The Ontario Securities Commission

OSC Bulletin

February 4, 2011

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

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1.1 Notices

1.1.1 Current Proceedings Before The Ontario Securities Commission

February 4, 2011

CURRENT PROCEEDINGS

BEFORE

ONTARIO SECURITIES COMMISSION

- -

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

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

February 8, 2011	**Ameron Oil and Gas Ltd. and MX-IV, Ltd.**
2:30 p.m.	s. 127
	H. Craig/C. Rossi in attendance for Staff
	Panel: MGC
February 11, 2011	**Shallow Oil & Gas Inc., Eric O'Brien, Abel Da Silva, Gurdip Singh Gahunia aka Michael Gahunia and**
10:00 a.m.	**Abraham Herbert Grossman aka Allen Grossman**
	s. 127(7) and 127(8)
	H. Craig in attendance for Staff
	Panel: CSP
February 11, 2011	**Borealis International Inc., Synergy Group (2000) Inc., Integrated Business Concepts Inc., Canavista**
10:00 a.m.	**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: PJL/PLK
February 11, 2011	**Marlon Gary Hibbert, Ashanti Corporate Services Inc., Dominion International Resource Management**
11:00 a.m.	**Inc., Kabash Resource Management, Power to Create Wealth Inc. and Power to Create Wealth Inc. (Panama)**
	s. 127
	S. Chandra in attendance for Staff
	Panel: EPK

February 16, 2011 2:00 p.m.	**Global Energy Group, Ltd., New Gold Limited Partnerships, 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: TBA
February 16, 2011 2:00 p.m.	**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
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: MGC
February 28, 2011 11:00 a.m.	**North American Financial Group Inc., North American Capital Inc., Alexander Flavio Arconti, and Luigino Arconti** s. 127 M. Britton in attendance for Staff Panel: EPK
March 1, 2011 2:00 p.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: PJL/SA
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 7-11, March 21-28, 2011 10:00 a.m.	**Paul Donald** s. 127 C. Price in attendance for Staff Panel: TBA
March 29, 2011 2:00 p.m.	
March 8, 2011 10:00 a.m.	**Global Consulting and Financial Services, Crown Capital Management Corporation, Canadian Private Audit Service, Executive Asset Management, Michael Chomica, Peter Siklos (Also Known As Peter Kuti), Jan Chomica, and Lorne Banks** s. 127 H. Craig/C. Rossi in attendance for Staff Panel: TBA
March 8, 2011 12:00 p.m.	**QuantFX Asset Management Inc., Vadim Tsatskin, Lucien Shtromvaser and Rostislav Zemlinsky** s. 127 H. Craig in attendance for Staff Panel: TBA

March 10, 2011 10:00 a.m.	**Alexander Christ Doulis (aka Alexander Christos Doulis, aka Alexandros Christodoulidis) and Liberty Consulting Ltd.** s. 127 S. Horgan in attendance for Staff Panel: CP/PLK
March 16, 2011 10:00 a.m.	**Rezwealth Financial Services Inc., Pamela Ramoutar, Justin Ramoutar, Tiffin Financial Corporation, Daniel Tiffin, 2150129 Ontario Inc., Sylvan Blackett, 1778445 Ontario Inc. and Willoughby Smith** s. 127(1) and (5) A. Heydon in attendance for Staff Panel: CP
March 21 and March 23-31, 2011 May 2-9 and May 11-13, 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/C. Rossi 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: JDC
April 4-7, April 11, April 13-18 and April 20, 2011 10:00 a.m.	**Uranium308 Resources Inc., Michael Friedman, George Schwartz, Peter Robinson, and Shafi Khan** s. 127 H. Craig/C.Rossi in attendance for Staff Panel: TBA
April 4-11 and April 13-15, 2011 10:00 a.m.	**L. Jeffrey Pogachar, Paola Lombardi, Alan S. Price, New Life Capital Corp., New Life Capital Investments Inc., New Life Capital Advantage Inc., New Life Capital Strategies Inc., 1660690 Ontario Ltd., 2126375 Ontario Inc., 2108375 Ontario Inc., 2126533 Ontario Inc., 2152042 Ontario Inc., 2100228 Ontario Inc., and 2173817 Ontario Inc.** 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, April 13-21, and April 27-29, 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: TBA

April 18 and April 20, 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: JDC/MCH
May 2-9, May 11-16, 2011 10:00 a.m.	**Innovative Gifting Inc., Terence Lushington, Z2A Corp., and Christine Hewitt** s. 127 C. Rossi in attendance for Staff Panel: TBA
May 4-5, 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
May 10, 2011 2:30 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
May 16-20 and May 25-31, 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: EPK/MCH
May 25-31, 2011 10:00 a.m.	**Sunil Tulsiani, Tulsiani Investments Inc., Private Investment Club Inc., and Gulfland Holdings LLC** s. 127 C. Rossi in attendance for Staff Panel: JDC/CWMS
June 6 and June 8-9, 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: JDC/CWMS
September 6-12, September 14-26 and September 28, 2011 10:00 a.m.	**Anthony Ianno and Saverio Manzo** s. 127 and 127.1 A. Clark in attendance for Staff Panel: TBA
September 12, 14-26 and September 28-30, 2011 10:00 a.m.	**FactorCorp Inc., FactorCorp Financial Inc. and Mark Twerdun** s. 127 C. Price in attendance for Staff Panel: TBA
September 14-23, September 28 – October 4, 2011 10:00 a.m.	**Juniper Fund Management Corporation, Juniper Income Fund, Juniper Equity Growth Fund and Roy Brown (a.k.a. Roy Brown-Rodrigues)** s. 127 and 127.1 D. Ferris in attendance for Staff Panel: TBA
TBA	**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 **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/C. Rossi 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 **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 **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

Abel Da Silva

s. 127

M. Boswell in attendance for Staff

Panel: TBA

TBA

Richvale Resource Corp., Marvin Winick, Howard Blumenfeld, John Colonna, Pasquale Schiavone, and Shafi Khan

s. 127(7) and 127(8)

H. Craig in attendance for Staff

Panel: TBA

TBA

Sextant Capital Management Inc., Sextant Capital GP Inc., Otto Spork, Robert Levack and Natalie Spork

s. 127

T. Center in attendance for Staff

Panel: TBA

TBA

Ameron Oil and Gas Ltd., MX-IV Ltd., Gaye Knowles, Giorgio Knowles, Anthony Howorth, Vadim Tsatskin, Mark Grinshpun, Oded Pasternak, and Allan Walker

s. 37, 127 and 127.1

H. Craig/C. Rossi in attendance for Staff

Panel: TBA

TBA

David M. O'Brien

s. 37, 127 and 127.1

B. Shulman in attendance for Staff

Panel: TBA

TBA

Paul Azeff, Korin Bobrow, Mitchell Finkelstein, Howard Jeffrey Miller and Man Kin Cheng (a.k.a. Francis Cheng)

s. 127

T. Center/D. Campbell in attendance for Staff

Panel: TBA

TBA

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: CP/PLK

TBA

Shaun Gerard McErlean and Securus Capital Inc.

s. 127

M. Britton in attendance for Staff

Panel: TBA

TBA

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

TBA

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: TBA

TBA

Helen Kuszper and Paul Kuszper

s. 127 and 127.1

U. Sheikh in attendance for Staff

Panel: TBA

TBA

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

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

1.2 Notices of Hearing

1.2.1 Marlon Gary Hibbert et al. – ss. 127(7), 127(8)

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

AND

IN THE MATTER OF
MARLON GARY HIBBERT, ASHANTI CORPORATE SERVICES INC., DOMINION INTERNATIONAL RESOURCE MANAGEMENT INC., KABASH RESOURCE MANAGEMENT, POWER TO CREATE WEALTH INC. AND POWER TO CREATE WEALTH INC. (PANAMA)

NOTICE OF HEARING
(Sections 127(7)and 127(8))

WHEREAS on January 28, 2011, the Ontario Securities Commission (the "Commission") issued a temporary cease trade order pursuant to sections 127(1) and 127(5) of the *Securities Act*, R.S.O. 1990, c. S.5, as amended (the "Act"), that all trading by Marlon Gary Hibbert, Ashanti Corporate Services Inc., Dominion International Resource Management Inc., Kabash Resource Management, Power to Create Wealth Inc. and Power to Create Wealth Inc. (Panama) (collectively the "Respondents") shall cease and that the Respondents cease trading in all securities;

TAKE NOTICE THAT the Commission will hold a hearing pursuant to subsections 127(7) and (8) of the Act at the offices of the Commission, 20 Queen Street West, 17th Floor, Hearing Room B, commencing on Friday, February 11, 2011, at 11:00 a.m., or as soon thereafter as the hearing can be held;

TO CONSIDER whether it is in the public interest for the Commission:

1) to extend the Temporary Order pursuant to subsections 127(7) and (8) of the Act until the conclusion of the hearing, or until such further time as considered necessary by the Commission;

2) to make such further orders as the Commission considers appropriate;

BY REASON OF the allegations as set out in the Temporary Order and such further additional allegations and evidence as counsel may advise and the Commission may permit;

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

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

DATED at Toronto this 28th day of January, 2011

"John Stevenson"
Secretary to the Commission

1.4 Notices from the Office of the Secretary

1.4.1 Georges Benarroch et al.

FOR IMMEDIATE RELEASE
January 26, 2011

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

AND

IN THE MATTER OF
GEORGES BENARROCH, LINDA KENT,
MARJORIE ANN GLOVER AND
CREDIFINANCE SECURITIES LIMITED

AND

IN THE MATTER OF
A DECISION OF THE INVESTMENT INDUSTRY
REGULATORY ORGANIZATION OF CANADA

TORONTO – The Commission issued an Order in the above noted matter which provides that this matter be remitted to a differently constituted IIROC hearing panel to determine the appropriate sanctions to be applied to the Applicants in the circumstances.

A copy of the Order dated January 24, 2011 is available at **www.osc.gov.on.ca**.

OFFICE OF THE SECRETARY
JOHN P. STEVENSON
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1.4.2 Rezwealth Financial Services Inc. et al.

FOR IMMEDIATE RELEASE
January 27, 2011

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

AND

IN THE MATTER OF
REZWEALTH FINANCIAL SERVICES INC.,
PAMELA RAMOUTAR, JUSTIN RAMOUTAR,
TIFFIN FINANCIAL CORPORATION,
DANIEL TIFFIN, 2150129 ONTARIO INC.,
SYLVAN BLACKETT, 1778445 ONTARIO INC.
AND WILLOUGHBY SMITH

TORONTO – The Commission issued an Order, with certain provisions, extending the Temporary Order against Rezwealth, Pamela, Justin, Tiffin Financial, Tiffin, 215 Inc. and Blackett to March 17, 2011 and adjourning the Hearing to Wednesday, March 16, 2011 at 10:00 a.m. in the above named matter.

A copy of the Order dated January 26, 2011 is available at **www.osc.gov.on.ca**.

OFFICE OF THE SECRETARY
JOHN P. STEVENSON
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1.4.3 QuantFX Asset Management Inc. et al.

FOR IMMEDIATE RELEASE
January 27, 2011

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

AND

IN THE MATTER OF
QUANTFX ASSET MANAGEMENT INC.,
VADIM TSATSKIN, LUCIEN SHTROMVASER
AND ROSTISLAV ZEMLINSKY

TORONTO – The Commission issued an Order in the above named matter which provides that the Temporary Order is extended to March 9, 2011 and that the hearing in this matter is adjourned to March 8, 2011 at 12:00 p.m. or on such other date or time as provided by the Secretary's Office and agreed to by the parties.

A copy of the Order dated January 26, 2011 is available at **www.osc.gov.on.ca**.

OFFICE OF THE SECRETARY
JOHN P. STEVENSON
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1.4.4 Mega-C Power Corporation et al.

FOR IMMEDIATE RELEASE
January 27, 2011

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

AND

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

TORONTO – The Commission issued its Reasons and Decision on Sanctions and Costs and an Order in the above noted matter.

A copy of the Reasons and Decision on Sanctions and Costs and the Order dated January 26, 2011 are available at **www.osc.gov.on.ca**.

OFFICE OF THE SECRETARY
JOHN P. STEVENSON
SECRETARY

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1.4.5 Nest Acquisitions and Mergers et al.

FOR IMMEDIATE RELEASE
January 28, 2011

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

AND

IN THE MATTER OF
NEST ACQUISITIONS AND MERGERS,
IMG INTERNATIONAL INC.,
CAROLINE MYRIAM FRAYSSIGNES,
DAVID PELCOWITZ, MICHAEL SMITH, AND
ROBERT PATRICK ZUK

TORONTO – The Commission issued an Order in the above named matter which provides that the hearing on the merits dates in this matter set for January 31 to February 11, 2011 are vacated; and the motion by Frayssignes, Nest and Zuk be heard on June 6, 2011.

A copy of the Order dated January 25, 2011 is available at **www.osc.gov.on.ca**.

OFFICE OF THE SECRETARY
JOHN P. STEVENSON
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1.4.6 Juniper Fund Management Corporation et al.

FOR IMMEDIATE RELEASE
January 28, 2011

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

AND

IN THE MATTER OF
THE JUNIPER FUND MANAGEMENT CORPORATION,
JUNIPER INCOME FUND, JUNIPER EQUITY
GROWTH FUND AND ROY BROWN
(a.k.a. ROY BROWN-RODRIGUES)

TORONTO – The Commission issued an Order in the above named matter which provides that:

(i) the hearing on the merits shall be held at the offices of the Commission on September 14, 15, 16, 19, 20, 21, 22, 23, 28, 29 and 30, 2011 and October 3 and 4, 2011, or on such other dates as may be agreed by the parties and scheduled by the Office of the Secretary; and

(ii) a further pre-hearing conference may be held on a date to be agreed by the parties and scheduled by the Office of the Secretary for the purpose of identifying agreed facts and outstanding issues.

A copy of the Order dated January 24, 2011 is available at **www.osc.gov.on.ca**.

OFFICE OF THE SECRETARY
JOHN P. STEVENSON
SECRETARY

For media inquiries:

Wendy Dey
Director, Communications & Public Affairs
416-593-8120

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

Dylan Rae
Media Relations Specialist
416-595-8934

Theresa Ebden
Senior Communications Specialist
416-593-8307

For investor inquiries:

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

1.4.7 Magna International Inc. et al.

FOR IMMEDIATE RELEASE
February 2, 2011

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

AND

IN THE MATTER OF
MAGNA INTERNATIONAL INC.

AND

IN THE MATTER OF
THE STRONACH TRUST
AND 446 HOLDINGS INC.

TORONTO – The Commission issued its Reasons For Decision and Order in the above named matter.

A copy of the Reasons For Decision and Order dated January 31, 2011, is available at **www.osc.gov.on.ca**.

OFFICE OF THE SECRETARY
JOHN P. STEVENSON
SECRETARY

For media inquiries:

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For investor inquiries:

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1-877-785-1555 (Toll Free)

1.4.8 Nelson Financial Group Ltd. et al.

FOR IMMEDIATE RELEASE
January 31, 2011

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

AND

IN THE MATTER OF
NELSON FINANCIAL GROUP LTD.,
NELSON INVESTMENT GROUP LTD.,
MARC D. BOUTET, STEPHANIE LOCKMAN SOBOL,
PAUL MANUEL TORRES, H. W. PETER KNOLL

TORONTO – The Commission issued an order which provides that the hearing for this matter is adjourned to May 16, 2011 through to May 31, 2011, excluding May 23 and 24, 2011, peremptory to the Respondents with or without counsel; and a pre-hearing conference will be held on February 25, 2011 at 11:00 a.m.

A copy of the Order dated January 31, 2011 is available at **www.osc.gov.on.ca**.

OFFICE OF THE SECRETARY
JOHN P. STEVENSON
SECRETARY

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For investor inquiries:

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

1.4.9 Marlon Gary Hibbert et al.

FOR IMMEDIATE RELEASE
January 31, 2011

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

AND

IN THE MATTER OF
MARLON GARY HIBBERT, ASHANTI CORPORATE SERVICES INC., DOMINION INTERNATIONAL RESOURCE MANAGEMENT INC., KABASH RESOURCE MANAGEMENT, POWER TO CREATE WEALTH INC. AND POWER TO CREATE WEALTH INC. (PANAMA)

TORONTO – The Office of the Secretary issued a Notice of Hearing on setting the matter down to be heard on February 11, 2011 at 11:00 a.m. to consider whether it is in the public interest for the Commission:

(1) to extend the Temporary Order pursuant to subsections 127(7) and (8) of the Act until the conclusion of the hearing, or until such further time as considered necessary by the Commission; and

(2) to make such further orders as the Commission considers appropriate.

A copy of the Notice of Hearing dated January 28, 2011 and Temporary Order dated January 28, 2011 are available at **www.osc.gov.on.ca**.

OFFICE OF THE SECRETARY
JOHN P. STEVENSON
SECRETARY

For media inquiries:

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For investor inquiries:

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

1.4.10 Andrew Rankin

FOR IMMEDIATE RELEASE
February 3, 2011

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

AND

IN THE MATTER OF
ANDREW RANKIN

TORONTO – Take notice that a hearing under s.144 of the *Securities Act* to consider an application by Andrew Rankin for a variation or revocation of the decision of the Commission dated February 21, 2008 relating to Mr. Rankin's settlement with the Ontario Securities Commission will be held on Thursday, February 17, 2011 at 10:00 a.m. in Hearing Room C, 17th Floor, 20 Queen Street West.

OFFICE OF THE SECRETARY
JOHN P. STEVENSON
SECRETARY

For media inquiries:

Wendy Dey
Director, Communications & Public Affairs
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Carolyn Shaw-Rimmington
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For investor inquiries:

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416-593-8314
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Chapter 2

Decisions, Orders and Rulings

2.1 Decisions

2.1.1 Andean Resources Limited – s. 1(10)

Headnote

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

Ontario Statutes

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

January 25, 2011

Cassels Brock & Blackwell LLP
40 King Street West
Scotia Plaza, Suite 2100
Toronto, ON M4H 3C2

Attn: Joan Beck

Dear Sirs/Mesdames:

Re: Andean Resources Limited (the Applicant) – application for a decision under the securities legislation of Ontario, Alberta, Saskatchewan, Manitoba, New Brunswick, Nova Scotia, Prince Edward Island and Newfoundland and Labrador (the Jurisdictions) that the Applicant is not a reporting issuer

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

As the Applicant has represented to the Decision Makers that:

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

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

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

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

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

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

2.1.2 Manulife Asset Management Limited

Headnote

National Policy 11-203 Process for Exemptive Relief Applications in Multiple Jurisdictions – relief granted from section 4.2 of NI 81-102 and section 13.5(2)(b) of NI 31-103 to permit inter-fund trading between mutual funds, pooled funds and closed-end funds managed by the same manager or its affiliate – Relief subject to conditions, including IRC approval and pricing requirements – certain trades involving exchange-traded securities permitted to occur at last sale price as defined in the Universal Market Integrity Rules.

Applicable Legislative Provisions

National Instrument 81-102 Mutual Funds, ss. 4.2(1), 4.3(1), 4.3(2), 19.1.
National Instrument 31-103 Registration Requirements and Exemptions, ss. 13.5, 15.1.
National Instrument 81-107 Independent Review Committee for Investment Funds, ss. 6.1(4), 6.1(2).

January 17, 2011

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
MANULIFE ASSET MANAGEMENT LIMITED
(THE FILER) AND
THE NI 81-102 FUNDS
(AS DEFINED BELOW)

DECISION

Background

The principal regulator in the Jurisdiction has received an application (the **Application**) from the Filer on behalf of the existing and future mutual funds of which the Filer, or an affiliate of the Filer (collectively, the **Investment Portfolio Managers**) is, or will be, the manager and to which National Instrument 81-102 – *Mutual Funds* (**NI 81-102**) applies (the **NI 81-102 Funds**) for a decision (the **Exemption Sought**) under the securities legislation of the Jurisdiction of the principal regulator (the **Legislation**) exempting the NI 81-102 Funds from the prohibition in Section 4.2(1) of NI 81-102 to permit the NI 81-102 Funds to purchase debt securities from or sell debt securities to the following investment funds managed by the Investment Portfolio Managers:

(a) an existing or future mutual fund that is an associate of the Investment Portfolio Manager of the NI 81-102 Fund and to which NI 81-102 and National Instrument 81-107 – *Independent Review Committee for Investment Funds* (**NI 81-107**) do not apply (collectively, the **Pooled Funds**); and

(b) an existing or future investment fund that is an associate of the Investment Portfolio Manager of the NI 81-102 Fund and to which NI 81-107 applies but to which NI 81-102 does not apply (collectively, the **Closed-End Funds** and, together with NI 81-102 Funds and the Pooled Funds, the **Funds**),

(collectively the **Inter-Fund Trades**).

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

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

(b) the Filer has provided notice that Section 4.7 of Multilateral Instrument 11-102 – *Passport System* (**MI 11-102**) is intended to be relied upon in respect of the Exemption Sought in each of the other Provinces and Territories of Canada (together with Ontario, the **Passport Jurisdictions**).

Terms defined in the Legislation, National Instrument 14-101 – *Definitions*, NI 81-102 or NI 81-107 have the same meanings in this decision, unless otherwise defined.

Representations

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

1. The Filer is a corporation incorporated under the laws of Ontario, with its registered head office located in Toronto, Ontario. The Filer is an indirect-wholly owned subsidiary of Manulife Financial Corporation.

2. The Filer is registered in the categories of commodity trading manager, exempt market dealer, mutual fund dealer, portfolio manager and investment fund manager.

3. Each Fund is, or will be, an investment fund that is a trust, a corporation or a limited partnership that is established under the laws of Ontario, Canada or other jurisdiction of Canada.

4. An Investment Portfolio Manager acts, or will act, as the investment fund manager of the Funds. An Investment Portfolio Manager may act as the portfolio advisor of the Funds. An Investment

Portfolio Manager may also act as the trustee of a Fund constituted as a trust.

5. A Fund's reliance on the Exemption Sought will be compatible with its investment objective and strategies.

6. Each NI 81-102 Fund is, or will be, a reporting issuer in one or more Passport Jurisdictions whose securities are, or will be, qualified for distribution pursuant to prospectuses and annual information forms that have been, or will be, prepared and filed in accordance with the securities legislation of those Passport Jurisdictions.

7. Each Closed-End Fund is, or will be, a reporting issuer in Ontario and one or more of the other Passport Jurisdictions whose securities are, or will be, qualified for distribution pursuant to prospectuses that have been, or will be, prepared and filed in accordance with the securities legislation of Ontario and those other Passport Jurisdictions.

8. The securities of each of the Pooled Funds are, or will be, distributed on a private placement basis pursuant to the Legislation and the Pooled Funds will not be reporting issuers.

9. The Filer and each of the existing NI 81-102 Funds are not in default of securities legislation, except to the extent the Filer or an existing NI 81-102 Fund engaged in certain related issuer trades ("**Related Issuer Trades**") before the date of this decision document and following the expiry of previously obtained exemptive relief dated December 19, 2002 relating to the investment by the Funds in debt securities of related issuers. The Related Issuer Trades were reviewed by the relevant IRC (as defined below) and each IRC was satisfied that the Related Issuer Trades were made uninfluenced by considerations other than the best interests of the Funds involved.

10. A Fund may be an associate of an Investment Portfolio Manager.

11. Each NI 81-102 Fund and Closed-End Fund has, or will have, an independent review committee (an **IRC**) in accordance with the requirements of NI 81-107. Each Inter-Fund Trade by a NI 81-102 Fund or a Closed-End Fund will be authorized by the relevant IRC of the NI 81-102 Fund or Closed-End Fund under Section 5.2 of NI 81-107 and the manager and the IRC of the NI 81-102 Fund or the Closed-End Fund, as applicable, will comply with section 5.4 of NI 81-107 in respect of any standing instructions the IRC provides in connection with the Inter-Fund Trade.

12. Though the Pooled Funds are not, or will not be, subject to the requirements of NI 81-107, each Pooled Fund has, or will have, an IRC at the time the Pooled Fund makes an Inter-Fund Trade. All existing Pooled Funds have already established an IRC in order to comply with conditions attached to discretionary relief obtained by the Pooled Funds for other purposes (the **Pooled Fund Existing Relief**). The mandate of the IRC of each Pooled Fund will include approving Inter-Fund Trades between the Pooled Fund and another Fund.

13. The IRC of a Pooled Fund will be composed in accordance with Section 3.7 of NI 81-107 and will be expected to comply with the standard of care set out in Section 3.9 of NI 81-107. The IRC of a Pooled Fund will not approve an Inter-Fund Trade between a Pooled Fund and another Fund unless the IRC has made the determination set out in Section 5.2(2) of NI 81-107.

14. If the IRC of a Pooled Fund becomes aware of an instance where the Filer or an affiliate of the Filer, as manager of the Pooled Fund, did not comply with the terms of this decision or a condition imposed by securities legislation or the IRC in its approval, the IRC of the Pooled Fund will, as soon as practicable, notify in writing the securities regulatory authority or regulator in the jurisdiction under which the Pooled Fund is organized.

15. At the time of an Inter-Fund Trade, each Investment Portfolio Manager will have in place policies and procedures to enable the NI 81-102 Funds to engage in Inter-Fund Trades with Closed-End Funds or Pooled Funds.

16. When an Investment Portfolio Manager engages in an Inter-Fund Trade it will follow the following procedures:

    (a) in respect of a purchase or a sale of a security by a Fund (**Portfolio A**), the portfolio manager of the Investment Portfolio Manager will either place the trade directly or will deliver the trade instructions to a trader on a trading desk of the Investment Portfolio Manager;

    (b) in respect of a sale or a purchase of a security by another Fund (**Portfolio B**) the portfolio manager of the Investment Portfolio Manager will either place the trade directly or will deliver the trade instructions to a trader on a trading desk of the Investment Portfolio Manager;

    (c) each portfolio manager of the Investment Portfolio Manager will request the approval of the chief compliance officer of the Investment Portfolio Manager (or his or her designated alternate during periods when it is not practicable for the chief compliance officer to address the

matter) (the **CO**) to execute the trade as an Inter-Fund Trade;

(d) once the portfolio manager or trader on the trading desk has confirmed the approval of the CO, the portfolio manager or the trader on the trading desk will have the discretion to execute the trade as an Inter-Fund Trade between Portfolio A and Portfolio B in accordance with the requirements of paragraphs (c) to (g) of subsection 6.1(2) of NI 81-107;

(e) the policies applicable to the portfolio manager and the trading desk of the Investment Portfolio Manager will require that all Inter-Fund Trade orders are to be executed on a timely basis and will remain open only for 30 days unless the portfolio manager cancels the order sooner; and

(f) the portfolio manager or the trader on a trading desk will advise the Investment Portfolio Manager of the price at which the Inter-Fund Trade occurred.

17. The Filer has determined that it would be in the best interests of the NI 81-102 Funds to receive the Exemption Sought for the following reasons:

(a) it will result in cost and timing efficiencies in respect of the execution of transactions for the NI 81-102 Funds; and

(b) it will result in less complicated and more reliable compliance procedures, as well as simplified and more efficient monitoring thereof, for an Investment Portfolio Manager, in connection with the execution of transactions on behalf of NI 81-102 Funds.

18. The NI 81-102 Funds cannot rely upon the exemption from Section 4.2(1) of NI 81-102 for Inter-Fund Trades in debt securities codified in paragraph 4.3(2) of NI 81-102 because (i) the Pooled Funds are not subject to NI 81-107 and (ii) a Closed-End Fund is not a mutual fund.

Decision

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

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

(a) the IRC of each Fund that is a party to the Inter-Fund Trade has approved the Inter-Fund Trade in respect of such Fund in accordance with the terms of Section 5.2(2) of NI 81-107; and

(b) the Inter-Fund Trade complies with paragraphs (c) to (g) of subsection 6.1(2) of NI 81-107.

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

2.1.3 Manulife Asset Management Limited

Headnote

National Policy 11-203 – Process for Exemptive Relief Applications in Multiple Jurisdictions – Related issuer relief and fund on fund relief – related issuer relief conditional on IRC approval, compliance with independent pricing and transparency requirements, investment restrictions for primary offerings – fund on fund relief conditional on compliance with requirements similar to section 2.5 of NI 81-102.

Applicable Legislative Provisions

Securities Act (Ontario), ss. 111(2)(a), 111(2)(b) 111(2)(c)(ii), 111(3), 113.
National Instrument 31-103 Registration Requirements and Exemptions, ss. 13.5(2)(a), 15.
National Instrument 81-107 Independent Review Committee for Investment Funds, s. 6.2.

January 18, 2011

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
MANULIFE ASSET MANAGEMENT LIMITED
(THE FILER) AND THE FUNDS
(AS DEFINED BELOW)

DECISION

Background

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

(a) the Mutual Funds (as defined below) from the requirements of securities legislation (the **Related Issuer Requirements**) that prohibit a mutual fund from knowingly making or holding an investment: (i) in any person or company who is a substantial securityholder of the mutual fund, its management company or distribution company; or (ii) in any person or company in which the mutual fund, alone or together with one or more related mutual funds, is a substantial securityholder; or (iii) in an issuer in which any person or company who is a substantial securityholder of the mutual fund, its management company or distribution company has a significant interest, to permit the following proposed transactions (the **Related Issuer Relief**):

  (i) the Mutual Funds to invest in non-exchange-traded debt securities of Manulife Financial Corporation (**MFC**) and The Manufacturers Life Insurance Company (**MLI**), each of which is a substantial securityholder of the Filer, and of other issuers in which MFC or MLI has a significant interest (these issuers, together with MFC and MLI, the **Related Issuers**) in the secondary market or on a primary distribution or treasury offering (a **Primary Offering**); and

  (ii) the Pooled Funds (as defined below) to invest in:

    (A) exchange-traded securities of Related Issuers in the secondary market; and

    (B) securities of other Pooled Funds (the **Underlying Funds**); and

(b) the Filer, or an affiliate of the Filer, as the registered adviser of a Fund (each, an **Investment Portfolio Manager**), from the prohibition in Section 13.5(2)(a) of National Instrument 31-103 – *Registration Requirements and Exemptions* (**NI 31-103**) against a registered adviser 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 a partner, officer or director unless the specific fact is disclosed to the client and the written consent of the client is obtained, to permit the following proposed transactions (the **NI 31-103 Relief**):

(i) the Funds to purchase non-exchange-traded debt securities of Related Issuers in the secondary market or on a Primary Offering; and

(ii) the Pooled Funds to purchase:

(A) exchange-traded securities of Related Issuers in the secondary market; and

(B) securities of the Underlying Funds.

The proposed transactions outlined above are referred to below as the **Related Issuer Transactions**.

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

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

(b) the Filer has provided notice that subsection 4.7(2) of Multilateral Instrument 11-102 *Passport System* (**MI 11-102**) is intended to be relied upon in Alberta in respect of the Related Issuer Relief, and in each of the Provinces and Territories of Canada other than Ontario (together with Ontario, the Passport Jurisdictions) in respect of the NI 31-103 Relief.

Interpretation

Terms defined in the Legislation, MI 11-102, National Instrument 14-101 – *Definitions*, NI 31-103, National Instrument 81-102 – *Mutual Funds* (**NI 81-102**) or National Instrument 81-107 – *Independent Review Committee for Investment Funds* (**NI 81-107**) have the same meanings in this decision, unless otherwise defined.

Funds means the following existing or future investment funds of which the Filer or an affiliate of the Filer is the manager: existing or future mutual funds to which NI 81-102 and NI 81-107 apply (the **NI 81-102 Funds**); existing or future mutual funds to which NI 81-102 and NI 81-107 do not apply (the **Pooled Funds** and, together with the **NI 81-102 Funds**, the **Mutual Funds**); and existing or future investment funds to which NI 81-107 applies but to which NI 81-102 does not apply (the **Closed-End Funds**).

Representations

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

The Investment Portfolio Managers

1. The Filer is a corporation incorporated under the laws of Ontario, with its registered head office located in Toronto, Ontario. The Filer is an indirect wholly-owned subsidiary of MLI, which in turn is a wholly-owned subsidiary of MFC.

2. The Filer is registered in the categories of commodity trading manager, exempt market dealer, mutual fund dealer, portfolio manager and investment fund manager.

3. An Investment Portfolio Manager acts, or will act, as the investment fund manager of the Funds. An Investment Portfolio Manager acts, or will act, as the portfolio advisor of the Funds. An Investment Portfolio Manager may also act as the trustee of a Fund constituted as a trust.

4. The Filer and each of the existing Funds are not in default of securities legislation, except to the extent that (i) an NI 81-102 Fund engaged in related issuer trades (**Related Issuer Trades**) before the date of this decision document and following the expiry of previously obtained exemptive relief dated December 19, 2002 relating to the investment by the Funds in debt securities of related issuers (the **2002 Relief**); and (ii) a Pooled Fund engaged in Related Issuer Trades or fund on fund trades before the date of this decision document. The Related Issuer Trades involved the purchase by certain NI 81-102 Funds and Pooled Funds of non-exchanged traded debt securities of affiliates of the Filer (certain of which would have been permitted by the 2002 Relief). Such Related Issuer Trades were reviewed and approved by

the relevant IRC (as defined below) and each IRC was satisfied that the Related Issuer Trades were made uninfluenced by considerations other than the best interests of the Funds involved.

The Funds

5. Each Fund is or will be, an investment fund that is a trust, a corporation or a limited partnership that is established under the laws of Ontario, Canada or other jurisdiction of Canada.

6. Each Mutual Fund is or will be, a mutual fund in Ontario under the Legislation.

7. A Fund's reliance on the Exemption Sought will be compatible with its investment objective and strategies.

8. Each NI 81-102 Fund is, or will be, a reporting issuer in one or more Passport Jurisdictions whose securities are, or will be, qualified for distribution pursuant to prospectuses and annual information forms that have been, or will be, prepared and filed in accordance with the securities legislation of those Passport Jurisdictions.

9. Each Closed-End Fund is, or will be, a reporting issuer in Ontario and one or more of the other Passport Jurisdictions whose securities are, or will be, qualified for distribution pursuant to prospectuses that have been, or will be, prepared and filed in accordance with the securities legislation of Ontario and those other Passport Jurisdictions.

10. The securities of each of the Pooled Funds are, or will be, distributed on a private placement basis pursuant to the Legislation and the Pooled Funds will not be reporting issuers.

Substantial Securityholders, Significant Issuers and Common Officers/Directors

11. MFC and MLI are both substantial securityholders of the Filer. MFC has a significant interest in MLI and may have a significant interest in other issuers, including an Underlying Fund. MLI may also have a significant interest in other issuers.

12. Officers and directors of an Investment Portfolio Manager that is the registered adviser of a Fund may also be officers and directors of a Related Issuer or an Underlying Fund.

13. A Pooled Fund, alone or together with one or more Pooled Funds, may be a substantial securityholder of an Underlying Fund.

The Independent Review Committees of the Funds

14. Each NI 81-102 Fund and Closed-End Fund has, or will have, an independent review committee (an **IRC**) in accordance with the requirements of NI 81-107. Each Related Issuer Transaction involving a NI 81-102 Fund or a Closed-End Fund will be authorized by the relevant IRC of the NI 81-102 Fund or Closed-End Fund under Section 5.2 of NI 81-107 and the manager and the IRC of the NI 81-102 Fund or the Closed-End Fund, as applicable, will comply with section 5.4 of NI 81-107 in respect of any standing instructions the IRC provides in connection with the Related Issuer Transaction.

15. Though the Pooled Funds are not, or will not be, subject to the requirements of NI 81-107, each Pooled Fund has, or will have, an IRC at the time the Pooled Fund conducts a Related Issuer Transaction. All existing Pooled Funds have already established an IRC in order to comply with conditions attached to the 2002 Relief. The mandate of the IRC of each Pooled Fund will include approving Related Issuer Transactions involving a Pooled Fund, other than investments in Underlying Funds.

16. The IRC of a Pooled Fund will now be composed in accordance with Section 3.7 of NI 81-107 and will now be expected to comply with the standard of care set out in Section 3.9 of NI 81-107. The IRC of a Pooled Fund will not approve a Related Issuer Transaction subject to its mandate unless the IRC has made the determination set out in Section 5.2(2) of NI 81-107.

17. If the IRC of a Pooled Fund becomes aware of an instance where the Filer or an affiliate of the Filer, as manager of the Pooled Fund, did not comply with the terms of this decision or a condition imposed by securities legislation or the IRC in its approval, the IRC of the Pooled Fund will, as soon as practicable, notify in writing the securities regulatory authority or regulator in the jurisdiction under which the Pooled Fund is organized.

Investment in Securities of Related Issuers

18. The Related Issuers are or may be issuers of highly rated commercial paper and debt instruments. The Filer considers that it would be in the best interest of the Funds to have access to non-exchange-traded debt securities of the Related Issuers for the following reasons:

    (a) there is a limited supply of highly rated corporate debt;

    (b) diversification is reduced to the extent that a Fund is limited with respect to investment opportunities; and

    (c) to the extent that a Fund is trying to track or outperform a benchmark, it is important for the Fund to be able to purchase any securities included in the benchmark. Debt securities of Related Issuers are included in certain Canadian indices and may also be included in foreign debt indices.

19. Section 6.2(2) of NI 81-107 provides relief from the Related Issuer Requirements and Section 13.5(2)(a) of NI 31-103 for the NI 81-102 Funds and the Closed-End Funds, as applicable, but only if, among other conditions, the purchase is made on an exchange on which the securities of the issuer are listed and traded, which may not be the case with debt securities.

20. As the Pooled Funds are not subject to NI 81-107, the exemption from the Related Issuer Requirements and section 13.5(2)(a) of NI 31-103 under Section 6.2(2) of NI 81-107 is not available to the Pooled Funds.

21. The Exemption Sought would permit the Funds to have the same ability to purchase debt and equity securities of Related Issuers in the secondary market and to purchase certain debt securities of Related Issuers in a Primary Offering.

22. Each non-exchange-traded debt security of a Related Issuer purchased by a Fund in the secondary market will have, at the time of the purchase, an “approved credit rating” by an “approved credit rating organization” within the meaning of those terms in NI 81-102.

23. The debt securities of Related Issuers that are purchased by a Fund in a Primary Offering will be non-exchange-traded debt securities, other than asset backed commercial paper securities, with a term to maturity of 365 days or more, the issuer of which has been given and continues to have, at the time of purchase, an “approved credit rating” by an “approved credit rating organization” and will be purchased in a Primary Offering where the terms, such as the size and the pricing, will be a matter of public record as evidenced in a prospectus, offering memorandum, press release or other public document.

Investment in Underlying Funds by the Pooled Funds

24. The Filer believes investment by the Pooled Funds in the Underlying Funds will be in the best interests of the Pooled Funds and help them achieve their investment objective on a diversified basis and obtain broad exposure to the asset classes each proposes to invest in. Investing directly in the securities held by the Underlying Funds is a less desirable option owing to the increased costs and inefficiencies that are associated with such direct investing. Investment by the Pooled Funds in the Underlying Funds will also increase the asset base of the Underlying Funds, enabling the Underlying Funds to further diversify their portfolios and achieve economies of scale.

