of Receivable-Backed Notes
Underwriter(s) or Distributor(s):
-
Promoter(s):
CNH Capital Canada Ltd.
Project #1645781

Issuer Name:
COUNSEL CONSERVATIVE PORTFOLIO (Series A, D, E, F, and I Units)
COUNSEL REGULAR PAY PORTFOLIO (Series A, D, E, F, and I Units)
COUNSEL BALANCED PORTFOLIO (Series A, D, E, F, and I Units)
COUNSEL GROWTH PORTFOLIO (Series A, D, E, F, and I Units)
COUNSEL ALL EQUITY PORTFOLIO (Series A, D, E, F, and I Units)
COUNSEL MONEY MARKET (Series A, C, D and I Units)
COUNSEL SHORT TERM BOND (Series A, D, E, F, and I Units)
COUNSEL FIXED INCOME (Series A, D, E, F, and I Units)
COUNSEL CANADIAN DIVIDEND (Series A, D, E, F, I and P Units)
COUNSEL CANADIAN VALUE (Series A, D, E, F, I and P Units)
COUNSEL CANADIAN GROWTH (Series A, D, E, F, I and P Units)
COUNSEL U.S. VALUE (Series A, D, E, F, I and P Units)
COUNSEL U.S. GROWTH (Series A, D, E, F, I and P Units)
COUNSEL INTERNATIONAL VALUE (Series A, D, E, F, I and P Units)
COUNSEL INTERNATIONAL GROWTH (Series A, D, E, F, I and P Units)
COUNSEL GLOBAL REAL ESTATE (Series A, D, E, F, I and P Units)
COUNSEL GLOBAL SMALL CAP (Series A, D, E, F, I and P Units)
COUNSEL MANAGED YIELD PORTFOLIO (Series A, D, E, F, and I Units)
COUNSEL INCOME MANAGED PORTFOLIO (Series A, D, E, F, and I Units)
COUNSEL MANAGED PORTFOLIO (Series A, D, E, F, and I Units)
COUNSEL WORLD MANAGED PORTFOLIO (Series A, D, E, F, and I Units)
Principal Regulator - Ontario
Type and Date:
Final Simplified Prospectuses dated October 26, 2010
NP 11-202 Receipt dated October 27, 2010
Offering Price and Description:
Series A, C, D, E, F, I and P units
Underwriter(s) or Distributor(s):
-
Promoter(s):
Counsel Portfolio Services Inc.
Project #1633348

Issuer Name:
Criterion Diversified Commodities Currency Hedged Fund
Principal Regulator - Ontario
Type and Date:
Amendment #2 dated October 18, 2010 to the Long Form Prospectus dated July 9, 2010
NP 11-202 Receipt dated October 28, 2010
Offering Price and Description:
-
Underwriter(s) or Distributor(s):
-
Promoter(s):
Criterion Investments Inc.
Project #1588549

Issuer Name:
Dividend Select 15 Corp.
Principal Regulator - Ontario
Type and Date:
Final Long Form Prospectus dated October 27, 2010
NP 11-202 Receipt dated October 28, 2010
Offering Price and Description:
$250,000,000.00 (Maximum) - 25,000,000 Shares @ $10.00/Share
Underwriter(s) or Distributor(s):
Scotia Capital Inc.
CIBC Word Markets Inc.
RBC Dominion Securities Inc.
BMO Nesbitt Burns Inc.
National Bank Financial Inc.
TD Securities Inc.
HSBC Securities (Canada) Inc.
Raymond James Ltd.
Canaccord Genuity Corp.
Dundee Securities Corporation
Macquarie Capital Markets Canada Ltd.
Wellington West Capital Markets Inc.
Desjardins Securities Inc.
Manulife Securities Incorporated
Promoter(s):
Quadravest Capital Management Inc.
Project #1636538

Issuer Name:
Enbridge Inc.
Principal Regulator - Alberta
Type and Date:
Final Base Shelf Prospectus dated October 28, 2010
NP 11-202 Receipt dated October 28, 2010
Offering Price and Description:
US$2,000,000,000.00:
DEBT SECURITIES
COMMON SHARES
PREFERRED SHARES
Underwriter(s) or Distributor(s):
-
Promoter(s):
-
Project #1647841

Issuer Name:
Excel India Fund
Excel China Fund
Excel Chindia Fund
Excel Income and Growth Fund
Excel Emerging Europe Fund
Excel Money Market Fund
Excel Latin America Fund
Excel BRIC Fund
Excel Emerging Markets Fund
Excel EM High Income Fund (formerly Excel EM Debt Fund)
Excel EM Capital Income Fund (formerly Excel EM Tax Efficient Income Fund)
(Series A and Series F Units)
Principal Regulator - Ontario
Type and Date:
Final Simplified Prospectuses dated October 22, 2010
NP 11-202 Receipt dated October 27, 2010
Offering Price and Description:
Series A and Series F Units @ Net Asset Value
Underwriter(s) or Distributor(s):
Excel Funds Management Inc.
Promoter(s):
Excel Funds Management Inc.
Project #1629161

Issuer Name:
Javelina Resources Ltd.
Principal Regulator - Ontario
Type and Date:
Final CPC Prospectus dated October 25, 2010
NP 11-202 Receipt dated October 28, 2010
Offering Price and Description:
MINIMUM OFFERING: $1,000,000.00(5,000,000 COMMON SHARES); MAXIMUM OFFERING: $1,400,000.00 (7,000,000 COMMON SHARES) Price: $0.20 per Common Share
Underwriter(s) or Distributor(s):
PI Financial Corp.
Promoter(s):
Blaise Yerly
Project #1637479

Issuer Name:
Lake Shore Gold Corp.
Principal Regulator - Ontario
Type and Date:
Final Short Form Prospectus dated October 27, 2010
NP 11-202 Receipt dated October 28, 2010
Offering Price and Description:
$392,400,000.00 - 109,000,000 Common Shares
Price:$3.60 per Offered Share
Underwriter(s) or Distributor(s):
RBC Dominion Securities Inc.
BMO Nesbitt Burns Inc.
CIBC World Markets Inc.
Promoter(s):
-
Project #1647339

Issuer Name:
Mercury Capital Limited
Principal Regulator - Ontario
Type and Date:
Final CPC Prospectus dated October 26, 2010
NP 11-202 Receipt dated October 27, 2010
Offering Price and Description:
Minimum Offering: $300,000.00 or 1,500,000 Common Shares; Maximum Offering: $1,200,000.00 or 6,000,000 Common Shares Price: $0.20 per Common Share
Underwriter(s) or Distributor(s):
Hampton Securities Limited
Promoter(s):
Alexander C. Logie
Project #1638549

Issuer Name:
Minera IRL Limited
Principal Regulator - Ontario
Type and Date:
Final Short Form Prospectus dated October 28, 2010
NP 11-202 Receipt dated October 28, 2010
Offering Price and Description:
UP TO $32,650,000.00 - 28,391,304 ORDINARY SHARES
Price: $1.15 per Offered Share
Underwriter(s) or Distributor(s):
Jennings Capital Inc.
National Bank Financial Inc.
Promoter(s):
-
Project #1645721

Issuer Name:
New University Holdings Corp.
Principal Regulator - Alberta
Type and Date:
Final CPC Prospectus dated October 28, 2010
NP 11-202 Receipt dated October 29, 2010
Offering Price and Description:
$475,000.00 (4,750,000 COMMON SHARES) Price: $0.10 per Common Share
Underwriter(s) or Distributor(s):
Macquarie Private Wealth Inc.
Promoter(s):
Paul Lapping
Mark Klein
Project #1641462

Issuer Name:
Northwest Short Term Corporate Class
Northwest Canadian Dividend Corporate Class
Northwest Canadian Equity Corporate Class
Northwest Growth and Income Corporate Class
Northwest U.S. Equity Corporate Class
Northwest EAFE Corporate Class
Northwest Global Equity Corporate Class
Northwest Specialty Equity Corporate Class
Northwest Specialty Innovations Corporate Class
Northwest Select Global Growth Corporate Class Portfolio
Northwest Select Global Maximum Growth Corporate Class Portfolio
Principal Regulator - Ontario
Type and Date:
Final Simplified Prospectuses dated October 29, 2010
NP 11-202 Receipt dated November 1, 2010
Offering Price and Description:
Series A shares
Underwriter(s) or Distributor(s):
-
Promoter(s):
-
Project #1641299

Issuer Name:
Oceanus Resources Corporation
Principal Regulator - Nova Scotia
Type and Date:
Final Prospectus dated October 27, 2010
NP 11-202 Receipt dated October 28, 2010
Offering Price and Description:
$500,000.00 - (5,000,000 Common Shares) Price: $0.10 per Common Share
Underwriter(s) or Distributor(s):
Macquarie Private Wealth Inc.
Promoter(s):
Richard Basil Gordon
Project #1634842

Issuer Name:
Paramount Resources Ltd.
Principal Regulator - Alberta
Type and Date:
Final Base Shelf Prospectus dated October 29, 2010
NP 11-202 Receipt dated October 29, 2010
Offering Price and Description:
-
Underwriter(s) or Distributor(s):
-
Promoter(s):
-
Project #1648544

Issuer Name:
Return on Innovation Fund Inc.
Class A Shares, Series I
Class A Shares, Series II
Class A Shares, Series III
and
Class A Shares, Series IV – Private Placements
Type and Date:
Final Long Form Prospectus dated October 29, 2010
Receipted on November 2, 2010
Offering Price and Description:
Class A Shares, Series I
Class A Shares, Series II
Class A Shares, Series III
Class A Shares, Series IV – Private Placements
Underwriter(s) or Distributor(s):
-
Promoter(s):
-
Project #1615298

Issuer Name:
SIERRA MADRE DEVELOPMENTS INC.
Principal Regulator - British Columbia
Type and Date:
Final Long Form Prospectus dated October 19, 2010
NP 11-202 Receipt dated October 27, 2010
Offering Price and Description:
-
Underwriter(s) or Distributor(s):
CANACCORD GENUITY CORP.
Promoter(s):
CARL VON EINSIEDEL
Project #1616548

Issuer Name:
Sprott Physical Silver Trust
Principal Regulator - Ontario
Type and Date:
Final Long Form PREP Prospectus dated October 27, 2010
NP 11-202 Receipt dated October 28, 2010
Offering Price and Description:
US$450,000,000.00 (45,000,000 Units) Minimum Subscription: US$1,000 (100 Units)
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:
TD Managed Income Portfolio
(Investor Series Units, Premium Series Units, H-Series Units and K-Series Units)
TD Managed Income & Moderate Growth Portfolio
(Investors Series Units, Premium Series Units, H-Series Units and K-Series Units)
TD Managed Balanced Growth Portfolio
(Investor Series Units, Premium Series Units, H-Series Units and K-Series Units)
TD Managed Aggressive Growth Portfolio
(Investor Series Units and Premium Series Units)
TD Managed Maximum Equity Growth Portfolio
(Investor Series Units and Premium Series Units)
TD FundSmart Managed Income Portfolio
(Investor Series Units, Premium Series Units, H-Series Units and K-Series Units)
TD FundSmart Managed Income & Moderate Growth Portfolio
(Investor Series Units, Premium Series Units, H-Series Units and K-Series Units)
TD FundSmart Managed Balanced Growth Portfolio
(Investor Series Units, Premium Series Units, H-Series Units and K-Series Units)
TD FundSmart Managed Aggressive Growth Portfolio
(Investor Series Units and Premium Series Units)
TD FundSmart Managed Maximum Equity Growth Portfolio
(Investor Series Units and Premium Series Units)
TD Managed Index Income Portfolio
(Investor Series Units and e-Series Units)
TD Managed Index Income & Moderate Growth Portfolio
(Investor Series Units and e-Series Units)
TD Managed Index Balanced Growth Portfolio
(Investor Series Units and e-Series Units)
TD Managed Index Aggressive Growth Portfolio
(Investor Series Units and e-Series Units)
TD Managed Index Maximum Equity Growth Portfolio
(Investor Series Units and e-Series Units)
Principal Regulator - Ontario
Type and Date:
Final Simplified Prospectuses dated October 27, 2010
NP 11-202 Receipt dated October 28, 2010
Offering Price and Description:
Investor Series Units, e-Series Units, Premium Series Units, H-Series Units and K-Series Units @ Net Asset Value
Underwriter(s) or Distributor(s):
TD Investment Services Inc.
TD Investment Services Inc. (for Investor Series and Premium Series units only)
TD Investment Services Inc. (for Investor Series and Premium Series units)
TD Investment Services Inc. (for Investor Series and e-Series units)
Promoter(s):
TD Asset Management Inc.
Project #1635633

Issuer Name:
Advisor Series and T-Series Units (as indicated) of:
TD Managed Income Portfolio (also T-Series Units)
TD Managed Income & Moderate Growth Portfolio (also T-Series Units)
TD Managed Balanced Growth Portfolio (also T-Series Units)
TD Managed Aggressive Growth Portfolio
TD Managed Maximum Equity Growth Portfolio
TD FundSmart Managed Income Portfolio (also T-Series Units)
TD FundSmart Managed Income & Moderate Growth Portfolio (also T-Series Units)
TD FundSmart Managed Balanced Growth Portfolio (also T-Series Units)
TD FundSmart Managed Aggressive Growth Portfolio
TD FundSmart Managed Maximum Equity Growth Portfolio
Principal Regulator - Ontario
Type and Date:
Final Simplified Prospectuses dated October 27, 2010
NP 11-202 Receipt dated October 28, 2010
Offering Price and Description:
Advisor Series and T-Series Units @ Net Asset Value
Underwriter(s) or Distributor(s):
TD Investment Services Inc. (for Investor Series and Premium Series units only)
TD Investment Services Inc. (for Investor Series and Premium Series units)
Promoter(s):
TD Asset Management Inc.
Project #1635657

Issuer Name:
TD Split Inc.
Principal Regulator - Ontario
Type and Date:
Final Short Form Prospectus dated October 26, 2010
NP 11-202 Receipt dated October 27, 2010
Offering Price and Description:
$89,285,720.00 - 8,928,572 Preferred Shares @ $10.00/Shares $160,714,296 - 8,928,572 Capital Shares @ $18.00/Shares
Underwriter(s) or Distributor(s):
TD Securities Inc.
Scotia Capital Inc.
BMO Nesbitt Burns Inc.
GMP Securities L.P.
National Bank Financial Inc.
Canaccord Genuity Corp.
Desjardins Securities Inc.
HSBC Securities (Canada) Inc.
Raymond James Ltd.
Dundee Securities Corporation
Manulife Securities Incorporated
Macquarie Capital Markets Canada Ltd.
Wellington West Capital Markets Inc.
Promoter(s):
-
Project #1639597

Issuer Name:
UNX Energy Corp.
Principal Regulator - Alberta
Type and Date:
Final Short Form Prospectus dated October 29, 2010
NP 11-202 Receipt dated October 29, 2010
Offering Price and Description:
$30,030,000.00 - 9,100,000 Offered Shares Price: $3.30 per Offered Share
Underwriter(s) or Distributor(s):
Macquarie Capital Markets Canada Ltd.
Cormark Securities Inc.
Clarus Securities Inc.
FirstEnergy Capital Corp.
Raymond James Ltd.
Octagon Capital Corporation
Promoter(s):
-
Project #1648122

Issuer Name:
Whiterock Real Estate Investment Trust
Principal Regulator - Ontario
Type and Date:
Final Base Shelf Prospectus dated October 29, 2010
NP 11-202 Receipt dated October 29, 2010
Offering Price and Description:
$275,000,000.00:
Units
Debt Securities
Warrants
Subscription Receipts
Underwriter(s) or Distributor(s):
-
Promoter(s):
-
Project #1647275

Issuer Name:
ATY Trust
Principal Jurisdiction - Ontario
Type and Date:
Preliminary Long Form Non-Offering Prospectus dated October 7, 2010
Withdrawn on November 1, 2010
Offering Price and Description:
-
Underwriter(s) or Distributor(s):
-
Promoter(s):
Brompton Funds Management Limited
Project #1643535

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Chapter 12

Registrations

12.1.1 Registrants

Type	Company	Category of Registration	Effective Date
Change in Registration Category	Fulcra Asset Management Inc.	From: Portfolio Manager To: Portfolio Manager & Exempt Market Dealer	October 21, 2010
New Registration	Gestion D'Actifs Sectoriels Inc. / Sectoral Asset Management Inc.	Exempt Market Dealer	October 27, 2010
Change in Registration Category	Invesco Trimark Ltd.	From: Exempt Market Dealer, Portfolio Manager and Commodity Trading Manager To: Exempt Market Dealer, Portfolio Manager, Commodity Trading Manager and Investment Fund Manager	October 27, 2010
Change in Registration Category	Marquest Asset Management Inc.	From: Exempt Market Dealer and Portfolio Manager To: Exempt Market Dealer, Portfolio Manager and Investment Fund Manager	October 27, 2010
Change in Registration Category	Aurion Capital Management Inc.	From: Exempt Market Dealer and Portfolio Manager To: Exempt Market Dealer, Portfolio Manager and Investment Fund Manager	October 28, 2010
Change in Registration Category	AMI Partners Inc.	From: Exempt Market Dealer and Portfolio Manager To: Exempt Market Dealer, Portfolio Manager and Investment Fund Manager	October 28, 2010

Type	Company	Category of Registration	Effective Date
Change in Registration Category	Acker Finley Asset Management Inc.	From: Portfolio Manager To: Portfolio Manager and Investment Fund Manager	October 28, 2010
Change in Registration Category	Alchemy Capital Inc.	From: Exempt Market Dealer and Portfolio Manager To: Exempt Market Dealer, Portfolio Manager and Investment Fund Manager	October 28, 2010
Change in Registration Category	CGOV Asset Management	From: Exempt Market Dealer and Portfolio Manager To: Exempt Market Dealer, Portfolio Manager and Investment Fund Manager	October 28, 2010
Change in Registration Category	Big Rock Capital Management Inc.	From: Portfolio Manager and Investment Fund Manager To: Exempt Market Dealer, Portfolio Manager and Investment Fund Manager	October 28, 2010
Change in Registration Category	Van Arbor Asset Management Ltd.	From: Portfolio Manager and Exempt Market Dealer To: Portfolio Manager, Exempt Market Dealer and Investment Fund Manager	October 28, 2010
Change in Registration Category	Quantus Investment Corp.	From: Portfolio Manager and Investment Fund Manager To: Portfolio Manager, Investment Fund Manager and Exempt Market Dealer	October 29, 2010

Type	Company	Category of Registration	Effective Date
Change of Category	Sky Investment Counsel Inc.	From: Exempt Market Dealer and Portfolio Manager To: Exempt Market Dealer, Portfolio Manager and Investment Fund Manager	October 29, 2010
Change in Registration Category	Peregrine Investment Management Inc.	From: Portfolio Manager and Exempt Market Dealer To: Portfolio Manager, Exempt Market Dealer and Investment Fund Manager	October 29, 2010
Change in Registration Category	Picton Mahoney Asset Management	From: Portfolio Manager and Exempt Market Dealer To: Portfolio Manager, Exempt Market Dealer and Investment Fund Manager	November 1, 2010
Consent to Suspension (pending Surrender)	Adelmac Investments Limited	Exempt Market Dealer	November 1, 2010
Change in Registration Category	CI Investments Inc.	From: Portfolio Manager and Exempt Market Dealer To: Portfolio Manager, Exempt Market Dealer and Investment Fund Manager	November 1, 2010
New Registration	Altitude Mutual Fund Limited Partnership	Investment Fund Manager	November 2, 2010
Change in Registration Category	R.A. Floyd Capital Management Inc.	From: Portfolio Manager and Exempt Market Dealer To: Portfolio Manager and Investment Fund Manager	November 2, 2010
Change in Registration Category	JC Clark Ltd./ JC Clark Ltee	From: Investment Dealer To: Investment Dealer and Investment Fund Manager	November 2, 2010
Consent to Suspension (pending Surrender)	Marathon Asset Management LLP	Exempt Market Dealer	November 2, 2010
Consent to Suspension (pending Surrender)	JCAP Inc.	Exempt Market Dealer	November 2, 2010

Type	Company	Category of Registration	Effective Date
Suspension	Firstpoint Venture Capital Inc.	Exempt Market Dealer	November 2, 2010

Chapter 13

SROs, Marketplaces and Clearing Agencies

13.2 Marketplaces

13.2.1 CNSX – Notice 2010-006 – Notice and Request for Comments – Amendments to Policy 2 – Qualification for Listing

NOTICE 2010-006

NOTICE AND REQUEST FOR COMMENTS

AMENDMENTS TO POLICY 2 – QUALIFICATION FOR LISTING

The Board of Directors of CNSX Markets Inc. (the "Board") has approved amendments to the CNSX Policies (the "Policies"), which are set out below. The amendments to Policy 2 would amend the policy to include certain prospectus-exempt debt securities as eligible for listing, subject to the existing listing requirements in the Policies.

The Board has determined that the proposed amendments to the Policies (the Amendments) described in this notice are in the public interest and has authorized them to be published for public notice and comment. The text of the Amendments to Policy 2 is attached as Appendix A. The Amendments will be effective upon approval by the Ontario Securities Commission, following public notice and comment.