25. Each Pooled 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 Pooled Fund’s investment objective, as well as to alter its holdings in any Underlying Fund in which it invests.

26. Relief from the Related Issuer Requirements is necessary because the amounts invested from time to time in an Underlying Fund by a Pooled Fund may exceed 20% of the outstanding voting securities of any single Underlying Fund. Accordingly, each Pooled Fund could, either alone or together with other Pooled Funds, become a substantial securityholder of an Underlying Fund. Relief is also required as the Filer, or a substantial securityholder of the Filer, may have a significant interest in an Underlying Fund. Accordingly, each Pooled Fund would be prohibited from investing in such Underlying Funds, unless relief from the Related Issuer Requirements is granted.

27. In the absence of relief from Section 13.5(2)(a) of NI 31-103, an Investment Portfolio Manager of a Pooled Fund would also be prohibited from knowingly causing the Pooled Fund to invest in Underlying Funds that have officers or directors in common with the Investment Portfolio Manager of the Pooled Fund without prior disclosure and consent.

28. Investors in a Pooled Fund will be entitled to receive from the Filer, on request and free of charge, a copy of any offering memorandum or other disclosure document and, once available, the annual and semi-annual financial statements, for all Underlying Funds in which the Pooled Fund may invest its assets.

29. Investors in a Pooled Fund will also be provided with annual financial statements of the Pooled Fund in accordance with securities legislation, including an auditor's report.

30. As the Pooled Funds are not subject to NI 81-102, the exemption from the Related Issuer Requirements and section 13.5(2)(a) of NI 31-103 under Section 2.5(7) of NI 81-102 is not available to them.

Related Issuer Transactions

31. Each Related Issuer Transaction conducted by a Fund will represent the business judgment of 'responsible persons' uninfluenced by considerations other than the best interests of the Funds.

The 2002 Relief

32. The 2002 Relief was granted in a decision document dated December 19, 2002.

33. The Filer is seeking the Exemption Sought to vary the 2002 Relief as it applies to the Pooled Funds by updating it. This decision updates the 2002 Relief by:

    (a) extending the relief to permit investments in Related Issuers beyond those contemplated by the 2002 Relief;

    (b) permitting the investment by a Pooled Fund in an Underlying Fund; and

    (c) conforming the representations and conditions to those of more recent decisions which have granted exemptive relief similar to the Exemption Sought.

34. As of the date of this decision, the Pooled Funds will no longer rely on the 2002 Relief which, as of the date of this decision, will be considered succeeded by this decision.

Decision

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

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

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

    (a) the purchase or holding is consistent with, or is necessary to meet, the investment objective of the Pooled Fund;

    (b) at the time of the purchase, the IRC of the Pooled Fund has approved the investment in accordance with Section 5.2(2) of NI 81-107;

    (c) the manager of the Pooled Fund complies with section 5.1 of NI 81-107 and the manager and the IRC of the Pooled Fund comply with section 5.4 of NI 81-107 for any standing instructions the IRC provides in connection with the investment;

    (d) the purchase is made on an exchange on which the securities are listed and traded;

    (e) the transaction complies with any applicable "market integrity requirements" as defined in NI 81-107; and

    (f) no later than the 90th day after the financial year-end of the Pooled Fund, the Filer, or an affiliate of the Filer, as manager of the Pooled Fund, files with the securities regulatory authority or regulator the particulars of any such investments;

2. to permit a Pooled Fund to make and hold an investment in an Underlying Fund on the following conditions:

(a) securities of each Pooled Fund are distributed only on a private placement basis pursuant to available exemptions from the prospectus and dealer registration requirements;

(b) the investment is consistent with, or is necessary to meet, the investment objective of the Pooled Fund;

(c) each Pooled Fund does not vote any of the securities it holds of an Underlying Fund except that the Pooled Fund may, if the Filer so chooses, arrange for all the securities it holds of an Underlying Fund to be voted by the beneficial holders of securities of the Pooled Fund;

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

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

(f) investors in each Pooled Fund receive written disclosure that discloses:

(i) the intent of the Pooled Fund to invest its assets directly or indirectly in securities of the Underlying Funds;

(ii) that the Underlying Funds are managed by the Filer or an affiliate of the Filer;

(iii) the percentage of net assets of the Pooled Fund dedicated to the investment in securities of the Underlying Funds; and

(iv) the process or criteria used to select the Underlying Funds.

3. to permit a Fund to make and hold an investment in non-exchange-traded debt securities of a Related Issuer in the secondary market on the following conditions:

(a) the purchase or holding is consistent with, or is necessary to meet, the investment objective of the Fund;

(b) at the time of the purchase, the IRC of the Fund has approved the investment in accordance with Section 5.2(2) of NI 81-107;

(c) the manager of the Fund complies with section 5.1 of NI 81-107 and the manager and the IRC of the Fund comply with section 5.4 of NI 81-107 for any standing instructions the IRC provides in connection with the investment;

(d) the security has been given and continues, at the time of the purchase, to have an “approved credit rating” by an “approved credit rating organization” within the meaning of those terms in NI 81-102;

(e) the price payable for the security is not more than the ask price of the security;

(f) the ask price of the security is determined as follows:

(i) if the purchase occurs on a marketplace, the price payable is determined in accordance with the requirements of that marketplace; or

(ii) if the purchase does not occur on a marketplace,

(A) the Fund may pay the price for the security at which an independent, arm’s-length seller is willing to sell the security; or

(B) if the Fund does not purchase the security from an independent arm’s-length seller, the Fund must pay the price quoted publicly by an independent marketplace or obtain, immediately before the purchase, at least one quote from an independent, arm’s-length purchaser or seller and not pay more than that quote;

(g) the transaction complies with any applicable “market integrity requirements” as defined in NI 81-107; and

(h) no later than the time the Fund files its annual financial statements, in the case of a NI 81-102 Fund or a Closed-End Fund, and no later than the 90th day after each financial year-end, in the case of a Pooled Fund,

the Filer, or an affiliate of the Filer, as manager of the Fund, files with the securities regulatory authority or regulator the particulars of any such investments;

4. to permit a Fund to make and hold an investment in non-exchange-traded debt securities of Related Issuer in a Primary Offering on the following conditions:

   (a) the purchase or holding is consistent with, or is necessary to meet, the investment objective of the Fund;

   (b) at the time of the purchase, the IRC of the Fund has approved the investment in accordance with Section 5.2(2) of NI 81-107;

   (c) the manager of the Fund complies with section 5.1 of NI 81-107 and the manager and the IRC of the Fund comply with section 5.4 of NI 81-107 for any standing instructions the IRC provides in connection with the investment;

   (d) the size of the Primary Offering is at least $100 million;

   (e) at least 2 purchasers who are independent, arm's-length purchasers, which may include "independent underwriters" within the meaning of National Instrument 33-105 - Underwriting Conflicts, collectively purchase at least 20% of the Primary Offering;

   (f) no Fund shall participate in the Primary Offering if following its purchase the Fund would have more than 5% of its net assets invested in non-exchange-traded debt securities of a Related Issuer;

   (g) no Fund shall participate in the Primary Offering if following its purchase the Fund together with related Funds will hold more than 20% of the securities issued in the Primary Offering;

   (h) the price paid for the securities by a Fund in the Primary Offering shall be no higher than the lowest price paid by any of the arm's-length purchasers who participate in the Primary Offering; and

   (i) no later than the time the Fund files its annual financial statements, in the case of a NI 81-102 Fund or a Closed-End Fund, and no later than the 90th day after each financial year-end, in the case of a Pooled Fund, the Filer, or an affiliate of the Filer, as manager of the Fund, files with the securities regulatory authority or regulator the particulars of any such investments.

Related Issuer Relief

"Paulette L. Kennedy"
Commissioner
Ontario Securities Commission

"Mary G. Condon"
Commissioner
Ontario Securities Commission

NI 31-103 Relief

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

2.1.4 Manulife Asset Management Limited

Headnote

National Policy 11-203 Process for Exemptive Relief Applications in Multiple Jurisdictions – relief granted from section 4.2 of NI 81-102 and section 13.5(2)(b) of NI 31-103 to permit inter-fund trading between mutual funds, pooled funds and closed-end funds managed by the same manager or its affiliate – Relief subject to conditions, including IRC approval and pricing requirements – certain trades involving exchange-traded securities permitted to occur at last sale price as defined in the Universal Market Integrity Rules.

Applicable Legislative Provisions

National Instrument 81-102 Mutual Funds, ss. 4.2(1), 4.3(1), 4.3(2), 19.1.
National Instrument 31-103 Registration Requirements and Exemptions, ss. 13.5, 15.1.
National Instrument 81-107 Independent Review Committee for Investment Funds, ss. 6.1(4), 6.1(2).

January 17, 2011

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
MANULIFE ASSET MANAGEMENT LIMITED
(THE FILER) AND THE FUNDS
(AS DEFINED BELOW)

DECISION

Background

The principal regulator in the Jurisdiction has received an application (the **Application**) from the Filer for a decision (the **Exemption Sought**) under the securities legislation of the Jurisdiction of the principal regulator (the **Legislation**) exempting the Filer, or an affiliate of the Filer, as the registered adviser of a Fund (each, an **Investment Portfolio Manager**), from the prohibition in Section 13.5(2)(b) of National Instrument 31-103 – *Registration Requirements and Exemptions* (**NI 31-103**) (the **Trading Prohibition**) 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 or sell the securities of any issuer from or to the investment portfolio of an associate of a responsible person or any investment fund for which a responsible person acts as an adviser, to permit:

(i) a NI 81-102 Fund (as defined below) to purchase securities from or sell securities to:

(A) another NI 81-102 Fund where the second NI 81-102 Fund is:

(I) an associate of the Investment Portfolio Responsible Person (as defined below) of the first NI 81-102 Fund; or

(II) an investment fund for which an Investment Portfolio Responsible Person of the first NI 81-102 Fund acts as an adviser;

and where the purchase or sale takes place at the Last Sale Price (as defined below), rather than the Closing Sale Price (as defined below);

(B) a Closed End Fund (as defined below) that is:

(I) an associate of the Investment Portfolio Responsible Person of the NI 81-102 Fund; or

(II) an investment fund for which an Investment Portfolio Responsible Person of the NI 81-102 Fund acts as an adviser;

and where the purchase or sale takes place at the Last Sale Price, rather than the Closing Sale Price;

(C) a Pooled Fund (as defined below) that is:

(I) an associate of the Investment Portfolio Responsible Person of the NI 81-102 Fund; or

(II) an investment fund for which an Investment Portfolio Responsible Person of the NI 81-102 Fund acts as an adviser;

(ii) a Pooled Fund to purchase securities from, or sell securities to, another Fund that is:

(A) an associate of an Investment Portfolio Responsible Person of the Pooled Fund; or

(B) an investment fund for which an Investment Portfolio Responsible Person of the Pooled Fund acts as an adviser; and

(iii) a Closed-End Fund to purchase securities from, or sell securities to:

(A) another Closed-End Fund where the second Closed-End Fund is:

(I) an associate of an Investment Portfolio Responsible Person of the first Closed-End Fund; or

(II) an investment fund for which an Investment Portfolio Responsible Person of the first Closed-End Fund acts as an adviser,

and where the purchase or sale takes place at the Last Sale Price, rather than the Closing Sale Price;

(B) an NI 81-102 Fund where the NI 81-102 Fund is:

(I) an associate of an Investment Portfolio Responsible Person of the Closed-End Fund; or

(II) an investment fund for which an Investment Portfolio Responsible Person of the Closed-End Fund acts as an adviser,

and where the purchase or sale takes place at the Last Sale Price, rather than the Closing Sale Price;

(C) a Pooled Fund that is:

(I) an associate of an Investment Portfolio Responsible Person of the Closed-End Fund; or

(II) an investment fund for which an Investment Portfolio Responsible Person of the Closed-End Fund acts as an adviser;

(the **Inter-Fund Trades**); and

(iv) an Inter-Fund Trade to be executed at the last sale price, as defined in the Market Integrity Rules of the Investment Industry Regulatory Organization of Canada, prior to the execution of the Inter-Fund Trade (the **Last Sale Price**) in lieu of the closing sale price (the **Closing Sale Price**) contemplated by the definition of "current market price of the security" in section 6.1(1)(a)(i) of NI 81-107 on that trading day where the securities involved in the Inter-Fund Trade are exchange-traded securities (which term shall include Canadian and foreign exchange-traded securities).

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

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

(b) the Filer has provided notice that Section 4.7 of Multilateral Instrument 11-102 – *Passport System* (**MI 11-102**) is intended to be relied upon in respect of the Exemption Sought in each of the other Provinces and Territories of Canada (together with Ontario, the **Passport Jurisdictions**).

Interpretation

Terms defined in the Legislation, National Instrument 14-101 – *Definitions*, NI 31-103, National Instrument 81-102 – *Mutual Funds* (**NI 81-102**) or National Instrument 81-107 – *Independent Review Committee for Investment Funds* (**NI 81-107**) have the same meanings in this decision, unless otherwise defined.

Funds means the following existing and future investment funds of which the Filer, or an affiliate of the Filer, is the manager: existing or future mutual funds to which NI 81-102 applies (the **NI 81-102 Funds**); existing or future mutual funds to which NI 81-102 and NI 81-107 do not apply (the **Pooled Funds**); and existing or future investment funds to which NI 81-107 applies but to which NI 81-102 does not apply.

Investment Portfolio Responsible Person for a Fund means either the Investment Portfolio Manager as the registered adviser of the Fund or an affiliate of such Investment Portfolio Manager that has access to, or participates in formulating, an investment decision made on behalf of the Fund.

Representations

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

1. The Filer is a corporation incorporated under the laws of Ontario, with its registered head office located in Toronto, Ontario. The Filer is an indirect-wholly owned subsidiary of Manulife Financial Corporation.

2. The Filer is registered in the categories of commodity trading manager, exempt market dealer, mutual fund dealer, portfolio manager and investment fund manager.

3. Each Fund is, or will be, an investment fund that is a trust, a corporation or a limited partnership that is established under the laws of Ontario, Canada or other jurisdiction of Canada.

4. An Investment Portfolio Manager acts, or will act, as the investment fund manager of the Funds. An Investment Portfolio Manager acts, or will act, as the portfolio advisor of the Funds. An Investment Portfolio Manager may also act as the trustee of a Fund constituted as a trust.

5. A Fund's reliance on the Exemption Sought will be compatible with its investment objective and strategies.

6. Each NI 81-102 Fund is, or will be, a reporting issuer in one or more Passport Jurisdictions whose securities are, or will be, qualified for distribution pursuant to prospectuses and annual information forms that have been, or will be, prepared and filed in accordance with the securities legislation of those Passport Jurisdictions.

7. Each Closed-End Fund is, or will be, a reporting issuer in Ontario and one or more of the other Passport Jurisdictions whose securities are, or will be, qualified for distribution pursuant to prospectuses that have been, or will be, prepared and filed in accordance with the securities legislation of Ontario and those other Passport Jurisdictions.

8. The securities of each of the Pooled Funds are, or will be, distributed on a private placement basis pursuant to the Legislation and the Pooled Funds will not be reporting issuers.

9. The Filer and each of the existing Funds are not in default of securities legislation, except to the extent that (i) an NI 81-102 Fund engaged in related issuer trades (**Related Issuer Trades**) before the date of this decision document and following the expiry of previously obtained exemptive relief dated December 19, 2002 relating to the investment by the Funds in debt securities of related issuers (the **2002 Relief**); and (ii) a Pooled Fund engaged in Related Issuer Trades or fund on fund trades before the date of this decision document. The Related Issuer Trades involved the purchase by certain NI 81-102 Funds and Pooled Funds of non-exchanged traded debt securities of affiliates of the Filer (certain of which would have been permitted by the 2002 Relief). Such Related Issuer Trades were reviewed and approved by the relevant IRC (as defined below) and each IRC was satisfied that the Related Issuer Trades were made uninfluenced by considerations other than the best interests of the Funds involved.

10. A Fund may be an associate of an Investment Portfolio Responsible Person.

11. Each NI 81-102 Fund and Closed-End Fund has, or will have, an independent review committee (an **IRC**) in accordance with the requirements of NI 81-107. Each Inter-Fund Trade by a NI 81-102 Fund or a Closed-End Fund will be authorized by the relevant IRC of the NI 81-102 Fund or Closed-End Fund under Section 5.2 of NI 81-107 and the manager and the IRC of the NI 81-102 Fund or the Closed-End Fund, as applicable, will comply with section 5.4 of NI 81-107 in respect of any standing instructions the IRC provides in connection with the Inter-Fund Trade.

12. Though the Pooled Funds are not, or will not be, subject to the requirements of NI 81-107, each Pooled Fund has, or will have, an IRC at the time the Pooled Fund makes an Inter-Fund Trade. All Existing Pooled Funds have already established an IRC in order to comply with conditions attached to the 2002 Relief. The mandate of the IRC of each Pooled Fund will include approving Inter-Fund Trades between the Pooled Fund and another Fund.

13. The IRC of a Pooled Fund will now be composed in accordance with Section 3.7 of NI 81-107 and will now be expected to comply with the standard of care set out in Section 3.9 of NI 81-107. The IRC of a Pooled Fund will not approve an Inter-Fund Trade between a Pooled Fund and another Fund unless the IRC has made the determination set out in Section 5.2(2) of NI 81-107.

14. If the IRC of a Pooled Fund becomes aware of an instance where the Filer or an affiliate of the Filer, as manager of the Pooled Fund, did not comply with the terms of this decision or a condition imposed by securities legislation or the IRC in its approval, the IRC of the Pooled Fund will, as soon as practicable, notify in writing the securities regulatory authority or regulator in the jurisdiction under which the Pooled Fund is organized.

15. At the time of an Inter-Fund Trade, each Investment Portfolio Manager will have in place policies and procedures to engage in Inter-Fund Trades.

16. When an Investment Portfolio Manager engages in an Inter-Fund Trade it will follow the following procedures:

    (a) in respect of a purchase or a sale of a security by a Fund (**Portfolio A**), the portfolio manager of the Investment Portfolio Manager will either place the trade directly or will deliver the trade instructions to a trader on a trading desk of the Investment Portfolio Manager;

    (b) in respect of a sale or a purchase of a security by another Fund (**Portfolio B**) the portfolio manager of the Investment Portfolio Manager will either place the trade directly or will deliver the trade instructions to a trader on a trading desk of the Investment Portfolio Manager;

    (c) each portfolio manager of the Investment Portfolio Manager will request the approval of the chief compliance officer of the Investment Portfolio Manager (or his or her designated alternate during periods when it is not practicable for the chief compliance officer to address the matter) (the **CO**) to execute the trade as an Inter-Fund Trade;

    (d) once the portfolio manager or trader on the trading desk has confirmed the approval of the CO, the portfolio manager or the trader on the trading desk will have the discretion to execute the trade as an Inter-Fund Trade between Portfolio A and Portfolio B in accordance with the requirements of paragraphs (c) to (g) of subsection 6.1(2) of NI 81-107;

    (e) the policies applicable to the portfolio manager and the trading desk of the Investment Portfolio Manager will require that all Inter-Fund Trade orders are to be executed on a timely basis and will remain open only for 30 days unless the portfolio manager cancels the order sooner; and

    (f) the portfolio manager or the trader on a trading desk will advise the Investment Portfolio Manager of the price at which the Inter-Fund Trade occurred.

17. Pursuant to the Trading Prohibition, a Fund may be restricted from making Inter-Fund Trades with another Fund if (i) the second Fund is an associate of an Investment Portfolio Responsible Person of the first Fund, or (ii) an Investment Portfolio Responsible Person of the first Fund is an adviser to the second Fund.

18. The Investment Portfolio Managers of the NI 81-102 Funds and the Closed-End Funds may not be able to rely upon the exemption from Section 13.5(2)(b) of NI 31-103 codified in Section 6.1(4) of NI 81-107. Section 6.1(4) of NI 81-107 provides relief from the Trading Prohibition but only if, among other conditions, the trade involves two investment funds to which NI 81-107 applies (which is not the case when a Pooled Fund is one of the parties to the Inter-Fund Trade) and the Inter-Fund Trade occurs at the current market price which, in the case of exchange-traded securities, includes the Closing Sale Price but not the Last Sale Price.

19. The Investment Portfolio Managers of the Pooled Funds cannot rely upon the exemption from Section 13.5(2)(b) of NI 31-103 codified in Section 6.1(4) of NI 81-107 because such codified relief is not available to the Pooled Funds.

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 Inter-Fund Trade is consistent with the investment objective of the Fund;

(b) the Filer, or affiliate of the Filer, as manager of the Fund, refers the Inter-Fund Trade to the IRC in the manner contemplated by section 5.1 of NI 81-107 and the Filer, or affiliate of the Filer, as manager of the Fund, and the IRC of the Fund comply with section 5.4 of NI 81-107 in respect of any standing instructions an IRC provides in connection with the Inter-Fund Trade;

(c) the IRC has approved the Inter-Fund Trade in accordance with the terms of Section 5.2(2) of NI 81-107;

(d) the Inter-Fund Trade complies with paragraphs (c) to (g) of subsection 6.1(2) of NI 81-107 except that for purposes of paragraph (e) of subsection 6.1(2) in respect of exchange-traded securities, the current market price of the security may be the Last Sale Price rather than the Closing Sale Price.

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

2.1.5 Tekmira Pharmaceuticals Corporation

Headnote

Multilateral Instrument 11-102 Passport System and National Policy 11-203 Process for Exemptive Relief Applications in Multiple Jurisdictions – National Instrument 52-107 Acceptable Accounting Principles and Auditing Standards, sections 4.7(1)(c) and 5.1 – An issuer wants relief from the requirement that financial statements prepared in accordance with Canadian GAAP for one or more interim periods of the current financial year be restated in accordance with U.S. GAAP – The issuer became a SEC issuer in the course of its financial year; the issuer had previously prepared and filed interim financial statements for that financial year in accordance with Canadian GAAP; the issuer's interim financial statements contain a reconciliation note identifying any material differences had the interim financial statements been prepared in accordance with U.S. GAAP rather than Canadian GAAP; the issuer's annual financial statements will be prepared in accordance with U.S. GAAP and include a reconciliation note regarding the effect on the annual financial statements had they been prepared in accordance with Canadian GAAP rather than U.S. GAAP.

Applicable Legislative Provisions

National Instrument 52-107 Acceptable Accounting Principles and Auditing Standards, ss. 4.7(1)(c), 5.1

January 27, 2011

IN THE MATTER OF
THE SECURITIES LEGISLATION OF
BRITISH COLUMBIA AND ONTARIO
(THE JURISDICTIONS)

AND

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

AND

IN THE MATTER OF
TEKMIRA PHARMACEUTICALS CORPORATION
(THE FILER)

DECISION

Background

1 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) exempting the Filer from the requirement in section 4.7(1)(c) of National Instrument 52-107 *Acceptable Accounting Principles and Auditing Standards* (NI 52-107) to restate the Filer's interim financial statements for the fiscal year ended December 31, 2010 in accordance with United States generally accepted accounting principles (U.S. GAAP).

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

(a) he British Columbia Securities Commission is the principal regulator for this application,

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

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

Interpretation

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

Representations

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

1. the Filer is a company incorporated under the *Business Corporations Act* (British Columbia) and is a reporting issuer in all of the provinces of Canada;

2. the Filer's head office is located at 100-8900 Glenlyon Parkway, Burnaby, British Columbia, Canada, V5J 5J8, and the Filer's registered and records office is located at 700 West Georgia St, 25th Floor, Vancouver, British Columbia, Canada, V7Y 1B3;

3. the Filer is not in default of any of the requirements of the applicable securities legislation in any jurisdiction of Canada;

4. the Filer has prepared its financial statements in accordance with Canadian generally accepted accounting principles (Canadian GAAP) for all annual and interim periods up to and including the three- and nine-month periods ended September 30, 2010;

5. on November 4, 2010, the Filer filed a registration statement on Form F-10 (the Registration Statement) and a Form 8-A with the United States Securities and Exchange Commission (the SEC), which became effective pursuant to the Canada-U.S. Multi Jurisdictional Disclosure System upon the issuance of a receipt from the securities administrator in each province of Canada for the Filer's short form base shelf prospectus dated November 4, 2010 (the Shelf Prospectus);

6. as of November 4, 2010, the Filer has a class of securities registered under section 12 of the *Securities Exchange Act of 1934* of the United States of America, and therefore meets the definition of a "SEC Issuer" under NI 52-107;

7. the Filer intends to rely on the short form prospectus procedures as set out in National Instrument 44-101 – *Short Form Prospectus Distributions* and incorporate by reference in any future supplement to the Shelf Prospectus the Filer's most recent annual consolidated financial statements and, if applicable, the Filer's most recent interim consolidated financial statements;

8. in connection with the filing of the Registration Statement, the Filer amended and restated its interim consolidated financial statements for the three-month period ended March 31, 2010 (Q1 2010 Statements) and for the three- and six-month periods ended June 30, 2010 (Q2 2010 Statements), which were filed on September 16, 2010 on SEDAR;

9. the amended and restated Q1 2010 Statements and Q2 2010 Statements include a note (a Canadian-U.S. GAAP Reconciliation Note) disclosing that the Q1 2010 Statements and Q2 2010 Statements are prepared in accordance with Canadian GAAP which, as applied in those financial statements, conforms in all material respects to U.S. GAAP except for the differences summarized in the Canadian-U.S. GAAP Reconciliation Note;

10. the Filer filed its interim consolidated financial statements for the three- and nine-month periods ended September 30, 2010 (Q3 2010 Statements) on November 15, 2010, which include a Canadian-U.S. GAAP Reconciliation Note;

11. as identified in the Canadian-U.S. GAAP Reconciliation Note included in the Q1 2010 Statements, Q2 2010 Statements, and Q3 2010 Statements (together, the Interim Statements), there would be only one material difference in the Interim Statements had the Interim Statements been prepared in accordance with U.S. GAAP rather than Canadian GAAP; under Canadian GAAP, the medical technology acquired from Protiva Biotherapeutics Inc. (Protiva) on May 30, 2008 has been recorded as intangible assets and is amortized over its estimated useful life of 16 years; under U.S. GAAP, the medical technology acquired from Protiva would be classified as in-process research and development and written off immediately as it has no alternative use;

12. the Filer intends to prepare and file its consolidated financial statements in accordance with U.S. GAAP, commencing with the Filer's consolidated financial statements for the year ended December 31, 2010 (the Annual 2010 Statements);

13. the Filer intends to include a reconciliation note in its Annual 2010 Statements regarding the impact on the Annual 2010 Statements had the Annual 2010 Statements been prepared in accordance with Canadian GAAP

rather than U.S. GAAP, which the Filer expects to be substantially similar to the Canadian-U.S. GAAP Reconciliation Note in the Interim Statements;

14. the Filer also intends to include narrative discussion of the significant differences between U.S. GAAP and Canadian GAAP as applied to the Annual 2010 Statements in the Filer's Management Discussion & Analysis for the year ended December 31, 2010;

15. under section 4.7(1)(c) of NI 52-107, the Filer is required to restate the Interim Statements in accordance with U.S. GAAP if its Annual 2010 Statements are prepared in accordance with U.S. GAAP; and

16. for periods relating to financial years beginning on or after January 1, 2011, the requirements in section 4.7(1) of NI 52-107 do not apply to an SEC Issuer switching from preparing its financial statements in accordance with Canadian GAAP to U.S. GAAP.

Decision

4 Each of the Decision Makers is satisfied that 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 Filer is exempt from the obligation under section 4.7(1)(c) of NI 52-107 *Acceptable Accounting Principles and Auditing Standards* to restate the Interim Statements in accordance with U.S. GAAP, provided that:

(a) the Filer prepares and files its Annual 2010 Statements in accordance with U.S. GAAP; and

(b) the Filer includes a reconciliation note in its Annual 2010 Statements regarding the impact on the Annual 2010 Statements had the Annual 2010 Statements been prepared in accordance with Canadian GAAP rather than U.S. GAAP.

"Martin Eady, CA"
Director, Corporate Finance
British Columbia Securities Commission

2.1.6 Goodman & Company, Investment Counsel Ltd. et al.

Headnote

National Policy 11-203 Process for Exemption Relief Applications in Multiple Jurisdictions – relief from section 4.1 of NI 81-102 for dealer-managed mutual funds to invest in an offering of debt securities of African Minerals Limited for which dealer-manager acts as underwriter during distribution period or 60 day period following distribution – debt securities will not have "approved rating" by "credit rating organization" as required by subsection 4.1(4) – securities are consistent with fund investment objectives and funds' participation subject to approval of independent review committee – offerings will have at least one underwriter in addition to related dealer, at least one arm's length purchaser purchasing at least 5% of the securities – related funds are purchasing approximately 10% of offering and will pay no more than lowest price paid by arm's length purchaser(s).

Applicable Legislative Provisions

National Instrument 81-102 Mutual Funds, ss. 4.1, 19.1.

January 24, 2011

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
GOODMAN & COMPANY,
INVESTMENT COUNSEL LTD.
(the "Filer")

AND

DYNAMIC POWER BALANCED FUND AND
DYNAMIC POWER BALANCED CLASS
(collectively, the "Funds")

DECISION

Background

The principal regulator in the Jurisdiction has received an application from the Filer, in respect of the Funds, for a decision under the securities legislation of the Jurisdiction (the "**Legislation**") for relief (the "**Requested Relief**") from the prohibition in section 4.1(1) of NI 81-102 (the "**Investment Prohibition**") to permit the investment by the Funds in debt securities of African Minerals Limited ("**AML**") during the period of their distribution (the "**Distribution**") or during the period of 60 days after the Distribution (the "**60-Day Period**"), notwithstanding the involvement of one of the Filer's associates or affiliates as an underwriter in the Distribution and notwithstanding that the debt securities do not have an approved rating by an approved credit rating organization as contemplated by section 4.1(4)(b) of National Instrument 81-102 ("**NI 81-102**").

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

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

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

Interpretation

Terms defined in MI 11-102, National Instrument 14-101 *Definitions*, NI 81-102 and National Instrument 81-107 *Independent Review Committee for Investment Funds* ("**NI 81-107**") have the same meaning if used in this decision, unless otherwise defined. For greater certainty, the term "approved rating", as used in section 4.1(4)(b) of NI 81-102, has the meaning given to such term in National Instrument 44-101 *Short Form Prospectus Distributions*.

Representations

This decision is based on the following facts represented by the Filer in respect of the Filer and the Funds:

1. Each of the Funds is a mutual fund established under the laws of the Jurisdiction, and neither Fund is a "money market fund" as defined under NI 81-102.

2. The securities of the Funds are offered for sale pursuant to a prospectus filed in one or more of the Jurisdiction and the Non-Principal Jurisdictions. Each of the Funds is a dealer managed mutual fund that is a reporting issuer in one or more of the Jurisdiction and the Non-Principal Jurisdictions.

3. Each of the Funds has an independent review committee ("**IRC**") appointed under NI 81-107.

4. The Filer is the manager and portfolio adviser of the Funds.

5. The Filer and the Funds are not in default of securities legislation in the Jurisdiction or any of the Non-Principal Jurisdictions.

6. AML has publicly announced a proposed syndicated secured loan facility (the "**Facility**") of up to US$500 million. The Facility will be funded by a special purpose entity (the "**Mandated Lead Arranger**") acting as arranger, lead lender, administrative agent and security agent for the syndicate of lenders. Dundee Resources Limited, an affiliate of the Filer, holds a 50% interest in the Mandated Lead Arranger.

7. The Mandated Lead Arranger, subject to conditions precedent, has agreed to fund the first US$100 million of the Facility. The balance of the Facility has been marketed to potential lenders by a group of investment dealers (the "**Placing Agents**") pursuant to available exemptions from applicable securities laws.

8. The Filer is an affiliate of Dundee Securities Corporation (the "**Related Placing Agent**"), an investment dealer who is a Placing Agent in the Distribution.

9. The shares of AML are listed on the Alternative Investment Market of the London Stock Exchange.

10. The Filer currently controls an aggregate of 15,730,991 common shares of AML representing approximately a 5% equity interest in AML, which includes holdings of the AML by the Funds. As at January 17, Dynamic Power Balanced Fund and Dynamic Power Balanced Class have 1.12% and 2.01% of their respective net asset values invested in shares of AML.

11. The Filer proposes to purchase (the "**Proposed Purchase**") in the aggregate up to US$40 million of the Facility for the Funds. The proposed purchase would be subject to the approval of the IRC for the Funds.

12. The Funds require the Requested Relief from the Investment Prohibition because the Facility will not have an "approved rating" by an "approved credit rating organization".

13. The Proposed Purchase is consistent with the investment objectives of the Funds and represents the business judgment of responsible persons uninfluenced by considerations other than the best interests of the Funds.

14. The Filer considers that the Funds may be prejudiced if they cannot make the Proposed Purchase, which is consistent with each Fund's investment objectives, during the Distribution, or in the 60-Day Period. Foregoing participation in this investment opportunity is a significant opportunity cost for the Funds as they would be denied timely access to these securities purely as a result of the coincidental participation of the Related Placing Agent in the transaction and the credit rating of the securities distributed.

15. The investment decision for the Proposed Purchase was made by the Filer independently from its Related Placing Agent, as is reflected in and required by policies and procedures approved by the IRC.

Decision

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

The decision of the principal regulator under the Legislation is that the Requested Relief from the Investment Prohibition is granted in respect of the Proposed Purchase by the Funds, provided that:

(a) at the time of the investment, the Proposed Purchase is consistent with the investment objectives of the Funds and represents the business judgment of the portfolio adviser of the Funds uninfluenced by considerations other than the best interests of the Funds;

(b) the Filer complies with section 5.1 of NI 81-107;

(c) at the time of the investment, the IRC has approved the transaction in accordance with section 5.2(2) of NI 81-107;

(d) if the securities are acquired during the Distribution

  (i) at least one Placing Agent is not related to the Filer,

  (ii) at least one purchaser who is independent and arm's length to the Funds and the Related Placing Agent must purchase at least 5% of the securities distributed under the Distribution,

  (iii) the price paid for the securities by a Fund shall be no higher than the lowest price paid by any of the arm's length lenders who participate in the Distribution, and

  (iv) the Funds collectively acquire no more than 20% of the securities distributed under the Distribution;

(e) if the securities are acquired in the 60-Day Period,

  (i) the ask price of the securities is readily available as provided in Commentary 7 to section 6.1 of NI 81-107,

  (ii) the price paid for the securities by a Fund is not higher than the available ask price of the security, and

  (iii) the purchase is subject to market integrity requirements as defined in NI 81-107; and

(f) no later than the time a Fund files its next annual financial statements, the manager of the Funds will file the particulars of the investment made by the Funds pursuant to the Requested Relief.

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

2.1.7 TVI Pacific Inc.

Headnote

Multilateral Instrument 11-102 Passport System and National Policy 11-203 Process for Exemptive Relief Applications in Multiple Jurisdictions – exemption granted from the requirement in s. 3.1 of NI 52-107 that financial statements be prepared in accordance with Canadian GAAP for so long as the Filer prepares its financial statements in accordance with IFRS-IASB.

Applicable Legislative Provisions

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

Citation: TVI Pacific Inc., Re, 2011 ABASC 33

January 19, 2011

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

AND

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

AND

IN THE MATTER OF
TVI PACIFIC INC.
(the Filer)

DECISION

Background

The securities regulatory authority or regulator in each of the Jurisdictions (the **Decision Makers**) have received an application from the Filer for a decision under the securities legislation of the Jurisdictions (the **Legislation**) exempting the Filer from the requirement in section 3.1 of National Instrument 52-107 *Acceptable Accounting Principles, Auditing Standards and Reporting Currency* (**NI 52-107**) that financial statements be prepared in accordance with Canadian GAAP (the **Exemption Sought**), in order that the Filer may prepare its financial statements for periods commencing on or after January 1, 2010 in accordance with International Financial Reporting Standards (**IFRS**) as issued by the International Accounting Standards Board (**IFRS-IASB**).

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

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

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

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

Interpretation

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

Representations

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

1. The Filer is a corporation incorporated under the *Business Corporations Act* (Alberta).

2. The Filer's registered and head office is located in Calgary, Alberta.

3. The Filer is a mining company with operations in the Philippines, the common shares of which (the **TVI Share**s) are currently listed on the Toronto Stock Exchange (**TSX**).

4. The Filer is a reporting issuer or its equivalent in Alberta, British Columbia, Saskatchewan, Manitoba, Ontario and Québec and is not in default of any requirements under the securities legislation in any of those jurisdictions.

5. The Filer is currently planning to pursue the dual listing of the TVI Shares on the TSX as well as the Hong Kong Stock Exchange (**HKSE**).

6. The Filer is required to prepare financial statements for the fiscal years ended December 31, 2008, 2009 and 2010 in accordance with IFRS-IASB in support of its HKSE listing application and following the listing of the TVI Shares on the HKSE will be required to prepare all of its future financial statements in accordance with IFRS-IASB.

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

8. NI 52-107 sets out acceptable accounting principles for financial reporting under the Legislation by domestic issuers, foreign issuers, registrants and other market participants. Under

NI 52-107, a domestic issuer must use Canadian GAAP with the exception that an SEC registrant may use US GAAP. Under NI 52-107, only foreign issuers may use IFRS-IASB.

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

10. The Filer's listing application documents contain the Filer's "first IFRS financial statements" under IFRS 1 *First Time Adoption of International Financial Reporting Standards* (**IFRS 1**); these statements contain an explicit and unreserved statement of compliance with IFRS-IASB.

11. Subject to obtaining the Exemption Sought, the Filer intends to adopt IFRS-IASB for its financial statements for periods beginning on and after January 1, 2010, with a date of transition to IFRSs of January 1, 2008. The Filer intends to file its first IFRS-IASB annual financial statements for the year ended December 31, 2010 together with comparative information for the periods ended December 31, 2008 and December 31, 2009.

12. The Filer believes the early adoption of IFRS-IASB will avoid potential confusion for the users of the Filer's financial statements as all 2010 annual financial statements reporting on the business of the Filer will have been completed using the same accounting standards and avoid the public availability of multiple sets of the same financial statements using different reporting standards.

13. The Filer has implemented a comprehensive IFRS-IASB conversion plan as part of its listing process for the HKSE.

14. The Filer has considered the implications of adopting IFRS-IASB for financial periods beginning on or after January 1, 2010 on its obligations under securities legislation including, but not limited to, those relating to CEO and CFO certifications, business acquisition reports, offering documents, and previously released material forward looking information, and has concluded that if the Exemption Sought is granted the Filer will continue to be able to fulfill these obligations.