Comments should be made no later than 30 days from the date of publication of this notice and should be addressed to:

Mark Faulkner
Director, Listings and Regulation
CNSX Markets Inc.
220 Bay Street, 9th Floor
Toronto, ON,
M5J 2W4
Fax: 416.572.4160
Email: Mark.Faulkner@cnsx.ca

A copy should be provided to:

Susan Greenglass
Director, Market Regulation
Ontario Securities Commission
Suite 1903, Box 55
20 Queen Street West
Toronto, ON,
M5H 3S8
Fax: 416.595.8940
Email: Marketregulation@osc.gov.on.ca

November 5, 2010

Background

CNSX Markets Inc. ("CNSX Markets", or the "Exchange") operates the Canadian National Stock Exchange ("CNSX" or the "listed market") and Pure Trading (the Alternative Market), a facility for trading, but not listing, the securities of companies listed on Canadian stock exchanges.

On July 6, 2010, the Ontario Securities Commission ("OSC") issued an order ("Restated Order") pursuant to section 21 and section 144 of the *Ontario Securities Act* varying and restating the recognition order (Previous Order) of CNSX Markets dated May 7, 2004, as amended.

CNSX Markets is proposing amendments to Policy 2 that reflect the recently published amendments to Appendix C of the Restated Order, extending eligibility for listing to certain prospectus-exempt debt securities.

I. Rationale

The prospectus-exempt debt securities that CNSX Markets seeks to list are currently distributed to the public in Canada under the exemptions set out in the Restated Order, following which the securities are freely traded over-the-counter with settlement through FundServ. The issuers are not subject to listing scrutiny, or the continuous disclosure requirements of a reporting issuer. Listing these securities will create an open and transparent, exchange-traded market, an area in which Canada lags behind other leading securities markets. The recent amendments to the eligibility criteria in CNSX Markets' recognition order were intended to complement the previous amendments to CNSX Policies, which included new, specific requirements for debt securities. The intention of the Policies is to provide a platform for trading debt securities that meet the eligibility criteria in a regulated exchange environment rather than over-the-counter.

The prospectus exemption for government debt securities has been in place for many years. The exemption for debt securities of financial institutions that meet the securities law requirements has also been in place for a considerable period of time. This includes banks – including Schedule II banks – that are regulated by the Office of the Superintendent of Financial Institutions Canada ("OSFI").

Issuers of these securities will automatically become reporting issuers in Ontario by listing the debt securities on CNSX, and will then be subject to the normal continuous disclosure regime applicable to all reporting issuers, subject to any relief that may be granted by the OSC.

The OSC published for comment CNSX Markets' application for a variation and restatement of the Previous Order on May 14, 2010. The published materials included the new provisions for prospectus-exempt debt (the Provisions) in an amended Appendix C – Eligible Issuers. No comments were received.

Amendments to Policy 2, including listing and disclosure requirements for listed debt securities, were made effective June 25 following publication for comment and Commission approval on June 15, 2010. No comments were received.

II. Description of Amendments

With the addition of two categories of prospectus-exempt debt, the Amendments to eligibility provisions in Policy 2 will mirror the language contained in the Restated Order. The current eligibility criteria described in Policy 2 are as follows:

1.1 To be eligible for listing an Issuer must:

a) be a reporting issuer or the equivalent in a jurisdiction in Canada; and

b) not be in default of any requirements of securities legislation in any jurisdiction in Canada.

CNSX Markets' Recognition Order, Appendix C – Eligible Issuers, approved July 6, 2010, includes two additional categories of eligibility:

1. Subject to section 2 below, only an issuer that:

(a) is a reporting issuer or the equivalent in a jurisdiction in Canada; or

(b) is proposing to list debt securities issued or guaranteed by a government in Canada that are exempt from the prospectus requirements under clause 73(1)(a) of the Act; or

(c) is proposing to list debt securities issued or guaranteed by a financial institution that are exempt from the prospectus requirements under clause 73(1)(b) of the Act; and

(d) is not in default of any requirements of securities legislation in any jurisdiction in Canada,

is eligible for listing. However, if an issuer is eligible for listing under paragraph (b) or (c) above, CNSX may only list debt securities of the issuer that are contemplated by those paragraphs unless the issuer files and obtains a receipt for a preliminary prospectus and a prospectus in a jurisdiction in Canada.

No other amendments to any Policies are proposed at this time. Recent amendments to Policy 2 include provisions and requirements that will apply to all debt securities regardless of the category of eligibility for listing. Prospectus-exempt debt issuers will be generally subject to the same initial listing requirements as other debt issuers under CNSX Policies.

III. Consultation and Review

Recent amendments to the Policies, published and approved, were implemented specifically to accommodate the listing of debt securities (see CNSX Notice 2010-003 *Policy and Rule Amendments*) . The recognition order changes were subject to a full public consultation as well, however the addition to Policy 2 of the eligibility provisions in Appendix C was not possible until that publication and subsequent Commission approval.

IV. Comparable Rules

National Instrument 21-101 Marketplace Operation does not specify the types of securities permitted to be listed on an exchange. NI 21-101 does list the "Securities Permitted to be Traded on an ATS" as follows:

(a) exchange-traded securities

(b) corporate debt securities

(c) government debt securities

(d) foreign exchange-traded securities.

Neither the TSX nor the TSX Venture Exchange have explicit eligibility criteria for prospectus-exempt securities. The recognition orders for TMX Group exchanges do not specify eligibility criteria for listing.

TSX Eligibility for Listing

Sec. 305.

Prior to filing a listing application, the Exchange recommends that prospective applicants obtain a preliminary opinion as to the eligibility of the listing. The Exchange will provide a confidential opinion based on informal discussions and a review of the applicant's recent financial and business information.

TSX Venture Exchange Policy 2.1 Initial Listing Requirements

An Issuer seeking to list only securities which are not common shares or equivalents should consult with Exchange staff and schedule a pre-filing conference. Applications to list securities other than common shares or equivalents will be considered on a case-by-case basis.

V. Impact

No technological changes will be required as a result of the Policy amendments. Issuers that that list prospectus-exempt securities on the Exchange will become reporting issuers in Ontario, and will be subject to continuous disclosure obligations unless relief is granted by the Ontario Securities Commission.

Symbols will be assigned in accordance with the Universal Market Integrity Rules ("UMIR"). Pursuant to UMIR Part 6.4 *Trades to be on a Marketplace,* subject to certain exemptions, participants may not trade in listed debt securities by means other than the entry of orders on a marketplace. While there may be an initial requirement for increased supervision of trading until participants are fully aware that the issues are listed securities, the result will be a visible, regulated market for such securities.

VI. Alternatives

As these amendments are consequential to those made to the recognition order, we did not consider alternatives.

VII. Public Interest Assessment

In accordance with the "Rule Review Process" set out in Appendix B of the CNSX Markets Inc. Recognition Order, the changes include amendments that are classified as "public interest ". The Amendments will be effective following public notice, a comment period, and OSC approval. Further housekeeping or consequential amendments may be required following the comment period and will be published upon approval of the Amendments.

VIII. Questions

Questions about this Notice should be directed to Mark Faulkner, Director, Listings & Regulation at 416.572.200 x2305 or Mark.Faulkner@cnsx.ca.

IX. Attachments

The text of the Amendments, shown as blacklined text, is attached as Appendix A. A clean version is attached as Appendix B.

Appendix A

Text of Proposed Amendments

Policy 2

Qualification for Listing

1.1 ~~To be eligible for listing an Issuer must~~ Only an issuer that:

(a) ~~be~~ is a reporting issuer or the equivalent in a jurisdiction in Canada; or ~~and~~

(b) is proposing to list debt securities issued or guaranteed by a government in Canada that are exempt from the prospectus requirements under clause 73(1)(a) of the Act; or

(c) is proposing to list debt securities issued or guaranteed by a financial institution that are exempt from the prospectus requirements under clause 73(1)(b) of the Act; and

(~~b~~d) is not ~~be~~ in default of any requirements of securities legislation in any jurisdiction in Canada,

is eligible for listing. However, if an issuer is eligible for listing under paragraph (b) or (c) above, CNSX may only list debt securities of the issuer that are contemplated by those paragraphs unless the issuer files and obtains a receipt for a preliminary prospectus and a prospectus in a jurisdiction in Canada.

In addition, an issuer that is a reporting issuer in a jurisdiction in Canada solely as a result of BC Instrument 51-509 *Issuers Quoted in the U.S. Over-the-Counter Markets* (or any successor rule) or any similar rule that may be made by a securities regulator or securities regulatory authority in Canada is not eligible for listing unless the issuer files and obtains a receipt for a preliminary prospectus and a prospectus in a jurisdiction in Canada.

Appendix B

Text of Proposed Amendments

Policy 2

Qualification for Listing

1.1 Only an issuer that:

(a) is a reporting issuer or the equivalent in a jurisdiction in Canada; or

(b) is proposing to list debt securities issued or guaranteed by a government in Canada that are exempt from the prospectus requirements under clause 73(1)(a) of the Act; or

(c) is proposing to list debt securities issued or guaranteed by a financial institution that are exempt from the prospectus requirements under clause 73(1)(b) of the Act; and

(d) is not in default of any requirements of securities legislation in any jurisdiction in Canada,

is eligible for listing. However, if an issuer is eligible for listing under paragraph (b) or (c) above, CNSX may only list debt securities of the issuer that are contemplated by those paragraphs unless the issuer files and obtains a receipt for a preliminary prospectus and a prospectus in a jurisdiction in Canada.

In addition, an issuer that is a reporting issuer in a jurisdiction in Canada solely as a result of BC Instrument 51-509 *Issuers Quoted in the U.S. Over-the-Counter Markets* (or any successor rule) or any similar rule that may be made by a securities regulator or securities regulatory authority in Canada is not eligible for listing unless the issuer files and obtains a receipt for a preliminary prospectus and a prospectus in a jurisdiction in Canada.

13.3 Clearing Agencies

13.3.1 Material Amendments to CDS Rules and Procedures – The CDCC Interface – Notice and Request for Comments

CDS Clearing and Depository Services Inc. (CDS®)

MATERIAL AMENDMENTS TO CDS RULES & PROCEDURES

THE CDCC INTERFACE

NOTICE AND REQUEST FOR COMMENTS

A. DESCRIPTION OF THE PROPOSED CDS RULE & PROCEDURE AMENDMENTS

The proposed amendments address the industry requirement for connectivity between CDS and the Canadian Derivatives Clearing Corporation ("CDCC") in order to implement the latter's fixed income clearing facility ("SOLA"). CDCC's facility will initially be able to process repurchase agreements (repos) for Canadian financial market participants, with the processing of fixed income cash trades being permitted shortly thereafter. This facility will receive trade information from CDS and clear the trades prior to their being settled in CDSX between CDCC, as a CDS participant, and another CDS participant. This industry development requires CDS to make changes to its systems and material amendments to its participant rules and procedures.

In December 2009, the Investment Industry Association of Canada ("IIAC") received a mandate to develop a fixed income clearing facility for repos. Following a request-for-proposals ("RFP") process, CDCC was requested by IIAC to develop this facility. CDS has recently been asked - by an IIAC-led steering committee - to modify CDS's systems and its rules and procedures to accommodate the facility.