15. The Filer has disclosed relevant information about its conversion to IFRS-IASB as contemplated by CSA Staff Notice 52-320 *Disclosure of Expected Changes in Accounting Policies Relating to Changeover to International Financial Reporting Standards* in its management's discussion and analysis for the period ended September 30, 2010 (**Q3 MD&A**), including:

    (a) the key elements and timing of its changeover plan;

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

    (c) the exemptions available under IFRS 1 that the Filer expects to apply in preparing financial statements in accordance with IFRS-IASB;

    (d) major differences the Filer has identified between its current accounting policies and those it expects to apply under IFRS-IASB; and

    (e) the impact of the changeover on the key line items presented in the Filer's interim financial statements for the period ended September 30, 2010.

16. The Filer will update the information set out in its Q3 MD&A in its 2010 annual management's discussion and analysis including, to the extent known, quantitative information regarding the impact of adopting IFRS-IASB on key line items in the Filer's annual financial statements for the year ending December 31, 2010.

Decision

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

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

(a) the Filer prepares its annual financial statements for financial years beginning on or after January 1, 2010 in accordance with IFRS-IASB;

(b) the Filer restates and re-files interim financial statements for interim periods beginning on or after January 1, 2010 in accordance with IFRS-IASB at the time of filing its first IFRS-IASB financial statements together with the related restated interim management's discussion and analysis as well as the certificates required by National Instrument 52-109 *Certification of Disclosure in Issuers' Annual and Interim Filings*;

(c) the Filer provides the communications set out in paragraph 16;

(d) the Filer's first annual IFRS-IASB financial statements and first IFRS-IASB interim financial statements include an opening IFRS statement of financial position as at the date of transition to IFRS, January 1, 208, that is presented with equal prominence to other statements that comprise those financial statements;

(e) in the Filer's first annual IFRS-IASB financial statements, the opening IFRS statement of financial position as at the date of transition to IFRS is audited;

(f) if the Filer presents the components of profit or loss in a separate income statement, the separate income statement is displayed immediately before the statement of comprehensive income;

(g) the Filer's annual IFRS-IASB financial statements disclose an explicit and unreserved statement of compliance with IFRS; and

(h) the Filer's IFRS-IASB interim financial statements disclose compliance with International Accounting Standard 34 *Interim Financial Reporting*.

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

2.1.8 Dundee Securities Corporation and Dundee Securities Ltd.

Headnote:

Multilateral Instrument 11-102 Passport System – National Policy 11-203 Process for Exemptive Relief Applications in Multiple Jurisdictions – National Instrument 33-109 Registration Information (NI 33-109) – relief from certain filing requirements of NI 33-109 in connection with a bulk transfer of business locations and registered and non-registered individuals under an asset acquisition in accordance with section 3.4 of Companion Policy 33-109CP to NI 33-109.

Applicable Legislative Provisions

Multilateral Instrument 11-102 Passport System.
National Instrument 33-109 Registration Information and Companion Policy 33-109CP.
National Policy 11-203 Process for Exemptive Relief Applications in Multiple Jurisdictions.

January 26, 2011

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
DUNDEE SECURITIES CORPORATION (DSC)
AND DUNDEE SECURITIES LTD. (DSL)
(the Filers)

DECISION

Background

The principal regulator in the Jurisdiction has received an application from the Filers for a decision of the principal regulator under the securities legislation of the Jurisdiction of the principal regulator (the **Legislation**) for relief pursuant to section 7.1 of National Instrument 33-109 *Registration Information* (**NI 33-109**) to allow the bulk transfer of the specified business locations and registered individuals of DSC to DSL (the **Bulk Transfer**), on or about January 28, 2011, in accordance with section 3.4 of the companion policy to NI 33-109, from the following requirements (the **Exemption Sought**):

1. to submit a notice regarding the termination of each employee, partner, or agent under section 4.2 of NI 33-109;

2. to submit a registration application or a reinstatement notice for each individual seeking to be a registered individual under section 2.2 or 2.3 of NI 33-109;

3. to submit a Form 33-109F4 or Form 33-109F7 for each permitted individual under section 2.5 of NI 33-109; and

4. to notify the regulator of a change to the business location information in Form 33-109F3 under section 3.2 of NI 33-109.

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

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

(ii) the Filers have provided notice that subsection 4.7(1) of Multilateral Instrument 11-102 Passport System (**MI 11-102**) is intended to be relied upon by each of the Filers on the same basis in each of the other provinces and territories of Canada (collectively with Ontario, the **Jurisdictions**).

Interpretation

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

Representations

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

(a) DSC

1. DSC is a corporation incorporated under the *Business Corporations Act* (Ontario) and has its head office at 1 Adelaide Street East, Suite 2700, Toronto, Ontario M5C 2V9.

2. DSC is currently registered as an investment dealer in all of the Jurisdictions, as an investment fund manager in Ontario and as a derivatives dealer in Québec.

3. DSC is a member of the Investment Industry Regulatory Organization of Canada (**IIROC**).

4. DSC is not in default of the securities legislation in any of the Jurisdictions.

(b) DSL

5. DSL is a corporation incorporated under the Business Corporations Act (Ontario) and has its head office at 1 Adelaide Street East, Suite 2000, Toronto, Ontario M5C 2V9.

6. DSL has applied to become registered as an investment dealer in all of the Jurisdictions, as an investment fund manager in Ontario and as a derivatives dealer in Québec.

7. DSL has also applied to become a member of IIROC.

(c) The Transaction

8. The Bank of Nova Scotia has offered to purchase (the **Scotiabank Offer**), subject to certain terms and conditions, all of the shares of DundeeWealth Inc. (**DundeeWealth**) that it does not already own (the **Transaction**).

9. In connection with the Scotiabank Offer, and subject to the successful completion of the Transaction, DundeeWealth will spinout (the **Spinout Transaction**) its capital market business presently conducted through DSC and operating under the “Dundee Capital Markets” brand, and certain other assets (collectively, the **Capital Markets Business**), by way of distribution to all of the current shareholders of DundeeWealth, shares of Dundee Capital Markets Inc. (**DCM**). The DCM shares are intended to be issued by way of a dividend in kind to be declared on the business day immediately prior to the effective date of the Scotiabank Offer pursuant to an exemption from the prospectus requirements set forth in applicable securities legislation.

10. In connection with the Spinout Transaction, DCM intends to file a long form prospectus with one or more securities regulatory authorities in Canada in order to enable DCM to become a reporting issuer in one or more of the provinces or territories of Canada.

11. Immediately prior to the Spinout Transaction, DCM will acquire all of the issued and outstanding shares of DSL, which intends to carry on the business currently carried on by DSC (namely, the Capital Markets Business), other than the independent retail advisory business and back office operations, which will remain in DSC as part of DundeeWealth’s business.

12. The following summarizes the Capital Markets Business. DSL’s principal activities as a dealer will include institutional equity sales and trading, investment banking, research, and the retail corporate advisory business currently carried on by DSC. DSL will also as a dealer carry on fixed income, foreign exchange trading, principal and other trading activities. As an investment fund manager, DSL will become the manager of the CMP Gold Trust (a closed end fund) and the CMP and Canada Dominion Resources Limited Partnerships, including new closed-end or other funds that may be established in the future.

13. The closing of the Transaction is currently scheduled to occur on or about February 1, 2011.

14. All of the current registerable activities of DSC in respect of the Capital Markets Business will become the responsibility of DSL once DSL is registered as an investment dealer, investment fund manager and derivatives dealer, which is expected to occur on or about January 28, 2011 (the **Bulk Transfer Date**). On this date, DSL will assume all of the existing registrations and approvals for all of the registered individuals and all of the locations of DSC in respect of the Capital Markets Business.

15. It is not anticipated that there will be any disruption in the ability of the Filers to trade or advise on behalf of their respective clients either immediately before or immediately after the Bulk Transfer Date.

16. DSL will be registered in the same categories of registration as DSC is currently registered in the same Jurisdictions, and will be subject to, and will comply with, all applicable securities laws.

17. DSL will carry on the Capital Markets Business of DSC in substantially the same manner with essentially the same personnel as DSC carried on such business immediately prior to the Bulk Transfer Date.

18. It would be difficult to individually transfer each of the affected locations and individuals from DSC to DSL per the requirements set out in NI 33-109 given the multiple jurisdictions in which the individuals are currently registered or approved. Moreover, it is imperative that the transfer of the locations and individuals occur on the same date, in order to ensure that there is no break in registration. Clients of DSC whose accounts will be transferred to DSL will be advised in writing by DSC of the transfer prior to the Bulk Transfer Date in accordance with section 14.11 of National Instrument 31-103 *Registration Requirements and Exemptions*.

19. The Exemption Sought will not be contrary to the public interest and will have no negative consequences on the ability of the Filers to comply with all applicable regulatory requirements or the ability to satisfy any obligations to clients of the Filers.

20. The head office of DSL following the Transaction will continue to be located at 1 Adelaide Street East, Suite 2000, Toronto, Ontario M5C 2V9.

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 the Filers make acceptable arrangements with CDS Inc. for the payment of the costs associated with the Bulk Transfer, and make such payment in advance of the Bulk Transfer.

"Erez Blumberger"
Deputy Director
Compliance and Registrant Regulation
Ontario Securities Commission

2.1.9 BNS Capital Trust – 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).

February 1, 2011

BNS Capital Trust
c/o The Bank of Nova Scotia
Scotia Plaza, 44 King Street West
Toronto, Ontario, M5H 1H1

Dear Sirs /Mesdames:

Re: BNS Capital Trust (the Applicant) – application for a decision under the securities legislation of Alberta, Saskatchewan, Manitoba, Québec, New Brunswick, Nova Scotia, Prince Edward Island, Newfoundland and Labrador, Nunavut, Yukon and Northwest Territories (the Jurisdictions) that the Applicant is not a reporting issuer

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

As the Applicant has represented to the Decision Makers that:

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

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

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

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

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

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

2.1.10 Cargojet Income Fund – s. 1(10)

Headnote

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

Applicable Legislative Provisions

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

February 1, 2011

Cargojet Income Fund
c/o Angela Chu
Cassels Brock & Blackwell LLP
40 King Street West
Scotia Plaza, Suite 2100
Toronto, Ontario
M4H 3C2

Dear Sir:

Re: CARGOJET INCOME FUND (the Applicant) – application for a decision under the securities legislation of Ontario, Alberta, Saskatchewan, Manitoba, Quebec, New Brunswick, Nova Scotia, Prince Edward Island, Newfoundland and Labrador, Nunavut, Yukon and Northwest Territories (the Jurisdictions) that the Applicant is not a reporting Issuer

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

As the Applicant has represented to the Decision Makers that:

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

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

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

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

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

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

2.1.11 PetroNova Inc.

Headnote

National Policy 11-203 Process for Exemptive Relief Applications in Multiple Jurisdictions – Exemption granted from the requirement to prepare financial statements in accordance with Canadian GAAP – Issuer recently became a reporting issuer – Issuer has not previously prepared financial statements in accordance with Canadian GAAP – Issuer has assessed the readiness of its staff, board and audit committee – Relief granted subject to conditions.

Applicable Legislative Provisions

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

Citation: PetroNova Inc., Re, 2011 ABASC 59

February 2, 2011

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

AND

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

AND

IN THE MATTER OF
PETRONOVA INC.
(the Filer)

DECISION

Background

The securities regulatory authority or regulator in each of the Jurisdictions (the **Decision Makers**) has received an application from the Filer for a decision under the securities legislation of the Jurisdictions (the **Legislation**) exempting the Filer from the requirement in section 4.2 of National Instrument 52-107 *Acceptable Accounting Principles and Auditing Standards* (**NI 52-107**) that financial statements be prepared in accordance with Canadian GAAP (the **Exemption Sought**), in order that the Filer may prepare its annual financial statements for the year ended December 31, 2010 in accordance with Part I of the CICA Handbook, that is International Financial Reporting Standards (**IFRS**) as issued by the International Accounting Standards Board (**IFRS–IASB**).

Under the Process for Exemptive Relief Applications in Multiple Jurisdictions:

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

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

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

Interpretation

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

Representations

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

1. The Filer was incorporated on September 16, 2009 pursuant to the laws of Alberta and was initially a wholly owned subsidiary of Inepetrol AB, a company incorporated pursuant to the laws of Sweden (**Inepetrol**). On June 15, 2010, the Filer incorporated PetroNova International Inc., pursuant to the laws of the Cayman Islands as a wholly owned subsidiary. On June 28, 2010, the Filer, through its subsidiary PetroNova International Inc., acquired all of the shares of PetroNova Colombia Inc. (formerly named Inepetrol Colombia Inc.), a company which was incorporated pursuant to the laws of the Cayman Islands on June 21, 1996, from Inepetrol (the **Acquisition**). The Filer's head office is Bogota, Columbia and its registered office is Calgary, Alberta.

2. In connection with its initial public offering prospectus (the **Prospectus**), the Filer was granted relief from the requirement in section 3.2 of NI 52-107 *Acceptable Accounting Principles, Auditing Standards and Reporting Currency*, as it then was, in order to permit the Filer to use IFRS-IASB to prepare its financial statements included in the Prospectus.

3. The Filer became a reporting issuer in the Jurisdictions and Passport Jurisdictions on December 14, 2010.

4. The TSX Venture Exchange approved the listing of common shares issued pursuant to the Prospectus which are now trading under the symbol "PNA".

5. An aggregate of 165,301,302 common shares of the Filer are issued and outstanding.

6. The Filer is not, to its knowledge, in default of its obligations under the Legislation or the securities legislation of the Jurisdictions and the Passport Jurisdictions.

7. The Filer has a financial year-end of December 31.

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

9. NI 52-107 sets out acceptable accounting principles for financial reporting under the Legislation by domestic issuers, foreign issuers, registrants and other market participants. Under NI 52-107, a domestic issuer must use Canadian GAAP with the exception that an SEC registrant may use US GAAP and only foreign issuers may use IFRS-IASB.

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

11. At the material times prior to the Acquisition, all of the business of the Filer was carried on within a corporate group that was subject to common control and ownership. Accordingly, the Acquisition was accounted for on a continuity of interest basis whereby the Filer is assumed to have had ownership of the entire business for all financial periods presented.

12. The Filer has evaluated its overall readiness to use IFRS, including the readiness of its staff, board of directors and audit committee, and has concluded that it is adequately prepared to use IFRS effective immediately. The Filer has considered the implications of using IFRS on its obligations under securities legislation including but not limited to, those relating to CEO and CFO certifications, business acquisition reports and offering documents.

Decision

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

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

(a) the Filer prepares its annual financial statements for the year ended December 31, 2010 in accordance with IFRS-IASB; and

(b) the Filer's annual IFRS-IASB financial statements disclose an explicit and unreserved statement of compliance with IFRS.

"Cheryl McGillivray"
Manager, Corporate Finance

2.1.12 Gluskin Sheff + Associates Inc.

Headnote

National Policy 11-203 Process for Exemptive Relief Applications in Multiple Jurisdictions – Registered investment fund manager that is also a reporting issuer exempted from paragraph 12.14(2)(a) of National Instrument 31-103 Registration Requirements and Exemptions, subject to terms and conditions – Exemption has the effect of allowing the registrant 45 days, instead of the 30 days specified in subsection 12.14(2), to deliver to the regulator its financial information for the first, second, and third interim periods of each financial year.

Applicable Legislative Provisions

Multilateral Instrument 11-102 Passport System, s. 4.7(1).
National Instrument 51-102 Continues Disclosure Obligations, ss. 4.3, 4.3(1), 4.4.
National Instrument 31-103 Registration Requirements and Exemptions, ss. 12.14(2), 12.14(2)(a).

January 28, 2011

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
GLUSKIN SHEFF + ASSOCIATES INC.
(the "Filer")

DECISION

Background

The principal regulator in the Jurisdiction has received an application (the **Application**) from the Filer for a decision under the securities legislation of the Jurisdiction of the principal regulator (the **Legislation**) exempting the Filer from the provisions (the **Interim Financial Information Delivery Requirement**) of paragraph (a) of subsection 12.14(2) of National Instrument 31-103 *Registration Requirements and Exemptions* (**NI 31-103**) which provide that a registered investment fund manager must deliver to the regulator, no later than the 30th day after the end of the first, second and third interim period of its financial year, its interim financial information for that interim period.

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 subsection 4.7(1) of Multilateral Instrument 11-102 *Passport System* (**MI 11-102**) is intended to be relied upon in British Columbia, Alberta, Saskatchewan, Manitoba, Quebec, Nova Scotia, New Brunswick and the Northwest Territories.

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 in this decision.

Representations

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

1. The head office of the Filer is located in Ontario.

2. The Filer is registered under the Legislation as an investment fund manager. The Filer is also registered under the Legislation as an adviser in the category of "portfolio manager", and as a dealer in the categories of "exempt market dealer" and "mutual fund dealer". The Filer has recently applied to change its dealer registration, so that it will longer be registered in the category of "mutual fund dealer".

3. The Filer is a reporting issuer, and has been a reporting issuer since May 19, 2006.

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

5. Under continuous disclosure obligations that are applicable to it as a reporting issuer, the Filer is subject to requirements in section 4.3 of National Instrument 51-102 *Continuous Disclosure Obligations* (**NI 51-102**) related to its filing of interim financial information for interim periods ending after it became a reporting issuer.

6. Under section 4.4 of NI 51-102, the interim financial report that the Filer is required to file under subsection 4.3(1) of NI 51-102 must be filed on or before the earlier of:

   (a) the 45th day after the end of the interim period, and

   (b) the date of filing, in a foreign jurisdiction, an interim financial report for a period ending on the last day of the interim period.

7. As a reporting issuer, the Filer is subject to additional requirements, and follows additional procedures, related to the financial information

that it is required to file under section 4.4 of NI 51-102, that it would not be subject to or follow if it were only required to deliver this financial information to the regulator under the Interim Financial Delivery Requirement. These additional requirements and procedures include requirements and procedures in respect of board and audit committee approval, certification, and the preparation of Management Discussion and Analysis and a news release.

8. As a reporting issuer, the Filer is also subject to material change reporting requirements which are not applicable to other registrants that are not reporting issuers.

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, in the case of the first, second and third interim periods of each financial year of the Filer, the Filer is exempt from the Interim Financial Information Delivery Requirement for that interim period, provided that:

1. the Filer is then a reporting issuer;

2. the Filer delivers to the regulator its financial information for the period no later than the 45th day after the end of the interim period; and

3. under the continuous disclosure obligations then applicable to the Filer as a reporting issuer, the Filer is not required to file this financial information earlier than the 45th day after the end of the interim period.

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

2.1.13 Brookfield Real Estate Services Fund – s. 1(10)

Headnote

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

Applicable Legislative Provisions

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

February 1, 2011

Brookfield Real Estate Services Fund
39 Wynford Drive
Don Mills, Ontario
M3C 3K5

Dear Sirs/Mesdames:

Re: Brookfield Real Estate Services Fund (the Applicant) – application for a decision under the securities legislation of Ontario, Alberta, Saskatchewan, Manitoba, Québec, Nova Scotia, New Brunswick, Prince Edward Island and Newfoundland and Labrador (the Jurisdictions) that the Applicant is not a reporting issuer

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

As the Applicant has represented to the Decision Makers that:

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

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

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

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

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

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

2.1.14 Parkbridge Lifestyle Communities Inc. – s. 1(10)

Headnote

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

Ontario Statutes

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

February 2, 2011

Lawson Lundell LLP
1600 Cathedral Place
925 West Georgia Street
Vancouver, BC V6C 3L2

Attention: Stephen Cooper

Dear Sir:

Re: Parkbridge Lifestyle Communities Inc. (the Applicant) – Application for a decision under the securities legislation of Alberta, Saskatchewan, Manitoba, Ontario, Nova Scotia, New Brunswick, Prince Edward Island and Newfoundland and Labrador (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.

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

2.1.15 Healthpro Procurement Services Inc.

Headnote

National Policy 11-203 Process For Exemptive Relief Applications in Multiple Jurisdictions – Application for relief from prospectus requirement in connection with the issuance from time to time of common shares to members – Filer is a group purchasing organization for Canadian health sector – Filer established to help its members, primarily hospitals and health care institutions, to reduce costs of procurement through volume purchasing and supplier rebates – each member required to enter into a shareholders' agreement and to subscribe for shares for a nominal amount – shares not issued for investment purposes – members have no expectation of realizing an economic return in their capacity as shareholders – no market for Shares and both shareholder agreement and articles provide for restrictions on their transfer – articles also prohibit any invitation to the public to subscribe for shares – relief granted subject to conditions.

Applicable Legislative Provisions

Securities Act, R.S.O. 1990, c. S.5, as am., ss. 53, 74(1).

January 7, 2011

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
HEALTHPRO PROCUREMENT SERVICES INC.
(the Filer)

DECISION

Background

The principal regulator in the Jurisdiction has received an application from the Filer for a decision (the **Exemption Sought**) under the securities legislation of the Jurisdiction of the principal regulator (the **Legislation**) exempting the Filer from the prospectus requirement in connection with the issuance from time to time of common shares of the Filer (the **Shares**) to Members (as defined below).

Under the Process for Exemptive Relief Applications in Multiple Jurisdictions:

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

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

Interpretation

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

Representations

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

1. The Filer was incorporated pursuant to the *Business Corporations Act* (Ontario) on November 21, 1995.

2. The Filer's head office is located in Ontario.

3. The authorized capital of the Filer consists of an unlimited number of Shares.

4. The Filer is not at present, and does not intend to become, a reporting issuer in any jurisdiction.

5. There is no market for the Shares and the Shares are not traded on any marketplace as defined in National Instrument 21-101 *Marketplace Operation*.

6. The Filer acts as a buying group for its participants, which are primarily hospitals and health care institutions (the **Members**).

7. The Filer was established to further economies of scale in the purchasing of supplies and equipment by the Members and to benefit the Members through the use of a collective purchasing power that would otherwise be unavailable to them.

8. The Filer passes through the benefits of volume rebates from suppliers, net of expenses, to the Members through the payment of patronage dividends.

9. Each Member is required to enter into a participation and shareholders' agreement (the **Shareholder Agreement**) pursuant to which, among other things, the Member agrees to subscribe for Shares at a price of $1.00 per Share.

10. The ownership of the Shares permits Members to vote at shareholder meetings of the Filer and participate in the governance of the Filer.

11. The Filer's articles of incorporation (the **Articles**) prohibit any invitation to the public to subscribe for Shares. Shares are issued only to Members.

12. The Articles provide the Filer with the right to redeem the Shares on notice for an amount equal to $1.00, plus any declared and unpaid dividends.

13. Since the Filer distributes its surplus funds in the form of patronage dividends, as described above, no dividends are declared or paid on the Shares.

14. The Shareholder Agreement and the Articles restrict the right to transfer the Shares.

15. The Shareholder Agreement provides that upon termination of a Member's participation in the Filer, the Filer will purchase for cancellation any Share held by a Member for $1.00.

16. The Filer currently has 251 Shares outstanding held by Members in Alberta, British Columbia, Manitoba, Newfoundland and Labrador, the Northwest Territories, Nova Scotia, Nunavut, Ontario, Saskatchewan and the Yukon Territory.

17. The Filer previously received an exemption order, dated October 29, 1996, in respect of the issuance of Shares from the Ontario Securities Commission (the **Current Exemption**).

18. The Filer has also issued Shares to health care institutions in Alberta, British Columbia, Manitoba, Newfoundland, the Northwest Territories, Nova Scotia, Nunavut, Saskatchewan and the Yukon Territory. The issuance of Shares to the Members outside of Ontario was not within the scope of the Current Exemption and the Filer inadvertently failed to apply for relief in respect of those trades.

19. The Filer believes that all of the Members outside of Ontario are hospitals or health authorities or similar entities and that the accredited investor exemption in National Instrument 45-106 *Prospectus and Registration Requirements* (and various predecessor instruments) likely would have been available for most of these trades.

20. Other than the failure to obtain relief for the issuance of Shares in jurisdictions other than Ontario, as described above, the Filer is not in default of any requirements under the Legislation.

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) prior to the issuance of a Share to a Member, the Filer shall deliver to such Member a copy of

(i) the Articles and by-laws of the Filer, and all amendments thereto;

(ii) the most recent annual audited financial statements of the Filer, and a copy of any subsequent interim financial statements;

(iii) this decision; and

(iv) a statement to the effect that, as a consequence of this decision, certain protections, rights and remedies provided by the Legislation, including statutory rights of rescission or damages, will not be available to the Member and that certain restrictions are imposed on the subsequent disposition of the Share;

(b) prior to the issuance of a Share to a Member, such Member shall have executed a copy of the Shareholder Agreement;

(c) the exemptions contained in this decision shall cease to be effective if any of the provisions of the Articles or the Shareholder Agreement relevant to the exemption granted by this ruling (including, the provisions relating to the transferability of the Shares) are amended in any material respect without written notice to, and consent of, the principal regulator;

(d) the Filer prepares and sends audited financial statements to each Member on an annual basis; and

(e) the first trade in any Share by a Member to a person or company other than the Filer is deemed to be a distribution.

The further decision of the principal regulator under the Legislation is that the Current Exemption is revoked.

"Paulette Kennedy"
Commissioner

"Carol S. Perry"
Commissioner

2.2 Orders

2.2.1 Georges Benarroch et al. – ss. 21.7, 8

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

AND

**IN THE MATTER OF
AN APPLICATION FOR A HEARING AND REVIEW OF A DECISION OF THE ONTARIO DISTRICT COUNCIL OF THE INVESTMENT INDUSTRY REGULATORY ORGANIZATION OF CANADA PURSUANT TO SECTION 21.7 OF THE SECURITIES ACT, R.S.O. c. S.5, AS AMENDED**

AND

**IN THE MATTER OF
DISCIPLINE PROCEEDINGS PURSUANT TO THE BY-LAWS OF THE INVESTMENT DEALERS ASSOCIATION OF CANADA AND THE DEALER MEMBER RULES OF THE INVESTMENT INDUSTRY REGULATORY ORGANIZATION OF CANADA**

BETWEEN

STAFF OF THE INVESTMENT INDUSTRY REGULATORY ORGANIZATION OF CANADA

AND

GEORGES BENARROCH, LINDA KENT, MARJORIE ANN GLOVER AND CREDIFINANCE SECURITIES LIMITED

**ORDER
(Sections 21.7 and 8)**

WHEREAS on May 12, 2010, Georges Bennaroch, Linda Kent, Marjorie Ann Glover and Credifinance Securities Limited (the "Applicants") applied under section 21.7 of the *Securities Act*, R.S.O. 1990, c. S.5, as amended, for a hearing and review of a decision of a hearing panel of the Ontario District Council (the "Hearing Panel") of the Investment Industry Regulatory Organization of Canada ("IIROC") dated April 13, 2010 (the "IIROC Decision");

AND WHEREAS on November 22, 2010, a hearing and review of the IIROC Decision was held before the Ontario Securities Commission (the "Commission");

AND WHEREAS on December 15, 2010, the Commission issued its Reasons and Decision setting aside the IIROC Decision;

AND WHEREAS on January 11, 2011, a further hearing was held before the Commission to determine whether the Commission should exercise its jurisdiction to

substitute its decision on sanctions for that of the Hearing Panel or to remit the matter to a differently constituted IIROC hearing panel for a re-hearing;

AND UPON considering the submissions of counsel for the Applicants, counsel for IIROC and Staff of the Commission, the Commission is of the opinion that it is in the public interest to make this order;

IT IS ORDERED THAT this matter be remitted to a differently constituted IIROC hearing panel to determine the appropriate sanctions to be applied to the Applicants in the circumstances.

Dated at Toronto this 24th day of January, 2011

"James D. Carnwath"

"Carol S. Perry"

2.2.2 Rezwealth Financial Services Inc. et al. – ss. 127(1), 127(7), 127(8)

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

AND

IN THE MATTER OF
REZWEALTH FINANCIAL SERVICES INC.,
PAMELA RAMOUTAR, JUSTIN RAMOUTAR,
TIFFIN FINANCIAL CORPORATION,
DANIEL TIFFIN, 2150129 ONTARIO INC.,
SYLVAN BLACKETT, 1778445 ONTARIO INC.
AND WILLOUGHBY SMITH

ORDER
(Subsections 127(1), 127(7) and 127(8))

WHEREAS on December 22, 2009, the Ontario Securities Commission (the "Commission") issued a temporary cease trade order (the "Temporary Order") pursuant to subsections 127(1) and 127(5) of the *Securities Act*, R.S.O. 1990, c. S.5, as amended (the "Act") ordering the following:

1. that all trading in any securities by Rezwealth Financial Services Inc. ("Rezwealth"), Tiffin Financial Corporation ("Tiffin Financial"), 2150129 Ontario Inc. ("215 Inc.") or their agents or employees shall cease;

2. that all trading in any securities by Pamela Ramoutar ("Pamela"), Chris Ramoutar ("Chris"), Justin Ramoutar ("Justin"), Daniel Tiffin ("Tiffin") and Sylvan Blackett ("Blackett") shall cease;

3. that the exemptions contained in Ontario securities law do not apply to Rezwealth, Tiffin Financial, and 215 Inc. or their agents or employees; and

4. that the exemptions contained in Ontario securities law do not apply to Pamela, Chris, Justin, Tiffin and Blackett;

AND WHEREAS on December 22, 2009, the Commission ordered that the Temporary Order shall expire on the 15th day after its making unless extended by the Commission;

AND WHEREAS on December 22, 2009, the Commission issued a Notice of Hearing to consider, among other things, the extension of the Temporary Order, to be held on January 6, 2010;

AND WHEREAS on January 6, 2010, the Commission ordered that the Temporary Order was extended until June 22, 2010 and that the hearing was adjourned to June 21, 2010;

AND WHEREAS on June 21, 2010, the Commission ordered that the Temporary Order was extended until September 23, 2010 and that the hearing was adjourned to September 22, 2010;

AND WHEREAS on September 22, 2010, the Commission ordered that the Temporary Order was extended until January 27, 2011 and that the hearing was adjourned to January 26, 2011 at 10:00 a.m.;

AND WHEREAS on January 24, 2011, the Commission issued a Notice of Hearing pursuant to sections 127 and 127.1 of the Act accompanied by a Statement of Allegations dated January 24, 2011, issued by Staff of the Commission ("Staff") with respect to Rezwealth, Pamela, Justin, Tiffin Financial, Tiffin, 215 Inc., Blackett, 1778445 Ontario Inc. and Willoughby Smith;

AND WHEREAS on January 26, 2011, the Commission held a hearing to consider an extension of the Temporary Order;

AND WHEREAS Staff request a further order continuing the Temporary Order against Rezwealth, Pamela, Justin, Tiffin Financial, Tiffin, 215 Inc. and Blackett;

AND WHEREAS Staff is not requesting to extend the Temporary Order against Chris;

AND WHEREAS Rezwealth, Pamela and Justin do not object to an order continuing the Temporary Order;

AND WHEREAS the Commission heard submissions from counsel for Staff and counsel for Rezwealth, Pamela, Chris and Justin;

AND WHEREAS no one appeared at the hearing on behalf of Tiffin Financial, Tiffin, 215 Inc. or Blackett;

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

IT IS HEREBY ORDERED pursuant to subsections 127(7) and 127(8) of the Act that the Temporary Order is extended against Rezwealth, Pamela, Justin, Tiffin Financial, Tiffin, 215 Inc. and Blackett to March 17, 2011, and specifically:

1. that all trading in any securities by Rezwealth, Tiffin Financial and 215 Inc. shall cease;

2. that all trading in any securities by Pamela, Justin, Tiffin and Blackett shall cease;

3. that the exemptions contained in Ontario securities law do not apply to Rezwealth, Tiffin Financial, 215 Inc. or their agents or employees;

4. that the exemptions contained in Ontario securities law do not apply to Pamela, Justin, Tiffin and Blackett; and

5. that this Order shall not affect the right of any Respondent to apply to the Commission to clarify, amend, or revoke this Order upon five days written notice to Staff.

IT IS FURTHER ORDERED that the hearing of this matter is adjourned to Wednesday, March 16, 2011 at 10:00 am.

DATED at Toronto this 26th day of January, 2011

"Carol S. Perry"

2.2.3 QuantFX Asset Management Inc. et al. – ss. 127(7), 127(8)

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

AND

IN THE MATTER OF
QUANTFX ASSET MANAGEMENT INC.,
VADIM TSATSKIN, LUCIEN SHTROMVASER
AND ROSTISLAV ZEMLINSKY

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

WHEREAS on April 9, 2010, the Ontario Securities Commission (the "Commission") issued a temporary order pursuant to subsections 127(1) and 127(5) of the *Securities Act*, R.S.O. 1990, c. S.5, as amended (the "Act") ordering the following (the "Temporary Order"):

(i) that QuantFX Asset Management Inc. ("QuantFX"), Vadim Tsatskin ("Tsatskin"), Lucien Shtromvaser ("Shtromvaser") and Rostislav Zemlinsky ("Zemlinsky"), collectively the "Respondents", cease trading in all securities; and

(ii) that any exemptions contained in Ontario securities law do not apply to the Respondents;

AND WHEREAS on April 9, 2010, the Commission ordered that the Temporary Order shall expire on the 15th day after its making unless extended by order of the Commission;

AND WHEREAS on April 13, 2010, the Commission issued a Notice of Hearing to consider, among other things, the extension of the Temporary Order, to be held on April 23, 2010;

AND WHEREAS on April 23, 2010, October 13, 2010 and November 18, 2010, the Commission extended the Temporary Order;

AND WHEREAS on November 10, 2010, the Commission issued a Notice of Hearing pursuant to sections 37, 127 and 127.1 of the Act accompanied by a Statement of Allegations dated November 10, 2010, issued by Staff of the Commission ("Staff") with respect to QuantFX, Tsatskin, Shtromvaser and Zemlinsky;

AND WHEREAS on November 17, 2010, the Commission issued an Amended Notice of Hearing correcting a typographical error;

AND WHEREAS on January 26, 2011, a hearing was held at 12:00 p.m. and Staff appeared before the Commission and no one appeared on behalf of any of the Respondents;

AND WHEREAS Staff requested an extension of the Temporary Order for six weeks;

AND WHEREAS Staff advised the Commission that Tsatskin and counsel for QuantFX, Shtromvaser and Zemlinsky consented to the extension of the Temporary Order and the adjournment of the hearing and the Commission was satisfied that Staff properly served the Respondents;

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

IT IS ORDERED that the Temporary Order is extended to March 9, 2011 and that the hearing in this matter is adjourned to March 8, 2011 at 12:00 p.m. or on such other date or time as provided by the Secretary's Office and agreed to by the parties.

DATED at Toronto this 26th day of January, 2011.

"Carol S. Perry"

2.2.4 Mega-C Power Corporation et al. – ss. 127, 127.1

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

AND

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

ORDER
SANCTIONS AND COSTS
(Sections 127 and 127.1 of the Securities Act)

WHEREAS on November 16, 2005, the Ontario Securities Commission (the "**Commission**") issued a Notice of Hearing, returnable January 31, 2006, to consider allegations made by Staff of the Commission ("**Staff**") in the Statement of Allegations;

AND WHEREAS on February 6, 2007, the Commission issued an Amended Notice of Hearing, returnable October 29, 2007;

AND WHEREAS on June 4, 2007, Staff withdrew its allegations against Mega-C Power Corporation;

AND WHEREAS on September 17, 2009, the Commission approved a Settlement Agreement between Staff and Gary Usling;

AND WHEREAS the hearing on the merits with respect to Staff's allegations against Rene Pardo, Lewis Taylor Sr., Lewis Taylor Jr., Jared Taylor, Colin Taylor and 1248136 Ontario Limited (collectively, the "**Respondents**") commenced on September 30, 2009 and concluded on March 26, 2010;

AND WHEREAS on September 7, 2010, the Commission issued its decision on the merits (the "**Merits Decision**");

AND WHEREAS the Commission found, in the Merits Decision, that the Respondents contravened s. 25(1)(a) and s. 53(1) of the Ontario *Securities Act*, R.S.O. 1990, c. S.5, as amended (the "***Act***"), contrary to the public interest, and that Rene Pardo, Lewis Taylor Sr., Lewis Taylor Jr. and Jared Taylor contravened s. 38(3) of the *Act*, contrary to the public interest, and directed Staff and the Respondents to appear before the Commission on September 28, 2010, at 2:30 p.m., to set a date for a sanctions and costs hearing to consider whether, pursuant to sections 127(1) and 127.1 of the *Act*, it is in the public interest for the Commission to order the sanctions and costs set out in the Amended Notice of Hearing;

AND WHEREAS on September 28, 2010, Staff and the Respondents appeared before the Commission, and the Commission, having considered the submissions of Staff and the Respondents, ordered that: (i) the sanctions and costs hearing will commence on Tuesday, December 7, 2010, at 2:00 p.m., and continue, if necessary, on Wednesday, December 8, 2010, at 10:00 a.m., or such other dates as agreed by the parties and fixed by the Office of the Secretary; (ii) Staff will file and serve its written submissions on sanctions and costs by October 15, 2010; and (iii) the Respondents may file and serve written submissions on sanctions and costs, if they wish to do so, prior to the sanctions and costs hearing;

AND WHEREAS on October 15, 2010, Staff filed and served its written submissions on sanctions and costs, along with a book of authorities and an affidavit of service sworn on October 15, 2010, and the Respondents did not file any written material in advance of the sanctions and costs hearing;

AND WHEREAS the sanctions and costs hearing was held on December 7 and 8, 2010 (the "**Sanctions and Costs Hearing**"), and Staff and the Respondents appeared and made submissions;

AND WHEREAS on January 26, 2011, having considered the written submissions of Staff and the submissions made by Staff and the Respondents at the Sanctions and Costs Hearing, the Commission issued its reasons and decision on sanctions and costs (the "**Sanctions and Costs Decision**");

AND WHEREAS the Commission is of the opinion that it is in the public interest to make this Order (the "**Sanctions and Costs Order**");

IT IS ORDERED THAT:

1. Rene Pardo:

   (i) shall cease trading securities for ten (10) years, pursuant to clause 2 of subsection 127(1) of the *Act*, except that he is permitted to trade securities for the account of his registered retirement savings plans, registered retirement income plans, registered education savings plans or tax-free savings accounts (as defined in the *Income Tax Act* (Canada)) in which he or his spouse have sole legal and beneficial ownership, provided that:

      (a) the securities are listed and posted for trading on the Toronto Stock Exchange, the New York Stock Exchange or NASDAQ (or their successor exchanges) or are issued by a mutual fund that is a reporting issuer;

      (b) he does not own legally or beneficially (in the aggregate, together with his spouse) more than one percent of the outstanding securities of the class or series of the class in question;

      (c) he carries out any permitted trading through a registered dealer and through trading accounts opened in his name only (and he must close any trading accounts that are not in his name only); and

      (d) he gives a copy of the Merits Decision, the Sanctions and Costs Decision and the Sanctions and Costs Order to any registered dealer through which he will trade in advance of any trading;

   (ii) any exemptions available under Ontario securities law shall not apply to him for ten (10) years, pursuant to clause 3 of subsection 127(1) of the *Act*;

   (iii) is reprimanded, pursuant to clause 6 of subsection 127(1) of the *Act*;

   (iv) shall resign as a director or officer of any issuer, pursuant to clause 7 of subsection 127(1) of the *Act*;

   (v) is prohibited for ten (10) years from becoming or acting as a director or officer of any issuer, pursuant to clause 8 of subsection 127(1) of the *Act*; and

   (vi) pursuant to clause 10 of subsection 127(1) of the *Act*, he shall disgorge to the Commission the sum of $900,000 to be allocated by the Commission to or for the benefit of third parties in accordance with subsection 3.4(2)(b) of the *Act*.

2. Lewis Taylor, Sr.:

   (i) shall cease trading securities permanently, pursuant to clause 2 of subsection 127(1) of the *Act*, except that he is permitted to trade securities for the account of his registered retirement savings plans, registered retirement income plans, registered education savings plans or tax-free savings accounts (as defined in the *Income Tax Act* (Canada)) in which he or his spouse have sole legal and beneficial ownership, provided that:

      (a) the securities are listed and posted for trading on the Toronto Stock Exchange, the New York Stock Exchange or NASDAQ (or their successor exchanges) or are issued by a mutual fund that is a reporting issuer;

      (b) he does not own legally or beneficially (in the aggregate, together with his spouse) more than one percent of the outstanding securities of the class or series of the class in question;

      (c) he carries out any permitted trading through a registered dealer and through trading accounts opened in his name only (and he must close any trading accounts that are not in his name only); and

      (d) he gives a copy of the Merits Decision, the Sanctions and Costs Decision and the Sanctions and Costs Order to any registered dealer through which he will trade in advance of any trading;

   (ii) any exemptions provided for under Ontario securities laws shall not apply to him permanently, pursuant to clause 3 of subsection 127(1) of the *Act*;

   (iii) is reprimanded, pursuant to clause 6 of subsection 127(1) of the *Act*;

(iv) shall resign any position he holds as a director or officer of any issuer, pursuant to clause 7 of subsection 127(1) of the *Act*; and

(v) is prohibited from acting as a director or officer of any issuer permanently, pursuant to clause 8 of subsection 127(1) of the *Act*.

3. Lewis Taylor Jr., Jared Taylor and Colin Taylor:

(i) shall cease trading securities for four (4) years, pursuant to clause 2 of subsection 127(1) of the *Act*, except that each of them is permitted to trade securities for the account of his registered retirement savings plans, registered retirement income plans, registered education savings plans or tax-free savings accounts (as defined in the *Income Tax Act* (Canada)) in which he or his spouse have sole legal and beneficial ownership, provided that:

(a) the securities are listed and posted for trading on the Toronto Stock Exchange, the New York Stock Exchange or NASDAQ (or their successor exchanges) or are issued by a mutual fund that is a reporting issuer;

(b) he does not own legally or beneficially (in the aggregate, together with his spouse) more than one percent of the outstanding securities of the class or series of the class in question;

(c) he carries out any permitted trading through a registered dealer and through trading accounts opened in his name only (and he must close any trading accounts that are not in his name only); and

(d) he gives a copy of the Merits Decision, the Sanctions and Costs Decision and the Sanctions and Costs Order to any registered dealer through which he will trade in advance of any trading;

(ii) any exemptions provided for in Ontario securities law shall not apply to them for four (4) years, pursuant to clause 3 of subsection 127(1) of the *Act*;

(iii) are reprimanded, pursuant to clause 6 of subsection 127(1) of the *Act*;

(iv) shall resign as directors or officers of any issuer, pursuant to clause 7 of subsection 127(1) of the *Act*; and

(v) are prohibited from becoming or acting as a director or officer for any issuer for a period of four (4) years, pursuant to clause 8 of subsection 127(1) of the *Act*.

4. Lewis Taylor Sr., Lewis Taylor Jr., Colin Taylor and Jared Taylor, pursuant to clause 10 of subsection of 127(1) of the *Act*, shall disgorge to the Commission, on a joint and several basis, the sum of CDN $3,000,000, to be allocated by the Commission to or for the benefit of third parties in accordance with subsection 3.4(2)(b) of the *Act*.

DATED at Toronto, this 26th day of January, 2011.

"James D. Carnwath"

"Kevin J. Kelly"

2.2.5 Nest Acquisitions and Mergers et al.

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

AND

IN THE MATTER OF
NEST ACQUISITIONS AND MERGERS,
IMG INTERNATIONAL INC.,
CAROLINE MYRIAM FRAYSSIGNES,
DAVID PELCOWITZ, MICHAEL SMITH, AND
ROBERT PATRICK ZUK

ORDER

WHEREAS on January 18, 2010, the Secretary to the Ontario Securities Commission (the "Commission") issued a Notice of Hearing, pursuant to sections 37, 127 and 127.1 of the Ontario *Securities Act*, R.S.O. 1990, c. S.5, as amended (the "Act"), for a hearing to commence at the offices of the Commission at 20 Queen Street West, 17th Floor Hearing Room on Monday, January 28th, 2010 at 10 a.m., or as soon thereafter as the hearing can be held;

AND WHEREAS on January 18, 2010, Staff of the Commission ("Staff") filed with the Commission a Statement of Allegations in this matter;

AND WHEREAS on January 25, 2011, counsel for Staff, counsel for Robert Patrick Zuk ("Zuk"), and counsel for Caroline Myriam Frayssignes ("Frayssignes") and Nest Acquisitions and Mergers ("Nest") appeared before the Commission for the purpose of a further pre-hearing conference;

AND WHEREAS on January 25, 2011, no one appeared on behalf of David Paul Pelcowitz ("Pelcowitz"), Michael Smith ("Smith") and IMG International Inc. ("IMG"), and the Commission was satisfied that Pelcowitz, Smith and IMG had been provided with notice of the pre-hearing conference;

AND WHEREAS on January 25, 2011, the Commission heard submissions by counsel for Staff, counsel for Frayssignes and Nest, and counsel for Zuk as to the unavailability of certain documents from a third party and to an anticipated motion to be brought by Frayssignes, Nest and Zuk;

AND WHEREAS on January 25, 2011, counsel for Staff, counsel for Zuk, and counsel for Frayssignes and Nest consented that the dates for the hearing on the merits set for January 31, 2011 to February 11, 2011 (except for February 8, 2011) be vacated and agreed to tentative dates for the hearing on the merits from June 20, 2011 to June 30, 2011 (except June 21, 2011);

AND WHEREAS on January 25, 2011, counsel for Staff, counsel for Zuk, and counsel for Frayssignes and Nest consented to a hearing for the anticipated motion to be held on June 6, 2011;

AND WHEREAS the Commission wished to allow Pelcowitz a further opportunity to make submissions on the tentative dates for the hearing on the merits prior to making an order;

IT IS ORDERED that the hearing on the merits dates in this matter set for January 31 to February 11, 2011 are vacated.

IT IS FURTHER ORDERED that the motion by Frayssignes, Nest and Zuk be heard on June 6, 2011.

DATED at Toronto this 25th day of January 2011.

"Carol S. Perry"

2.2.6 Juniper Fund Management Corporation et al. – s. 127

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

AND

IN THE MATTER OF
THE JUNIPER FUND MANAGEMENT CORPORATION, JUNIPER INCOME FUND, JUNIPER EQUITY GROWTH FUND AND ROY BROWN (a.k.a. ROY BROWN-RODRIGUES)

ORDER
(Section 127 of the Securities Act)

WHEREAS on March 8, 2006, the Ontario Securities Commission (the "Commission") ordered pursuant to subsection 127(5) of the *Securities Act*, R.S.O. 1990, c. S.5, as amended (the "Act") that all trading in the securities of the Juniper Income Fund ("JIF") and the Juniper Equity Growth Fund ("JEGF") collectively (the "Funds") shall cease forthwith for a period of 15 days from the date thereof (the "Temporary Order");

AND WHEREAS pursuant to subsections 127(1) and 127(5) of the Act, a hearing was scheduled for March 23, 2006 at 10:00 a.m. (the "Hearing");

AND WHEREAS the Respondents were served with the Temporary Order, the Notice of Hearing dated March 21, 2006, the Statement of Allegations dated March 21, 2006 and the Affidavit of Trevor Walz sworn March 17, 2006;

AND WHEREAS on March 23, 2006, the Commission ordered: (i) an extension of the Temporary Order to May 4, 2006; and (ii) an adjournment of the Hearing to May 4, 2006;

AND WHEREAS Staff have advised that the Commission issued two Directions dated May 4, 2006 under subsection 126(1) of the Act freezing bank accounts of The Juniper Fund Management Corporation ("JFM"), the Funds and Roy Brown without notice to any of the Respondents;

AND WHEREAS on May 4, 2006, the Commission ordered: (i) the Hearing adjourned to May 23, 2006; (ii) the Temporary Order extended to May 23, 2006; (iii) JFM not to be paid any monthly management fees; (iv) JFM's requests for funds to pay expenses incurred by the Funds to continue to be subject to approval by NBCN Inc. ("NBCN"); (v) weekly lists of expenses by the Funds to continue to be provided to and reviewed by Staff; and (vi) neither JFM nor Roy Brown to deal in any way with the assets or investments of the Funds;

AND WHEREAS Staff have advised that on May 11, 2006 and June 30, 2006, the Ontario Superior Court of Justice (the "Superior Court") ordered that the two Directions dated May 4, 2006 freezing bank accounts of JFM, the Funds and Roy Brown be extended with the exception of the personal accounts and one JFM account as defined in the Superior Court orders dated May 11, 2006 and June 30, 2006;

AND WHEREAS the two Directions expired on September 30, 2006;

AND WHEREAS on May 18, 2006, the Superior Court issued an ex parte order appointing Grant Thornton Limited as receiver (the "Receiver") over the assets, undertakings and properties of JFM and the Funds;

AND WHEREAS on May 18, 2006, the Commission granted leave to McMillan Binch Mendelsohn LLP to withdraw as counsel for the Respondents;

AND WHEREAS on May 23, 2006, the Commission ordered: (i) the Hearing adjourned to September 21, 2006; and (ii) the Temporary Order extended to September 21, 2006;

AND WHEREAS on June 2, 2006, the Superior Court confirmed and extended the Receivership Order and approved the conduct of the Receiver and its counsel as set out in the First Report of the Receiver dated May 30, 2006;

AND WHEREAS on September 21, 2006, the Commission ordered: (i) the Hearing adjourned to November 8, 2006; and (ii) the Temporary Order extended to November 8, 2006;

AND WHEREAS NBCN and National Bank Financial Ltd. ("NBFL") have brought a motion for intervenor status in these proceedings (the "Intervenor Motion");

AND WHEREAS on November 7, 2006, the Commission adjourned the Hearing and the Intervenor Motion to December 13, 2006 and extended the Temporary Order to December 13, 2006;

AND WHEREAS on November 17, 2006, the Superior Court ordered, *inter alia*, that: (i) the Receiver is authorized to call a meeting of unitholders of the Funds; and (ii) the conduct of the Receiver and its counsel, as described in the Second and Third Reports of the Receiver, is approved without prejudice to the right of NBFL and NBCN to dispute the Receiver's conclusion that NBFL and NBCN hold no units in the JEGF;

AND WHEREAS by letter dated December 6, 2006, counsel for NBCN and NBFL advised that they intended to withdraw the Intervenor Motion;

AND WHEREAS on December 13, 2006, the Commission ordered: (i) an extension of the Temporary Order to March 2, 2007; and (ii) an adjournment of the Hearing to March 2, 2007;

AND WHEREAS on December 13, 2006, counsel for the Receiver advised that the Receiver will shortly be sending out an update letter to all unitholders explaining the steps taken by the Receiver and the status of the ongoing receivership;

AND WHEREAS on December 13, 2006 Staff advised that Staff's investigation and the investigation by the Receiver are both ongoing and there was a reasonable prospect that Staff's investigation would be completed by March 2007;

AND WHEREAS on December 13, 2006, counsel for the Receiver and Staff of the Commission consented to: (i) an adjournment of the Hearing to March 2, 2007; and (ii) an extension of the Temporary Order to March 2, 2007 and counsel for Roy Brown did not consent to the adjournment or the extension of the Temporary Order and requested the earliest possible return date;

AND WHEREAS on December 13, 2006, counsel for Roy Brown and Staff of the Commission scheduled a tentative pre-hearing conference with a Commissioner on February 27, 2007 at 11:00 a.m.;

AND WHEREAS on March 2, 2007, Staff advised that Staff's investigation and the investigation by the Receiver are both ongoing and that there is a reasonable prospect that Staff's investigation will be completed by April 2007;

AND WHEREAS on March 2, 2007, Staff advised that the tentative pre-hearing conference scheduled for February 27, 2007 did not proceed as Staff's investigation was ongoing;

AND WHEREAS on March 2, 2007, Staff advised that thirteen volumes of initial Staff disclosure were sent to counsel for Roy Brown on February 23, 2007;

AND WHEREAS on March 2, 2007, counsel for the Receiver provided an update of the ongoing receivership and advised that an update letter had been sent to all unitholders;

AND WHEREAS on March 2, 2007, Staff of the Commission requested and counsel for the Receiver consented to: (i) an adjournment of the Hearing to May 22, 2007; and (ii) an extension of the Temporary Order to May 22, 2007 and counsel for Roy Brown did not consent to the adjournment and extension of the Temporary Order;

AND WHEREAS on March 2, 2007, the Commission ordered: (i) an extension of the Temporary Order to May 22, 2007; and (ii) an adjournment of the Hearing to May 22, 2007;

AND WHEREAS the First, Second, Third and Fourth Reports of the Receiver have been filed with the Commission;

AND WHEREAS on May 22, 2007, based on Staff's submissions, the panel expected that Staff would conclude their investigation, amend their Statement of Allegations, provide additional disclosure to the Respondents and have attended at a pre-hearing conference in order to set a date for a hearing on the merits, all by mid-July 2007;

AND WHEREAS on May 22, 2007, Staff of the Commission requested and the Commission ordered: (i) an adjournment of the Hearing to July 17, 2007; and (ii) an extension of the Temporary Order to July 17, 2007, **and whereas** counsel for Roy Brown did not consent and counsel for the Receiver did consent to the adjournment and extension of the Temporary Order;

AND WHEREAS Staff of the Commission provided fifteen volumes of disclosure to counsel for Roy Brown on June 14 and 21, 2007 and the remaining five volumes of disclosure on July 9, 2007;

AND WHEREAS Staff of the Commission amended the Statement of Allegations on July 5, 2007;

AND WHEREAS a pre-hearing conference was held on July 20, 2007 and a second pre-hearing conference is scheduled for September 18, 2007;

AND WHEREAS on July 17, 2007, Staff of the Commission requested and counsel for the Receiver consented to and counsel to Roy Brown neither consented to nor opposed and the Commission ordered: (i) an adjournment of the Hearing to September 4, 2007; and (ii) an extension of the Temporary Order to September 4, 2007;

AND WHEREAS the parties were provided and agreed at the last pre-hearing conference to tentative hearing dates of April 7 to 11, 2008 and April 14 to 18, 2008;

AND WHEREAS on September 4, 2007, the Commission ordered: (i) the Hearing to commence on April 7, 2008 and continue for nine days; and (ii) an extension of the Temporary Order until the conclusion of the Hearing;

AND WHEREAS on November 14, 2007, the Superior Court ordered, *inter alia*, that : (i) the activities and conduct of the Receiver as described in the Fifth Report of the Receiver are hereby approved; (ii) the claims process defined in the Fifth Report of the Receiver is hereby approved; and (iii) the JEGF unitholder registry is amended as described in the Fifth Report of the Receiver;

AND WHEREAS on November 15, 2007, the Receiver held separate unitholder meetings for the Funds to obtain direction on how the receivership should proceed;

AND WHEREAS JEGF unitholders voted 99.65% in favour of liquidating the investments held by JEGF and completing a redemption of all JEGF units;

AND WHEREAS JIF unitholders voted 100% in favour of liquidating the investments held by JIF and completing a redemption of all JIF units;

AND WHEREAS on January 14, 2008, the Superior Court ordered, *inter alia*, that : (i) the distribution process to JEGF and JIF unitholders as proposed by the Receiver was approved; (ii) the JEGF unitholder registry as prepared by the Receiver was complete and final; and (iii) the JIF unitholder registry as prepared by the Receiver was complete and final (the "Distribution Approval Order");

AND WHEREAS on February 22, 2008, the Commission revoked the Temporary Order pursuant to section 144 of the Act to permit the Receiver to complete a distribution of redemption proceeds to JEGF unitholders and JIF unitholders, in accordance with the Distribution Approval Order;

AND WHEREAS on March 13, 2008, the Commission granted leave for the withdrawal of Brown's counsel of record;

AND WHEREAS on March 26, 2008, Brown brought a motion to adjourn the Hearing on the basis that he is no longer represented by counsel and he needed additional time to prepare for the Hearing;

AND WHEREAS on March 31, 2008, Brown requested an adjournment and advised that: (1) he is no longer represented by counsel; (2) he has not yet seen Staff's disclosure volumes which were served on his former counsel; and (3) he requires additional time to prepare for the Hearing;

AND WHEREAS Staff opposed the adjournment request on the basis that the dates have been scheduled since September 4, 2007, witnesses have been summonsed and Staff are ready to proceed;

AND WHEREAS on March 31, 2008, the Commission ordered that: (i) the Hearing scheduled to commence on April 7, 2008 is adjourned; (ii) the Hearing will commence on June 16, 2008, or such other date as is agreed by the parties and determined by the Office of the Secretary;

AND WHEREAS on June 4, 2008, Staff brought a motion to adjourn the Hearing as Staff were not available on June 16, 2008;

AND WHEREAS Staff, Brown and counsel for the Receiver consented to the Hearing being adjourned to a date to be set by a pre-hearing conference commissioner or agreed to among the parties;

AND WHEREAS the Office of the Secretary tentatively scheduled the Hearing for June 15 to 19, 2009 but Brown was not available on those dates, and a second pre-hearing conference had not been confirmed prior to these dates being scheduled;

AND WHEREAS Staff requested by letter to the Secretary's office dated December 23, 2009 that a pre-hearing conference in this matter be scheduled;

AND WHEREAS a pre-hearing conference was held on March 2, 2010 at which a further pre-hearing conference was scheduled for April 30, 2010 at 9:30 a.m.;

AND WHEREAS a pre-hearing conference was held on April 30, 2010 at which the parties agreed to hearing dates of November 15 to 18, November 24 to 26, November 29 and 30 and December 1 and 2, 2010 a to a second pre-hearing conference on June 16, 2010;

AND WHEREAS a pre-hearing conference was held on June 16, 2010 at which Staff and Roy Brown provided an update on their preparations for the hearing scheduled to commence on November 15, 2010 and Staff agreed to complete Staff's productions and interview and deliver witness statements for two potential Staff witnesses prior to the next pre-hearing conference;

AND WHEREAS Brown has provided Staff with some of the documents on which he intends to rely;

AND WHEREAS the parties have agreed to continue their discussions on the outstanding issues;

AND WHEREAS pre-hearing conferences were held on October 1, 2010, October 20, 2010 and November 1, 2010;

AND WHEREAS the Commission advised the parties during the pre-hearing conference on November 1, 2010 that because of the inability to provide a hearing panel, the Commission is not available for the hearing on the merits scheduled to commence on November 15, 2010 and continue on November 16, 17, 24, 25, 26 and 29, 30 and December 1 and 2, 2010;

AND WHEREAS the parties have agreed to continue the ongoing pre-hearing conference on December 6, 2010 at 2:00 p.m., which was later adjourned and scheduled to be held on January 24, 2011 at 9:30 a.m.;

AND WHEREAS a pre-hearing conference was held on January 24, 2011, and Staff appeared and Roy Brown participated by telephone conference;

AND WHEREAS on January 24, 2011, the Commission ordered that the hearing on the merits shall be held on September 14, 15, 16, 19, 20, 21, 22, 23, 28, 29 and 30, 2011 and October 3 and 4, 2011, or on such other dates as may be agreed by the parties and scheduled by the Office of the Secretary;

AND WHEREAS on January 24, 2011, the parties agreed that a further pre-hearing conference should be held before the hearing on the merits for the purpose of identifying agreed facts and outstanding issues;

AND WHEREAS, having considered the submissions of Staff and Roy Brown, it is the opinion of the Commission that it is in the public interest to make the following order;

IT IS ORDERED THAT:

(i) the hearing on the merits shall be held at the offices of the Commission on September 14, 15, 16, 19, 20, 21, 22, 23, 28, 29 and 30, 2011 and October 3 and 4, 2011, or on such other dates as may be agreed by the parties and scheduled by the Office of the Secretary; and

(ii) a further pre-hearing conference may be held on a date to be agreed by the parties and scheduled by the Office of the Secretary for the purpose of identifying agreed facts and outstanding issues.

DATED at Toronto this 24h day of January, 2011

"Patrick J. LeSage"

2.2.7 Nelson Financial Group Ltd. et al. – s. 127

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

AND

IN THE MATTER OF
NELSON FINANCIAL GROUP LTD.,
NELSON INVESTMENT GROUP LTD.,
MARC D. BOUTET, STEPHANIE LOCKMAN SOBOL,
PAUL MANUEL TORRES, H. W. PETER KNOLL

ORDER
(Section 127)

WHEREAS on May 12, 2010, the Ontario Securities Commission (the "Commission") issued a Notice of Hearing and a Statement of Allegations in this matter pursuant to section 127 and 127.1 of the *Securities Act*, R.S.O. 1990, c. S.5, as amended (the "Act");

AND WHEREAS on August 16, 2010, the Commission ordered that the hearing on the merits shall commence on Monday, February 14, 2011 at 10:00 a.m.;

AND WHEREAS the Respondent, Stephanie Sobol, has newly retained counsel and has requested an adjournment;

AND WHEREAS the parties consent to the adjournment and agree that it is peremptory to the Respondents with or without counsel;

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

AND WHEREAS by Order made January 18, 2011, pursuant to subsection 3.5(3) of the Act, each of Howard I. Wetston, James E. A. Turner, Kevin J. Kelly, Carol S. Perry, Patrick J. LeSage, James D. Carnwath, Mary G. Condon, Vern Krishna, Christopher Portner and Edward P. Kerwin, acting alone, is authorized to exercise the powers of the Commission under the Act, subject to subsection 3.5(4) of the Act, including the power to make orders under section 127 of the Act;

IT IS ORDERED THAT:

1. The hearing for this matter is adjourned to May 16, 2011 through to May 31, 2011, excluding May 23 and 24, 2011, peremptory to the Respondents with or without counsel; and

2. A pre-hearing conference will be held on February 25, 2011 at 11:00 a.m.

DATED at Toronto this 31st day of January, 2011.

"E. P. Kerwin"

2.2.8 Marlon Gary Hibbert et al. – ss. 127(1), 127(5)

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

AND

IN THE MATTER OF
MARLON GARY HIBBERT, ASHANTI CORPORATE SERVICES INC., DOMINION INTERNATIONAL RESOURCE MANAGEMENT INC., KABASH RESOURCE MANAGEMENT, POWER TO CREATE WEALTH INC. AND POWER TO CREATE WEALTH INC. (PANAMA)

TEMPORARY ORDER
Section 127(1) & 127(5)

WHEREAS it appears to the Ontario Securities Commission (the "Commission") that:

1. Ontario Corporation 2124329 operating as Ashanti Corporate Services Inc. ("Ashanti") and formerly operating as Power to Create Wealth Inc. ("PCW") is an Ontario corporation, and has never been a reporting issuer in Ontario or registered in any capacity with the Commission;

2. Dominion International Resource Management Inc.("Dominion") is an Ontario corporation, that formerly operated as Kabash Resource Management ("Kabash"), and has never been a reporting issuer in Ontario or registered in any capacity with the Commission;

3. Power to Create Wealth Inc. ("PCWP") is a registered public company in Panama that has not bee authorized to participate in the securities market in or from Panama.

4. Marlon Gary Hibbert ("Hibbert") is a Canadian citizen who resides in Ontario and has never been registered in any capacity with the Commission;

5. Ashanti, PCW, Dominion, Kabash, PCWP and Hibbert may have solicited investments from Ontario and United States residents totalling approximately $8 million;

6. Ashanti, PCW, Dominion, Kabash, PCWP and Hibbert may be engaging in conduct that is contrary to sections 25, 53 and 126.1 of the Ontario Securities Act, R.S.O. 1990, c. S-5 (the "Act");

AND WHEREAS the Commission is of the opinion that the time required to conclude a hearing could be prejudicial to the public interest as set out in section 127(5) of the Act;

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

AND WHEREAS by Authorization Order made January 18, 2011, pursuant to subsection 3.5(3) of the Act, the Commission authorized each of Howard I. Wetston, James E. A. Turner, Kevin J, Kelly, Carol S. Perry, Patrick J, LeSage, James D. Carnwath, Mary G. Condon, Vern Krishna, Christopher Portner and Edward P. Kerwin, acting alone, to exercise the powers of the Commission to make Orders under section 127 of the Act;

IT IS ORDERED that all trading by Ashanti, PCW, Dominion, Kabash, PCWP and Hibbert shall cease.

IT IS FURTHER ORDERED that all trading in any securities of Ashanti, PCW, Dominion, Kabash and PCWP shall cease.

IT IS FURTHER ORDERED that the exemptions contained in Ontario securities law do not apply Ashanti and PCW, Dominion, Kabash, PCWP and Hibbert.

IT IS FURTHER ORDERED that this order shall take effect immediately and shall expire on the fifteenth day after its making unless extended by order of the Commission.

DATED at Toronto this 28th day of January, 2011.

"Vern Krishna"

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Chapter 3

Reasons: Decisions, Orders and Rulings

3.1 OSC Decisions, Orders and Rulings

3.1.1 Mega-C Power Corporation et al. – ss. 127, 127.1

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

AND

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

REASONS AND DECISION ON
SANCTIONS AND COSTS
(Sections 127 and 127.1 of the Act)

Hearing:	December 7-8, 2010	
Decision:	January 26, 2011	
Panel:	James D. Carnwath Kevin J. Kelly	Commissioner and Chair of the Panel Commissioner
Counsel:	Matthew Britton Jonathon Feasby	for Staff of the Ontario Securities Commission
	Rene Pardo, Lewis Taylor Sr., Lewis Taylor Jr., Jared Taylor, Colin Taylor and 1248136 Ontario Limited were self-represented.	

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REASONS AND DECISION

I. INTRODUCTION

[1] At the conclusion of the 59-day hearing on the merits, the Panel made the following findings in the reasons which issued on September 7, 2010, following the hearing on the merits (the "**Merits Decision**"):

(a) We find Rene Pardo, Lewis Taylor Sr., Lewis Taylor Jr., Jared Taylor, Colin Taylor and 1248136 Ontario Limited contravened s. 25(1)(a) of the Act, contrary to the public interest.

(b) We find Rene Pardo, Lewis Taylor Sr., Lewis Taylor Jr., Jared Taylor, Colin Taylor and 1248136 Ontario Limited contravened s. 53(1) of the Act, contrary to the public interest.

(c) We find Rene Pardo, Lewis Taylor Sr., Lewis Taylor Jr., and Jared Taylor contravened s.38(3) of the Act, contrary to the public interest.

(*Re Mega-C Power Corporation, Rene Pardo, Gary Usling, Lewis Taylor Sr., Lewis Taylor Jr., Jared Taylor, Colin Taylor and 1248136 Ontario Limited* ("***Re Mega-C***") (2010), 33 O.S.C.B. 8290 at paras. 346-348)

[2] After considering the submissions of Staff of the Commission ("**Staff**") and Rene Pardo, Lewis Taylor Sr., Lewis Taylor Jr., Jared Taylor, Colin Taylor and 1248136 Ontario Limited (collectively, the "**Respondents**") at an appearance on September 28, 2010, we ordered that the sanctions and costs hearing would be held on December 7 and 8, 2010 (the "**Sanctions and Costs Hearing**", that Staff must file and serve its written sanctions and costs submissions by October 15, 2010, and that the Respondents may file and serve written submissions on sanctions and costs, if they wish to do so, prior to the sanctions and costs hearing. Staff filed and served written submissions on sanctions and costs on October 15, 2010. The Respondents did not provide written submissions. We heard oral submissions from Staff and the Respondents at the Sanctions and Costs Hearing.

II. POSITIONS OF THE PARTIES

(a) Staff

[3] With respect to Mr. Pardo, Staff seeks an order: (a) that he cease trading in securities for ten years; (b) that exemptions contained in Ontario securities law should not apply to him for ten years; (c) that he be reprimanded; (d) that he resign any position he holds as a director or officer of any issuer; (e) that he be prohibited from becoming or acting as a director or officer of any issuer for ten years; and (f) that he disgorge to the Commission the amount he obtained as a result of his non-compliance with Ontario securities law, which, in Staff's submission, is CDN $400,000 plus an amount in Canadian dollars equivalent to USD $407,000.

[4] With respect to Lewis Taylor Sr., Staff seeks an order: (a) that he cease trading securities permanently; (b) that exemptions contained in Ontario securities law do not apply to him permanently; (c) that he be reprimanded; (d) that he resign any position he holds as a director or officer of any issuer; and (e) that he be prohibited from becoming or acting as a director or officer of any issuer permanently.

[5] With respect to Lewis Taylor Jr. and Jared Taylor, Staff seeks an order: (a) that they cease trading securities for twenty years; (b) that exemptions contained in Ontario securities law do not apply to them for twenty years; (c) that they be reprimanded; (d) that they resign any positions they as directors or officers of any issuer; and (e) that they be prohibited from becoming or acting as directors or officers of any issuer for twenty years.

[6] With respect to Colin Taylor, Staff seeks an order: (a) that he cease trading securities for ten years; (b) that exemptions contained in Ontario securities law do not apply to him for ten years; (c) that he be reprimanded; (d) that he resign any position he holds as a director or officer of any issuer; and (e) that he be prohibited from becoming or acting as a director or officer of any issuer for ten years.

[7] Staff also seeks an order that Lewis Taylor Sr., Lewis Taylor Jr., Jared Taylor, Colin Taylor and 1248136 Ontario Limited (the "**Taylor Respondents**") disgorge to the Commission, on a joint and several basis, the amount they obtained as a result of their non-compliance with Ontario securities law, which, in Staff's submission, is CDN $312,742 plus the equivalent in Canadian dollars of USD $2,274,015.

[8] Staff submits that the Taylor Respondents should be ordered to pay Staff's costs in the amount of $106,700 on a joint and several basis. Staff does not seek a costs order against Mr. Pardo.

(b) Rene Pardo

[9] Mr. Pardo submits: (i) that he has recognized the seriousness of his conduct and continues to work to help investors recover their funds through the bankruptcy process, and he should therefore receive credit for co-operation; (ii) that his conduct will not be repeated because he is determined never again to be a director of a public company and he will never be involved in raising capital without very clear legal advice; (iii) that any order made against him should be equal or less severe than the order made against Gary Usling, the Chief Financial Officer ("**CFO**") of Mega-C Power Corporation ("**Mega-C**"), whose Settlement Agreement with Staff was approved by the Commission on September 17, 2009 ((2009), 32 O.S.C.B. 7813) (the "**Usling Settlement**"); (iv) that he is an experienced businessman with no history of any prior misconduct; and (v) that the Commission's sanctions orders will have an impact on his ability to earn a living in the only way he knows how – building technology companies.

[10] Mr. Pardo disputes our findings, set out at paragraph 130 of the Merits Decision, as to the amount he obtained as a result of non-compliance with Ontario securities law. That is a matter for any appeal brought before the Divisional Court under section 9 of the Act, and is of no assistance to us in considering sanctions and costs.

(c) The Taylor Respondents

[11] Mr. Lewis Taylor Sr. reiterates the submissions he made in the hearing on the merits, especially his position that Mr. Pardo was solely responsible for any non-compliance with Ontario securities law in this matter. The submissions of Mr. Jared Taylor, Mr. Colin Taylor and Mr. Lewis Taylor Jr. are to similar effect. The main focus of the Taylor Respondents' submissions is a challenge to our findings set out in the Merits Decision. These are matters for the Divisional Court on any appeal from the Merits Decision, and are of no assistance to us in considering sanctions and costs.

[12] The Taylor Respondents submit that Staff has selectively targeted them for harsh sanctions. Mr. Jared Taylor submits that his signature on the promissory notes reflects his recognition of his obligation to repay the "loans". He notes that while Staff seeks a twenty year director and officer ban against him and his brother, Mr. Lewis Taylor Jr., and a ten year director and officer ban against his brother, Mr. Colin Taylor, the Usling Settlement imposed only a two-year director and officer ban on the CFO of Mega-C. He submits that the Taylor Respondents should not be penalized for not settling with Staff, and should receive sanctions that are no more severe than those ordered against Mr. Usling. Mr. Colin Taylor submits that he played a limited role in these events, and does not deserve a harsher sanction than Mr. Pardo, the Chief Executive Officer ("**CEO**") of Mega-C.

[13] With respect to disgorgement, Mr. Lewis Taylor Sr. submits: (i) that the Usling Settlement did not include a disgorgement order; (ii) that any disgorgement order will have a punitive impact on the Taylor Respondents, especially in light of the legal costs they have incurred in this proceeding and other litigation relating to this matter; and (iii) that he has made representations in Canada and the U.S. that the Taylor Respondents will repay the "loans". Mr. Jared Taylor submits that Staff is unfairly seeking an increased disgorgement amount from the Taylor Respondents in order to lessen the penalty for Mr. Pardo.

[14] With respect to costs, Mr. Jared Taylor submits that the Taylor Respondents were not responsible for delays in the process, which resulted in their appearing without counsel. Mr. Lewis Taylor Sr. submits that Staff's failure to call relevant witnesses or to elicit relevant evidence contributed to an inefficient hearing, a submission we rejected on the basis that it was open to the Respondents to cross-examine Staff's witnesses, which they did, and to summons any witnesses they thought helpful to their case.

[15] To the extent the submissions of the Taylor Respondents restate their submissions at the hearing on the merits, they are of no assistance to us in considering sanctions and costs.

III. BACKGROUND FACTS

[16] We made findings of fact with respect to each of the Respondents in the Merits Decision.

[17] In the following paragraphs, we briefly re-visit those findings as they bear on the appropriate sanctions to be imposed.

(a) Rene Pardo

[18] We found that Mr. Pardo attended many of the meetings with investors in Mega-C between September 2001 and mid-2003 (the "**Relevant Period**"). At those meetings, he made representations to potential investors designed to persuade them to invest in Mega-C. These included representations that Mega-C had made or would make an application to be listed on a stock exchange, which we found to be in breach of subsection 38(3) of the Act.

[19] Mr. Pardo also signed all but a handful of the Mega-C share certificates which were provided to investors. We found that Mr. Pardo's conduct amounted to acts in furtherance of trades and therefore satisfied the definition of "trading" in subsection

1(1) of the Act. As Mr. Pardo did not establish that any exemption from the registration or prospectus requirements of the Act was available in respect of these trades, we found that he breached subsections 25(1)(a) and 53(1) of the Act.

[20] We also found that Mega-C paid out funds to Mr. Pardo or companies he controlled. In particular, Mega-C paid CDN $167,000 to Mr. Pardo and 503124 Ontario Ltd., a company of which he was a director. Mega-C also transferred CDN $233,000 and USD $407,000 to NetProfitEtc Inc., a company of which he was the sole director. The USD/CDN dollar exchange rate most advantageous to Mr. Pardo in the Relevant Period is 1.3. This converts USD $407,000 to CDN $530,000. The total amount obtained by Mr. Pardo is approximately CDN $930,000, which, for purposes of determining the appropriate sanctions, we round down to CDN $900,000.

(b) The Taylor Respondents

[21] We found that the Taylor Respondents "knowingly participated in a common enterprise … to sell shares in Mega-C to the public in the guise of a loan to Jared Taylor" (Merits Decision, paragraphs 191-192). The common enterprise was "conceived and led" by Lewis Taylor Sr., described by his counsel at the time as the head of the Taylor family, who was involved in, or made, all major decisions on behalf of the Taylor family. We were persuaded that Mr. Taylor's three sons played a minor role in the decision to embark on the scheme devised by Mr. Taylor Sr. We found they were willing agents through which the scheme was executed.

[22] Lewis Taylor Sr., Lewis Taylor Jr., and Jared Taylor engaged in meetings with a wide variety of investors at which time they made representations that were designed to persuade people to invest in Mega-C. These included representations that Mega-C had made application or would make application to be listed on a stock exchange, which we found to be in breach of subsection 38(3) of the Act.

[23] Lewis Taylor Jr. prepared an assortment of materials which were designed to convince people to invest in Mega-C. Jared Taylor received the funds from the putative lenders, arranged for them to receive their share certificates and distributed the funds from his personal bank accounts to members of his family and corporations in which they were involved. Colin Taylor, through his company and co-Respondent, 1248136 Ontario Limited, directed Mr. Pardo to transfer Mega-C shares to a list of approximately 175 named persons.

[24] We found that the loans supposedly made by investors to Jared Taylor were not disclosed to most investors at the time they transferred their funds; most investors believed they were purchasing Mega-C shares. Following these transfers, we found that some investors protested to no avail, and many investors accepted the result though unhappy with the process. We found that such acceptance of the promissory notes was induced by the persuasive manner in which the investment in Mega-C was presented and the belief that the technology was commercially viable.

[25] Accordingly, we rejected the Taylor Respondents' characterization of these transactions as "loans" and found that the Taylor Respondents engaged in many acts in furtherance of trades. We also found that the Taylor Respondents did not establish that any exemption from the registration or prospectus requirements of the Act was available in respect of these trades. We found that the Taylor Respondents breached subsections 25(1)(a) and 53(1) of the Act.

[26] From late 2001 to early 2003, Jared Taylor issued at least 406 promissory notes. The notes indicate that Jared Taylor received approximately USD $2,274,015 and CDN $312,742. Applying the same advantageous exchange rate to USD $2,274,015 produces CDN $2.9 million approximately. The total amount obtained by Jared Taylor on behalf of the Taylor Respondents is approximately CDN $3.2 million, which, for purposes of determining the appropriate sanctions, we round down to CDN $3 million.

IV. THE PURPOSE OF SANCTIONS

[27] Section 1.1 of the Act states that the purposes of the Act are "to provide protection to investors from unfair, improper or fraudulent practices" and "to foster fair and efficient capital markets and confidence in capital markets". Section 2.1 of the Act states that in pursuing the purposes of the Act, the Commission shall have regard to certain fundamental principles, including that the primary means for achieving the purposes of the Act are "requirements for timely, accurate and efficient disclosure of information" and "requirements for the maintenance of high standards of fitness and business conduct to ensure honest and responsible conduct by market participants".