More specifically, the proposed amendments will:

- Create a new mode of settlement indicator enabling participants to instruct CDS to report trades so-identified to a Third Party Clearing System ("TPCS")
- Permit CDS to report trades to CDCC as a TPCS
- Limit CDS liability in respect of trades or trade information received from a TPCS
- Specify the settlement process by which trades reported to CDS by a TPCS are settled
- Permit partial settlement of trades from CDCC as a TPCS

B. NATURE AND PURPOSE OF THE PROPOSED CDS RULE & PROCEDURE AMENDMENTS

Both the proposed rule and procedure amendments are considered material, as they implement a new process flow and connectivity with the CDCC and its fixed income clearing facility and redefine CDS's role in the transmission of information from its participants to third parties while minimizing changes to their in-house and back-office vendor's systems.

C. IMPACT OF THE PROPOSED CDS RULE & PROCEDURE AMENDMENTS

Under the new process, confirmed trades that are reported to CDS with a settlement indicator of SNS will be reported to CDCC for clearing. Trades with an SNS settlement indicator will not be eligible for settlement by CDSX; CDS will be acting only in the capacity of an intermediary that communicates transactional information between participants and CDCC. Novated Trades will then be reported back to CDS by CDCC, with a settlement indicator of TFT, as a confirmed trade for settlement in CDSX, via the Trade-for-Trade settlement process, with CDCC and another participant as the parties to the trade. If CDCC rejects a trade under this process, CDS will advise the submitter of the trade using existing processes and procedures. The submitter will be required to modify the transaction as needed in order for it to clear and settle the trade on an appropriate basis (i.e., Trade-for-Trade or through CDS's existing FINet® service on a net basis).

C.1 Competition

The rule and procedure amendments are being proposed to support the CDS system changes that will allow CDCC to implement a competing solution to FINet as a result of the IIAC RFP process and the requirements of industry participants.

C.2 Risks and Compliance Costs

The proposed amendments are not expected to change the risk profile of CDS or its participants. It is expected that CDCC will settle its fixed income central counterparty trades as a receiver of credit in CDSX and that no changes to the risk model will be required. The payment obligations of CDCC resulting from fixed income settlement will be supported by an extender of credit providing an adequate line of credit to CDCC. Further, the proposed amendments are not expected to result in changes or increases to compliance costs for CDS, its participants, or other market participants.

C.3 Comparison to International Standards – (a) Committee on Payment and Settlement Systems of the Bank for International Settlements, (b) Technical Committee of the International Organization of Securities Commissions, and (c) the Group of Thirty

The proposed system changes and rule and procedure amendments are consistent with international standards and recommendations previously set forth by the International Organization of Securities Commissions and the Committee on Payment and Settlement Systems of the Bank for International Settlements. The process is intended to increase securities repurchase agreement volumes and enhance market liquidity through a more efficient use of such securities.

D. DESCRIPTION OF THE RULE & PROCEDURE DRAFTING PROCESS

D.1 Development Context

The industry's desire for an alternative, additional fixed income clearing facility, currently being developed by the CDCC on behalf of the IIAC, is the impetus for the proposed rule and procedure amendments and the systems changes which the proposed amendments will implement. The systems changes and rule and procedure amendments are intended to minimize the impact to the current roles, practices, and systems of all affected market participants.

D.2 Rule & Procedure Drafting Process

Each amendment to the CDS participant rules is reviewed by CDS's Legal Drafting Group ("LDG"). The LDG is a committee that includes members of participants' legal and business groups. The LDG's mandate is to advise CDS management and the CDS Board of Directors on rule amendments and other legal matters relating to centralized securities depository and clearing services in order to ensure that they meet the needs of CDS, its participants and the securities industry.

The proposed rule amendments were reviewed by the LDG on October 22nd, 2010, and approved by the Board of Directors of CDS Ltd. on November 3rd, 2010.

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

The proposed procedure amendments were reviewed and approved by the SDRC on November 3, 2010.

D.3 Issues Considered

The primary considerations in the development of the rules and procedures in response to the industry initiative were twofold: first, development of the process and the legal framework was intended to minimize effects on market participants' processes, practices, and systems; and second, the minimal changes required, and the desire to leave systems as unchanged as possible, were with the goal of meeting the industry-mandated timeline of a January implementation date. The effect of the proposed rules and procedures is to allow trades to be cleared (novated and netted) prior to being reported by CDCC to CDS for settlement, and the proposed amendments themselves have been minimized to the furthest extent possible.

D.4 Consultation

In addition to direct consultation with market participants at the IIAC in respect of the process, and the instructions given in that forum, CDS has, as noted above, sought the views, input, and contributions of those of its participants who participate in CDS's LDG in respect of the proposed rule and procedure amendments.

D.5 Alternatives Considered

As the fixed income clearing facility is an industry initiative, alternatives to the new fixed income clearing facility process were considered at the outset of that initiative. In respect of the presently proposed amendments, CDS was asked only to develop a solution that would implement the CDCC fixed income clearing facility with a minimum of development required by CDS's participants and other affected market participants.

D.6 Implementation Plan

CDS is recognized as a clearing agency by the Ontario Securities Commission pursuant to section 21.2 of the Ontario *Securities Act*. The *Autorité des marchés financiers* has authorized CDS to carry on clearing activities in Québec pursuant to sections 169 and 170 of the Québec *Securities Act*. In addition CDS is deemed to be the clearing house for CDSX®, a clearing and settlement system designated by the Bank of Canada pursuant to section 4 of the *Payment Clearing and Settlement Act.* The Ontario Securities Commission, the *Autorité des marchés financiers* and the Bank of Canada will hereafter be collectively referred to as the "Recognizing Regulators".

The amendments to the participant rules may become effective on or after date of approval of the amendments by the Recognizing Regulators following public notice and comment.

E. TECHNOLOGICAL SYSTEMS CHANGES

E.1 CDS

CDS's systems will be modified to accommodate the interface such that the system will support trade submission and confirmation through CDSX. CDSX will perform edits as described in the procedures, provide zero-netting to Inter-Dealer bond Brokers and deliver targeted trades to CDCC's fixed income CCP. CDS will also be receiving information from CDCC, which will communicate net position details and settlement instructions using (modified) CDSX trade functionality. Finally, the changes will also include a partial settlement engine for trades sourced from CDCC's CCP.

In particular, new functions within CDSX include:

SOLA-Net, a real-time process that will deliver identified trades to CDCC for subsequent processing.

Mode of Settlement Conversion, whereby a SOLA-Net eligible trade may be modified by CDSX such that the mode of settlement will be changed to TFT for settlement.

and,

Partial Settlement of SOLA-Net Trades, which operates in a similar fashion as the partial settlement function in FINet. That is, if a trade can settle in its entirety, it will. Otherwise, the settlement function will determine what portion of the trade it can settle and split the trade to allow that settlement to happen. The split trades will carry the same details as the original, with the exception of the financial details (quantity and net amount). Trades eligible for partial settlement are those delivered to CDS by CDCC (SOLA) and those split by CDS. Trades delivered to CDS will always have a designated CDCC CUID on either side (buyer, seller) of the trade. The trades will carry a mode of settlement equal to TFT. The CDCC CUID will be defined as a clearing organization.

E.2 CDS Participants

CDS participants' systems will be required to determine which transactions should be reported to a TPCS, and will be required to assign a TPCS mode of settlement in order to instruct CDS accordingly. Further, participants' systems will be required to identify the short and long legs of a repurchase transaction through the use of an identification link assigned to the individual leg transactions. Finally, participants' systems will be required to recognize a new label indicating that the transaction had been novated by a TPCS, a process similar to the current "Deleted by FINet" label in the FINet process.

E.3 Other Market Participants

Inter-Dealer Brokers will use processing similar to CDS's VMU (Virtual Matching Utility) process to feed pre-confirmed "locked-in" transactions for blind repo transactions to CDSX.

Where a CDS participant's systems are operated by a third-party vendor, the vendor will be required to make substantially similar modifications to systems as appear in section E.2, above.

F. COMPARISON TO OTHER CLEARING AGENCIES

Netting and novation of fixed income repo trades in the U.S. market occur through the Fixed Income Clearing Corporation (FICC); a subsidiary of the Depository Trust & Clearing Corporation (DTCC). FICC nets and novates transactions on a near real-time basis and provides counterparties with net outstanding obligations on a current and forward-dated basis. Repo transactions with a "start" or "on" leg of the current day are novated by FICC. The "end" or "off" legs are future dated and are novated and netted, with settlement taking place on the net obligation on the value date. In each case the security obligation settles through the Federal Reserve and the funds component is settled through Fedwire.

The model being developed by CDCC follows roughly that of LCH.Clearnet, an independent clearing house that is based in London, U.K. LCH.Clearnet operates RepoClear, a market utility that nets and novates bond and repo transactions between industry participants in 13 European markets. Settlement of these net obligations that have reached their value date is done at the depository in each market.

G. PUBLIC INTEREST ASSESSMENT

CDS has determined that the proposed amendments to the CDS rules and procedures are not contrary to the public interest.

H. COMMENTS

Comments on the proposed amendments should be in writing and submitted within 30 calendar days following the date of publication of this notice in the Ontario Securities Commission Bulletin to:

Legal Department
CDS Clearing and Depository Services Inc.
85 Richmond Street West
Toronto, Ontario M5H 2C9

Fax: 416-365-1984
e-mail: attention@cds.ca

Copies should also be provided to the Autorité des marchés financiers and the Ontario Securities Commission by forwarding a copy to each of the following individuals:

M^{e} Anne-Marie Beaudoin
Secrétaire del'Autorité
Autorité des marchés financiers
800, square Victoria, 22^{e} étage
C.P. 246, tour de la Bourse
Montréal (Québec) H4Z 1G3

Télécopieur: (514) 864-6381
Courrier électronique: consultation-en-cours@lautorite.qc.ca

Manager, Market Regulation
Market Regulation Branch
Ontario Securities Commission
Suite 1903, Box 55,
20 Queen Street West
Toronto, Ontario, M5H 3S8

Fax: 416-595-8940
e-mail: marketregulation@osc.gov.on.ca

CDS will make available to the public, upon request, all comments received during the comment period.

I. PROPOSED CDS RULE & PROCEDURE AMENDMENTS

Appendix "A" contains text of current CDS participant rules marked to reflect proposed amendments as well as text of these rules reflecting the adoption of the proposed amendments.

Access the proposed amendments to the CDS Procedures on the User documentation revisions web page (http://www.cds.ca/cdsclearinghome.nsf/Pages/-EN-blacklined?Open) and to the CDS Forms (if applicable) on Forms online (Click View by Form Category and in the Select a Form Category list, click External review) on the CDS Services web page (www.cdsservices.ca).

Appendix B contains a marked up version of the CDS Procedures.