[28] To effect these purposes, the Act requires that unless a registration exemption is available, persons or companies who trade securities must be registered with the Commission. This ensures that persons or companies who trade securities satisfy requirements for competence and integrity. The Act also prohibits the distribution of securities without a qualified prospectus, unless a prospectus exemption applies. The prospectus must provide full, true and plain disclosure of all material facts relating to the securities issued or to be distributed. This ensures that prospective investors receive relevant information about a potential investment before they make an investment. The Act also prohibits persons or companies from making certain types of

representations to investors with the intention of effecting a trade in a security. This prevents persons or companies from making certain specific representations to investors which are likely to constitute a powerful inducement to purchase the securities.

[29] In *Asbestos*, the Supreme Court of Canada confirmed that "the Commission's public interest jurisdiction is neither remedial nor punitive; it is protective and preventive, intended to be exercised to prevent likely future harm to Ontario's capital markets." The purpose of an order under section 127 of the Act "is to restrain future conduct that is likely to be prejudicial to the public interest in fair and efficient capital markets" by "removing from the capital markets those whose past conduct is so abusive as to warrant apprehension of future conduct detrimental to the integrity of the capital markets."

> (*Committee for Equal Treatment of Asbestos Minority Shareholders v. Ontario (Securities Commission)*, [2001] 2 S.C.R. 132 at paras. 42-43)

[30] In considering how best to fulfill its protective and preventive role, the Commission must take into account the circumstances appropriate to specific respondents. As well, the Commission may go beyond the need for the specific deterrence of a respondent and make an order designed to deter like-minded persons from engaging in similar conduct in the future.

> (*Re Cartaway Resources Corp.*, [2004] 1 S.C.R. 672 at paras. 60-62)

[31] We agree with the submissions of Staff that in determining the nature and duration of sanctions, we should consider the following factors as they apply to the Respondents:

(a) the seriousness of the misconduct and the harm done;

(b) the characteristics of the respondents including their capital market experience;

(c) benefits received by the respondents;

(d) whether there has been a recognition of the seriousness of the improprieties and remorse;

(e) the risk to investors if the respondents were allowed to continue to operate in the capital markets; and

(f) mitigating factors.

> (*Re Belteco Holdings Inc.* (1998), 21 O.S.C.B. 7743 at 7746-7; *Re M.C.J.C. Holdings and Michael Cowpland* (2003), 26 O.S.C.B. 8206 at para. 55; *Re Lamoureux*, [2002] A.B.S.C. No. 125)

V. SANCTIONS AND COSTS ANALYSIS

(a) Rene Pardo

(i) The Pardo Settlement Agreement

[32] On September 28, 2009 (the day before the hearing on the merits was to start), a settlement panel considered whether an agreement reached between Staff and Mr. Pardo (the "**Pardo Settlement Agreement**") should be approved. The Taylor Respondents appeared at the settlement hearing and objected to Mr. Pardo being permitted to settle. The Settlement Panel adjourned the matter to the hearing on the merits, stating:

> We are not in a position to determine if the settlement would be prejudicial to the respondents other than Mr. Pardo, and we've decided that we will not consider the Settlement Agreement this afternoon.
>
> (Hearing Transcript, September 29, 2009, p. 42)

[33] Having heard submissions on the matter at the beginning of the hearing on the merits, we decided that the Pardo Settlement Agreement should not be considered until the completion of the hearing on the merits. We said:

> We find it would not be in the public interest to deal with the Settlement Agreement at this time, nor do we find it in the public interest to send it to another Panel. Any consideration of the proposed settlement should be done on a complete record. Any settlement with Mr. Pardo we find would interfere with the Taylor Respondents' right to make full answer and defence, given the adversarial relationship we find to exist between them.
>
> (Hearing Transcript, September 30, 2009, p. 31)

[34] After the Merits Decision was issued, Mr. Pardo requested that approval of the Pardo Settlement Agreement be considered by the Commission before the start of the Sanctions and Costs Hearing. On September 28, 2010, we dismissed this motion and deferred the matter of the Pardo Settlement Agreement to the Sanctions and Costs Hearing, which was set for December 7 and 8, 2010.

[35] Mr. Pardo then moved for adjournment of the Sanctions and Costs Hearing pending resolution of the matter of the Pardo Settlement Agreement. We dismissed the motion on November 25, 2010, for reasons given by endorsement on November 30, 2010. At that time, we said:

> Counsel submits that Mr. Pardo has been denied procedural fairness by the failure of the Commission to consider the settlement agreement that he entered into with Staff of the Commission. While it appears to us that the settlement agreement was "considered" by the panel of September 29th, 2010, this is a matter for the Divisional Court.
>
> Counsel further submits that a hearing panel cannot consider a settlement agreement after the start of the hearing on the merits. Subject to any submissions made at the sanctions hearing, this would appear to us to be a correct analysis of Commission practice and procedure absent, of course, total agreement by all the parties before the hearing panel. This also is a matter for the Divisional Court.
>
> (*Re Mega-C* (2010), 33 O.S.C.B. 11719 at paras. 3-4)

[36] We have heard nothing at the Sanctions and Costs Hearing that would cause us to resile from that ruling. There has been a full hearing on the merits, and our findings are set out in the Merits Decision. Staff submits, and we agree, that the Pardo Settlement Agreement is of no assistance to us. Our role now is to determine appropriate sanctions based on our findings made on the evidence.

(ii) Sanctions and Costs

[37] We found that Mr. Pardo's conduct was serious and caused great harm to hundreds of investors. He attended many meetings with investors where he made representations to potential investors that Mega-C had applied or would apply to be listed on a stock exchange. He facilitated the Taylor Respondents' promissory note scheme by issuing Mega-C share certificates as directed by the Taylor Respondents. Hundreds of investors lost thousands of dollars in Mega-C; we found that investors lost a total of approximately CDN $3.2 million.

[38] Mr. Pardo maintained in his submissions that he relied on legal advice to trade in Mega-C shares and that he always acted in the best interest of Mega-C investors. However, the outcome of his conduct was that he failed to protect Mega-C investors from harm and received benefits from Mega-C of approximately CDN $900,000. Mr. Pardo is an experienced businessman with considerable capital market experience. His conduct shows a lack of understanding of his responsibilities as an officer of an issuer. We find that the public interest requires us to make an order that will protect investors from any similar conduct in the future.

[39] In mitigation, Mr. Pardo appears to understand the seriousness of his conduct and indeed has expressed regret that matters turned out as they did. He asserts that when he saw the harm being done to investors he made efforts to assist them. We find evidence that supports this claim. Indeed, Mr. Pardo abandoned his interest in his Mega-C shares in the bankruptcy proceedings in Nevada.

[40] In considering appropriate and proportionate sanctions for Mr. Pardo, we note that the Usling Settlement states that Mr. Usling, who was the CFO of Mega-C, received in excess of 1.25 million treasury shares from Mega-C and traded them to members of the public whom he solicited to invest. He abandoned his interest in his Mega-C shares in the bankruptcy proceedings. Pursuant to the settlement agreement between Mr. Usling and Staff, which was approved by the Commission on September 17, 2009, Mr. Usling was reprimanded and prohibited for two years from becoming or acting as a director or officer of a reporting issuer.

[41] It is not our role to consider what would have been appropriate sanctions for Mr. Usling had the Usling Settlement not been approved. The Commission has stated on a number of occasions that "The role of a panel reviewing a settlement agreement is not to substitute the sanctions it would impose in a contested hearing for what is proposed in the settlement agreement, but rather to make sure the agreed sanctions are within acceptable parameters" (*Re Koonar et al.* (2002), 25 O.S.C.B. 2691 at 2692). Instead, our role is to decide on the appropriate sanctions for Mr. Pardo and the Taylor Respondents based on our findings in the Merits Decision. We have had the benefit of a long and searching examination of the related activities of Mr. Usling, Mr. Pardo and the Taylor Respondents over some 55 days of evidence, and that understanding compels us to order the sanctions that are proportionate to the conduct of the Respondents before us – Mr. Pardo and the Taylor Respondents.

[42] In assessing the appropriate sanction for Mr. Pardo we have not considered his failure to settle as an aggravating factor.

(b) The Taylor Respondents

[43] As noted above, Lewis Taylor Sr. devised and led the common enterprise based on the promissory note scheme. He enlisted the help of his three sons.

[44] Lewis Taylor Jr., in his capacity of an officer of Mega-C, employed his sales skills in meeting with investors and preparing written materials to persuade investors that Mega-C was worthwhile.

[45] Jared Taylor opened Canadian and U.S. bank accounts with the Toronto Dominion Bank. He issued the promissory notes to investors, collected the funds from them, instructed Mr. Pardo to issue share certificates to named investors and distributed investor funds from his accounts to the Taylor Respondents, to companies controlled by them or to associates of the Taylor Respondents or companies controlled by them.

[46] Colin Taylor played a lesser role. Through his company, he directed Mr. Pardo to transfer Mega-C shares into the names of numerous individuals who invested through the Taylor Respondents.

[47] There is little or no evidence of the business experience of Lewis Taylor Jr., Colin Taylor or Jared Taylor. They appear to have had limited business experience.

[48] Lewis Taylor Sr. was an experienced business man. He had previously been found to have contravened Ontario securities law for "touting activities" which led to an order that exemptions contained an Ontario securities law would not apply to him for a period of ten years ((1990), 13 O.S.C.B. 3887). Apart from his own account, he was prohibited from committing any act, advertisement or other conduct involved in the sale or disposition of securities to the public. The order expired on September 11, 2000.

[49] The Taylor Respondents do not recognize the seriousness of their misconduct. They blame Mr. Pardo, Staff investigators and counsel for Staff, as well as the Panel. This failure to recognize the seriousness of their misconduct suggests they may act in a similar manner in the future. The investing public should be protected from such conduct.

[50] The seriousness of the misconduct and the resulting harm requires sanctions that not only deter the Taylor Respondents but as well send a message of general deterrence to others who may consider similar contraventions of the Act.

[51] In mitigation, we take into account that Lewis Taylor Jr., Colin Taylor and Jared Taylor have no previous record of any kind with the Commission. Also in mitigation is the fact that it is almost ten years since the start of the promissory note scheme; the three Taylor sons were relatively young men at the time. Nothing in the evidence suggests they would have been able to assess the merits of the scheme and its compliance or otherwise with the Act. It would have been difficult for the Taylor sons to resist participation in the scheme devised by their father. Our experience in the hearing is that Lewis Taylor Sr. becomes aggressive when crossed. We recall an occasion during the hearing on the merits when Lewis Taylor Jr. was asked if he planned to make closing submissions. He replied he wasn't planning to and Lewis Taylor Sr. said to him, "Yes you are."

VI. DISGORGEMENT

[52] Mr. Pardo received funds from Mega-C during the period between August 20, 2001 and February 29, 2004. The promissory notes issued by Jared Taylor range from late 2001 to early 2003 with the majority of them issued in 2002.

[53] On April 7, 2003, certain amendments to the Act came into force. These amendments included s. 127(1)10, which gives the Commission power to order a person or company to disgorge any amounts obtained as a result of non-compliance with Ontario securities law. This raises the question of whether the provision can be applied retrospectively with respect to amounts obtained as a result of non-compliance with Ontario securities law before the enactment of s. 127(1)10.

[54] The amendments of April 7, 2003 also provided for an administrative penalty. Subsequent jurisprudence has distinguished between disgorgement and the administrative penalty insofar as retroactivity is concerned. In *Rowan* the Commission found:

> We agree with and prefer to follow the reasoning and rationale of the British Columbia Court of Appeal in *Thow*, although we would emphasize that the imposition of a fine is a penalty and would downplay the use of the word punitive even though it is used in a limited sense in that decision. The law as developed by the Supreme Court of Canada cases, and followed in Thow, is that ongoing constraints or prohibitions may be applied retrospectively but penalty provisions, particularly monetary penalties, should not be applied retrospectively.

> (*Re Rowan et al.* (2010), 33 O.S.C.B. 91 at paras. 94.; *Thow v. British Columbia (Securities Commission)*, [2009] BCCA 46 at paras. 47-49)

[55] However, disgorgement has been found to apply retroactively. In *Re White et al.* (2010), 33 O.S.C.B. 8893 ("***White***") at para. 36, the Commission stated:

> The April 7, 2003 amendment to the Act also gave the Commission authority to order disgorgement of funds obtained by misconduct. Since the Commission did not have authority to order disgorgement for misconduct prior to that amendment, it is argued that the disgorgement should not apply to monies obtained prior to that date. Disgorgement is an order directing that any unlawfully obtained funds be removed from the transgressor. Notwithstanding some of the funds were invested in this scheme prior to the coming into force of the disgorgement provision, our order should not be reduced to reflect monies invested prior to April 7, 2003. The rationale of disgorgement is to reflect the principle that a person from whom funds were unlawfully obtained has a legal right to have those funds returned.

[56] We agree with the Commission's statement of the law in White.

[57] The details of disgorgement are discussed below.

[58] In *Re Limelight et al.* (2008), 31 O.S.C.B. 12080 ("***Limelight***") at para. 52, the Commission set out the following non-exhaustive list of factors to consider when contemplating issuing a disgorgement order:

(a) whether an amount was obtained by a respondent as a result of non-compliance with the Act;

(b) whether the amount that a respondent obtained as a result of non-compliance with the Act is reasonably ascertainable;

(c) the seriousness of the misconduct and the breaches of the Act and whether investors were seriously harmed;

(d) whether the individuals who suffered losses are likely to be able to obtain redress by other means; and

(e) the deterrent effect of a disgorgement order on the respondents and other market participants.

[59] The burden is on Staff, to prove on a balance of probabilities, the amount obtained by a respondent as a result of that respondent's non-compliance with the Act. In *Limelight*, the Commission explained at para. 49 that:

> … paragraph 10 of subsection 127(1) of the Act provides that disgorgement can be ordered with respect to "any amounts obtained" as a result of non-compliance with the Act. Thus, the legal question is not whether a respondent "profited" from the legal activity but whether the respondent "obtained amounts" as a result of that activity. In our view, this distinction is made in the Act to make clear that all money illegally obtained from investors can be ordered to be disgorged, not just the "profit" made as a result of the activity. This approach also avoids the Commission having to determine how "profit" should be calculated in any particular circumstance. Establishing how much a respondent obtained as a result of his or her misconduct is a much more straightforward test. In our view, where there is a breach of Ontario securities law that involves the widespread and illegal distribution of securities to members of the public, it is appropriate that a respondent disgorge all the funds that were obtained from investors as a result of that illegal activity. In our view, such a disgorgement order is authorized under paragraph 10 of subsection 127(1) of the Act.

[60] We find a disgorgement order is appropriate in this case to ensure that none of the Respondents benefits from breaches of the Act and to deter them and others from similar misconduct. Therefore, Mr. Pardo will be ordered to disgorge to the Commission the amount of CDN $900,000, which is the amount he obtained as a result of his non-compliance with Ontario securities law. We found that the Taylor Respondents acted in a common enterprise, and accordingly the disgorgement order against them will be payable on a joint and several basis. The Taylor Respondents will be ordered to disgorge to the Commission, on a joint and several basis, the amount of CDN $3 million, which is the amount they obtained as a result of their non-compliance with Ontario securities law. The amounts disgorged by Mr. Pardo and the Taylor Respondents shall be allocated to or for the benefit of third parties in accordance with subsection 3.4(2)(b) of the Act.

VII. COSTS

[61] Staff seeks costs of the hearing in the amount of $106,700, to be paid by the Taylor Respondents on a joint and several basis. We agree with Staff's submission that Staff have been conservative in their calculation of costs, which does not include investigation or preparation time. However, there shall be no order as to costs.

[62] We make no order as to costs for the following five reasons:

(i) On September 7, 2007, a panel of the Commission issued its reasons and decision on a motion for particulars filed by various Respondents ((2010), 33 O.S.C.B. 8278). At paragraph 57, the Panel found as follows:

> In our view the allegations made in the Statement of Allegations, the July Letter and all the other comprehensive disclosure made by Staff to the Respondents are not sufficient to permit the Respondents to know the particulars of the case they have to meet and to make full answer and defence. Accordingly, we have directed Staff to provide the additional particulars referred to above.

(ii) On October 1, 2008, a panel of the Commission issued its decision on a motion for a stay brought by the Respondents ((2010), 33 O.S.C.B. 8285). At paragraph 17, Staff was directed to produce a written itemized inventory of documents and materials in its possession that were relevant to the proceeding that Staff did not intend to disclose to the Respondents.

(iii) In the course of the Nevada bankruptcy, Staff released compelled testimony of some Respondents that ultimately reached persons not entitled to have that testimony. We find that Staff was less than vigilant in taking steps to ensure that the compelled testimony was revealed to only those persons qualified to receive it.

(iv) During the course of the investigation, Staff received videos of presentations made to potential investors recorded by Kirk Tierney. The videos were lost while in the possession of Staff. While we are not satisfied that the videos could have assisted the Respondents, Staff's failure to preserve this evidence contributed to the Taylor Respondents' submission that Staff was biased against them.

(v) During the course of the investigation, counsel for Staff interviewed A.M., a member of the Toronto Police Service. As a result of that conversation, A.M. formed the opinion that Staff counsel was attempting to influence his evidence as a witness in the Mega-C proceeding. A.M. and a fellow officer present at the interview testified as to the conduct of the interview. None of the three members of Staff present at that meeting was called in reply. We found the actions of Staff counsel were unwarranted, inappropriate and overreaching.

[63] For the foregoing reasons we make no order as to costs.

VII. DECISION ON SANCTIONS AND COSTS

[64] We consider that it is important in this case to impose sanctions that reflect the seriousness of the securities law violations that occurred. We further consider it important to impose sanctions that deter not only the Respondents but also like-minded persons from engaging in future conduct that violates securities law.

[65] We consider it in the public interest to make the following order:

1. Rene Pardo:

(i) shall cease trading securities for ten (10) years, pursuant to clause 2 of subsection 127(1) of the Act, except that he is permitted to trade securities for the account of his registered retirement savings plans, registered retirement income plans, registered education savings plans or tax-free savings accounts (as defined in the *Income Tax Act* (Canada)) in which he or his spouse have sole legal and beneficial ownership, provided that:

(a) the securities are listed and posted for trading on the Toronto Stock Exchange, the New York Stock Exchange or NASDAQ (or their successor exchanges) or are issued by a mutual fund that is a reporting issuer;

(b) he does not own legally or beneficially (in the aggregate, together with his spouse) more than one percent of the outstanding securities of the class or series of the class in question;

(c) he carries out any permitted trading through a registered dealer and through trading accounts opened in his name only (and he must close any trading accounts that are not in his name only); and

(d) he gives a copy of the Merits Decision, the Sanctions and Costs Decision and the Sanctions and Costs Order to any registered dealer through which he will trade in advance of any trading;

(ii) any exemptions available under Ontario securities law shall not apply to him for ten (10) years, pursuant to clause 3 of subsection 127(1) of the Act;

(iii) is reprimanded, pursuant to clause 6 of subsection 127(1) of the Act;

(iv) shall resign as a director or officer of any issuer, pursuant to clause 7 of subsection 127(1) of the Act;

(v) is prohibited for ten (10) years from becoming or acting as a director or officer of any issuer, pursuant to clause 8 of subsection 127(1) of the Act; and

(vi) pursuant to clause 10 of subsection 127(1) of the Act, he shall disgorge to the Commission the sum of $900,000, to be allocated by the Commission to or for the benefit of third parties in accordance with subsection 3.4(2)(b) of the Act.

2. Lewis Taylor, Sr.:

(i) shall cease trading securities permanently, pursuant to clause 2 of subsection 127(1) of the Act, except that he is permitted to trade securities for the account of his registered retirement savings plans, registered retirement income plans, registered education savings plans or tax-free savings accounts (as defined in the *Income Tax Act (*Canada)) in which he or his spouse have sole legal and beneficial ownership, provided that:

(a) the securities are listed and posted for trading on the Toronto Stock Exchange, the New York Stock Exchange or NASDAQ (or their successor exchanges) or are issued by a mutual fund that is a reporting issuer;

(b) he does not own legally or beneficially (in the aggregate, together with his spouse) more than one percent of the outstanding securities of the class or series of the class in question;

(c) he carries out any permitted trading through a registered dealer and through trading accounts opened in his name only (and he must close any trading accounts that are not in his name only); and

(d) he gives a copy of the Merits Decision, the Sanctions and Costs Decision and the Sanctions and Costs Order to any registered dealer through which he will trade in advance of any trading;

(ii) any exemptions provided for under Ontario securities laws shall not apply to him permanently, pursuant to clause 3 of subsection 127(1) of the Act;

(iii) is reprimanded, pursuant to clause 6 of subsection 127(1) of the Act;

(iv) shall resign any position he holds as a director or officer of any issuer, pursuant to clause 7 of subsection 127(1) of the Act; and

(v) is prohibited from acting as a director or officer of any issuer permanently, pursuant to clause 8 of subsection 127(1) of the Act.

3. Lewis Taylor Jr., Jared Taylor and Colin Taylor:

(i) shall cease trading securities for four (4) years, pursuant to clause 2 of subsection 127(1) of the Act, except that each of them is permitted to trade securities for the account of his registered retirement savings plans, registered retirement income plans, registered education savings plans or tax-free savings accounts (as defined in the Income Tax Act (Canada)) in which he or his spouse have sole legal and beneficial ownership, provided that:

(a) the securities are listed and posted for trading on the Toronto Stock Exchange, the New York Stock Exchange or NASDAQ (or their successor exchanges) or are issued by a mutual fund that is a reporting issuer;

(b) he does not own legally or beneficially (in the aggregate, together with his spouse) more than one percent of the outstanding securities of the class or series of the class in question;

(c) he carries out any permitted trading through a registered dealer and through trading accounts opened in his name only (and he must close any trading accounts that are not in his name only); and

(d) he gives a copy of the Merits Decision, the Sanctions and Costs Decision and the Sanctions and Costs Order to any registered dealer through which he will trade in advance of any trading;

(ii) any exemptions provided for in Ontario securities law shall not apply to them for four (4) years, pursuant to clause 3 of subsection 127(1) of the Act;

(iii) are reprimanded, pursuant to clause 6 of subsection 127(1) of the Act;

(iv) shall resign as directors or officers of any issuer, pursuant to clause 7 of subsection 127(1) of the Act; and

(v) are prohibited from becoming or acting as a director or officer for any issuer for a period of four (4) years, pursuant to clause 8 of subsection 127(1) of the Act.

4. Lewis Taylor Sr., Lewis Taylor Jr., Colin Taylor and Jared Taylor, pursuant to clause 10 of subsection of 127(1) of the Act, shall disgorge to the Commission, on a joint and several basis, the sum of CDN $3,000,000, to be allocated by the Commission to or for the benefit of third parties in accordance with subsection 3.4(2)(b) of the Act.

[66] There shall be no order as to costs.

[67] An order will issue separately.

DATED at Toronto this 26th day of January, 2011.

“James D. Carnwath”

“Kevin J. Kelly”

3.1.2 Magna International Inc. et al. – s. 127

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

AND

IN THE MATTER OF
MAGNA INTERNATIONAL INC.

AND

IN THE MATTER OF
THE STRONACH TRUST
AND 446 HOLDINGS INC.

REASONS FOR DECISION AND ORDER
(Section 127 of the Act)

Hearing:	June 23 and 24, 2010		
Decision:	June 24, 2010		
Panel:	James E. A. Turner	–	Vice-Chair and Chair of the Panel
	Paulette L. Kennedy	–	Commissioner
	C. Wesley M. Scott	–	Commissioner
Counsel:	James Sasha Angus Cullen Price Shannon O'Hearn Naizam Kanji Erin O'Donovan	–	For Staff of the Ontario Securities Commission
	Larry Lowenstein Allan Coleman Laura Fric Jean M. Fraser Emmanuel Pressman Jeremy Fraiberg (Osler, Hoskin & Harcourt LLP)	–	For Magna International Inc.
	Peter F. C. Howard Ed Waitzer Ellen Snow Brian Pukier (Stikeman Elliott LLP)	–	For Stronach Trust and 446 Holdings Inc.
	Samuel Rickett David Hausman Murray Braithwaite (Fasken Martineau DuMoulin LLP)	–	For the Special Committee of Magna International Inc.
	James D. G. Douglas David Di Paolo Margot Finley Paul G. Findlay Caitlin Sainsbury (Borden Ladner Gervais LLP)	–	For Ontario Teachers' Pension Plan Board, Canada Pension Plan Investment Board, OMERS Administration Corporation, Alberta Investment Management Corporation, Letko, Brosseau & Associates Inc. and British Columbia Investment Management Corporation

Kelly McKinnon James Camp (Gowling Lafleur Henderson LLP)	–	For Goodman & Company Investment Counsel Limited
R. Paul Steep Iain Scott (McCarthy Tétrault LLP)	–	For Mason Capital Management LLC

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REASONS AND DECISION

I. INTRODUCTION

[1] These are our reasons for the decision and order we issued on June 24, 2010 pursuant to section 127 of the *Securities Act*, R.S.O. 1990, c. S.5, as amended (the "**Act**") related to the proposed plan of arrangement of Magna International Inc. ("**Magna**") to collapse its dual class share structure (the "**Proposed Transaction**").

[2] This hearing arose out of a Notice of Hearing issued by the Ontario Securities Commission (the "**Commission**") on June 15, 2010 in connection with a Statement of Allegations issued by Staff of the Commission ("**Staff**") on the same day, naming as respondents, Magna, the Stronach Trust and 446 Holdings Inc. ("**446**") (collectively, the "**Respondents**"). The allegations made by Staff are set out in paragraph 34 of these reasons.

[3] Staff sought an order of the Commission under subsection 127(1)2 of the Act cease trading the issuance of securities in connection with the Proposed Transaction for such period as the Commission deemed necessary, on the grounds that the Proposed Transaction was contrary to the public interest. Staff also sought an order under subsection 127(1)3 of the Act that the exemptions contained in sections 5.5(a) and 5.7(1) (a) of Multilateral Instrument 61-101 – *Protection of Minority Security Holders in Special Transactions* ("**MI 61-101**") did not apply to Magna in respect of the Proposed Transaction, and an order under subsection 127(1)5 of the Act requiring Magna to amend its Management Information Circular/Proxy Statement dated May 31, 2010 (the "**Circular**") to provide additional disclosure.

II. PRELIMINARY MATTERS

[4] On June 18, 2010, following a hearing to consider whether to grant intervenor status in this matter to several applicants, the Commission issued an order granting intervenor status to the special committee of independent directors of the board of directors of Magna (the "**Special Committee**") to make submissions to the Commission with respect to the disposition of this matter, but not to adduce evidence, to cross-examine witnesses or to otherwise participate as a party to this proceeding (referred to as "***Torstar* standing**").

[5] The Commission also granted *Torstar* standing to a group of institutional shareholders of Magna opposed to the Proposed Transaction. That group consisted of Ontario Teachers' Pension Plan Board, Canada Pension Plan Investment Board,

OMERS Administration Corporation, Alberta Investment Management Corporation, Letko, Brosseau & Associates Inc., and British Columbia Investment Management Corporation (the "**Opposing Shareholders**"). The Opposing Shareholders were represented by Borden Ladner Gervais LLP and indicated that they would make joint submissions in this matter.

[6] The Commission also granted *Torstar* standing to two shareholders who are in favour of allowing the holders (the "**Class A Shareholders**") of Magna Class A subordinate voting shares (the "**Subordinate Voting Shares**") to vote on the Proposed Transaction. *Torstar* standing was granted to Goodman & Company Investment Counsel Limited ("**Goodman**") on June 18, 2010 and to Mason Capital Management LLC ("**Mason**") on June 21, 2010.

[7] The Commission did not grant standing to the Canadian Foundation for the Advancement of Investor Rights.

[8] The Commission has released separate reasons for its decisions on standing in this matter. Those reasons were issued on January 14, 2011.

[9] On June 18, 2010, the Commission also heard a motion brought by Magna for an order maintaining the confidentiality, and restricting the use, of all non-public documents produced by Magna in the course of this proceeding. Magna submitted that many of the documents produced should not be made available to the public because they contained commercially sensitive and confidential information, the disclosure of which would have potentially caused irreparable harm to Magna. The Commission ordered that the parties to this proceeding, other than Magna, should not use the documents produced for any purpose other than in connection with this proceeding, and that upon final disposition of this matter, all confidential information and documents should be destroyed (see the order of the Commission dated June 18, 2010).

III. THE OBJECTIVE OF THE PROPOSED TRANSACTION

[10] The objective of the Proposed Transaction was to eliminate Magna's longstanding dual class share structure through a plan of arrangement under which Magna would indirectly purchase for cancellation all of its outstanding Class B multiple voting shares (the "**Class B Shares**"). If the arrangement was completed:

(i) Magna would indirectly acquire and cancel all of the outstanding Class B Shares beneficially owned indirectly by the Stronach Trust for consideration comprised of US$300 million in cash and 9,000,000 newly issued Subordinate Voting Shares;

(ii) Magna would have a single class of outstanding voting equity securities, to be renamed "common shares", of which the Stronach Trust would indirectly hold approximately 7.44%;

(iii) certain amendments would be made to the consulting contracts under which Mr. Frank Stronach's services were provided to Magna and its subsidiaries (see paragraph 28 of these reasons); and

(iv) Magna and the Stronach Trust would enter into the E-Car Partnership, a joint venture between Magna and the Stronach Trust for the development of Magna's vehicle electrification business; the Stronach Trust would indirectly effectively control that partnership.

[11] The total value of the consideration to be paid by Magna to the Stronach Trust for the acquisition and cancellation of the Class B Shares was estimated to be approximately $860 million.

[12] The objective of the Proposed Transaction was to collapse Magna's dual class share structure with the expectation that the Subordinate Voting Shares (reconstituted as common shares) would, as a result, trade in the market at a higher trading multiple than the current Subordinate Voting Shares, with any resulting appreciation in share value to be, in effect, split between the Stronach Trust and the Class A Shareholders on an equal basis (see paragraph 86 of these reasons).

IV. THE DECISION

Summary of Submissions

[13] At the hearing on the merits, Staff sought the orders referred to above and submitted that the Proposed Transaction should not be put to a vote of the Class A Shareholders in its current form unless and until shareholders received more complete disclosure as to the desirability or fairness of the Proposed Transaction, including disclosure of the financial information received by the Special Committee from its financial advisors and a recommendation of the board of directors of Magna (the "**Magna Board**"). Staff also alleged that the approval and review process followed by the Magna Board and the Special Committee in deciding to submit the Proposed Transaction to shareholders was inadequate.

[14] The Opposing Shareholders urged the Commission to find that the Proposed Transaction was abusive of Class A Shareholders and Ontario capital markets and to exercise its public interest jurisdiction to restrain the Proposed Transaction.

The Opposing Shareholders sought an order permanently cease trading the Subordinate Voting Shares to be issued to Stronach Trust pursuant to the Proposed Transaction.

[15] Magna submitted that Staff and the Opposing Shareholders did not meet the onus of demonstrating that there were grounds for the Commission to intervene in the Proposed Transaction in the public interest. Magna submitted that the disclosure provided to shareholders complied fully with the requirements of applicable securities law. It also submitted that the Magna Board and the Special Committee followed a proper and thorough process in reviewing and approving the submission of the Proposed Transaction to a shareholder vote. Magna submitted that any delay in allowing Class A Shareholders to consider the Proposed Transaction was not warranted, because a delay could both affect the market price of the Subordinate Voting Shares and expose the Proposed Transaction to risk that it might not be completed.

[16] Magna noted that the Proposed Transaction was to be carried out by way of a plan of arrangement under the *Business Corporations Act* (Ontario), R.S.O. 1990, c. B.16 (the "**OBCA**"). It submitted that the Commission should not interfere with the court-supervised arrangement process and that Class A Shareholders should be permitted to decide for themselves whether to approve the Proposed Transaction.

[17] Goodman and Mason submitted that there were no valid grounds for the Commission to intervene in the Proposed Transaction in the public interest and that Class A Shareholders should be permitted to decide for themselves whether the Proposed Transaction should proceed.

Decision and Order

[18] We had a short deadline for issuing our decision in this matter because the Magna special meeting of shareholders to approve the Proposed Transaction was scheduled for Monday, June 28, 2010, four days after the completion of the hearing. Accordingly, we issued our decision (the "**Decision**") and order on June 24, 2010. We concluded that it was in the public interest to make the following order:

1. If Magna wishes to proceed with shareholder approval of the Proposed Transaction or any similar modified transaction, it must amend the Circular in accordance with this decision and send such amended Circular to shareholders in accordance with applicable corporate law;

2. Subordinate Voting Shares to be issued by Magna in connection with the Proposed Transaction are cease traded until such time as Magna complies with clause (1) of this order; and

3. the exemption contained in section 5.5(a) of MI 61-101 is not available to Magna unless it complies with the disclosure requirements of section 5.3 of MI 61-101.

If Magna wishes to proceed with the Proposed Transaction, Magna shall deliver a copy of the amended circular to Staff at least five days before it is sent to shareholders. If Staff has concerns with respect to the proposed disclosure in that circular, Staff may bring a motion for directions or other relief before us on notice to the other parties (excluding those parties with only Torstar standing).

Additional Disclosure Required

[19] We concluded that, before the Proposed Transaction could be voted on by Class A Shareholders, the Circular had to be amended to provide full and accurate disclosure of the following information and, in each case, a meaningful discussion and analysis of the implications of that information for purposes of the Proposed Transaction and the shareholder vote:

1. A clear articulation of how management and the Magna Board arrived at the consideration to be paid to the Stronach Trust under the Proposed Transaction and the potential economic benefits to shareholders. For greater clarity, this analysis should:

   (i) specify the metrics used to express value creation (e.g. share price increase due to "multiple expansion");

   (ii) address the concepts articulated by Mr. Galifi in his testimony with respect to "value sharing" between the Stronach Trust and other shareholders;

   (iii) explain why management and the Magna Board believed there might be a positive impact on the share price and the sensitivity of "value sharing" to share price changes; and

   (iv) include any analysis that would further assist shareholders to understand the concepts articulated;

2. An explanation of the relevance to determining the value of the Class B Shares of the Russian Machines transaction and the privatization and restructuring proposals referred to on page 6 of the Circular;

3. A description of the potential alternatives to the Proposed Transaction considered by the Special Committee (as mentioned in the Circular);

4. A detailed discussion of the review and approval process adopted by the Special Committee consistent with the description contained in Mr. Harris' affidavit submitted in evidence; that disclosure should include the steps taken by the Special Committee to negotiate the terms of the Proposed Transaction with detailed information as to what variations were proposed and the responses to those proposals; we noted that our order required compliance with the disclosure obligations in section 5.3 of MI 61-101;

5. Inclusion in the Circular of the two reports prepared by CIBC World Markets Inc. ("**CIBC**") and the report prepared by PricewaterhouseCoopers LLP ("**PwC**") (those reports had already been publicly disclosed) and a meaningful discussion of the advice received by the Special Committee from CIBC and PwC with respect to the material financial elements of the Proposed Transaction; that discussion should make clear that PwC valued only the assets to be transferred to the E-Car Partnership and not the E-Car Partnership itself;

6. We considered the statement contained in the Circular that the dilution to shareholders "would be significantly greater than the case for other historical transactions in which dual class share structures were collapsed" to be misleading; we required disclosure of the dilution suffered by minority shareholders in other historical transactions in which dual class share structures have been collapsed and a discussion of the relevance of that disclosure to the dilution to shareholders under the Proposed Transaction;

7. A clear statement of how CIBC assessed the Proposed Transaction from a financial perspective and the reasons why it concluded that it could not opine as to the financial fairness of the Proposed Transaction; we required a statement whether CIBC advised as one of those reasons that it could not issue a fairness opinion because of the terms of the Proposed Transaction relative to other transactions collapsing dual class share structures;

8. A discussion of the advice received by the Special Committee as to the nature of the legal standard to be applied by a court in determining under the OBCA whether the arrangement is fair and reasonable and what matters the court would likely consider in reaching that determination;

9. A clear statement by the disinterested members of the Magna Board or the Special Committee whether they have concluded that (i) the Proposed Transaction is fair and reasonable in accordance with the applicable corporate law standard, or (ii) they have reached no such conclusion;

10. Disclosure whether the change in the market price of the Subordinate Voting Shares subsequent to the public announcement of the Proposed Transaction changed the position of the Magna Board or the Special Committee that it cannot make any recommendation to shareholders as to how they should vote on the Proposed Transaction; we required clarification that there is at least a question whether the increase in the market price of the Subordinate Voting Shares immediately following the public announcement of the Proposed Transaction was also affected by the other public announcements on that day;

11. Clarification of the financial analysis related to Magna's conclusion that the 25% market capitalization exemption in section 5.5(a) of MI 61-101 (the "**Market Cap Exemption**") is available to Magna in connection with the Proposed Transaction, including whether the amendments to the Consulting Agreements (as defined below) are "connected transactions" and the fair market values used for each component of the consideration to be paid to the Stronach Trust, including the interest in the E-Car Partnership and the amendments to the Consulting Agreements; and

12. In connection with the purchase price of the E-Car assets to be acquired by the E-Car Partnership, an explanation as to what it means that the purchase price is equal to the fair market value determined by mutual agreement "taking into account the valuation work conducted by PwC for the Special Committee".

[20] We also required that the Circular contain a statement that the disinterested members of the Magna Board or the Special Committee have concluded that the Circular as amended provides disclosure and information sufficient to permit shareholders to make an informed decision as to how to vote on the Proposed Transaction.

[21] These are our full reasons for our Decision and order.

V. THE PARTICIPANTS

A. The Respondents

1. Magna International Inc.

[22] Magna is a corporation existing under the laws of Ontario and is a reporting issuer under the Act. Magna develops, designs, and manufactures automotive systems, modules, assemblies and components and engineers and assembles vehicles, principally for sale to original equipment manufacturers of cars and light trucks in North America, Europe, and elsewhere. As of March 31, 2010, Magna had 240 manufacturing operations and 76 product development, engineering and sales centres in 25 countries.

[23] The authorized share capital of Magna consists of an unlimited number of Subordinate Voting Shares, 776,961 Class B Shares and 99,760,000 preference shares, issuable in series, all with no par value. As of May 31, 2010, there were 112,072,348 Subordinate Voting Shares, 726,829 Class B Shares and no preference shares issued and outstanding. The Subordinate Voting Shares are listed on the Toronto Stock Exchange (the "**TSX**") and the New York Stock Exchange ("**NYSE**").

[24] The Subordinate Voting Shares are entitled to one vote per share and the Class B Shares are entitled to 300 votes per share. The Class B Shares, all of which are indirectly held by the Stronach Trust, currently represent approximately 66% of the votes but less than 1% of the equity attached to Magna's total outstanding shares. The Class B Shares and the Subordinate Voting Shares have the same rights to dividends and to receive the property and assets of Magna on liquidation, dissolution, or winding up. Holders of the Class B Shares may at any time convert the Class B Shares into Subordinate Voting Shares on a one-for-one basis. Magna refers to this capital structure as a "dual class share structure" because of the disproportionate allocation of votes to the two classes of equity shares. We adopt the same term for purposes of these reasons.