APPENDIX "A"
PROPOSED CDS RULE AMENDMENTS

Text of CDS Participant Rules marked to reflect proposed amendments	Text CDS Participant Rules reflecting the adoption of proposed amendments
1.2.1 … "CDCC" means the Canadian Derivatives Clearing Corporation. "CDCC Interface" means the process by which CDS reports Trades identified with a Mode of Settlement of SNS to CDCC for clearing prior to such Trades being settled through the CDS Services. … "Mode of Settlement" means one of CNS, TFT, or SNS. … "SNS" means SOLA Netting System. … "Third Party Clearing" means the process detailed in Rule 7.2.7. "Third Party Clearing System" or "TPCS" means a clearing system to which CDS is authorized to report Trades; such a system must be a CDS Participant. "TPCS Mode of Settlement" means an Instruction to CDS by a Participant requiring CDS to report Trade Information to a Third Party Clearing System. 3.1.3 **Action by a Participant** CDS shall be entitled to rely on, and each Participant shall be bound by and shall be responsible to CDS and to other Participants for: (a) every communication, transaction, authorization or instruction validated by an Authentication Mechanism assigned to the Participant; and (b) every act of, document signed by, or communication, transaction, authorization or instruction given by, any of its Signing Officers or Authorized Individuals; (c) every communication, transaction, authorization or instruction received by CDS from a Third Party Clearing System on behalf of a Participant; 3.3.7 **Mandatory Trade Reporting** All Trades between Participants in Securities that are eligible for Settlement in the Settlement Service shall be reported to CDS and shall include the applicable Mode of Settlement.	1.2.1 … "CDCC" means the Canadian Derivatives Clearing Corporation. "CDCC Interface" means the process by which CDS reports Trades identified with a Mode of Settlement of SNS to CDCC for clearing prior to such Trades being settled through the CDS Services. … "Mode of Settlement" means one of CNS, TFT, or SNS. … "SNS" means SOLA Netting System. … "Third Party Clearing" means the process detailed in Rule 7.2.7. "Third Party Clearing System" or "TPCS" means a clearing system to which CDS is authorized to report Trades; such a system must be a CDS Participant. "TPCS Mode of Settlement" means an Instruction to CDS by a Participant requiring CDS to report Trade Information to a Third Party Clearing System. 3.1.3 **Action by a Participant** CDS shall be entitled to rely on, and each Participant shall be bound by and shall be responsible to CDS and to other Participants for: (a) every communication, transaction, authorization or instruction validated by an Authentication Mechanism assigned to the Participant; and (b) every act of, document signed by, or communication, transaction, authorization or instruction given by, any of its Signing Officers or Authorized Individuals; (c) every communication, transaction, authorization or instruction received by CDS from a Third Party Clearing System on behalf of a Participant; 3.3.7 **Mandatory Trade Reporting** All Trades between Participants in Securities that are eligible for Settlement in the Settlement Service shall be reported to CDS and shall include the applicable Mode of Settlement.

Text of CDS Participant Rules marked to reflect proposed amendments	Text CDS Participant Rules reflecting the adoption of proposed amendments
3.3.9 **Trade Management** At any time prior to Settlement, CDS may delete a particular Trade or any class of Trades from any Service if, on the evidence reasonably available to CDS, CDS considers such action necessary or desirable in the best interests of CDS and of Participants generally or to maintain the integrity of the Services. If a Participant is suspended or terminated, CDS may delete from the Services any or all Trades (but not Central Counterparty Obligations) of that Participant that have not Settled. The deletion prior to Settlement of a Trade from any Service does not affect any rights or obligations between the Participants who are parties to that Trade, which arise from the underlying agreement between such Participants. Where a Trade is submitted to CDS with a Third Party Clearing System Mode of Settlement, and where such Trade is rejected by the TPCS, CDS may, in accordance with the Procedures, and at any time prior to Settlement, modify the Mode of Settlement of a confirmed Trade between two Participants from its initial Mode of Settlement.	3.3.9 **Trade Management** At any time prior to Settlement, CDS may delete a particular Trade or any class of Trades from any Service if, on the evidence reasonably available to CDS, CDS considers such action necessary or desirable in the best interests of CDS and of Participants generally or to maintain the integrity of the Services. If a Participant is suspended or terminated, CDS may delete from the Services any or all Trades (but not Central Counterparty Obligations) of that Participant that have not Settled. The deletion prior to Settlement of a Trade from any Service does not affect any rights or obligations between the Participants who are parties to that Trade, which arise from the underlying agreement between such Participants. Where a Trade is submitted to CDS with a Third Party Clearing System Mode of Settlement, and where such Trade is rejected by the TPCS, CDS may, in accordance with the Procedures, and at any time prior to Settlement, modify the Mode of Settlement of a confirmed Trade between two Participants from its initial Mode of Settlement.
4.1.3 **Indemnity by Participant Regarding Services Generally** Each Participant shall indemnify and hold harmless CDS, Nominees and all other Participants, and their respective partners, directors, trustees, officers, employees and agents, from and against any loss, damage, cost, expense, liability or claim (including the cost of legal counsel to advise on or defend against such claims) suffered or incurred by or made against it, them or any of them arising from: (a) any interruption, malfunction or disruption of any Service to the extent caused or contributed to by any negligent, reckless, willful, fraudulent or dishonest act or omission of the Participant, a Third Party Clearing System, or of any director, trustee, officer, partner, employee, servant, contractor or agent of the Participant or Third Party Clearing System done while acting in the course of office or employment or made possible by information or opportunities afforded by such office or employment; (b) any incorrect instructions, information or documentation provided to CDS by the Participant or by a Third Party Clearing System used by the Participant; and (c) any breach by the Participant of its obligations, representations or warranties under the Legal Documents. 4.1.4 … (g) the failure of the Participant to provide or cause to be provided a declaration as required;	4.1.3 **Indemnity by Participant Regarding Services Generally** Each Participant shall indemnify and hold harmless CDS, Nominees and all other Participants, and their respective partners, directors, trustees, officers, employees and agents, from and against any loss, damage, cost, expense, liability or claim (including the cost of legal counsel to advise on or defend against such claims) suffered or incurred by or made against it, them or any of them arising from: (a) any interruption, malfunction or disruption of any Service to the extent caused or contributed to by any negligent, reckless, willful, fraudulent or dishonest act or omission of the Participant, a Third Party Clearing System, or of any director, trustee, officer, partner, employee, servant, contractor or agent of the Participant or Third Party Clearing System done while acting in the course of office or employment or made possible by information or opportunities afforded by such office or employment; (b) any incorrect instructions, information or documentation provided to CDS by the Participant or by a Third Party Clearing System used by the Participant; and (c) any breach by the Participant of its obligations, representations or warranties under the Legal Documents. 4.1.4 … (g) the failure of the Participant to provide or cause to be provided a declaration as required;

Text of CDS Participant Rules marked to reflect proposed amendments	Text CDS Participant Rules reflecting the adoption of proposed amendments
(h) the reporting of a Trade to, or receipt of a Trade from, a Third Party Clearing System; (i) ~~(h)~~ the purchase, sale, redemption or cancellation of Securities by the Issuer as the result of the information contained in a declaration provided by the Participant; or (j) ~~(i)~~ any breach by the Participant of its obligations, representations or warranties under the Legal Documents.	(h) the reporting of a Trade to, or receipt of a Trade from, a Third Party Clearing System; (i) the purchase, sale, redemption or cancellation of Securities by the Issuer as the result of the information contained in a declaration provided by the Participant; or (j) any breach by the Participant of its obligations, representations or warranties under the Legal Documents.
4.1.5 … (c) Indemnified Claim For the purposes of this Rule 4.1.5, an indemnified claim is any loss, damage, cost, expense, liability or claim (including the cost of legal counsel to advise on or defend against such claims) that arises from or is in any way connected with a Service, and which is described in Rule 4.1.3 or Rule 4.1.4, or which relates to (i) Securities held by CDS for the Participant ~~or~~, (ii) any action taken or omitted by CDS with respect to Securities held for the Participant at the time such action is taken or omitted, or (iii) the reporting of a Trade to or receipt of a Trade from a Third Party Clearing System on the instructions of a Participant.	4.1.5 … (c) Indemnified Claim For the purposes of this Rule 4.1.5, an indemnified claim is any loss, damage, cost, expense, liability or claim (including the cost of legal counsel to advise on or defend against such claims) that arises from or is in any way connected with a Service, and which is described in Rule 4.1.3 or Rule 4.1.4, or which relates to (i) Securities held by CDS for the Participant, (ii) any action taken or omitted by CDS with respect to Securities held for the Participant at the time such action is taken or omitted, or (iii) the reporting of a Trade to or receipt of a Trade from a Third Party Clearing System on the instructions of a Participant.
4.2.3 **CDS Liability for Participant Loss** CDS shall be liable to its Participants for any Participant Loss, subject to the limitations set out in Rules 4.2.5 and 4.2.9. A "Participant Loss" means any loss, damage, cost, expense, liability or claim suffered or incurred by a Participant, other than a Loss of Securities, which arises from a Participant's participation in a Service, but only to the extent such was caused or contributed to by any act or omission of CDS or of any director, officer, employee, contractor or agent of CDS done while acting in the course of office, employment or service or made possible by information or opportunities afforded by such office, employment or service. ~~Neither~~None of DTC ~~nor~~, NSCC, or a TPCS shall be considered to be an agent of CDS for purposes of this Rule 4.2.3. Notwithstanding the foregoing acceptance of liability, CDS shall not be liable to a Participant for any Participant Loss in respect of which that Participant is required to make indemnification pursuant to Rules 4.1, 10.2 or 10.5, nor for any Participant Loss arising from the Delivery Services.	4.2.3 **CDS Liability for Participant Loss** CDS shall be liable to its Participants for any Participant Loss, subject to the limitations set out in Rules 4.2.5 and 4.2.9. A "Participant Loss" means any loss, damage, cost, expense, liability or claim suffered or incurred by a Participant, other than a Loss of Securities, which arises from a Participant's participation in a Service, but only to the extent such was caused or contributed to by any act or omission of CDS or of any director, officer, employee, contractor or agent of CDS done while acting in the course of office, employment or service or made possible by information or opportunities afforded by such office, employment or service. None of DTC, NSCC, or a TPCS shall be considered to be an agent of CDS for purposes of this Rule 4.2.3. Notwithstanding the foregoing acceptance of liability, CDS shall not be liable to a Participant for any Participant Loss in respect of which that Participant is required to make indemnification pursuant to Rules 4.1, 10.2 or 10.5, nor for any Participant Loss arising from the Delivery Services.
7.1.1 **Overview of Settlement Service** The Settlement Service is a Service established by CDS to provide for the Settlement of Trades in eligible Securities, through the delivery of Securities and the making of payment on the records of CDS. Securities	7.1.1 **Overview of Settlement Service** The Settlement Service is a Service established by CDS to provide for the Settlement of Trades in eligible Securities, through the delivery of Securities and the

Text of CDS Participant Rules marked to reflect proposed amendments	Text CDS Participant Rules reflecting the adoption of proposed amendments
become eligible for CDSX as described in Rule 6.2; the Procedures and User Guides describe the Securities that are eligible for a particular Function in the Settlement Service. The Settlement of a Trade involves several steps: (a) The details of Trades between Participants that are to be Settled through the Service are reported to CDS. (b) If the Trade instructions specify a TPCS Mode of Settlement, the Trade is reported to the TPCS. (c) ~~(b)~~ If the Trade instructions pass the pre-entry system edits, the Trade is entered into the system to be considered for Settlement. (d) ~~(c)~~ A Trade may be Settled either (i) without pre-Settlement netting using the Trade-For-Trade method, or (ii) with pre-Settlement novation and netting using one of the CNS or FInet Functions to process Central Counterparty Obligations. (e) ~~(d)~~ The Settlement of each pending Trade using the Trade-for-Trade method is effected by means of payment and delivery of Securities between Participants. The Settlement of each outstanding Central Counterparty Obligation is effected by means of payment and delivery of Securities between Participants and CDS. Payment is made through the Settlement Service by book entry on the records of CDS. Securities are delivered either by the book delivery on the records of CDS of Securities held in the Depository Service or by the physical delivery of Security Certificates (if the Trade is to be Settled using the Certificate Based Settlement method). (f) If the Trade is reported with a TPCS Mode of Settlement, and the Third Party Clearing System has netted the Trade prior to the position's having been reported to CDS, the Trade representing the netted position will Settle on a Trade-for-Trade basis between the Participant and the Third Party Clearing System. (g) ~~(e)~~ There are four Settlement processes: the Intraday Continuous Net Settlement Process, the Real Time TFT Settlement Process the Combined Batch Net Settlement/Continuous Net Settlement Process and the FINet Real Time Settlement Process. 7.2.6 **Mode of Settlement** Each Trade must include a mode of settlement indicator that is one of Trade-for-Trade, SNS or CNS. The mode of settlement indicator is either included in the instructions when the Trade is reported or confirmed, or is added automatically by the system in accordance with the criteria in the Procedures and User Guides. The system may only change or modify a Mode of Settlement indicator to Trade-for-Trade or CNS; CDSX may not add a Mode of Settlement indicator of SNS. A Trade identified with a TPCS Mode of Settlement shall not be considered for Settlement within CDSX.	making of payment on the records of CDS. Securities become eligible for CDSX as described in Rule 6.2; the Procedures and User Guides describe the Securities that are eligible for a particular Function in the Settlement Service. The Settlement of a Trade involves several steps: (a) The details of Trades between Participants that are to be Settled through the Service are reported to CDS. (b) If the Trade instructions specify a TPCS Mode of Settlement, the Trade is reported to the TPCS. (c) If the Trade instructions pass the pre-entry system edits, the Trade is entered into the system to be considered for Settlement. (d) A Trade may be Settled either (i) without pre-Settlement netting using the Trade-For-Trade method, or (ii) with pre-Settlement novation and netting using one of the CNS or FInet Functions to process Central Counterparty Obligations. (e) The Settlement of each pending Trade using the Trade-for-Trade method is effected by means of payment and delivery of Securities between Participants. The Settlement of each outstanding Central Counterparty Obligation is effected by means of payment and delivery of Securities between Participants and CDS. Payment is made through the Settlement Service by book entry on the records of CDS. Securities are delivered either by the book delivery on the records of CDS of Securities held in the Depository Service or by the physical delivery of Security Certificates (if the Trade is to be Settled using the Certificate Based Settlement method). (f) If the Trade is reported with a TPCS Mode of Settlement, and the Third Party Clearing System has netted the Trade prior to the position's having been reported to CDS, the Trade representing the netted position will Settle on a Trade-for-Trade basis between the Participant and the Third Party Clearing System. (g) There are four Settlement processes: the Intraday Continuous Net Settlement Process, the Real Time TFT Settlement Process the Combined Batch Net Settlement/Continuous Net Settlement Process and the FINet Real Time Settlement Process. 7.2.6 **Mode of Settlement** Each Trade must include a mode of settlement indicator that is one of Trade-for-Trade, SNS or CNS. The mode of settlement indicator is either included in the instructions when the Trade is reported or confirmed, or is added automatically by the system in accordance with the criteria in the Procedures and User Guides. The system may only change or modify a Mode of Settlement indicator to Trade-for-Trade or CNS; CDSX may not add a Mode of Settlement indicator of SNS. A Trade identified with a TPCS Mode of Settlement shall not be considered

Text of CDS Participant Rules marked to reflect proposed amendments	Text CDS Participant Rules reflecting the adoption of proposed amendments
7.2.7 **Third Party Clearing Systems** (a) Third Party Clearing System status A TPCS must be a CDS Participant, and must request such status as a TPCS from CDS. (b) Trade Reporting to a Third Party Clearing System CDS shall establish those Trades to be reported to a TPCS in accordance with the criteria set out in the Procedures. (c) Trade-for-Trade Settlement of Trades reported by Third Party Clearing System Trades reported from a TPCS to CDS shall Settle on a Trade-for-Trade basis in accordance with Rule 7.5.2, with the TPCS as the counterparty to each Trade. (d) Partial Delivery by Third Party Clearing System When an outstanding TPCS Obligation is considered for TFT Settlement and the Settlement of the entire TPCS Obligation would not pass the pre-Settlement edit, but a partial Settlement of the TPCS Obligation would pass the pre-Settlement edits, then CDS may modify the original Trade in order to partially Settle that portion of the Trade which would otherwise be eligible for TFT Settlement but for the restriction of Rule 7.5.2(d). Partial Settlement of a TPCS obligation results in the deletion of the original Trade and the creation of two new Trades, one for the amount of the available Securities or Funds, and one for the outstanding remainder. The former Trade will Settle by the delivery of only some of the Securities required and the making of a corresponding partial payment; the latter Trade will remain outstanding, to be reconsidered for Settlement. A pending Trade that constitutes the remainder of a partial Settlement may itself be partially Settled by the same process as defined herein. 7.5.2 **Real Time TFT Process** The Real Time TFT Settlement Process: (a) is run throughout the time the system is operating; (b) processes Settlement of pending Trades that have a Trade-for-Trade mode of settlement indicator (including Pledges.); (c) does not novate or net newly reported Trades to create new Central Counterparty Obligations; and (d) Settles a Trade only if the entire Trade can be Settled. except when such Trade is reported by a Third Party Clearing System as described in Rule 7.2.7.	for Settlement within CDSX. 7.2.7 **Third Party Clearing Systems** (a) Third Party Clearing System status A TPCS must be a CDS Participant, and must request such status as a TPCS from CDS. (b) Trade Reporting to a Third Party Clearing System CDS shall establish those Trades to be reported to a TPCS in accordance with the criteria set out in the Procedures. (c) Trade-for-Trade Settlement of Trades reported by Third Party Clearing System Trades reported from a TPCS to CDS shall Settle on a Trade-for-Trade basis in accordance with Rule 7.5.2, with the TPCS as the counterparty to each Trade. (d) Partial Delivery by Third Party Clearing System When an outstanding TPCS Obligation is considered for TFT Settlement and the Settlement of the entire TPCS Obligation would not pass the pre-Settlement edit, but a partial Settlement of the TPCS Obligation would pass the pre-Settlement edits, then CDS may modify the original Trade in order to partially Settle that portion of the Trade which would otherwise be eligible for TFT Settlement but for the restriction of Rule 7.5.2(d). Partial Settlement of a TPCS obligation results in the deletion of the original Trade and the creation of two new Trades, one for the amount of the available Securities or Funds, and one for the outstanding remainder. The former Trade will Settle by the delivery of only some of the Securities required and the making of a corresponding partial payment; the latter Trade will remain outstanding, to be reconsidered for Settlement. A pending Trade that constitutes the remainder of a partial Settlement may itself be partially Settled by the same process as defined herein. 7.5.2 **Real Time TFT Process** The Real Time TFT Settlement Process: (a) is run throughout the time the system is operating; (b) processes Settlement of pending Trades that have a Trade-for-Trade mode of settlement indicator (including Pledges.); (c) does not novate or net newly reported Trades to create new Central Counterparty Obligations; and (d) Settles a Trade only if the entire Trade can be Settled except when such Trade is reported by a Third Party Clearing System as described in Rule 7.2.7.

APPENDIX "B"
PROPOSED CDS PROCEDURE CHANGES

Trade type	Code	Description	Trade class
Crossing cash differences	FX	Counterparties sell the same security to each other but do not have the security to settle causing deletion of the two trades and the movement of the cash difference	Non-exchange
Margin delivered for repurchase and call loans	FM	Mark-to-market payments (cash or collateral) between participants	Non-exchange
NSCC balance order activity	IBO	A trade entered by a participant that is related to NSCC balance orders.	Non-exchange
New issue	NI	New issue allotments	Non-exchange
Principal	P	A trade between two participants who are trading money market instruments for their own accounts	Non-exchange
Purchase resale agreement	PRA	A transaction where one organization buys securities from a dealer with an agreement to resell them at a later date and a previously agreed upon price	Non-exchange
Reclaim trades	RCL	A trade that reclaims funds or securities	Non-exchange
Repurchase agreement	RPA	A transaction where one organization sells securities to another and agrees to repurchase them at a later date (also known as a "repo")	Non-exchange
Special purchase agreement	SPR	A form of financing provided to selected Canadian investment dealers where the Bank of Canada buys Government of Canada securities from a dealer with an agreement to resell them the next business day at a price set at the Bank's discretion	Non-exchange
Special repurchase agreement	SRA	A form of financing provided to selected Canadian investment dealers where the Bank of Canada sells a security to a dealer at a previously agreed upon price	Non-exchange
U.S. repo trade	USR	A trade entered by a participant that identifies a U.S. style repo transaction	Non-exchange
Direct participant trade	DP	A trade between two participants who are trading securities for their own accounts	Exchange or non-exchange
Correction	X	A correcting transaction that either creates a new trade or modifies an existing trade	Exchange or non-exchange
Buy-in adjustment	BIA	An adjustment to wash out a buy-in execution	Exchange
Marriage breakdown	MB	A trade that needs to be reported separately for tax reporting purposes as a result of a marriage breakdown	Non-exchange

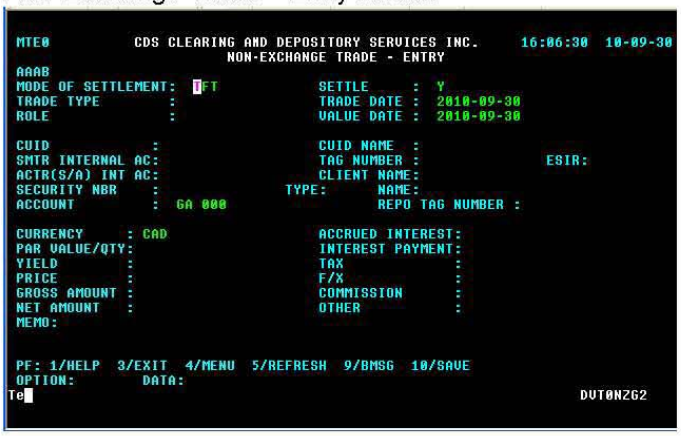
4.5 Entering non-exchange trades

To report non-exchange trades in CDSX:

1. Access the Trade Menu on page 10. For more information, see Accessing the Trade Menu on page 10.

2. Type the number identifying Enter Non-Exchange Trade in the SELECTION field and press ENTER. The Non-Exchange Trade – Entry screen on page 34 displays.