[25] No "coat-tail" protection is provided to the Class A Shareholders in the event of a change of control transaction involving the purchase of the Class B Shares. Coat-tail protection would generally require that the Class A Shareholders participate on the same basis as the holders of Class B Shares in any change of control transaction. Further, there is no "sunset" provision applicable to the Class B Shares pursuant to which the Class B Shares would cease to have multiple votes per share at some specified future date.

2. The Stronach Trust and 446

[26] The Stronach Trust is a trust established pursuant to the laws of Ontario. The Stronach Trust has legal and effective control of Magna through its indirect ownership of all the outstanding Class B Shares. Mr. Frank Stronach, the founder and Chairman of Magna, and certain members of his immediate family, are the trustees of the Stronach Trust and are members of the class of potential beneficiaries of the Stronach Trust.

[27] 446 is a corporation existing under the OBCA and is indirectly owned by the Stronach Trust. 446 was formed for the purpose of entering into the transactions contemplated by the Proposed Transaction. 446 is the sole registered and beneficial holder of all of the outstanding securities of the corporation that is the sole registered and beneficial holder of all of the Class B Shares.

[28] Mr. Stronach provides services to Magna and its subsidiaries, personally and through associated entities, pursuant to four consulting, business development and business services agreements (the "**Consulting Agreements**"). Under three of the Consulting Agreements, the fees payable are 3% of Magna's pre-tax profits before profit sharing. In the event the Consulting Agreements, which have one-year terms and are subject to extension, are terminated early, Magna is required to pay the fees payable under the Consulting Agreements for the balance of the one-year term. The aggregate fees paid to Mr. Stronach pursuant to the Consulting Agreements were $37,783,000 in 2007, $8,152,000 in 2008 and nothing in 2009 (Magna's pre-tax profits before profit sharing in 2009 were NIL).

B. The Intervenors

1. The Special Committee

[29] On April 8, 2010, a meeting of the Magna Board was held at the request of the executive management of Magna at which the Magna Board was informed of a conceptual proposal discussed by executive management and the Stronach Trust to collapse Magna's dual class share structure. At that meeting, the Magna Board established the Special Committee which was comprised of Michael Harris (Chair), Louis Lataif and Donald Resnick, all of whom, in the view of the Magna Board, are directors of Magna independent of Mr. Stronach and the Stronach Trust.

[30] The mandate of the Special Committee was to review and consider the proposal developed by executive management for submission, firstly to the Stronach Trust, and if acceptable to the Stronach Trust, to report to the Magna Board as to whether the proposal should be submitted to the Class A Shareholders for their consideration.

2. The Opposing Shareholders

[31] The Opposing Shareholders are institutional investors which hold and/or manage, in the aggregate, approximately 4,600,000 Subordinate Voting Shares, representing approximately 4% of the issued and outstanding Subordinate Voting Shares.

3. Goodman & Company Investment Counsel Limited

[32] Goodman is a Canadian investment company offering comprehensive investment services. Goodman manages over $30 billion in assets. Goodman submitted that it is required to act solely in the best interests of the investment funds that it manages. It has similar duties under the investment management agreements for the separate accounts that it manages. As at May 25, 2010 (the record date for the proposed Magna shareholders' meeting to consider the Proposed Transaction), Goodman owned and/or held approximately 5,000,000 Subordinate Voting Shares.

4. Mason Capital Management LLC

[33] Mason Capital Management LLC ("**Mason**") is a New York based fund manager that invests on behalf of pensions, endowments and foundations and has significant investments in Canadian public issuers, including issuers with dual class share structures. Mason owns and/or manages approximately 100,000 Subordinate Voting Shares.

VI. STAFF'S ALLEGATIONS AND SUBMISSIONS OF PARTICIPANTS

A. Staff's Allegations

[34] Staff made the following allegations in the Statement of Allegations:

(i) the Circular did not contain specific financial information obtained by the Special Committee from its financial advisors;

(ii) the Circular failed to provide sufficient information concerning the desirability or fairness of the Proposed Transaction and the Magna Board had not made useful recommendations regarding the arrangement in the Circular; and

(iii) the purchase by Magna of the Class B Shares held indirectly by the Stronach Trust as part of the Proposed Transaction, in these novel and unprecedented circumstances, was contrary to the public interest and should be cease traded because:

(a) the holders of the Subordinate Voting Shares were being asked to approve the arrangement resolution without a recommendation from the Magna Board and without sufficient information to form a reasoned judgment concerning the Proposed Transaction; and

(b) the approval and review process followed by the Magna Board and Special Committee in negotiating the arrangement and proposing it to the holders of the Subordinate Voting Shares was inadequate.

[35] Staff also submitted that the Magna Board should have put the Proposed Transaction to a shareholder vote only if it was willing to discuss the fairness of that transaction and provide a formal valuation.

[36] On the basis of those allegations, Staff sought the following orders:

(i) an order under subsection 127(1)2 of the Act that trading in the Class B Shares cease for such period as the Commission may specify;

(ii) an order under subsection 127(1)3 of the Act that the exemptions contained in clauses 5.5(a) and 5.7(1)(a) of MI 61-101 do not apply to Magna in respect of the Proposed Transaction;

(iii) an order under subsection 127(1)5 of the Act that Magna amend the Circular; and/or

(iv) such further and other orders as the Commission considered appropriate.

B. Magna's Submissions

[37] Magna submitted that no aspect of the Proposed Transaction was contrary to the public interest for the following reasons:

(i) the Proposed Transaction was subject to the approval of shareholders, including by a majority of the votes cast by minority Class A Shareholders;

(ii) the Proposed Transaction was subject to approval by the Ontario Superior Court of Justice which is required to determine whether the arrangement is fair and reasonable;

(iii) the Proposed Transaction was the product of a proper and thorough process undertaken by the Special Committee, which had the assistance of independent legal and financial advisors;

(iv) in the proper exercise of its business judgment, the Magna Board, on the recommendation of the Special Committee, determined that it was in the best interests of Magna for its shareholders to be provided with the opportunity to decide for themselves whether the Proposed Transaction ought to be implemented;

(v) there is no requirement that a special committee or a board of directors make a recommendation to shareholders with respect to how they should vote on matters put before them. A board acting in good faith can determine, as the Magna Board did here, that the making of a recommendation would not be appropriate having regard to all the circumstances. In such cases, the obligation of the issuer is to provide its shareholders with an explanation as to why no recommendation is made. Magna clearly complied with this obligation, as the Circular provides detailed reasons for the Magna Board's determination not to make a recommendation;

(vi) Magna is not required under MI 61-101 to obtain and disclose a formal valuation of the Class B Shares. The arrangement is exempt from the valuation requirement by reason of the availability of the Market Cap Exemption. In any event, a formal valuation of the Class B Shares would not have been of assistance to the Class A Shareholders in determining whether to vote for or against the Proposed Transaction;

(vii) the disclosure in the Circular fully complied with the statutory requirement that shareholders have before them all information necessary to make an informed decision; and

(viii) the Proposed Transaction was not abusive or coercive. Class A Shareholders could vote "no" without any negative consequences. The result of a negative vote would be that the status quo was maintained with respect to Magna's dual class share structure.

[38] Magna submitted that Staff and the Opposing Shareholders were implicitly attacking the ability of the Class A Shareholders to make an informed decision as to the desirability of the Proposed Transaction and were attempting to prevent the transaction from being put to a shareholder vote.

[39] Magna submitted that the Proposed Transaction could have been carried out without minority shareholder approval because of the availability of the Market Cap Exemption. However, at the insistence of both Mr. Stronach and the Special Committee, the Proposed Transaction was to be put to a vote of the Class A Shareholders to ensure that the Class A Shareholders had the right to determine whether the Proposed Transaction should proceed. As a result, the Proposed Transaction would only be implemented if a majority of the Class A Shareholders approved it.

[40] Magna submitted that there was no basis on which to challenge the business judgment of the Magna Board in determining to put the Proposed Transaction to a vote of shareholders without a recommendation as to how shareholders should vote. That business decision was recommended by the Special Committee and is within the range of reasonable alternatives available to the Magna Board. Accordingly, Magna submitted that we should defer to the Magna Board's business judgment in these circumstances.

[41] Magna submitted that, in any event, the Commission is not the appropriate forum to adjudicate on whether directors have complied with their fiduciary duties or to assess whether a proposed transaction is fair and reasonable. Accordingly, the Commission was not the proper forum in which to address any of the issues raised in the Statement of Allegations other than the disclosure issues.

[42] Magna's submissions were adopted and supported by the Stronach Trust and 446.

C. The Intervenors' Submissions

1. The Special Committee

[43] The Special Committee submitted that its process in reviewing the Proposed Transaction was appropriate and thorough and that it was advised by financial and legal advisors independent of Magna and the Stronach Trust.

[44] The Special Committee submitted that objection to the price that Magna proposed to pay to eliminate the dual class share structure was not an appropriate basis for seeking a section 127 order from the Commission. According to the Special Committee, the overall benefits of the Proposed Transaction were a matter for the Class A Shareholders to consider in voting on the Proposed Transaction. The Special Committee also submitted that the Ontario Superior Court of Justice would review the fairness of the Proposed Transaction in considering approval of the arrangement.

[45] The Special Committee submitted that it understood that the consideration proposed to be paid to the Stronach Trust for the Class B Shares was much higher than in previous transactions that collapsed dual class share structures. However, the Special Committee submitted that the Stronach Trust was under no obligation to support the Proposed Transaction and was not prepared to negotiate the price to be paid to it. In light of these circumstances, the Special Committee had to exercise its business judgment whether to forego the opportunity of eliminating the dual class share structure or to put it to a shareholder vote with appropriate disclosure and procedural safeguards.

[46] The Special Committee submitted that it considered numerous factors (set out in Schedule A hereto, commencing at page 56) in reaching the conclusion that the Proposed Transaction and the potential benefits from it were sufficiently attractive to Class A Shareholders to submit the Proposed Transaction to a vote of shareholders. However, the Special Committee was unable to assess the value or potential benefits of the Proposed Transaction to Class A Shareholders (see paragraph 155 of these reasons). As a result, the Special Committee submitted that it could not reasonably make a recommendation to Class A Shareholders in connection with the Proposed Transaction.

2. The Opposing Shareholders

[47] The Opposing Shareholders objected to the Proposed Transaction on the following grounds:

(i) the Proposed Transaction was abusive and coercive to Class A Shareholders in light of (a) the significant and unprecedented premium being paid to the Stronach Trust for its Class B Shares, (b) the extension of the Consulting Contracts to Mr. Stronach for no apparent consideration, and (c) the diversion of the strategically significant E-Car business from Magna to the Stronach Trust;

(ii) the failure of the directors of Magna to make a decision as to whether or not the Proposed Transaction was in the best interests of Magna;

(iii) the failure of the Special Committee to make a determination as to the fairness of the Proposed Transaction to the Class A Shareholders and to make a recommendation to those shareholders; and

(iv) Magna's disclosure was insufficient to permit shareholders to make an informed decision.

[48] The Opposing Shareholders submitted that it was unprecedented for a controlling shareholder to receive such a huge premium over the value of the relevant subordinate voting shares when a company eliminates a dual class share structure. They submitted that multiple voting shares have usually been exchanged for common shares on a one-for-one basis when a dual class share structure is collapsed.

3. Goodman & Company Investment Counsel Limited

[49] Goodman submitted that, in the unique circumstances of the Proposed Transaction, sufficient disclosure had been made to permit shareholders to vote on an informed basis and that shareholders should be given the right to do so without intervention by the Commission. Goodman submitted that the Commission should carefully weigh the potential harm posed to shareholders before intervening in a transaction in which all legal requirements have been satisfied. Goodman submitted that two key procedural safeguards for shareholders are being provided: the Proposed Transaction would proceed only if it was approved by a majority of the votes cast by disinterested Class A Shareholders and only if it was determined by a court to be fair and reasonable.

[50] Goodman submitted that any intervention by the Commission would pose serious risk of harm to Class A Shareholders in that the opportunity to obtain the real economic benefits from the Proposed Transaction would be lost. Goodman submitted that any intervention by the Commission would be unwarranted, contrary to shareholders' best interests, and would undermine the confidence and integrity of Ontario capital markets.

4. Mason Capital Management LLC

[51] Mason submitted that it is neither in the public interest nor consistent with the purposes of securities regulation for the Commission to intervene on the grounds of the amount proposed to be paid to the Stronach Trust for the Class B Shares, or to constrain that amount or prevent the Proposed Transaction from being put to shareholders for their consideration. Such intervention would amount to a retroactive alteration of the entitlement of shareholders to the value resulting from the rights attaching to the shares held by them and would impair the ability of corporations to adjust their share structure.

[52] Mason also submitted that there was no basis for the Commission to require a valuation or a fairness opinion in connection with the Proposed Transaction because neither is required under MI 61-101. Further, requiring a fairness opinion to be obtained as a pre-condition to submitting a transaction to shareholders would be an inappropriate attempt to regulate the price that may be paid to a controlling shareholder to relinquish the rights attaching to its shares.

[53] Mason did not make submissions on any other aspect of this matter, including the process followed by the Magna Board and the Special Committee or the adequacy of Magna's public disclosure relating to the Proposed Transaction. Mason did not comment on the desirability of the Proposed Transaction, which Mason submitted was a matter for the individual judgment of each shareholder.

VII. THE HEARING

[54] The hearing on the merits in this matter was heard over a day and a half on June 23 and 24, 2010. Late in the evening on June 24, 2010, we issued our Decision and indicated that we would issue full reasons in due course.

[55] Three affidavits were filed in evidence at the hearing. We received the affidavit of Mr. Vincent Galifi, the Executive Vice President and Chief Financial Officer of Magna, sworn on June 21, 2010, the affidavit of Mr. Michael Boyd, the Managing Director and Head of Mergers and Acquisitions of CIBC, sworn on June 21, 2010, and the affidavit of Mr. Michael Harris, the lead director of Magna and Chair of the Special Committee, sworn on June 21, 2010. Those individuals testified at the hearing relating to their respective affidavits and were cross-examined by Staff.

[56] We had a limited record before us and limited time to review and consider all of the evidence and submissions before us. It was a challenge to address all of the complex issues that arose from this proceeding based on that record and a day and a half hearing. We concluded, however, that we had sufficient evidence and submissions to address a number of the issues raised before us.

VIII. BACKGROUND

1. History of Magna and its Share Structure

[57] In 1957, Mr. Stronach formed a small tool and die company, Multimatic Investments Limited, which subsequently expanded into the production of automotive components. In 1969, Multimatic Investments Limited merged with Magna Electronics Corporation Limited to become Magna International Inc.

[58] In 1978, Magna was a public company with annual sales of approximately $128,000,000, net income of $7,400,000 and assets of $75,000,000. Magna's capital consisted of two classes of shares: common shares and Class A special shares. The Class A special shares were non-voting shares but had the right to receive 125% of dividends paid on the common shares.

[59] At that time, voting control of Magna, through its common shares, was vested in a management group led by Mr. Stronach. With a view to securing Mr. Stronach's continued oversight of Magna's growth as well as his voting control of the company, management proposed two resolutions restructuring the capital of Magna. The first provided for the common shares to be converted into Class B Shares that would have the same dividend rights as the Class A special shares, but would carry 500 votes per share (the voting rights of the Class B Shares were later changed to 300 votes per share). The second resolution proposed converting the Class A special shares into Class A common shares with a right to vote and, as part of adjusting the dividend to accord with that of the then common shares, to provide each holder with five Class A common shares for every four Class A special shares.

[60] These resolutions were put forward for approval to both the common shareholders and the Class A special shareholders at meetings held on November 29, 1978. Both classes of shareholders approved the changes in share capital by special resolution (i.e., by more than two third's majority of the votes cast) and the resulting Class A common shares and Class B Shares were listed for trading on the TSX and, subsequently, on the NYSE.

[61] As a result of this restructuring of Magna's share structure, Mr. Stronach obtained voting control of Magna and holders of common shares received a premium on the conversion of their common shares into subordinate voting shares.

[62] In 1984, Magna shareholders voted to implement a corporate constitution (the "**Corporate Constitution**") proposed by Mr. Stronach that contained a number of principles, including that:

(i) Magna would distribute, on average, not less than 20 percent of its annual net profit after tax to shareholders;

(ii) management has an obligation to produce a profit. If Magna does not generate a minimum after-tax return of four percent on share capital for two consecutive years, the Class A Shareholders, voting as a class, have the right to elect additional directors;

(iii) Class A shareholders and Class B shareholders, each voting separately as a class, would have the right to approve any investment in an unrelated business in the event such investment, together with all other investments in unrelated businesses, exceeded 20 percent of Magna's equity; and

(iv) any change to Magna's Corporate Constitution would require the approval of its Class A and Class B shareholders voting separately as a class.

[63] Since 1978, Magna has evolved from a Canadian-based, North American focused automotive parts supplier to the most diversified automotive supplier in the world. In 2009, its sales were over $17 billion; it had assets in excess of $12 billion and over 72,500 employees.

[64] Magna submitted that Class A Shareholders are principally comprised of sophisticated institutional shareholders, with more than 80% of the Subordinate Voting Shares held by such institutions.

[65] The Stronach Trust exercises legal and effective control of Magna through its indirect ownership of 726,829 Class B Shares, representing all of the outstanding Class B Shares.

[66] In its Annual Information Form dated March 29, 2010, Magna disclosed, under the heading "Risk Factors":

> **Risks Related to Our Controlling Shareholder**
>
> ***We are indirectly controlled by the Stronach Trust.***
>
> Our business and affairs are indirectly controlled by the Stronach Trust, through the right to direct the votes attaching to 100% of our Class B Shares, which represent approximately 66% of the votes attaching to all of our shares in aggregate. The Stronach Trust may be able to cause us to effect corporate transactions without the consent of our other shareholders. The Stronach Trust is also able to cause or prevent a change in our control. Under present law, any offer to purchase our Class B Shares, whether by way of a public offer or private transaction and regardless of the offered price, would not necessarily result in an offer to purchase our Class A Subordinate Voting Shares. Accordingly, holders of our Class A Subordinate Voting Shares do not have a right to participate if a takeover bid is made for our Class B Shares.

2. The Announcement of the Proposed Transaction

[67] On May 6, 2010, Magna issued a news release (the "**May 6 News Release**") announcing that it had entered into an agreement with the Stronach Trust under which Class A Shareholders would have the opportunity to decide whether to eliminate Magna's dual class share structure.

[68] The May 6 News Release stated that, if the arrangement resolution was approved by the Class A Shareholders and the Court, Magna would:

(i) purchase for cancellation all 726,829 Class B Shares and the Stronach Trust would indirectly receive nine million newly issued Subordinate Voting Shares and US$300 million in cash;

(ii) amend the Consulting Agreements, which were renewable on an annual basis, to terminate on December 31, 2014 and to reduce the annual fees payable from the current 3% of Magna's Pre-Tax Profits Before Profit Sharing (as defined in the Corporate Constitution) as follows:

- 2.75% in 2011,
- 2.5% in 2012,
- 2.25% in 2013, and

- 2.0% in 2014;

(iii) establish a joint venture with the Stronach Trust involving the engineering, development and integration of electric vehicles of any type, the development, testing and manufacturing of batteries and battery packs for hybrid (H) and electric vehicles (EV) and all ancillary activities in connection with electric vehicle technologies. Magna would invest $220 million for a 73% interest. Magna's contribution would include the assets of Magna's recently established e-car systems vehicle electrification and battery business unit, certain other vehicle electrification assets, and the balance in cash. The Stronach Trust would invest $80 million in cash for a 27% interest in the joint venture and would have effective control through the right to appoint three of five board members, with Magna appointing the remaining two members.

(May 6 News Release at p. 2)

[69] Magna filed a material change report dated May 11, 2010 in respect of the Proposed Transaction (the "**Material Change Report**"). In the May 6 News Release and the Material Change Report, Magna disclosed the following:

> Although the Board did not make a recommendation as to how shareholders of Magna should vote in respect of the resolution, the Special Committee and the Board have identified several important factors, such as the potential benefits expected to be realized upon the completion of the arrangement (described above), which shareholders should consider in determining how to vote in respect of the proposal. These factors and a summary of the advice received from the independent advisors, as well as the detailed transaction terms, the background to the proposal, the process followed by the independent directors in reviewing the proposal with the benefit of independent legal and financial advisors, and other relevant information will be contained in the proxy materials for the special meeting of shareholders to be called and held to consider the arrangement.

3. Market Reaction to the Announcement

[70] On May 5, 2010, the last trading day immediately prior to the issue of the May 6 News Release, the closing prices of the Subordinate Voting Shares on the TSX and the NYSE were $64.27 and US$62.53, respectively (Circular at p. 35).

[71] The Circular disclosed that from May 6, 2010 to May 31, 2010, the Subordinate Voting Shares traded up 7.9% (from US $62.53 to US $67.49) despite significant declines in equity markets and, in particular, a decline of 0.9% in respect of the S&P/TSX Index, a decline of 6.6% in respect of the S&P 500 Index and a decline of 8.0% in respect of U.S. companies carrying on a business comparable to Magna (including BorgWarner Inc., Johnson Controls Inc., American Axle & Manufacturing Holdings, Inc., Lear Corporation, TRW Automotive Holdings Corp., Dana Holding Corp. and ArvinMeritor, Inc.) (Circular at p. 35).

4. The Special Meeting of Shareholders

[72] On June 2, 2010, Magna filed with the Commission (i) its Notice of Special Meeting of Shareholders dated May 31, 2010 (the "**Notice of Meeting**") in respect of the special meeting of shareholders to be held on June 28, 2010 to consider the arrangement resolution giving effect to the Proposed Transaction, and (ii) the Circular. The Notice of Meeting indicated that shareholders would be asked to vote on and approve at the meeting the arrangement resolution giving effect to the Proposed Transaction.

[73] The Notice of Meeting also indicated that approval of the arrangement resolution would require the affirmative vote of:

(i) at least a simple majority of the votes cast by the minority holders of the Subordinate Voting Shares, voting separately as a class;

(ii) at least two-thirds of the votes cast by the holders of Subordinate Voting Shares and Class B Shares, voting together as a class; and

(iii) at least two-thirds of the votes cast by the holder of Class B Shares, voting separately as a class.

(Circular, at p. 1)

5. Background to the Proposed Transaction

[74] We have set out in Schedule A to these reasons an extract from the Circular which purports to summarize the principal events leading up to the submission of the Proposed Transaction to a vote of shareholders. The Circular described or included:

(i) the factors executive management took into account in developing the conceptual proposal which led to the Proposed Transaction;

(ii) the appointment of the Special Committee and the process followed by the Magna Board and the Special Committee in reviewing the Proposed Transaction;

(iii) a listing of the information considered and reviewed by the Special Committee;

(iv) the factors considered by the Special Committee in concluding that the Magna Board should submit the Proposed Transaction to a vote of shareholders and that no recommendation should be made to shareholders as to how they should vote on the Proposed Transaction; and

(v) the reasons why the Special Committee did not make any recommendation to shareholders as to how they should vote on the Proposed Transaction; there were four reasons specified:

(a) while the Proposed Transaction, if implemented, would result in the elimination of Magna's dual class share structure, certain of the benefits that may arise as a result were not capable of being quantified in advance, including the potential increase in the trading value of the Subordinate Voting Shares;

(b) advice from CIBC that, if the Proposed Transaction was implemented, the dilution to Class A Shareholders (disregarding the impact of any potential change in the trading multiple for the Subordinate Voting Shares as a result of the Proposed Transaction) would be significantly greater than was the case for other historical transactions in which dual class share structures had been collapsed. The Circular also stated that "pursuant to the terms of its engagement with the Special Committee, CIBC did not provide a fairness opinion, adequacy opinion or formal valuation;"

(c) the unique circumstances of Magna and its relationship with its founder, Mr. Stronach, and the value placed on that relationship including Mr. Stronach's influence on the culture and key operating principles on which Magna was founded and the significant growth and development of Magna since the implementation of its dual class share structure; and

(d) the determination by the Magna Board that it was in the best interests of Magna to submit the Proposed Transaction to a vote of shareholders.

[75] The Magna Board did not require that a formal valuation of the Class B Shares be prepared in connection with the Proposed Transaction, no fairness opinion in respect of the Proposed Transaction was provided and no recommendation was made to Class A Shareholders as to how they should vote on the Proposed Transaction. The Magna Board indicated that Class A Shareholders should carefully review and consider the terms of the Proposed Transaction, the factors that were identified in the Circular as considerations by the Special Committee and should ultimately reach their own conclusions on whether to support and vote in favour of the Proposed Transaction.

[76] The Circular also disclosed that the directors and executive officers of Magna intended to vote in favour of the Proposed Transaction.

6. The Special Committee and the Proposal

[77] The Special Committee was established by the Magna Board on April 8, 2010 with the mandate "to review and consider the Proposal [as defined in the Circular] as it was developed by executive management for submission initially to the Stronach Trust and, if acceptable to the Stronach Trust, to report to the Magna Board as to whether the Proposal should be submitted to [Class A Shareholders] for their consideration." (See the extract from the Circular set out in Schedule A for a description of the Special Committee approval and review process.)

[78] The "Proposal" was defined in the Circular as meaning "the proposal made by certain members of executive management of Magna and subsequently presented to, reviewed and considered by, the Special Committee under which, among other things, the share capital structure of Magna would be reorganized to eliminate the Class B Shares thereby leaving Magna with a single class of voting shares." We will use the same definition of the "**Proposal**" for purposes of these reasons.

[79] The Proposal resulted from a conceptual proposal developed by Magna executive management for a possible transaction that could be value enhancing for Magna and its shareholders and acceptable to the Stronach Trust. The conceptual proposal discussed by executive management with Mr. Stronach on April 5, 2010 involved three principal elements: (i) Magna purchasing for cancellation all of the Class B Shares for consideration comprised of 9,000,000 Subordinate Voting Shares and US$300 million in cash; (ii) amendments to the Consulting Agreements to provide for a five year non-renewable term and fixed,

annual aggregate fees; and (iii) a partnership between Magna and the Stronach Trust with respect to Magna's vehicle electrification initiative.

[80] Accordingly, the conceptual proposal originally discussed by executive management with the Stronach Trust evolved into the Proposal which the Special Committee was authorized by its mandate to review and consider. The Proposal, in turn, ultimately became the Proposed Transaction. There does not appear to have been any material difference in the principal elements of, or the cash and share consideration payable under, the transaction between the conceptual proposal, the Proposal and the Proposed Transaction. We note in this respect that as a result of comments from the Special Committee, the Stronach Trust agreed to reduce fees under the Consulting Agreements, as described in paragraph 68(ii) of these reasons, and to increase its investment in the E-Car Partnership by $20 million (from a total of $60 million to $80 million). In addition, it was agreed that the Consulting Agreements would terminate immediately upon Mr. Stronach's death or permanent disability and that, if the Proposed Transaction was completed, Mr. Stronach would step down as Chairman of the Nominating Committee of the Magna Board.

[81] As noted above, the Special Committee was composed of three directors whom the Magna Board had concluded were independent of Mr. Stronach and the Stronach Trust: Mr. Harris (Chair), Mr. Lataif and Mr. Resnick. All of the independent directors of Magna were invited to participate in the Special Committee process and were notified of all scheduled meetings.

[82] According to the Circular, in conducting its review and consideration of the Proposal, the Special Committee met a total of 10 times between April 8 and May 5, 2010.

7. Financial Advice to the Special Committee

[83] The Special Committee retained CIBC to provide financial advice in connection with the Proposed Transaction. Two reports were prepared by CIBC for the Special Committee (the "**CIBC Reports**") summarizing CIBC's financial analysis of the Proposed Transaction. A report was also prepared by PwC (the "**PwC Report**") which addressed the estimated range of fair values of the assets and business proposed to be contributed by Magna to the E-Car Partnership. The CIBC Reports and the PwC Report were referred to in the Circular but were not included in or summarized in the Circular. The CIBC Reports and the PwC Report were made public by posting on the System for Electronic Document Analysis and Retrieval (SEDAR) on June 17, 2010, subsequent to the mailing of the Circular and two days after the issue of the Notice of Hearing in this matter on June 15, 2010.

[84] In connection with its reports, CIBC reviewed 15 historical transactions where dual class share structures were collapsed. Dilution to the subordinate voting shareholders in those precedent transactions ranged from 0 to 3.04%. The average dilution to shareholders was 0.89%, or 1.28% for issuers, like Magna, that had no coat-tail provisions. CIBC observed that the terms of the Proposed Transaction would result in dilution to the Class A Shareholders of 11.4%, a much higher level of dilution to shareholders than in any of the precedent transactions. CIBC's review also found that eight of the last ten dual class share reorganizations had occurred at no premium. This information was not included in the Circular.

8. Benefits of the Proposed Transaction to Class A Shareholders

[85] Magna submitted that, if approved, the Proposed Transaction would eliminate the Magna dual class share structure with the potential to create value for Class A Shareholders and would return control of Magna to the Class A Shareholders. Magna submitted that the Class A Shareholders were fully capable of evaluating the Proposed Transaction and to make a determination as to whether the potential benefits outweighed the costs.

[86] As to how the terms of the Proposed Transaction were developed, we were told that in May, 2010, the Subordinate Voting Shares were trading at a price that reflected an EV/EBITDA multiple (Enterprise Value/Earnings before Interest, Taxes, Dividends and Amortization) that was approximately two times lower than that of Magna's industry peers. In developing the initial conceptual proposal, we were told that Mr. Galifi adopted a conservative approach and estimated that the elimination of the dual class share structure could result in the amount of this discount being reduced by half. Based on Magna's projected 2011 EBITDA, this would result in an increase of approximately $1.5 billion in enterprise value. Mr. Galifi testified that the potential increase in enterprise value arising from the elimination of the dual class share structure would be split approximately 50/50 between the Stronach Trust and Class A Shareholders. Accordingly, Mr. Galifi submitted that a value enhancement was expected to be realized from the expansion of Magna's EV/EBITDA multiple and that enhancement would benefit the Class A Shareholders.

[87] Accordingly, Magna and the Stronach Trust submitted that the Proposed Transaction had the potential to unlock significant value for the Class A Shareholders and would establish a stronger foundation for the continued and long-term success of Magna. It was submitted that the Proposed Transaction was expected to:

(i) reduce or eliminate any trading discount of the Subordinate Voting Shares associated with the dual class share structure;

(ii) enhance the liquidity and marketability of Magna's shares;

(iii) address the concern expressed by some Class A Shareholders as to the alignment of the interests of all shareholders;

(iv) allow each Magna shareholder to have a voting interest that was proportionate to that holder's equity ownership interest;

(v) eliminate the ability of the holder of the Class B Shares to sell control of Magna without any consideration being paid to the Class A Shareholders; and

(vi) enable Magna to share the investment risk and benefit from the strong and visionary leadership of Mr. Stronach in connection with the E-Car Partnership.

[88] Magna submitted that the Circular contained all information necessary to permit Class A Shareholders to make an informed decision as to how they should vote on the Proposed Transaction. Magna said that, based on the disclosure made by Magna in the Circular, numerous capital market participants, including shareholders, investors, analysts, the Supporting Shareholders, Goodman, Mason and others, have engaged in a knowledgeable and informed debate regarding the terms of the Proposed Transaction and its implications, through press releases, public statements and reports, on a near daily basis, since the Proposed Transaction was announced.

9. Analyst Reaction to the Proposed Transaction

[89] Securities analysts at Bank of America Merrill Lynch, BMO Capital Markets, Citi, Credit Suisse, Deutsche Bank, Goldman Sachs, GMP Securities, JP Morgan, RBC Capital Markets and UBS, among others, issued commentaries or reviews generally supportive of the Proposed Transaction. In addition, RiskMetrics Group ("**RiskMetrics**"), an independent third party market research company and market analyst, issued a report on June 13, 2010 recommending that Class A Shareholders vote in favour of the Proposed Transaction.

[90] In a report with respect to the Proposed Transaction dated June 8, 2010, Veritas Investment Research Corporation ("**Veritas**") stated that:

> Based on the presumption that the proposed E-Car joint venture is a fair value transaction, we estimated that the net cost of the Proposal to Magna is approximately US$640 M, which represents a cost of approximately $5.35 per share, or roughly 9% of Magna's May 5 closing share price of $62.53. As long as shareholders believe that the appreciation in Magna's share price from the elimination of the Company's dual class share structure would at least offset the 9% per share cost of the Proposal, the Proposal appears to be beneficial.
>
> (*A Changing of the Guard: An Assessment of the Proposal to Eliminate Magna's Multiple Voting Shares dated June 8, 2010* (the "**Veritas Report**") at p. 1)

[91] Veritas also stated that:

> Based on Magna's May 5 Class A share price, the shares and cash to be received by Mr. Stronach would be valued at $860M, or $1,190 for each of his Class B Shares. Whether there is any negotiation room now or in the future is unknown, but purely from an economic perspective, we believe that Mr. Stronach's price floor to give up his Class B shares and lucrative consulting contracts is approximately $270M, or $371 per share.
>
> (The Veritas Report at p. 1)

[92] RiskMetrics' report on the Proposed Transaction contained the following statement:

> From a purely corporate governance perspective, this proposal pushes the boundaries of shareholder tolerance and acceptance into formerly un-navigated territory. The unique circumstances of this company, it's [sic] controlling shareholder's history with minority shareholders, and the absence of strong regulation around dual class share structures in Canada have contributed to what is an exceptionally difficult choice for shareholders.
>
> However, based on a review of the terms of the transaction, while acknowledging the lack of fairness opinion and special committee and board recommendation on the transaction, on balance, a vote FOR this proposal warrants support due to the following considerations:

- the potential benefits of the one-share-one-vote structure such as: (i) eliminating all or part of the seemingly long existing trading discount of Class A shares; (ii) improved marketability of the common shares and thus lower cost of capital; (iii) enhancing accountability of directors as they will be elected or removed by public shareholders instead of the current controlling shareholder; (iv) removal of the anti-takeover effects of the controlling shareholder, and

- the potential downside risk of missing this unexpected opportunity to get rid of the multiple voting shares albeit at a high price.

(Report on Magna International Inc. dated June 13, 2010, at p. 1)

[93] Glass Lewis & Co. concluded in its analysis of the Proposed Transaction:

> Overall, we agree that the elimination of the Company's dual class share structure would provide a variety of benefits for minority shareholders and better align the Company's equity ownership and voting power. We also recognize that the class B shares carry higher proportional voting rights and a number of other special features which suggest that their value should exceed that of class A subordinate voting shares.
>
> However, in the absence of a fairness opinion or any valuation of the class B shares, we believe that the board has failed to justify the consideration being offered to the Stronach Trust for the cancellation of its class B shares.
>
> (Magna International Inc. Proxy Paper dated June 10, 2010 at p. 10)

IX. THE ISSUES

[94] The following are the questions and issues we addressed in this matter:

(i) Did the Circular provide sufficient disclosure to the Class A Shareholders to permit them to make an informed decision?

(ii) Was the Proposed Transaction abusive and should the Commission restrain it in the public interest?

(iii) Did the Magna Board comply with its fiduciary duties in submitting the Proposed Transaction to shareholders?

(iv) Was the process followed by the Magna Board and the Special Committee in reviewing the Proposed Transaction inadequate?

(v) Should a formal valuation be required of the subject matter of the Proposed Transaction?

[95] We have summarized above the principal submissions made by the participants. It is fair to say that the submissions of Staff and the Opposing Shareholders, on the one hand, and the submissions of Magna and the Stronach Trust, on the other hand, overlapped to a significant extent.

[96] We have attempted to summarize below the submissions made to us that relate to the different questions or issues that we addressed. Some of the submissions made to us apply equally to a number of the questions and issues referred to above.

[97] There was no doubt that the Proposed Transaction was unprecedented. We are not aware of any comparable transaction carried out in Ontario capital markets on comparable terms. The transaction raises a number of important issues.

X. ANALYSIS

A. Did the Circular Provide Sufficient Disclosure to Class A Shareholders to Permit Them to Make an Informed Decision?

1. Submissions

Staff

[98] Staff characterized this matter as primarily one raising issues of inadequate disclosure. Staff's allegations focused on the following issues: (i) the Circular did not contain specific financial information obtained by the Special Committee from its advisors, (ii) the Circular did not contain a fairness opinion or formal valuation, (iii) the Circular failed to provide sufficient

information concerning the desirability or fairness of the Proposed Transaction, and (iv) the Magna Board did not make useful recommendations with respect to it.

[99] Staff also said that the Circular states that CIBC did not provide a fairness opinion. Staff submitted that the Circular should have stated that a fairness opinion was not available in the circumstances and why that was the case.

The Opposing Shareholders

[100] The Opposing Shareholders submitted that the disclosure provided by Magna in the Circular did not comply with Ontario *securities law, particularly with the provisions of MI 61-101 and National Instrument 51-102* – Continuous Disclosure Obligations ("**NI 51-102**"). In addition, Section 14.1 of Form 51-102F5 – *Information Circular* requires that an information circular describe matters to come before a meeting of shareholders "in sufficient detail to enable reasonable securityholders to form a reasoned judgment concerning the matter". Similarly, the Opposing Shareholders referred to the requirements of the OBCA that shareholders be provided with sufficiently detailed, accurate information, in the form of a management information circular, upon which shareholders can make a reasoned judgment. The Opposing Shareholders submitted that the Circular omitted information necessary to meet this disclosure standard.

[101] The Opposing Shareholders also submitted that the fact that the Special Committee was unable to determine that the Proposed Transaction was fair to the Class A Shareholders and to make a recommendation to them as to how to vote, demonstrated that, even if the Class A Shareholders were provided with all of the information that was available to the Special Committee, the Class A Shareholders would not be able to make an informed decision.

Magna

[102] Magna submitted that the disclosure provided in the Circular was accurate in every material respect and is sufficient for shareholders to make an informed decision on how to vote on the Proposed Transaction.

[103] Magna submitted that the core aspect of the Proposed Transaction was straightforward and easy to understand. The Class B Shares were being purchased for cancellation by Magna for consideration comprised of 9,000,000 Subordinate Voting Shares and US$300 million in cash. Those facts were fully set out in the Circular.

[104] Magna submitted that the alleged violations of Ontario securities law, in reality, do not amount to failures of disclosure at all. Appropriate factual statements were made in a forthright manner in the Circular that there was no recommendation being made by the Magna Board and that there was no fairness opinion or valuation that was being provided. Nothing more needed to be said on those topics.