Non-Exchange Trade – Entry screen



3. Complete the fields as indicated in the table below.

Field	Description
MODE OF SETTLEMENT	CNS – Continuous net settlement TFT – Trade-for-trade settlement SNS – SOLA netting system (trade is targeted to be novated by CDCC, and if eligible, trade is then targeted to be netted) For more information on trades with SNS mode of settlement, see CDCC trade processing on page 116. **Note:** Certificate-based settlement (CBS) cannot be entered by a participant
SETTLE	N to delay settlement of the trade
TRADE TYPE	Trade type (see Trade types in CDSX on page 11)
TRADE DATE	Date when the trade was negotiated
ROLE	Participant's role in the trade (B for buyer, S for seller)
VALUE DATE	Date when the trade is to settle (cannot be more than 365 days in the future)

Field	Description
CUID or CUID NAME	The CUID in the CUID field and the company name in the CUID NAME field of the party who will accept the trade If the trade type is C (client) or A (agency), leave the CUID fields blank and complete the ESIR NO field
SMTR INTERNAL AC	Account number used by the participant's internal systems
TAG NUMBER	Transaction reference number
REPO TAG NUMBER	(Phase 1) Required transaction reference number used for repo trades with SNS mode of settlement. This number links the near and far legs of a repo transaction being targeted to novate/net at CDCC (Phase 2) Required transaction reference number used for repo trades with SNS mode of settlement. This number links the near and far legs of a repo transaction being targeted to novate/net at CDCC For non-repo (cash) transactions, leave this field blank For repo trades with a mode of settlement other than SNS, this number is optional.
ESIR NO	An ESIR number if the trade type is C (client) or A (agency). When the information is validated, the CUID, ACTR (S/A) INT AC and CLIENT NAME fields are populated from the ESIR database For all other trade types, leave this field blank
ACTR (S/A) INT AC	Acceptor's internal account number if the trade type is C (client) or A (agency) If an ESIR number is entered in the ESIR NO field, leave this field blank
CLIENT NAME	Name of the client on whose behalf the transaction is made
SECURITY NBR	Security number (ISIN) identifying the security
ACCOUNT	Account number and type from or to which securities will be settled. The account type may be GA (general account), RA (RSP account) or SA (segregated account) CDSX automatically assigns the default settlement account. To change the default settlement account for all future trades, see Default and alternate settlement accounts on page 16
CURRENCY	CAD – Canadian dollar USD – U.S. dollar
PAR VALUE/QTY	Par value or quantity of the security being traded. Must not be zero
PRICE	For debt issues, the price per 100 par value of the security for this trade For equity issues, the price is a per share amount
GROSS AMOUNT	For debt issues, the gross amount is calculated as follows: Gross amount = Par value x Price/100 For equity issues, the gross amount is calculated as follows: Gross amount = Quantity x Price

4. Press ENTER. CDSX validates the information and calculates the values for GROSS AMOUNT and NET AMOUNT.

5. Press PF10 to save. The trade is saved with an unconfirmed status and a new Non-Exchange Trade – Entry screen on page 34 displays with the trade ID on the message line.

4.6 Inquiring on non-exchange trades

Participants can review the details and status of non-exchange trades using the Inquire Non-Exchange Trade function or on the following reports:

- Unsettled Non-Exchange Trade Report – Post-BNS
- Unsettled Non-Exchange Trade Report – Pre-BNS
- ESIR Bypass Rejection report.

For more information, refer to *CDS Reporting Procedures*.

To inquire on non-exchange trades in CDSX:

1. Access the Trade Menu on page 10. For more information, see Accessing the Trade Menu on page 10.

2. Type the number identifying Inquire Non-Exchange Trade in the SELECTION field and press ENTER. The Non-Exchange Trade Selection screen on page 36 displays.

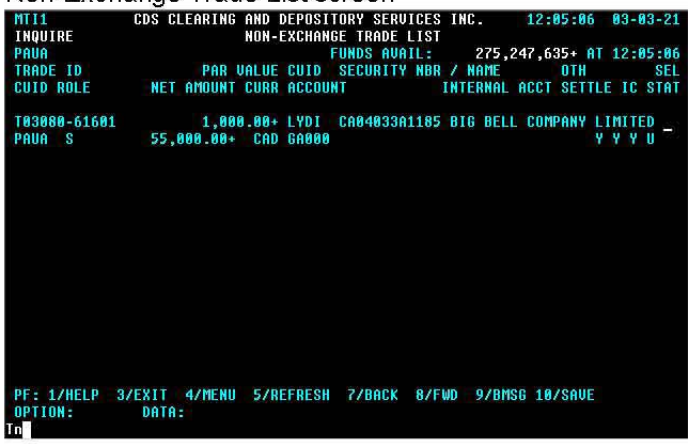
Non-Exchange Trade Selection screen

```
MTI0          CDS CLEARING AND DEPOSITORY SERVICES INC.     12:04:52  03-03-21
INQUIRE                  NON-EXCHANGE TRADE SELECTION
PAUA
ENTER TRADE ID:   T 03080 _
OR, SELECT ANY COMBINATION ..... :

    MODE OF SETTLEMENT:       STATUS:        SETTLE:       OTHER SETTLE:
           TRADE TYPE:                       ROLE:         OTHER CUID:
              ACCOUNT: CA 000                INTERNAL ACCT:

     SECURITY NBR FROM:                      TO:
                                             SECURITY TYPE:
 INSTRUMENT TYPE:       ISSUER CODE:        MATURITY DATE:

     MATCHING ELIGIBLE:                      MATCH STATUS CODE:
 LAST MODIFIED TO DATE:                      LAST MODIFIED TO TIME:
   SUBMITTER/ACCEPTOR:

        NET AMOUNT >=:                       CURRENCY:  CAD
      VALUE DATE FROM: 2003-03-21            TO: 2003-03-21
      REQUESTORS CUID: PAUA                  TAG NUMBER:

PF: 1/HELP  3/EXIT  4/MENU  5/REFRESH  9/BMSG
OPTION:       DATA:
In
```

3. Do one of the following:
   - If the trade ID is known, complete the ENTER TRADE ID field and press ENTER. The Non-Exchange Trade - Detail screen on page 37 displays. Go to step 5.

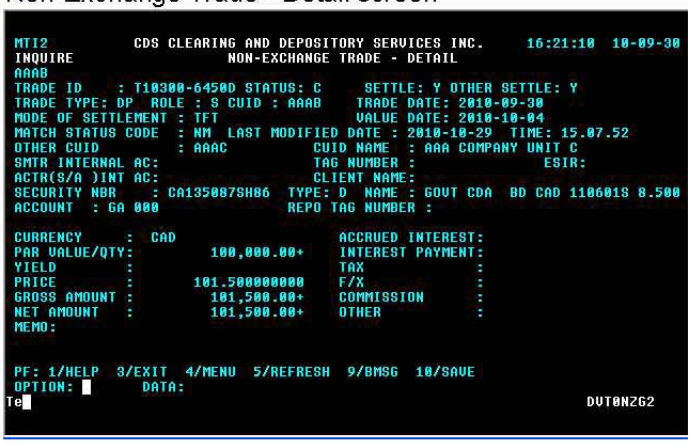
- If the trade ID is not known, enter any of the selection criteria to display a list of trades and press ENTER. The Non-Exchange Trade List screen on page 37 displays.

Non-Exchange Trade List screen



4. Type X in the SEL column beside the required trade and press ENTER. The Non-Exchange Trade - Detail screen on page 37 displays.

Non-Exchange Trade - Detail screen



5. Review the details of the exchange trade.

4.7 Modifying non-exchange trades

Once a non-exchange trade is entered in CDSX, the acceptor and submitter can perform the activities indicated in the table below using the Modify Non-Exchange Trade function.

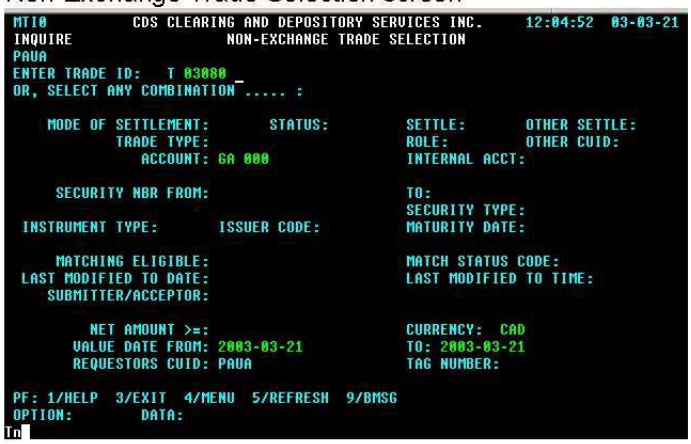
For information on FINet trade modifications, see FINet on page 43. For information on trades with SNS mode of settlement, see CDCC trade processing on page 116.