2. The Law

Corporate and Securities Law Disclosure Requirements Applicable to the Circular

[105] If management of a reporting issuer solicits proxies from the registered holders of voting securities, management is obligated under section 9.1(2) of NI 51-102 to send an information circular to those shareholders. The information required to be disclosed in the information circular is prescribed by Form 51-102F5. Item 14.1 of that form provides, in part, as follows:

> If action is to be taken on any matter to be submitted to the meeting of securityholders other than approval of financial statements, briefly describe the substance of the matter, or related groups of matters, except to the extent described under the foregoing items, in sufficient detail to enable reasonable securityholders to form a reasoned judgment concerning the matter. …

[106] Subsection 96(6)(a) of the OBCA states, in part, that:

> Notice of a meeting of shareholders at which special business is to be transacted shall state or be accompanied by a statement of,
>
> (a) the nature of that business in sufficient detail to permit the shareholder to form a reasoned judgment thereon; …

[107] The OBCA also requires that a management information circular provide disclosure to shareholders that meets substantially the same disclosure standard as that applicable under NI 51-102 (see section 31 of the Regulation to the OBCA).

[108] The common law standard of disclosure to shareholders is articulated in the landmark decision of *Garvie v. Axmith* (1961), 31 D.L.R. (2d) 65 at 84-87 in which the Court stated that:

> … the notice to shareholders must contain such particulars as will permit them to exercise an intelligent judgment upon the proposition …
>
> Similarly, in this case …, it was impossible for any Rockwin shareholder to come to any intelligent conclusion as to whether he should favour or oppose the transaction, and that is the right of each shareholder and a right which he must have accorded to him in the notice of the special general meeting sent to him. … and the shareholders should be able to sit down with the material and come to an intelligent conclusion … I have come to the conclusion that this failure to give proper and adequate notice of what the transaction involved, is fatal to the defendant.

[109] Accordingly, the securities law, corporate law and common law requirements as to the standard of disclosure required in the Circular are substantially the same. They require that disclosure be provided in the Circular in sufficient detail to enable a reasonable shareholder to make an informed decision on how to vote on the Proposed Transaction. That standard of disclosure constitutes an objective test that must be applied in the specific circumstances.

The Importance of Disclosure under Ontario Securities Law

[110] Section 1.1 of the Act sets out the purposes of securities law to be:

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

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

[111] Section 2.1(2) provides that, in pursuing the purposes of the Act, the Commission shall have regard to the following fundamental principles:

> …
>
> 2. the primary means of achieving the purposes are,
>
> i. requirements for timely, accurate and efficient disclosure of information, …

[112] The importance of disclosure under Ontario securities law was underscored in *Re Philip Services Corp.* (2006), 29 OSCB 3941 at para. 7, where the Commission stated:

> Disclosure is the cornerstone principle of securities regulation. All persons investing in securities should have equal access to information that may affect their investment decisions. The Act's focus on public disclosure of material facts in order to achieve market integrity would be meaningless without a requirement that such disclosure be accurate and complete and accessible to investors (see *Pacific Coast Coin Exchange of Canada v. Ontario (Securities Commission)* (1977), [1978] 2 S.C.R. 112 (SCC)).

[113] While that statement addresses public disclosure of material facts, there is equally no doubt as to the importance of disclosure in connection with a shareholders' meeting. That disclosure must be accurate, complete and not misleading and must be contained within the four corners of the applicable circular.

[114] The Commission noted in *Re Sears Canada* that there is a difference between disclosure that strictly follows the "line items requirements" in a form or rule and disclosure that focuses on information that may be material to an investor's decision to tender his or her shares to a bid in the particular circumstances. The Commission stated in *Re Sears Canada* that:

> No-one should be held to a standard of infallibility when it comes to judging disclosure with the benefit of hindsight. However, meeting one's disclosure obligations is a contextual and not purely mechanical exercise, and requires the exercise of judgment.
>
> (*Re Sears Canada Inc.*, 2006 L.N.O.N.O.S.C. 1044 at para. 189-190) ("***Re Sears Canada***")

[115] In *Re YBM Magnex et. al.* (2003), 26 OSCB 5285 ("***YBM***") at paras. 89-91, the Commission stated that:

> Assessments of materiality are not to be judged against the standard of perfection or with the benefit of hindsight. It is not a science and involves the exercise of judgment and common sense; *Core Mark International Inc. v. 162093 Canada Ltd.* (8 June 1989) Toronto 1220/89 at 4-5 (Ont. H.C.)

[116] The Commission concluded *In the Matter of MacDonald Oil Exploration Limited* (1999), 22 OSCB 6452 ("***MacDonald Oil***"), that the lack of a directors' circular did not increase a bidder's onus to disclose. However, it did make the impact of failing to meet the onus more significant. The Commission stated at page 8 that:

> At the hearing, there was some discussion about whether the lack of a directors' circular increased the bidders' onus to disclose or, whether the onus remains the same but the ramifications of failure to meet the onus are more significant. *Our conclusion is that the onus is always the same but, where there is no directors' circular to counter-balance the take-over bid circular, disclosure defects are more likely to be material.* [emphasis added]

[117] These principles apply to the disclosure required in an information circular for a shareholders' meeting related to a material corporate transaction. Disclosure in a management information circular for such a meeting must set forth the information that would be important to a reasonable shareholder in deciding how to vote on the particular transaction. Disclosure must be accurate and complete and must not omit facts necessary to make any statement or information not misleading. Only through compliance with these principles does a circular provide disclosure that permits a shareholder to make an informed decision on the matter being submitted to a vote.

3. Analysis

Disclosure under MI 61-101

[118] We have discussed above the disclosure standard generally applicable to the Circular. Magna is, however, also subject to the disclosure requirements of MI 61-101.

[119] The Proposed Transaction is a "related party transaction" within the meaning of MI 61-101. Magna disclosed in the Circular that the Proposed Transaction was exempt from the requirement under MI 61-101 for minority shareholder approval and the requirement to provide a formal valuation, as a result of the availability of the Market Cap Exemption. As noted above, the Market Cap Exemption is available where the fair market value of the subject matter of a related party transaction does not exceed 25% of the issuer's market capitalization (as defined for purposes of MI 61-101).

[120] Notwithstanding the availability of that exemption, the Magna Board, apparently on the recommendation of the Special Committee, and the Stronach Trust as a pre-condition to entering into the Proposed Transaction, required that the Proposed Transaction be approved by a simple majority of the votes cast by minority Class A Shareholders.

[121] Section 5.3(1) of MI 61-101 provides that the disclosure required by that section applies only to a related party transaction for which section 5.6 requires the issuer to obtain minority approval (as defined in MI 61-101). Accordingly, the disclosure requirements contained in section 5.3 of MI 61-101 do not technically apply to the Circular. Notwithstanding, the disclosure requirements contained in section 5.2(1) of MI 61-101 do apply to the Circular. That section requires additional disclosure (including with respect to the review and approval process adopted by the Magna Board) in a material change report required to be filed under securities law in respect of the Proposed Transaction. The Proposed Transaction constitutes a material change within the meaning of the Act that required Magna to issue a news release and file a material change report.

[122] Subsection 5.2(1) of MI 61-101 provides that:

> An issuer shall include in a material change report, if any, required to be filed under securities legislation for a related party transaction
>
> (a) a description of the transaction and its material terms,
>
> (b) the purpose and business reasons for the transaction,
>
> (c) the anticipated effect of the transaction on the issuer's business and affairs,
>
> (d) a description of
>
> (i) the interest in the transaction of every interested party and of the related parties and associated entities of the interested parties, and
>
> (ii) the anticipated effect of the transaction on the percentage of securities of the issuer, or of an affiliated entity of the issuer, beneficially owned or controlled by each person referred to in subparagraph (i) for which there would be a material change in that percentage,

> (e) *unless this information will be included in another disclosure document for the transaction, a discussion of the review and approval process adopted by the board of directors and the special committee, if any, of the issuer for the transaction,* including a discussion of any materially contrary view or abstention by a director and any material disagreement between the board and the special committee, … [emphasis added]

[123] Magna was complying with section 5.2(1)(e) through its disclosure in the Circular.

[124] As a result, Companion Policy 61-101CP to MI 61-101 (the "**Companion Policy**") applies to the Proposed Transaction. Subsections 6.1(1), (2) and (3) of the Companion Policy are relevant and provide, in part, as follows:

> 6.1 Role of Directors
>
> (1) Paragraphs … 5.2(1)(e) of the Instrument require that the disclosure for the applicable transaction include a discussion of the review and approval process adopted by the board of directors and the special committee, if any, of the issuer, including any materially contrary view or abstention by a director and any material disagreement between the board and the special committee.
>
> (2) An issuer involved in any of the types of transactions regulated by the Instrument should provide sufficient information to security holders to enable them to make an informed decision. Accordingly, the directors should disclose *their reasonable beliefs as to the desirability or fairness of the proposed transaction and make useful recommendations regarding the transaction.* A statement that the directors are unable to make or are not making a recommendation regarding the transaction, without detailed reasons, generally would be viewed as insufficient disclosure.
>
> (3) In reaching a conclusion as to the fairness of a transaction, the directors should disclose in reasonable detail the material factors on which their beliefs regarding the transaction are based. Their disclosure should discuss fully the background of deliberations by the directors and any special committee, and any analysis of expert opinions obtained. … [emphasis added]

[125] Accordingly, the Companion Policy applied to the Circular and states that it should:

(i) provide sufficient information to enable Class A Shareholders to make an informed decision;

(ii) disclose the Magna Board's reasonable beliefs as to the desirability or fairness of the Proposed Transaction;

(iii) disclose the Magna Board's useful recommendations regarding the Proposed Transaction and, if no such recommendations are made, provide detailed reasons why a recommendation is not being made;

(iv) discuss fully the background of the deliberations of the directors and the Special Committee; and

(v) discuss fully any analysis of expert opinions obtained by the Special Committee.

[126] The Companion Policy does not constitute a legal requirement; it is simply a statement of the expectations of the Commission with respect to the type of disclosure desirable in complying with section 5.2(1)(e) of MI 61-101, which does constitute a legal requirement. Having said that, the provisions of the Companion Policy are a clear articulation of the views of the Commission as to the appropriate disclosure in connection with a related party transaction such as the Proposed Transaction.

[127] We should add, however, that our views with respect to the adequacy of the disclosure in the Circular did not turn on whether MI 61-101 and the Companion Policy applied to the Circular. We would have come to the same conclusions by applying the standard that the disclosure in the Circular must be sufficient to permit a reasonable shareholder to make an informed decision as to how to vote on the Proposed Transaction.

4. The Adequacy of Disclosure in the Circular

Disclosure is Contextual

[128] While the applicable disclosure standard does not change based on the circumstances, how that standard is applied is contextual and will vary with the circumstances. In this case, those circumstances include the fact that (i) the Proposed Transaction constituted a material related party transaction between Magna and the Stronach Trust, (ii) neither the Magna Board nor the Special Committee made any recommendation to the Class A Shareholders as to how they should vote on the

Proposed Transaction, or as to their views of the desirability or fairness of the Proposed Transaction to Class A Shareholders, and (iii) no fairness opinion or formal valuation was obtained with respect to the Proposed Transaction.

[129] Because neither the Magna Board nor the Special Committee was providing a recommendation, Class A Shareholders were essentially left to their own devices in making the decision as to how they would vote on the Proposed Transaction. Those circumstances, in our view, demanded a high level of disclosure to Class A Shareholders in the Circular. In these circumstances, the disclosure in the Circular must, to the extent reasonably possible, have provided Class A Shareholders with substantially the same information and analysis that the Special Committee received in considering and addressing the legal and business issues raised by the Proposed Transaction.

[130] The Special Committee considered the extensive list of factors, considerations and information identified in the Circular as relevant to their analysis and they had access to the advice of their independent financial advisors in considering those matters. In these circumstances, shareholders should have had access to substantially the same information and analysis in order to make an informed decision. It was clear that the Circular did not provide that level of disclosure.

Disclosure in the Circular

[131] In our view, the Circular did not provide sufficient information to Class A Shareholders to permit them to make an informed decision and did not contain information that was material to shareholders in the circumstances. Information is material for this purpose if there is a substantial likelihood that a reasonable shareholder would consider the information important in deciding how to vote on the Proposed Transaction (*Re Donnini* (2002), 25 OSCB 6225 ("***Re Donnini***") at paras. 135 and 136 and *In the Matter of Biovail Corporation, et al.* (2010) 33 OSCB ("***Re Biovail***") at para. 66). In our view, there was material information that was not included in the Circular. We set out in the Decision the information and disclosure that we concluded should have been and was required to be included in the Circular (see paragraph 19 of these reasons).

[132] In coming to that conclusion, we recognized that some Class A Shareholders believed that the disclosure in the Circular was sufficient for them to make an informed decision. In coming to that conclusion, those Class A Shareholders were making a subjective decision as to what was relevant and important to them in deciding how to vote on the Proposed Transaction. It did not change our view that the Circular failed to disclose material information to Class A Shareholders. We did not consider the deficiencies in disclosure in the Circular to be in any way technical or a matter of judgment. Our concerns were serious and substantive.

[133] We note in this respect that the Circular provided a laundry list of considerations, factors and information that the Special Committee reviewed and considered in assessing the Proposed Transaction. There was no meaningful discussion of the substantive information that was reviewed or the implications of that information to the Proposed Transaction. Listing such matters provides only cold comfort to Class A Shareholders that the Special Committee reviewed relevant information in considering whether to submit the Proposed Transaction to shareholders. Providing that laundry list of matters reviewed did not assist Magna in meeting the applicable disclosure standard. The Circular also stated that "… the Special Committee did not find it practicable to, and did not, quantify or otherwise attempt to assign relative weight to specific factors in reaching its conclusions". That is at best an unhelpful boiler plate statement and at worst an acknowledgement that the Special Committee did not attempt to determine what was important to Class A Shareholders in the circumstances.

[134] Taking a laundry list approach to disclosure may or may not be adequate where a board of directors or special committee makes a recommendation to shareholders in respect of a proposed transaction. It is not adequate in circumstances where shareholders are left to their own devices to make a decision in circumstances such as these.

[135] It goes without saying that any public disclosure made by Magna with respect to the Proposed Transaction that was not contained in the Circular did not assist Magna in satisfying its disclosure obligation with respect to the Circular. Shareholders are entitled to adequate disclosure within the four corners of the Circular. The public disclosure of the CIBC and PwC reports by means of a public filing did not assist Magna in meeting its disclosure obligations under Ontario securities law.

[136] We heard submissions that we should not be concerned with the issues raised by this matter because Class A Shareholders holding in the aggregate a very substantial majority of the Subordinate Voting Shares had already lodged proxies in favour of the Proposed Transaction. While the requirement for shareholder approval is a critical factor in our consideration of whether the Proposed Transaction was abusive (see paragraph 190 of these reasons), it certainly cannot be relied on to say that the disclosure in the Circular was adequate. If the disclosure in the Circular was materially deficient, then Class A Shareholders were not being given the information necessary to make an informed decision and their vote could not be relied upon.

[137] The business judgment rule does not apply to the question whether the Circular contained adequate disclosure. The Supreme Court of Canada stated in *Kerr v. Danier Leather Inc.*, [2007] 3 SCR 331, at paragraph 54 that:

> … I agree with the appellants that while forecasting is a matter of business judgment, disclosure is a matter of legal obligation. The Business Judgment Rule is a concept well-developed in the context of *business* decisions but should not be used to qualify or undermine the duty of disclosure.

Further, in our view, Magna's decision to put the Proposed Transaction to a shareholder vote in these circumstances was not entitled to deference under the business judgment rule. There were a number of legal issues engaged by that decision.

[138] The disclosure standard applicable to the Circular is an objective test. Accordingly, we are entitled to determine whether the disclosure in the Circular complied with that standard. Determining questions such as the standard of materiality to be applied, and the adequacy of the disclosure made, are matters squarely within our expertise as a specialized tribunal. While the evidence of experts, investors and shareholders may be relevant or useful, we do not need such evidence in order to make such decisions (see *Re Donnini*, *supra* at para. 123, *Rex Diamond Mining Corp. et al. v. Ontario Securities Commission*, 2010 ONSC 3926 (Ont. Div. Ct.) at para. 3 and *Re Biovail*, *supra* at para. 80).

[139] In our view, the Circular failed to provide Class A Shareholders with sufficient information to make an informed decision as to how to vote on the Proposed Transaction. That means that Magna failed to comply with its disclosure obligations under applicable Ontario securities law (in particular, the requirements of item 14.1 of Form 51-102F5 (see paragraph 105 of these reasons)).

Other Deficiencies in Disclosure

[140] We believe that it was clear from our Decision in what areas we concluded that disclosure in the Circular was inadequate (see paragraphs 18 and 19 of these reasons). We would make the following additional comments.

[141] We were concerned that the Circular did not contain a clear articulation of the potential benefits to Class A Shareholders of the Proposed Transaction. In our view, Mr. Galifi's affidavit and testimony before us provided a much clearer articulation of the "value sharing" between the Stronach Trust and the Class A Shareholders inherent in the Proposed Transaction.

[142] The Class A Shareholders were being asked to approve the repurchase of the Class B Shares by Magna from the Stronach Trust. Because the Class A Shareholders hold 99.4% of the equity of Magna, the Class A Shareholders would indirectly bear almost all of the cost of the repurchase. While we understand the theory of the value sharing inherent in the Proposed Transaction, we nonetheless considered the value of the Stronach Trust control block represented by the Class B Shares to be a very relevant matter for consideration by Class A Shareholders. The Circular failed to contain any meaningful information or discussion as to the fair market value of the Class B Shares.

[143] In this respect, Magna referred in the Circular to the implied value of the Stronach Trust's control block (i) in the Russian Machines Transaction, and (ii) as reflected in certain arm's length privatization proposals. Magna stated that these were factors executive management took into account when first developing the conceptual proposal. The description of the Russian Machines Transaction in the Circular failed to mention the price at which Magna repurchased the Class B Shares as part of that transaction. We concluded that the Circular should have contained more information concerning the implied value of the Class B Shares and a discussion of the relevance of those implied values to the value of the control block.

[144] The Circular stated that the Special Committee considered "potential alternatives to the Proposal". However, there was no discussion of those alternatives in the Circular. The Circular mentioned the review by executive management and the Magna Board of potential structures and incentives relating to Magna's vehicle electrification and product diversification strategies, including potential management co-investment rights. However, there was no discussion of the results of this review and how the formation of the E-Car Partnership related to Magna's vehicle electrification strategy.

[145] The Circular did not contain the CIBC Reports or the PwC Report and did not summarize the advice received by the Special Committee from those advisors. There was no meaningful discussion of the analysis of those experts as contemplated by the Companion Policy.

[146] The Circular also contained the statement that the Special Committee received advice from CIBC that the dilution to minority shareholders resulting from the Proposed Transaction "would be significantly greater than was the case for other historical transactions in which dual class share structures were collapsed". In our view, based on the evidence submitted to us, that was a gross understatement. Disclosure of the dilution in those transactions was clearly relevant and the Circular should have addressed explicitly the relevance of those historical transactions.

[147] The Circular also stated that "pursuant to the terms of its engagement with the Special Committee, CIBC did not provide a fairness opinion, adequacy opinion or formal valuation". As discussed above, we considered that statement to be misleading by reason of what it omitted to say. The Circular should have disclosed the reasons why CIBC was not providing a fairness opinion.

[148] In accordance with the Companion Policy, the directors of Magna should disclose their reasonable views as to the desirability and fairness of the Proposed Transaction. That is one of the reasons we required that the Circular disclose the nature of the legal standard to be applied by a court in determining whether the Proposed Transaction was fair and reasonable. More importantly, we required a clear statement by the disinterested directors or the Special Committee whether they had concluded that the Proposed Transaction was fair and reasonable or whether they have reached no such conclusion.

[149] We note that the Circular stated that the Magna Board had determined that it was in the best interests of Magna to submit the arrangement resolution to shareholders. That is different than stating that the Proposed Transaction was in the best interests of Magna. The Magna Board must have come to the latter conclusion given that it authorized Magna to enter into the Proposed Transaction.

[150] We recognize that those preparing information circulars for complex transactions have a challenging task. They must find an often uneasy balance between providing sufficient information (which conveys the substance of the relevant material information to shareholders) and "[burying] the shareholder in an avalanche of trivial information", which creates its own kinds of risks for intelligent and informed decision making: *Re Universal Explorations Ltd and Petrol Oil and Gas Co. Ltd.* (1982), 37 A.R. 35, at p. 37 (Alta. C.A.). The preparation of adequate disclosure requires the application of good judgment to the particular circumstances. That good judgment appears to have been lacking in the preparation of the Circular.

Absence of Magna Board or Special Committee Recommendation

[151] As noted above, no recommendation was made by the Magna Board or the Special Committee as to how the Class A Shareholders should vote on the Proposed Transaction. It does not appear to us that there is any requirement under corporate or securities law that a board make such a recommendation. However, failing to provide a recommendation results, in our view, in a heightened obligation to provide meaningful disclosure and analysis in the Circular. That heightened obligation is reflected in the provisions of the Companion Policy that indicate that where no recommendation is made, detailed reasons should be provided. It is also consistent with the principle reflected in *MacDonald Oil* referred to in paragraph 116 of these reasons.

[152] We note that in *Hollinger Inc. (Re)* (2006), 29 OSCB 7071, 2005 LNONOSC 858 ("Re Hollinger"), there is a suggestion that the board of directors of Hollinger Inc. ("**Hollinger**") was not in compliance with OSC Rule 61-501 (the predecessor to MI 61-101) because it failed to make a recommendation to shareholders in connection with the proposed transaction at issue in that matter.

[153] In *Re Hollinger*, the Commission considered the effect of a failure by the directors to provide their reasonable beliefs as to the desirability or fairness of the proposed transaction and to provide a useful recommendation with respect to the transaction:

> In this case, the Independent Privatization Committee and the Board of Hollinger Inc. (the "Board") have not made any recommendation to the shareholders as to how they should vote in respect of the GPT [going private transaction], having determined only that the shareholders should be given the opportunity to vote. In so doing, it is noted in the Circular that, in the absence of a fairness opinion from GMP and having regard to the unique and unusual circumstances set out in the Valuation, they were unable to reach a conclusion or make a recommendation as to whether the Common Share consideration is fair, from a financial point of view, to the minority shareholders.

[154] It is important to note that, in *Re Hollinger*, Hollinger was seeking a discretionary order from the Commission to set aside a management cease trading order that had been issued as a result of Hollinger's failure to file financial statements. The relief was being sought so that Hollinger's controlling shareholder could pursue an insider bid as a means for carrying out a going private transaction. Hollinger was required to obtain a formal valuation under OSC Rule 61-501 in respect of that transaction. The valuation that was obtained was highly qualified and of little use to shareholders as a result of unquantified and potentially substantial balance sheet uncertainties and litigation risk created by Hollinger's chief executive officer (a related party of the offeror). Put another way, there was a concern that the offeror had access to information about the value of Hollinger that was not available to shareholders to whom the offer was to be made. Accordingly, shareholders were dependent on guidance from the independent committee for assurance as to the reasonableness of the price offered. Because no recommendation was being made to shareholders, that guidance was not available.

[155] We note in this respect that the principal reason why the Special Committee concluded that it was unable to make a recommendation to Class A Shareholders with respect to the Proposed Transaction was stated in the Circular. Magna disclosed that the benefits to Class A Shareholders of the Proposed Transaction were largely premised upon the market's reaction to the Proposed Transaction (through the potential increase in Magna's EV / EBITDA multiple) and that market reaction could not be predicted in advance. Further, that benefit accrues over an extended period subsequent to completion of the Proposed Transaction.

[156] We also note that in *Re Hollinger* the Commission was being asked to exercise its discretion to revoke an existing management cease trading order to permit the bid. That is quite different than being requested to intervene in a transaction on public interest grounds.

[157] Accordingly, the circumstances before us are substantially different from those in *Re Hollinger*.

[158] As contemplated by the Companion Policy, we would expect directors to make a useful recommendation to shareholders with respect to a material corporate transaction upon which those shareholders are being asked to vote. A statement that directors are not making a recommendation is generally insufficient without detailed reasons. However, there may be legitimate reasons why directors conclude that it is not possible or desirable to make a recommendation to shareholders and yet also conclude that the particular matter is appropriately put before shareholders for their consideration and approval. The failure to provide a recommendation may heighten concerns around the desirability or fairness of a transaction and the adequacy of disclosure but, in our view, it is not fatal to allowing shareholders to consider a transaction if there is adequate disclosure to them.

[159] Accordingly, in our view, the failure of the Magna Board or Special Committee to provide a recommendation as to how Class A Shareholders should vote does not thereby render the disclosure in the Circular inadequate or prevent the Proposed Transaction from being submitted to shareholders for a vote. To hold otherwise would be to disenfranchise shareholders, who are ultimately the owners of Magna.

[160] We note in this respect, however, that we concluded in our Decision that additional disclosure was necessary in the Circular as to the reasonable beliefs of the Magna Board as to, among other things, the desirability or fairness of the Proposed Transaction (see paragraph 148 of these reasons).

Lack of a Fairness Opinion

[161] The Circular also stated that CIBC did not provide a fairness opinion to the Special Committee with respect to the Proposed Transaction. Magna said that CIBC was unable to issue a fairness opinion because (i) a fairness opinion is generally based on fundamental value considerations, while the Proposed Transaction was not advanced based on the fundamental value of the Class B Shares, and (ii) the benefit to Class A Shareholders depended on the future market trading price of the Magna common shares following the Proposed Transaction, something CIBC could not and would not predict.

Analysis

[162] Generally, fairness opinions are obtained by directors to assist them in establishing that they acted with due care and diligence in approving a transaction. Fairness opinions are not generally provided for the benefit of shareholders, although they are usually disclosed and shareholders may take some comfort from them. In this case, the Special Committee was aware of the reasons why CIBC concluded that it could not issue a fairness opinion and Mr. Harris stated in his affidavit that the Special Committee was disappointed that such an opinion could not be obtained. There is no requirement in MI 61-101, or otherwise under Ontario securities law, requiring a reporting issuer to obtain a fairness opinion as a condition of proceeding with a related party transaction. To our knowledge, the Commission has never in the past required a fairness opinion in connection with a transaction such as the Proposed Transaction.

[163] In any event, we were prepared to accept that a fairness opinion could not be obtained from CIBC in these circumstances. Accordingly, requiring a fairness opinion might have prevented the Class A Shareholders from being able to consider and vote on the Proposed Transaction, a result that, in our view, was not in the public interest.

[164] We concluded, however, that the Circular was misleading by not fully explaining the reasons why CIBC was not prepared or able to issue a fairness opinion in the circumstances. Those reasons would have assisted Class A Shareholders in understanding the rationale for the Proposed Transaction and the potential benefits to them of that transaction. In our view, it was not good enough to simply state baldly in the Circular that no fairness opinion was being given.

[165] It is a different question whether the Circular contained adequate disclosure of the financial advice received by the Special Committee. As noted above, the Companion Policy contemplates that Magna should discuss in the Circular any analysis of expert opinions obtained. In our view, the advice received by the Special Committee from its financial advisors should have been included or summarized in the Circular. The failure to include that disclosure rendered the disclosure in the Circular materially inadequate.

[166] We would add that, in our view, the inability to obtain a fairness opinion did not relieve the Magna Board or Special Committee from their obligation to address and comment on the desirability or fairness of the Proposed Transaction to Class A Shareholders. To the contrary, in our view, the Magna Board and Special Committee had an obligation to do so.

5. Conclusion

[167] For the reasons discussed above, we concluded that if Magna wished to proceed with the Proposed Transaction, the Circular had to be amended to provide disclosure of the information referred to in paragraph 19 of these reasons (a reasonable time prior to the shareholders meeting) and, in each case, a meaningful discussion and analysis of the implications of that information for purposes of the Proposed Transaction and the shareholder vote.

[168] We also required that the Circular contain a statement that the disinterested members of the Magna Board or the Special Committee have concluded that the Circular as amended provides disclosure and information sufficient to permit shareholders to make an informed decision as to how to vote on the Proposed Transaction. That is the disclosure standard applicable to the Circular.

B. Is the Proposed Transaction Abusive and Should the Commission Restrain It in the Public Interest?

1. Submissions

Staff Submissions

[169] Staff alleged that the Proposed Transaction was contrary to the public interest. Staff acknowledged, however, that the "unprecedented amount of premium and the use of minority shareholder funds to acquire the Class B Shares did not, by themselves, require Commission intervention". Ultimately, Staff's position on the question of abuse, apart from the issue of the adequacy of disclosure, was that the Commission should have intervened for three reasons: (i) because the Magna Board did not provide a recommendation or "opine on the fairness of the transaction" in the Circular, (ii) because no valuation of the Class B Shares was provided to Class A Shareholders, and (iii) because of the involvement of Magna executive management in the negotiation of the Proposed Transaction. We specifically address those questions elsewhere in these reasons.

The Opposing Shareholders' Submissions

[170] The Opposing Shareholders submitted that it was coercive and abusive for Class A Shareholders to be asked to approve an exorbitant and unprecedented payment to the holder of the Class B Shares in order to eliminate a voting structure that was purportedly established for the benefit of Class A Shareholders. The Opposing Shareholders submitted that permitting Class A Shareholders to be forced to choose between continued economic deprivation as a result of the dual class share structure and an arbitrary transfer of corporate assets would erode public confidence in the capital markets.

[171] The Opposing Shareholders submitted that it is rare for a controlling shareholder to receive such an excessive premium over the value of the relevant subordinate voting shares when a company eliminates a dual class share structure. They said that multiple voting shares have usually been exchanged for common shares on a one-for-one basis when dual class share structures are collapsed.

[172] The Opposing Shareholders referred to eleven Canadian examples since 2000 where a dual class share structure has been eliminated. In ten of those transactions, the holder of the multiple voting shares converted its shares into subordinate voting shares without a premium. The other transaction involved a grant under the issuer's stock-linked compensation plan, which represented a premium of 66.1%. In nine of the eleven transactions, the conversion was effected under conversion rights already provided in the issuer's articles. However, in two circumstances amendments to share provisions were required. One of those conversions was accomplished by amending the articles to provide equal voting rights to a class of non-voting shares held by the public. The other amended the multiple voting share provisions to provide for a conversion right, with the conversion ratio supported by a board recommendation and fairness opinion.

[173] The Opposing Shareholders submitted that the premium that was being paid to the Stronach Trust for its Class B Shares was unconscionable and contrary to the reasonable expectations of the Class A Shareholders. The Opposing Shareholders submitted that because of the right of the holder of the Class B Shares to convert those shares into Subordinate Voting Shares on a one-for-one basis (the Class B Shares are convertible at the option of the holder into Subordinate Voting Shares; the Subordinate Voting Shares are not convertible into Class B Shares) and the otherwise identical entitlements of the two classes of shares in respect of dividends and upon liquidation, Class A Shareholders had a reasonable expectation that the collapse of the dual class share structure would be effected on a one-for-one basis consistent with the existing conversion right attaching to the Class B Shares. The Opposing Shareholders submitted that this was consistent with the vast majority of prior transactions where dual class share structures have been collapsed.

[174] According to the Opposing Shareholders, the value to be transferred to the Stronach Trust under the Proposed Transaction not only represented a premium above the market price of an equivalent number of Subordinate Voting Shares of approximately 1800%, but also included amendments to the extremely lucrative Consulting Contracts and transfer to the Stronach Trust of a controlling interest in the E-Car Partnership to be formed, which Magna had recently identified as its "strategic objective" in a "rapidly growing sector".

[175] Further, the Opposing Shareholders submitted that the Proposed Transaction was really "an issuer bid" notwithstanding that the transaction was structured as a plan of arrangement. Paragraph (b) of the definition of "issuer bid" in subsection 89(1) of the Act does not include an offer to acquire that is a step in a reorganization or arrangement that requires approval in a vote of security holders. The Opposing Shareholders submitted that the exception in paragraph (b) of that definition did not apply here because the purchase of the Class B Shares was not a "step" in a larger transaction, but the essence of the transaction itself. The only step in the plan of arrangement, out of seventeen steps, that does not relate to an issuer bid was the step that required the Stronach Trust to enter into the E-Car Partnership. The Opposing Shareholders submitted that it was unclear why this step needed to be part of the plan of arrangement, unless it was to attempt to fit the transaction into the exemption in paragraph (b) of the definition of "issuer bid". As a result, the Opposing Shareholders submitted that the Proposed Transaction should be treated as an "issuer bid" and a formal valuation should be required in respect of that bid in accordance with MI 61-101.

[176] In the alternative, if the Proposed Transaction was not technically an issuer bid, and thus did not require a formal valuation, the Opposing Shareholders submitted that the integrity of the capital markets required that market participants should adhere to both the letter and spirit of the rules and the "animating principles" underlying those rules, to ensure shareholders are treated fairly (*Re H.E.R.O. Industries Ltd.* (1990), 13 OSCB 3775 ("***Re H.E.R.O.***") at p. 3776, cited in *Re Sears Canada*, *supra* at para. 305; *Re Canadian Tire Corp.* (1987), 10 OSCB 857 ("***Re Canadian Tire***") at p. 31(QL); and *Re Patheon Inc.* (2009), 32 OSCB 6445) ("***Patheon***").

[177] Accordingly, the Opposing Shareholders submitted that the Proposed Transaction was abusive in that it was structured to circumvent statutory issuer bid and corporate law protections otherwise available for the benefit of the Class A Shareholders and thus frustrated the justifiable and reasonable expectations of investors and others in the capital markets (*C.T.C. Dealer Holdings Ltd. v. Ontario Securities Commission* (1987), 59 O.R. (2d) 79 at 104 (Div. Ct.)).

[178] The Opposing Shareholders submitted that the Class A Shareholders' confidence in the fairness and integrity of the capital markets would be undermined if we did not intervene to restrain the Proposed Transaction.

Goodman and Mason

[179] Goodman and Mason submitted that the objections being made to the Proposed Transaction were essentially objections to an excessive price proposed to be paid by Magna to the Stronach Trust for its Class B Shares. They submitted that there are potential benefits to the Class A Shareholders from the Proposed Transaction and that shareholders should be able to decide for themselves whether to approve that transaction. Goodman and Mason submitted that the Proposed Transaction was not abusive and there were no valid grounds for the Commission to intervene in the public interest.

2. The Law

[180] The Commission has jurisdiction under subsection 127(1) of the Act to intervene in a transaction where it concludes that it is in the public interest to do so (*Re Canadian Tire*, *supra* at p. 29 (QL), *Re H.E.R.O.*, *supra* and *Committee for the Equal Treatment of Asbestos Minority Shareholders v. Ontario (Securities Commission)*, [2001] 2 S.C.R. 132 ("***Asbestos***") at para. 39 (SCC).

[181] The Commission's public interest jurisdiction is animated by the purposes set out in subsection 1.1 of the Act, namely (i) to provide protection to investors from unfair, improper or fraudulent practices, and (ii) to foster fair and efficient capital markets and confidence in capital markets. As a result, the Commission must consider the fair treatment of investors, capital market efficiencies and public confidence in capital markets when exercising its public interest jurisdiction (*Asbestos*, *supra* at para. 41).

[182] The Act states that these purposes are achieved by having regard to:

(i) requirements for timely, accurate and efficient disclosure of information;

(ii) restrictions on fraudulent and unfair market practices and procedures; and

(iii) requirements for the maintenance of high standards of fitness and business conduct to ensure honest and responsible conduct by market participants.

[183] The Supreme Court of Canada has confirmed the Commission's broad jurisdiction to intervene on public interest grounds where doing so would further the purposes of the Act. However, the Court noted that the Commission's jurisdiction is constrained by the purposes of the Act and the regulatory nature of section 127. The primary purpose of an order under section 127 is to restrain future conduct that is likely to be prejudicial to the public interest in fair and efficient capital markets (*Asbestos*, *supra* at paras. 42, 43 and 45; see also *Patheon*, *supra* at para. 114).

[184] The Commission has held that it is entitled to intervene on public interest grounds in conduct that is technically in compliance with securities law requirements but that is inconsistent with the animating principles underlying those requirements or is abusive of investors or the capital markets. The Commission may find conduct to be abusive if a proposed transaction is artificial and defeats the reasonable expectations of investors or shareholders (*Re Canadian Tire*, *supra*; *Re H.E.R.O.*, *supra* at p. 3776; *Re Financial Models* (2005), 28 OSCB 2184 and *Patheon*, *supra* at para. 116).

[185] The Commission recognized in *Re Canadian Tire* that it should act to restrain a transaction that is clearly abusive of shareholders and of the capital markets, whether or not that transaction constitutes or involves a breach of Ontario securities law. The Commission's mandate under section 127 is not, however, to intervene in transactions under some rubric of ensuring fairness. To invoke its public interest jurisdiction, in the absence of a demonstrated breach of securities law or the animating principles underlying that law, a transaction must be demonstrated to be abusive of shareholders in particular, or of the capital markets in general. A showing of abuse is something different from, and must go beyond, a complaint of unfairness (See *Re Canadian Tire*, *supra* and *Re Canfor Corp.* (1995), 18 OSCB 475, 487).

3. Analysis

[186] While the Commission has a broad public interest jurisdiction, that jurisdiction must be exercised for appropriate regulatory purposes and with some caution and restraint. Where there is no breach of Ontario securities law, the Commission should generally act under its public interest jurisdiction only where there is conduct inconsistent with Ontario securities law or the animating principles underlying that law, or an abuse of shareholders or the capital markets. It was held in *Re Cablecasting Ltd.*, [1978] OSCB 37 that the Commission will be less reluctant to exercise its public interest authority where the principle of a new policy ruling is foreshadowed by principles already enunciated under Ontario securities law or in existing policy statements. The Commission stated:

> Another relevant consideration in assessing whether to act against a particular transaction is whether the principle of the new policy ruling that would be required to deal with the transaction is foreshadowed by principles already enunciated in the Act, the regulations or prior policy statements. Where this is the case the Commission will be less reluctant to exercise its discretionary authority than it will be in cases that involve an entirely new principle.
>
> (*Cablecasting*, *supra* at p. 43)

[187] In *Re Canadian Tire*, the issue before the Commission was whether a take-over bid that was made in compliance with applicable Ontario securities law was nonetheless abusive of shareholders and the capital markets. In *Re Canadian Tire*, the transaction was structured by an offeror to avoid triggering a coat-tail provision for the benefit of the holders of Class A non-voting shares of Canadian Tire Corporation, Limited ("**Canadian Tire**"), while paying a huge control premium for the common shares of Canadian Tire. The Commission found that the transaction was grossly abusive of shareholders and should be cease traded in the public interest.

[188] In our view, the key finding in *Re Canadian Tire* was that the public holders of Class A non-voting shares of Canadian Tire had a reasonable expectation, as a result of the coat-tail protection contained in Canadian Tire's articles, that they would share in any control premium being paid for the common shares. That reasonable expectation was being frustrated by an artificial transaction structured specifically to avoid triggering the coat-tail protection. The holders of common shares, including the controlling shareholders of Canadian Tire, were receiving an offer for their shares at a huge premium to the market price of those shares. Public holders of Class A non-voting shares were not receiving any offer for their shares and they were not being given any right to vote on or approve the offer made to the holders of common shares. In those circumstances, the Commission concluded that the offer being made to the holders of common shares was grossly abusive, undermined confidence in the capital markets and should be restrained.