Activities	Conditions on modifying non-exchange trades in CDSX
Changing trade details	The submitter can change the financial details of a trade only if the acceptor DK's the trade to indicate that they do not recognize or do not agree with the trade details The submitter can change the status of a trade from DK to U (unconfirmed) without changing the trade details Either the submitter or the acceptor can change the settlement control indicator (the SETTLE field), settlement account and the tag number at any time prior to settlement
Deleting trades	The submitter can delete an unsettled trade regardless of its status. No special rules apply to the deletion of trades during or after payment exchange. Once deleted, the trade cannot be changed or reinstated The submitter can delete one trade, or participants can display a list and delete several trades, one after the other
DK'ing trades	If the acceptors disagrees with trade details, they DK (don't know) the trade instead of confirming it. The submitters can change the details. The acceptors then confirm or DK the new details Only the acceptor can DK a trade, however, the acceptor can change the status of a trade from DK to C (confirmed) if circumstances warrant the change (excluding FINet trades) There is no limit to the number of times a trade can be DK'd and corrected
Renewing and confirming trades	The conditions and rules for renewing and confirming trades are discussed in Renewing and confirming trades during and after payment exchange on page 41

To modify a non-exchange trade in CDSX:

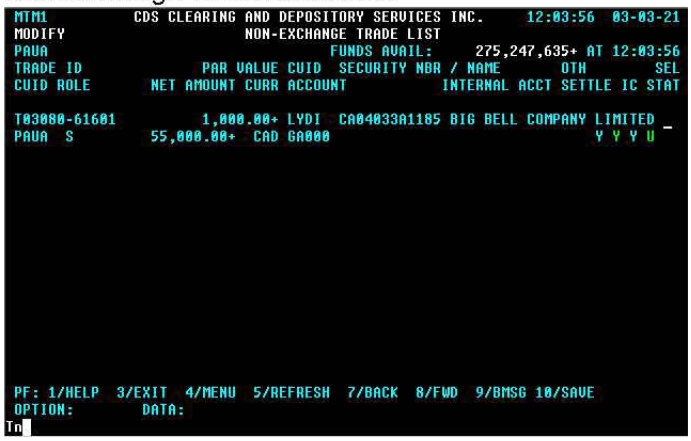
1. Access the Trade Menu on page 10. For more information, see Accessing the Trade Menu on page 10.
2. Type the number identifying Modify Non-Exchange Trade in the SELECTION field and press ENTER. The Non-Exchange Trade Selection screen on page 39 displays.

Non-Exchange Trade Selection screen



3. Do one of the following:
   - If the trade ID is known, complete the ENTER TRADE ID field and press ENTER. The Non-Exchange Trade – Detail screen on page 40 displays. Go to step 5.
   - If the trade ID is not known, enter any of the selection criteria to display a list of trades and press ENTER. The Non-Exchange Trade List screen on page 39 displays.

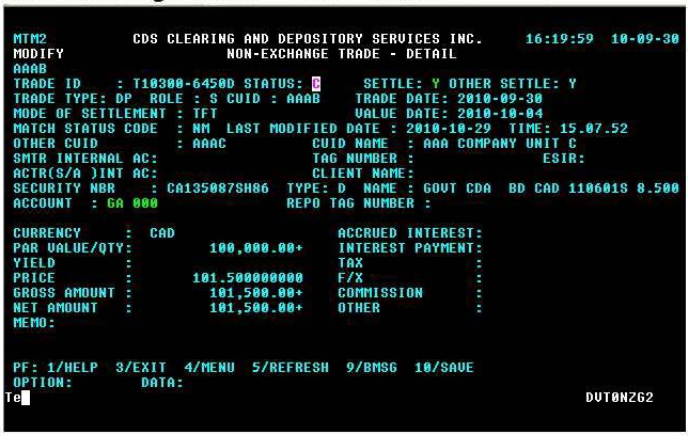
Non-Exchange Trade List screen



4. Modify the Non-Exchange Trade List screen on page 39 as indicated in the table below.

To . . .	Description
DK, delete or confirm a trade	Change the STAT field (DK to don't know, D to delete or C to confirm) next to one or more trades, press ENTER to validate the changes, and press PF10 to save
Modify the settlement control indicator	Change the SETTLE field next to one or more trades, press ENTER to validate the changes, and press PF10 to save
Display or modify more detailed information about one of the trades	Type X in the SEL column and press ENTER to display the Non-Exchange Trade - Detail screen

Non-Exchange Trade – Detail screen



5. Modify the Non-Exchange Trade – Detail screen on page 40 as indicated in the table below.

To . . .	Description
DK, delete or confirm a trade	Change the STAT field to DK (don't know), D (delete) or C (confirm)
Modify the settlement control indicator	Change the SETTLE field
Renew a trade	Type Y in the RENEW field
Modify trade details	Change the trade details as needed

6. Press ENTER to validate the information and press PF10 to save.

CHAPTER 11

CDCC trade processing

CDSX provides a gateway for participants using CDCC's fixed income netting product, SOLA. Through CDSX, SOLA users can submit, modify and confirm non-exchange repo and cash trades.

Participants clearing trades through SOLA must complete the CDS – Online Services Support – Service Eligibility Details Unit Functions (CDSX799) form.

Participants negotiating trades through an inter-dealer broker (IDB) must also complete the following forms and submit them to CDS Customer Service:

- Appointment and Authorization of Third Party Trade Reporting (CDSX858)
- Request for Third Party Trade Reporting and Service Set Up (CDSX857).

11.1 Entering trades

Trades are entered using the SNS mode of settlement either online, through batch trade entry or through InterLink messaging. For more information, see Methods of reporting and managing non-exchange trades on page 33. For repo trades, the participant must enter both the near and far legs of the trade.

To be eligible to be sent to CDCC for novation and netting, the following criteria must be met:

- Both parties must be eligible for novation and netting at CDCC
- Both settlement control indicators must equal Y
- Mode of settlement must equal SNS
- Must contain a repo tag number (Phase 1)
- ISIN must be eligible for CDCC novation and netting (Phase 2).

If all of these criteria are met, CDSX locks the trades and delivers them to CDCC. If trades are accepted by CDCC, CDCC instructs CDS to delete the trades. If a participant enters a trade with a mode of settlement equal to SNS and either the participant (Phase 1 and 2) and/or the security (Phase 2) are not eligible to novate and net at CDCC, the mode of settlement is automatically changed to TFT by CDSX.

11.1.1 Trades negotiated by inter-dealer brokers (IDB)

Cash and repo trades negotiated by an IDB are entered using the following processes:

- Participants whose trades have been negotiated by an IDB, must enter both the buy and sell trades (for repo trades both the near and far legs) against the IDB's clearing bank. The trades must be targeted to novate and net at CDCC. The IDB's clearing bank confirms the trades.
- IDBs can report the buyer's and seller's trades directly to CDS (for repo trades both the near and far legs should be reported). The trades are reported in a confirmed status and are set up against CDCW.

11.2 SOLA zero net

The SOLA zero net process is a real-time process that nets cash trades to zero and delivers those trades to CDCC for subsequent processing.

To be eligible for the SOLA zero net process, the following criteria must be met:

- At least one participant on the trade is SOLA zero net eligible
- The trade must be a cash trade (i.e., no repo tag number)
- The trade must be in a confirmed (C) status
- Both settlement control indicators must equal Y
- ISIN is eligible for novation and netting (Phase 2).

Once a match is found, CDSX locks the trades and delivers them to CDCC.

11.3 Modifying trades with an SNS mode of settlement

If trades are rejected by CDCC, CDCC instructs CDS to DK the trade.

If participants want trades to be reconsidered for novation and netting, participants update and reconfirm the trade either online, through batch trade entry or through InterLink messaging.

11.4 CDCC net positions and trades for settlement

Each day, CDCC instructs CDS to delete all existing netted positions in CDSX. CDCC then sends new trades with either a DK status for future dated net positions or a confirmed status for current value dated trades.

Current dated trades delivered for settlement by CDCC are considered for settlement in BNS or real-time TFT consistent with current settlement processes.

Trades delivered by CDCC are also considered for settlement by a partial settlement process (Phase 2).

Settlement process

Note: During phase one, only full trade-for-trade (TFT) settlement is available. Phase two introduces partial TFT settlement.

On value date, provided that all settlement criteria are satisfied (i.e., sufficient security position, funds and ACV are available), the real-time settlement process uses the following steps to settle a trade that has reached its value date:

5. Full settlement (i.e., the whole par value has been delivered/received) is attempted.

6. If full settlement is not possible (i.e., the receiving participant has insufficient funds/ACV or the delivering participant has an insufficient quantity available to deliver or ACV), partial settlement is attempted.

7. If partial settlement is possible, the following takes place:

   d. The trade that could not settle fully is deleted.

   e. Two new trades are created, one in settled (S) status for funds, quantity or ACV available for settlement. A second trade with the remaining quantity is created in a confirmed (C) status and is subsequently retried for settlement.

The partial settlement process settles outstanding trades at the minimum par value threshold ($10 million).

8.7 Trade processing and entitlements

The handling of outstanding trades involving securities subject to an entitlement or corporate event depends on the type of event being processed. The following general rules apply to the trade processing of events:

- Claims are created and settled on outstanding trades for distribution events. Trades with a trade type of account transfer (AT) are excluded from claims processing.
- Unsettled trades are converted to corresponding trades in the new security for mandatory events.
- CNS positions are allotted for all voluntary event types but trade conversions or claims are not processed.
- Additional trades and CNS positions are created for stock split events of unsettled trades.
- Trades with mode of settlement equal to SNS are not considered for entitlement processing.

For more information, see Claims processing on page 165 and Entitlements for trade conversions on page 167.

8.7.1 Claims processing

CDS processes claims for distribution event types for outstanding TFT trades and CNS positions based on the close-of-business results on specific trade capture dates. Claim transactions generated for outstanding TFT trades and CNS positions are identified on reports, InterLink messages and files using a transaction subtype equal to CLMS.

The table below indicates the details of the trade capture and claim processing dates by event type.

Event code	Event name	Type of CNS and TFT trade	Trade capture date	Claim processing date
DIV	Cash dividend	Canadian and U.S.	Record date	Payable date
DSC	Stock dividend (Canadian listed)	Canadian	Record date	Payable date
DSU	Stock dividend (U.S. listed)	U.S.	Due bill redemption date	Payable date
DSI	Stock dividend (interlisted)	Canadian	Record date	Payable date
		U.S.	Due bill redemption date	Due bill redemption date+1
DWO	Dividend with option	Canadian and U.S.	Record date	Payable date

- Old and new role (e.g., custodian, paying agent, transfer agent, principal agent).

2. CDS works with the old and the new participants to determine the specific details of the merge.
3. CDS helps participants fill out the necessary participant profile documentation.
4. Once all details are finalized, CDS notifies all CDS participants of the impending merge.

Special processing for participant merges

FINet trades and trades with an SNS mode of settlement are not included in the participant merge process.

If the old participant subscribes to any international service, the effective date of the merge is dependent on CDS's ability to coordinate the transition with CDS's foreign partners (e.g., DTCC).

If the new participant needs to take over services (e.g., CNS or FINet) from the old participant, the effective date of the merge is dependent on CDS's ability to secure the necessary collateral, subject to the CDSX risk model requirements.

9.2 Updating participant profiles

Participants use the following steps to update their participant profiles.

1. One or more forms belonging to the following groups of forms must be completed.
   - Company profile forms (e.g., Company Profile form (CDSX023), Unit Profile form (CDSX028)
   - Service profile forms (e.g., Ledger Profile form (CDSX027))
   - InterLink service forms.
2. Based on the details agreed to in the completed forms, CDS updates the following participant profiles:
   - Agent and agent relationship details in SMF
   - Money market issuer details in SMF, if applicable
   - Active events with appropriate agent details.
3. New participants are required to review their profile in CDSX and confirm with their customer representative that their profiles are set up as requested. For more information, see Reviewing CDS profiles on page 68.

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