[189] The circumstances before us in this matter were quite different. There was no "coat-tail" protection available to the Class A Shareholders and there was no sunset provision applicable to Magna's dual class share structure. As a result, the Stronach Trust was legally entitled to sell its Class B Shares to any purchaser at whatever price it negotiated. Holders of Subordinate Voting Shares knew when they purchased their shares that they had no right to participate in any such offer (see paragraph 66 of these reasons for an example of the public disclosure made in this respect). As a result, in our view, the Class A Shareholders had no reasonable expectation that they would share in any control premium being paid for the Class B Shares. In addition, and most importantly, the Class A Shareholders were being given the right to vote on and approve the Proposed Transaction. There is a financial rationale why the Class A Shareholders might wish to vote in favour of that transaction. If Class A Shareholders did not vote to approve the Proposed Transaction, it would not proceed.

[190] If approval by a majority vote of the minority Class A Shareholders had not been a requirement for proceeding with the Proposed Transaction, we have little doubt that we would have restrained it as an abusive related party transaction.

[191] It seemed to us that the primary complaint of the Opposing Shareholders was that the price proposed to be paid by Magna to the Stronach Trust for the Class B Shares was excessive and unprecedented. In our view, a transaction is not abusive simply because certain investors or shareholders consider the price proposed to be paid to be outrageous. There are other Class A Shareholders who see the financial benefits to them of the Proposed Transaction and support proceeding with it. It is not our role as securities regulators to assess the desirability of the Proposed Transaction from a financial or economic standpoint. That is ultimately for the Class A Shareholders to determine.

[192] The Class A Shareholders will suffer the dilution from the Proposed Transaction and will have some portion of the potential benefits arising from it. In our view, the Class A Shareholders should be entitled to decide for themselves whether the Proposed Transaction proceeds. They will make that decision through the proposed majority of the minority shareholder vote.

[193] Accordingly, in our view, once the issue of adequate disclosure was addressed, there were no valid grounds for us to conclude in the circumstances that the Proposed Transaction was abusive of Class A Shareholders or should be restrained on other grounds. It is clear from Commission decisions that any view or perception that we may have as to the possible unfairness of a transaction is not a sufficient ground upon which we can or should intervene in the public interest.

[194] All of the Class A Shareholders would have no doubt preferred that the Stronach Trust sell its Class B Shares to Magna at a lower price. However, such a transaction does not appear to have been available. A controlling shareholder is entitled to decide whether and on what terms it is prepared to sell its control block (see *Benson et al. v. Third Canadian General Investment Trust Ltd.* (1993), 14. O.R. (3d) 493). The Court concluded in that case that:

> The AGF bid stirred up the pot and got some (and possibly many) shareholders drooling for an opportunistic one-time value bump. However, this dessert was not on the menu. …

[195] We would simply add for clarity that we should not be taken to be suggesting that shareholder approval can remedy a transaction or circumstances that are abusive of shareholders or the capital markets. To the contrary, if a transaction is abusive, then shareholder approval will not be sufficient.

4. Conclusion

[196] Based on the evidence before us, and given the requirement for majority of the minority Class A Shareholder approval of the Proposed Transaction, we were not persuaded that the Proposed Transaction was abusive or that we should intervene in the public interest on other grounds.

C. Did the Magna Board Comply with its Fiduciary Duties in Submitting the Proposed Transaction to Shareholders?

Opposing Shareholders' Submissions

[197] The Opposing Shareholders also submitted that directors of a corporation are required to make decisions in the best interests of the corporation. They submitted that the Magna directors did not make a decision as to whether the Proposed Transaction was in the best interests of Magna. Instead, they said that the directors abdicated their responsibility by, in effect, delegating the decision to the Class A Shareholders and the Ontario Superior Court of Justice. The Opposing Shareholders submitted that the directors' failure to exercise their fiduciary duties resulted in a fundamental decision about Magna being made by shareholders who do not have access to the information required to make an informed decision. They submitted that, in view of the directors' failure to comply with their fiduciary duties, it was abusive and contrary to the public interest for Magna to ask shareholders to vote on the Proposed Transaction.

Analysis

[198] It is not our principal jurisdiction to assess or determine whether directors have complied with their fiduciary duties in connection with a proposed transaction. That is primarily a corporate law matter. The Commission has, however, in a number of decisions, when applying its public interest jurisdiction or other provisions of applicable Ontario securities law, considered the role and process followed by a board of directors or a special committee of independent directors in reviewing and approving a transaction or matter (see, for instance, *Re Standard Trustco Ltd. et al* (1992), 6 B.L.R. (2d) 241, *YBM*, *supra*, *Re Sears Canada*, *supra*, *Re AiT Advanced Information Technologies Corp.* (2008), 31 OSCB 712, *Re Rowan* (2008), 31 OSCB 6515) and *Re Neo Material Technologies Inc.* (2009), 32 OSCB 6941). In *Re Hudbay Minerals Inc.* (2009), 32 OSCB 1044, we stated that "[t]hese kinds of issues are not solely matters for the courts."

[199] MI 61-101 and the Companion Policy are clear that the review and approval process followed by a board are relevant considerations for the Commission both as a disclosure and substantive matter in connection with a transaction that is subject to that Instrument. We address that review and approval process later in these reasons.

[200] As noted in paragraph 124 of these reasons, the Companion Policy applies to the Proposed Transaction. The Companion Policy recommends as good practice that a related party transaction be negotiated, or reviewed and reported upon, by a special committee of disinterested directors. Subsection 6.1(5) of the Companion Policy provides that:

> To safeguard against the potential for an unfair advantage for an interested party as a result of that party's conflict of interest or informational or other advantage in connection with the proposed transaction, it is good practice for negotiations for a transaction involving an interested party to be carried out by or reviewed and reported upon by a special committee of disinterested directors. Following this practice normally would assist in addressing our interest in maintaining capital markets that operate efficiently, fairly and with integrity. *While the Instrument only mandates an independent committee in limited circumstances, we are of the view that it generally would be appropriate for issuers involved in a material transaction to which the Instrument applies to constitute an independent committee of the board of directors for the transaction.* … [emphasis added]

[201] Magna purported to follow that recommendation by appointing the Special Committee to review the Proposed Transaction and report to the Magna Board as to whether it should be submitted to Class A Shareholders for their consideration. We have no reason to believe that by submitting the Proposed Transaction to shareholders for their consideration in these circumstances, the Magna Board or Special Committee improperly delegated that decision to shareholders or thereby breached their fiduciary duties.

[202] We do not accept that, in these circumstances, there is any fundamental corporate or securities law impediment preventing the Magna Board and Special Committee from putting the Proposed Transaction to the Class A Shareholders for a vote. To the contrary, as noted above, we believe that the Class A Shareholders are the persons entitled to decide whether the Proposed Transaction proceeds.

[203] In any event, we would hesitate to address the question of compliance by the Magna Board with its fiduciary duties in these circumstances based on a day and a half hearing with the limited record that was before us.

D. Was the Process Followed by the Magna Board and the Special Committee in Reviewing the Proposed Transaction Inadequate?

1. Submissions

Staff Allegation

[204] Staff alleged that:

> …
>
> (ii) the purchase by Magna of the Class B shares of Magna held by the Stronach Trust as part of the Proposed Transaction, in these novel and unprecedented circumstances, is contrary to the public interest and should be cease traded because:
>
> …
>
> (b) the approval and review process followed by the Magna Board in negotiating the arrangement and proposing it to the holders of the Subordinate Voting Shares was inadequate.

[205] Staff submitted in this respect that the material terms of the Proposed Transaction were settled by executive management and the Stronach Trust without sufficient oversight and input by the Special Committee. Staff submitted that the whole process related to the review and consideration of the Proposed Transaction by the Special Committee was "management driven".

Opposing Shareholders

[206] The Opposing Shareholders submitted that the Proposed Transaction was substantially negotiated between executive management and the Stronach Trust and no attempt was made to determine the fair market value of the Class B Shares. Accordingly, the approval and review process related to the Proposed Transaction was inadequate.

Magna Submissions

[207] Magna submitted that its board of directors engaged in an appropriate, proper and thorough process prior to submitting the Proposed Transaction to shareholders for their consideration. Magna submitted that the Proposed Transaction, by necessity, had first to be acceptable to and supported by the Stronach Trust. The Magna Board established the Special Committee which, through the course of 10 meetings held between April 8, 2010 and May 5, 2010, considered and reviewed issues related to the Proposed Transaction, with the assistance of its own independent financial and legal advisors. Magna submitted that, in the proper exercise of its business judgment, the Magna Board determined, on the recommendation of the Special Committee, that it was in the best interests of Magna to submit the Proposed Transaction to a vote of shareholders and to structure the transaction as an arrangement so that it would be subject to approval by the Ontario Superior Court of Justice after a fairness hearing.

[208] Magna submitted that this proceeding was initiated as a result of Staff and the Opposing Shareholders concluding that the price to be paid for the cancellation of the Class B Shares was excessive and objectionable, and as a consequence, they inferred that the Special Committee's process must have been flawed.

Special Committee

[209] As noted above, the Special Committee submitted that it engaged in a proper and thorough process, independent of executive management and the Stronach Trust. The Special Committee noted that as part of that process it received independent legal advice and independent financial advice from CIBC and PwC.

2. The Law

[210] As discussed above, the Proposed Transaction was a related party transaction between Magna and its controlling shareholder and was subject to MI 61-101. As indicated in the Companion Policy, related party transactions "are capable of being abusive or unfair" and such transactions give rise to potential conflicts of interest.

[211] The Companion Policy contemplates that a committee of independent directors should negotiate, or review and report on, a related party transaction such as the Proposed Transaction. That practice furthers the fundamental purpose of MI 61-101 to ensure that, "all security holders are treated in a manner that is fair and that is perceived to be fair" (section 1.1 of the Companion Policy).

[212] We have discussed above our views with respect to whether the Magna Board was required to make a recommendation to Class A Shareholders as to how they should vote on the Proposed Transaction, whether a fairness opinion should have been provided and whether the Magna Board was acting in accordance with its fiduciary duties in putting the Proposed Transaction to a shareholder vote. We will address here only the challenge to the Magna Board and Special Committee process in reviewing the Proposed Transaction.

3. Analysis

[213] Consistent with the Companion Policy, the Special Committee was formed to review and consider the proposal that ultimately led to the Proposed Transaction. In considering the Proposed Transaction, it is clear that the Special Committee was aware of and concerned with the conflict of interest inherent in Magna entering into a material related party transaction with its controlling shareholder.

[214] Our principal concerns with respect to the Magna Board and Special Committee process related to (i) the actions of executive management in negotiating the terms of a proposal with Mr. Stronach when executive management became aware that Mr. Stronach was prepared to consider a transaction that could eliminate Magna's dual class share structure, (ii) the narrow mandate of the Special Committee, and (iii) whether the Magna Board and Special Committee sufficiently addressed in the Circular the desirability or fairness of the Proposed Transaction to Class A Shareholders.

Involvement of Executive Management

[215] The members of executive management (Mr. Walker, Mr. Galifi and Mr. Palmer) had a fundamental conflict of interest in attempting to negotiate the terms of a transaction with Mr. Stronach, who was both their boss and the controlling shareholder of Magna. Apart from the inherent conflict in negotiating a transaction with Mr. Stronach, the members of executive management of Magna may also have had a personal interest in whether or not Mr. Stronach continued in a management role at Magna and on what terms.

[216] In our view, when Mr. Galifi and Mr. Palmer became aware that Mr. Stronach was prepared to at least consider a transaction collapsing Magna's dual class share structure, the matter should have been immediately referred to the Magna Board. Executive management was fundamentally conflicted in purporting to negotiate with Mr. Stronach and it appears that

they did so without any independent financial advice, including advice as to the terms of comparable transactions. The result was that the Special Committee was faced with a transaction that had been substantially negotiated and agreed to by Magna and the Stronach Trust and that was presented to it as essentially a "take it or leave it" proposition.

[217] While the Circular referred to the proposal resulting from the discussions between senior management and Mr. Stronach as a "conceptual proposal", the key elements of that conceptual proposal, including the cash and share purchase price payable for the Class B Shares, were ultimately reflected in the Proposed Transaction. The Special Committee was unsuccessful in negotiating any material changes to the principal elements of the so-called conceptual proposal (although the Special Committee was able to negotiate the changes referred to in paragraph 80 of these reasons).

[218] We do not accept that it was necessary for executive management to negotiate a proposal with the Stronach Trust before the matter could be referred to the Magna Board. In our view, the process of negotiation was a key aspect of the process that should have been conducted or overseen by the Special Committee. Accordingly, in our view, the Special Committee process followed by the Magna Board in considering and reviewing the Proposed Transaction was defective from the start. That defect was not remedied by the fact that the Special Committee as part of its process met with its own advisors without the presence of executive management for a portion of each meeting.

Special Committee Mandate

[219] The Special Committee's mandate as disclosed in the Circular was to review and consider the Proposal "as it was developed by executive management for submission initially to the Stronach Trust, and if acceptable to the Stronach Trust, to report to the Magna Board as to whether the Proposal should be submitted to the [Class A Shareholders] for their consideration."

[220] There were at least three fundamental problems with that mandate.

[221] First, the Special Committee appears to have been limited to considering and reviewing the Proposal "developed by executive management for submission initially to the Stronach Trust". As noted above, executive management had a fundamental conflict of interest in negotiating any aspect of the Proposed Transaction with the Stronach Trust. The Special Committee should not have been limited in its terms of reference to considering only the Proposal developed by executive management with the Stronach Trust.

[222] Second, the Special Committee's mandate was only to "review and consider" the Proposal. It was not authorized to negotiate those terms, although the Special Committee appears to have taken a broader view of its mandate.

[223] Third, the Special Committee's mandate was only to "report to the Magna Board as to whether the Proposal should be submitted to the Class A Shareholders for their consideration". Accordingly, the Special Committee, by its mandate, was not to consider broader issues such as whether the Proposed Transaction was in the best interests of, or was fair to, the Class A Shareholders. By its mandate, the Special Committee was only to decide whether the Proposed Transaction should be submitted to a shareholder vote.

[224] In our view, the Special Committee's mandate and terms of reference were, in the circumstances, fundamentally flawed. The mandate and terms of reference of the Special Committee were tied to executive management's involvement in the process, were too narrow and did not authorize the Special Committee to address the key question: whether the Proposed Transaction was fair to the Class A Shareholders.

[225] Further, the Circular states that "the Special Committee and its advisors made a variety of observations and commentary to executive management with respect to the key elements of the Proposal". Why the Special Committee would make suggestions to executive management and not directly to the Stronach Trust is beyond us. The Special Committee should have been dealing with the Stronach Trust, not executive management. That concern is reinforced by the statement in the Circular that "[i]n addition, the Chair of the Special Committee met personally with both Mr. Stronach and Ms. Belinda Stronach, in their capacity as representatives of the Stronach Trust, to discuss certain key issues considered by the Special Committee concerning the financial and other terms of the Proposal".

[226] Accordingly, the Special Committee process appears to have been tainted by the involvement of executive management at the start of and during the process, and the Special Committee's mandate and terms of reference were too narrow and fundamentally flawed.

Desirability or Fairness of the Proposed Transaction

[227] The key question that should have been more fully addressed by the Magna Board and Special Committee was the desirability or fairness of the Proposed Transaction to Class A Shareholders. The need to address that question is made clear by the terms of the Companion Policy referred to in paragraph 124 of these reasons. There was no evidence before us

indicating that question was considered by the Special Committee. The minutes of the meetings of the Special Committee did not reflect any direct consideration of that question and the only recommendation made by the Special Committee was that the Proposed Transaction be submitted to a shareholder vote. We do not accept that the Special Committee was unable to appropriately address the fairness of the Proposed Transaction because no fairness opinion was available to the Special Committee from its financial advisors. That is a separate and different issue.

No Intervention

[228] We considered intervening in the Proposed Transaction on the grounds that the Special Committee process was inadequate. Ultimately, however, we were not satisfied that we had sufficient evidence before us of the actual process followed by, and the actual deliberations of the Special Committee, to come to a definitive conclusion. The conclusions set forth above are based on the disclosure in the Circular and a review of Mr. Harris' affidavit and the minutes of the meetings of the Special Committee attached to that affidavit. We had very limited additional information with respect to the Special Committee process. Further, detailed submissions were not made by Staff or the Opposing Shareholders with respect to the specific issues discussed above. As a result, Magna and the Special Committee did not make submissions to us with respect to those matters. Accordingly, we concluded, on balance, that we did not have sufficient evidence or grounds to intervene in the Proposed Transaction on the basis that the Special Committee process was inadequate.

[229] We would add that the Stronach Trust was certainly entitled to take the negotiating positions it did in bringing the Proposed Transaction forward. Even if the conceptual proposal had been immediately referred to the Magna Board and the Special Committee, that may have made no difference in terms of the transaction that the Stronach Trust was prepared to consider or agree to. Certainly, Mr. Stronach stated that he was content with the status quo and showed no inclination to negotiate with the Special Committee the principal elements of, or the cash and share consideration payable under, the Proposed Transaction. On the other hand, early board involvement in the discussions might have led down a different road. If directors wish to obtain the benefits arising from the review of a related party transaction by a special committee of independent directors, they must ensure that the process followed appropriately manages the conflicts of interest of all parties and that the mandate of that committee is sufficiently broad and authorizes the Special Committee to address the key issues in the circumstances.

4. Conclusion

[230] While we came to the conclusions referred to in paragraph 226 with respect to the Special Committee review process, we were not satisfied, on balance, that we had sufficient evidence or grounds to intervene in the Proposed Transaction on that basis.

E. Should a Formal Valuation be required of the Subject Matter of the Proposed Transaction?

1. Submissions

[231] Staff submitted that when examining transactions under MI 61-101 from a public interest perspective, the Commission should take a purposive approach to the interpretation of the applicable requirements. Commission intervention is justified based not only on technical non-compliance, but where conduct is inconsistent with the principles underlying MI 61-101 or is designed to avoid the application of the procedural protections contained in MI 61-101. Staff submitted that a formal valuation should be required in connection with the Proposed Transaction in the circumstances.

[232] The Opposing Shareholders submitted that, in fairness to shareholders, we should have required that a formal valuation be prepared in connection with the Proposed Transaction notwithstanding the availability of the Market Cap Exemption. As noted above, the Opposing Shareholders also submitted that the Proposed Transaction was, in substance, an issuer bid and that, as an issuer bid, a formal valuation would have been required under MI 61-101.

[233] Magna submitted that the Proposed Transaction was exempt under MI 61-101 from the valuation and minority approval requirements applicable to related party transactions because of the availability of the Market Cap Exemption. That exemption establishes a bright line test for determining when a related party transaction is of sufficient size to require the additional protections afforded by MI 61-101. Magna submitted that it was entitled to rely on the Market Cap Exemption.

[234] Magna also submitted that a formal valuation of the Class B Shares was not relevant to Class A Shareholders. Magna said that the principal way the market assesses transactions such as the Proposed Transaction is by the amount of dilution that will be suffered by shareholders. A formal valuation of the Class B Shares would not be relevant to that assessment.

2. Analysis

[235] Magna disclosed in the Circular that the Proposed Transaction was exempt from the valuation and minority approval requirements applicable to related party transactions because of the availability of the Market Cap Exemption.

[236] Sections 5.5 and 5.7 of MI 61-101 exempt an issuer from complying with the minority approval and formal valuation requirements of MI 61-101 where "at the time the transaction is agreed to, neither the fair market value of the subject matter of, nor the fair market value of the consideration for, the transaction … exceeds 25 per cent of the issuer's market capitalization…". The purpose of the Market Cap Exemption is to require that only very large related party transactions comply with the valuation and minority approval requirements of MI 61-101.

[237] Under MI 61-101, in determining the availability of the Market Cap Exemption, an issuer must aggregate the fair market values of any "connected transactions" that are also related party transactions. "Connected transactions" are defined in section 1.1 of MI 61-101 as two or more transactions that have at least one party in common and (a) are negotiated or completed at approximately the same time, or (b) the completion of at least one of the transactions is conditional on the completion of each of the other transactions.

[238] The purpose of the connected transaction concept is to link related transactions and to prevent an issuer from arbitrarily dividing a transaction into smaller parts in order to obtain the benefit of the Market Cap Exemption. The connected transaction concept is therefore an anti-avoidance provision.

[239] Under MI 61-101, the Proposed Transaction could have been carried out without approval by a majority vote of the minority Class A Shareholders because of the availability of the Market Cap Exemption. However, apparently at the insistence of both the Special Committee and the Stronach Trust, the Proposed Transaction was to be put to a majority of the minority shareholder vote to ensure that the Class A Shareholders had the right to determine whether the Proposed Transaction proceeded. As a result, the Proposed Transaction was to be implemented only if a majority of the votes cast by minority Class A Shareholders were in favour of the Proposed Transaction.

[240] No one made a compelling argument to us that the Market Cap Exemption did not apply by its terms to the Proposed Transaction. We did require pursuant to our Decision, however, that fuller information be included in the Circular with respect to the availability of that exemption. In particular, we required that Magna clarify its financial analysis related to the conclusion that the Market Cap Exemption was available in connection with the Proposed Transaction. That clarification was to include whether the amendments to the Consulting Agreements were "connected transactions" and the fair market values used for each component of the consideration to be paid to the Stronach Trust, including the interest in the E-Car Partnership and the amendments to the Consulting Agreements. The inclusion of those elements as non-cash consideration caused us some concern in considering whether the Market Cap Exemption was available. At the end of the day, however, those elements of the Proposed Transaction did not put into question the availability of the Market Cap Exemption.

[241] The availability of the Market Cap Exemption also meant that no formal valuation was required with respect to the Proposed Transaction under MI 61-101.

No Formal Valuation

[242] As noted above, the Opposing Shareholders submitted that the Proposed Transaction, while structured as an arrangement, was in substance an issuer bid. They submitted as a result that a formal valuation should have been required under section 3.3 of MI 61-101. It appeared to us, however, that the Proposed Transaction was structured as an arrangement in order to engage the requirement for a court determination of the fairness of that transaction. That is an appropriate safeguard for shareholders. It did not appear to us that the Proposed Transaction was structured in that manner for the purpose of avoiding the requirement for a valuation in connection with an issuer bid.

[243] That submission also seemed to us to be inconsistent with the substance of the Proposed Transaction. A formal valuation of the shares to be acquired under an issuer bid is required so that the shareholders receiving the issuer bid have sufficient information as to the fair market value of the shares they hold so that they can decide whether to tender those shares for the price offered under the issuer bid. In the case of the Proposed Transaction, that offer is being made only to the Stronach Trust, not to the Class A Shareholders.

[244] The Opposing Shareholders also submitted, however, that the fair market value of the Class B Shares was nonetheless relevant to Class A Shareholders in deciding how to vote on the Proposed Transaction. That is to say that the fair market value of the Class B Shares, and any non-cash consideration being paid for those shares, was relevant to Class A Shareholders in deciding whether the consideration payable to the Stronach Trust under the Proposed Transaction was excessive and whether they should vote in favour of that transaction.

[245] We agree that information with respect to the fair market value of the Class B Shares, and any non-cash consideration being paid for them, was relevant to the Class A Shareholders in deciding how to vote on the Proposed Transaction.

[246] It was clear, however, that the consideration being paid to the Stronach Trust for the Class B Shares far exceeded the fair market value of the Subordinate Voting Shares (one may view the market price of those shares as a measure against which to consider the amount of the consideration being paid for the Class B Shares). As the Opposing Shareholders pointed out, the

premium being paid was 1,800% of the market price of the Subordinate Voting Shares. The Class A Shareholders were certainly aware of the market price of the Subordinate Voting Shares. However, the consideration being paid to the Stronach Trust was justified primarily on the basis that the Class A Shareholders would benefit from the increase in the trading multiple of the Subordinate Voting Shares as a result of the elimination of the dual class share structure. Class A Shareholders would assess that potential benefit relative to the dilution they would suffer as a result of the Proposed Transaction. That rationale for the Proposed Transaction did not turn on the fair market value of the Class B Shares.

[247] In the circumstances, Magna was not legally required under MI 61-101 to prepare a formal valuation in respect of the Class B Shares, or of the non-cash consideration being paid for those shares, because of the availability of the Market Cap Exemption. If a formal valuation had been required under MI 61-101, we would not have granted an exemption from that requirement because the fair market value of the Class B Shares, and of any non-cash consideration, was certainly relevant to the decision of Class A Shareholders in deciding how they should vote on the Proposed Transaction.

[248] On balance, however, we concluded that a formal valuation was not necessary to the decision of the Class A Shareholders given the economic rationale for the Proposed Transaction. We considered more relevant the information we required to be disclosed in the Circular relating to historical transactions in which dual class share structures have been collapsed. It seemed unlikely to us in the circumstances that a formal valuation of the Class B Shares would have affected how the Class A Shareholders would view or vote on the Proposed Transaction. The requirement to prepare a formal valuation is a disclosure matter and does not affect the consideration that may be paid pursuant to a transaction.

[249] Accordingly, we were not satisfied that there were sufficient grounds for us to require Magna to prepare a formal valuation in connection with the Proposed Transaction. Market participants are entitled to rely on the provisions of MI 61-101 in structuring corporate transactions. The Commission should hesitate to impose a requirement for a formal valuation, where one does not otherwise apply, except in clear and compelling circumstances.

3. Conclusion

[250] We concluded that no formal valuation was required in connection with the Proposed Transaction under MI 61-101 and that there were insufficient grounds to unilaterally impose such a requirement.

XI. EVENTS SUBSEQUENT TO THE RELEASE OF OUR DECISION

[251] At the time of the hearing, the special meeting of shareholders to vote on the Proposed Transaction was scheduled for the following Monday, June 28, 2010, and a final hearing to approve the terms of the arrangement on the basis that it is fair and reasonable (pursuant to section 182(5) of the OBCA) was scheduled to take place on June 29, 2010, before a Judge of the Ontario Superior Court of Justice.

[252] As a result of our Decision and order, Magna postponed the special meeting of shareholders to July 28, 2010 and issued a supplement Circular containing additional disclosure in response to our Decision.

[253] We understand that a draft of the supplement Circular was provided to Staff, that Staff communicated a number of comments to Magna and that, as a result of the responses to those comments, Staff had no further comments on the draft supplement. On July 9, 2010, Magna mailed the supplement to the Circular to shareholders.

[254] This Panel did not review the disclosure in the supplement mailed to shareholders. We were not called upon to do so and that was not our role.

[255] The special meeting of shareholders was held on July 28, 2010 and the Proposed Transaction was approved in accordance with the requirements set out in the Interim Order dated May 31, 2010 of the Ontario Superior Court of Justice. The Proposed Transaction was approved by approximately 75% of the votes cast by minority Class A Shareholders, voting separately as a class.

[256] The Ontario Superior Court of Justice held a hearing on August 12 and 13, 2010 to consider the application by Magna for an order approving the proposed arrangement.

[257] On August 17, 2010, the Ontario Superior Court of Justice issued a decision approving the proposed arrangement (pursuant to subsections 182(3) and 182(5) of the OBCA) on the grounds that Magna had satisfied the “fair and balanced” test applicable to the Court’s approval of an arrangement. The Court cited the fact that Magna's Class A Shareholders voted approximately 75% in favour of the Proposed Transaction. The Court stated that the fair and balanced test is based on three indicia of fairness: (i) the outcome of the shareholder vote, upon which considerable reliance can be placed; (ii) the market reaction to the announcement of the Proposed Transaction, which provides evidence that market participants believed that there was a reasonable possibility of achieving the potential benefits upon which the transaction was premised and therefore that the Proposed Transaction was not inherently unfair; and (iii) the presence of a liquid trading market in which Class A Shareholders

who opposed the Proposed Transaction could sell their shares at prices that had not been demonstrated to have been reduced as a result of the announcement of the Proposed Transaction.

[258] On August 26, 2010, certain shareholders of Magna appealed to the Ontario Divisional Court to overturn the Court decision approving the Proposed Transaction. On Monday, August 30, 2010, one day before the August 31, 2010 deadline for completion of the Proposed Transaction, a three-member panel of the Ontario Divisional Court dismissed the appeal.

[259] We understand that the Proposed Transaction was completed in accordance with its terms.

XII. CONCLUSION

[260] For the reasons discussed above, we concluded that it was in the public interest to issue an order that, amongst other things, cease traded the Subordinate Voting Shares to be issued by Magna in connection with the Proposed Transaction until such time as Magna amended the Circular in accordance with our Decision (see paragraph 19 of these reasons for details of that order).

Dated at Toronto this 31st day of January, 2011.

"James E. A. Turner"
James E. A. Turner

"Paulette L. Kennedy"
Paulette L. Kennedy

"C. Wesley M. Scott"
C. Wesley M. Scott

SCHEDULE A

Extract from the Magna Management Information Circular/Proxy Statement
Dated May 31, 2010

(See "Background to the Proposal and the Arrangement"
commencing with the fourth paragraph on page 6 of the Circular.)

"The Magna Board has been concerned for some time about succession issues. In the few years preceding the Russian Machines Transaction (as described below), Mr. Stronach had been approached by several potential investors and intermediaries with privatization and other restructuring proposals which could have enabled the Stronach Trust to realize significant value from its control block. None of these overtures met the approval of the Stronach Trust for a variety of reasons, including concerns and issues related to the preservation of Magna's competitive profile for the benefit of all stakeholders and, in particular, concerns over Magna taking on any significant financial leverage.

During the fall of 2006, discussions were held with Basic Element Limited, the parent company of Russian Machines, to explore a possible framework for a privatization proposal. Again, in light of concerns regarding the assumption of significant debt in connection with any privatization proposal and given the uncertain industry outlook at that time, the privatization concept was ultimately rejected.

In August 2007, Magna, with the approval of its shareholders (including a majority of the minority holders of Subordinate Voting Shares), entered into a plan of arrangement with Russian Machines, the Stronach Trust and certain members of executive management pursuant to which, among other things, Russian Machines purchased from treasury 20 million Subordinate Voting Shares for approximately $1.54 billion and the Stronach Trust and Russian Machines entered into a strategic alliance. The effect of such alliance was that the Stronach Trust continued to control Magna, Russian Machines was entitled to appoint nominees for election to the Magna Board and the Stronach Trust and Russian Machines shared equally in all the dividends and capital appreciation on their pooled beneficial ownership of shares of Magna (the "Russian Machines Transaction"). As part of the Russian Machines Transaction, the Stronach Trust became the indirect beneficial owner of all the outstanding Class B Shares and the voting power attached to the Class B Shares was reduced from 500 votes to 300 votes per share in order to preserve the pre-transaction voting interests between the Subordinate Voting Shares and the Class B Shares. For reasons unrelated to Magna or the Stronach Trust, this alliance was dissolved in the fall of 2008.

… In the fall of 2009, executive management and the Corporate Governance and Compensation Committee of the Board commenced a review of potential structures and incentives relating to Magna's vehicle electrification and product diversification strategies, including potential management co-investment rights.

In March 2010, these discussions led to a broader discussion between Mr. Stronach, Vincent J. Galifi, Executive Vice-President and Chief Financial Officer, and Jeffrey O. Palmer, Executive Vice-President and Chief Legal Officer, about succession planning and related issues. Knowing that investors and analysts had, for many years, expressed concerns regarding Magna's dual class share structure, Messrs. Galifi and Palmer asked Mr. Stronach whether he regarded the Class B Shares as an inter-generational asset or whether he would possibly consider a transaction which would eliminate the dual class share structure as part of an overall reorganization to address succession concerns and related issues. Mr. Stronach indicated that, while he was content with the status quo, he would be willing to consider such a transaction provided it was supported by the holders of the Subordinate Voting Shares and did not jeopardize Magna's entrepreneurial culture or the key operating principles embodied in its Corporate Constitution.

In light of Mr. Stronach's response, executive management began to develop a conceptual proposal for a possible transaction which could be value enhancing for Magna and its shareholders and acceptable to the Stronach Trust. In developing the conceptual proposal, executive management took into account various factors, including the following:

- despite Magna's strong operating and financial performance, the Subordinate Voting Shares have traded at enterprise value to EBITDA multiples that are significantly below Magna's industry peers; … [Chart as to "Historical Enterprise Value / 1-Year Forward EBITDA" not reproduced];

- the potential positive impact on the trading price of the Subordinate Voting Shares of a transaction which results in the elimination of the dual class share structure;

- the expectation of increased marketability and improved liquidity of Magna's equity securities following the elimination of the dual class share structure;

- higher trading values and enhanced marketability would correspondingly enhance Magna's ability to raise equity capital at a lower cost of capital and make equity a more attractive currency for future potential acquisitions or investments;

- the opportunity for an orderly transition that ensures the preservation and promotion of Magna's core values and operating philosophies notwithstanding the elimination of the dual class share structure;
- the desirability of having Mr. Stronach continue to provide his insight and leadership to Magna through an appropriate transition period;
- the certainty regarding the future of Magna's consulting arrangements with Mr. Stronach and his affiliated entities resulting from a fixed expiry date and fixed annual fees payable under the Consulting Agreements;
- the concern expressed by some holders of Subordinate Voting Shares as to the alignment of interests of all Shareholders;
- the implied value of the Stronach Trust's control block in the Russian Machines Transaction, which was negotiated at arm's length;
- the implied value of the Stronach Trust's control block reflected in the arm's length privatization proposals previously discussed with potential investors and intermediaries;
- Mr. Stronach's desire for the Stronach Trust to have a continuing equity interest in Magna; and
- Mr. Stronach's desire to have a direct and controlling interest in Magna's vehicle electrification business (and historical co-participation precedents within the Magna Group consistent with that objective).

On April 5, 2010, Donald J. Walker, Co-Chief Executive Officer, and Messrs. Galifi and Palmer met with Mr. Stronach to discuss a conceptual proposal involving three principal elements: (i) Magna purchasing for cancellation all the Class B Shares for consideration comprised of 9,000,000 Subordinate Voting Shares and US$300 million in cash; (ii) amendments to the Consulting Agreements to provide for a five year non-renewable term and fixed, annual aggregate fees; and (iii) a partnership between the Stronach Trust and Magna in respect of the vehicle electrification business.

These members of executive management indicated that, if Mr. Stronach was willing to consider such a conceptual proposal, they would advise the Magna Board so that a special committee of independent directors could be established to oversee a process of reviewing the conceptual proposal. Mr. Stronach advised that he thought the conceptual proposal could possibly lead to an acceptable transaction, but emphasized that he was content with the status quo and that he wished to retain control of Magna's new operating group, the vehicle electrification initiative, because, in his view, it needed a "focused and strong hand" to guide it through its early and formative stages. He also indicated that he would not object to executive management working with the Magna Board to develop a more detailed proposal, but expressed his overriding concern for preserving the culture and key operating principles on which Magna had been built, particularly the Corporate Constitution, and further advised that any proposal would have to be supported by a majority of the minority holders of Subordinate Voting Shares even if such a vote was not legally required.

In order to explore whether such a conceptual proposal might be achievable, at executive management's request, a meeting of the Magna Board was called and held on April 8, 2010 at which the directors were informed of the conceptual proposal.

Special Committee Consideration and Review of the Proposal

At the April 8, 2010 meeting, the Magna Board established the Special Committee comprised of Michael D. Harris (Chair), Louis E. Lataif and Donald Resnick. The mandate of the Special Committee was to review and consider the Proposal as it was developed by executive management for submission initially to the Stronach Trust and, if acceptable to the Stronach Trust, to report to the Magna Board as to whether the Proposal should be submitted to the holders of Subordinate Voting Shares for their consideration. All independent directors were invited to participate in the Special Committee process and were notified of all scheduled meetings.

The Proposal that the Special Committee initially considered included the repurchase of all of the outstanding Class B Shares for consideration comprised of 9,000,000 newly issued Subordinate Voting Shares and US$300 million in cash; the amendment of the consulting, business development and business services agreements between Magna and certain of its subsidiaries and Mr. Stronach and certain entities controlled by him to, among other things, extend them for a five-year, non-renewable term for fixed, aggregate annual fees; and the reorganization of Magna's vehicle electrification business by transferring Magna's E-Car operating group and related assets and liabilities into a limited partnership in exchange for an ownership interest in the limited partnership with the partnership to be effectively controlled by an entity associated with the Stronach Trust.

Immediately following the meeting of the Magna Board, the Special Committee held its organizational meeting. The Special Committee engaged CIBC as its independent financial advisor and Fasken Martineau DuMoulin LLP as its independent legal advisor to assist it in the performance of its work, as well as PwC as an independent financial advisor to prepare a valuation of the vehicle electrification business. The Special Committee also consulted as necessary with members of executive management of Magna and Osler, Hoskin & Harcourt LLP, legal counsel to Magna.

In conducting its review and consideration of the Proposal, the Special Committee met a total of 11 times between April 8 and May 5, 2010. In the course of its review and as the Proposal was refined, the Special Committee and its advisors made a variety of observations and commentary to executive management with respect to the key elements of the Proposal, including the procedural elements of the Proposal and certain financial terms of the Proposal. In addition, the Chair of the Special Committee met personally with both Mr. Stronach and Ms. Belinda Stronach, in their capacity as representatives of the Stronach Trust, to discuss certain key issues considered by the Special Committee concerning the financial and other terms of the Proposal.

Among other things, the Special Committee and its advisors determined that if the Proposal were to be submitted to Shareholders for their consideration, the Proposal should be subject to certain key procedural safeguards, including that it be: (i) approved by a majority of the votes cast at a special meeting by disinterested holders of Subordinate Voting Shares; and (ii) carried out as a plan of arrangement which would be subject to review by a court that would consider the fairness and reasonableness of the Proposal. In addition, the Special Committee and its advisors made a variety of observations and comments with respect to certain financial terms of the Proposal, which were considered in the refinement of the Proposal.

As part of its review process, the Special Committee considered and reviewed a substantial amount of information in consultation with its legal and financial advisors, including the following:

- potential alternatives to the Proposal, including maintaining the status quo as well as potential alternatives to specific terms of the Proposal;
- Magna's Restated Articles of Incorporation, including the terms of the Class B Shares and the Corporate Constitution;
- the potential benefits to Magna which could result from the elimination of the dual class share structure;
- a review of current and historical commentary from, among others, shareholders, analysts and institutional shareholder advisory firms regarding Magna's dual class share structure and governance structure;
- the stated intentions of Mr. Stronach as to the status quo and the conditions of his consideration of any Proposal, including as reflected in discussions between executive management and Mr. Stronach and between the Chair of the Special Committee and Mr. Stronach;
- advice and information, a written preliminary report and a written final report prepared by CIBC addressed to the Special Committee summarizing the financial analysis of CIBC in connection with the proposed repurchase of the Class B Shares, including a review of historical share conversion precedents involving the elimination of a dual class share structure, a peer benchmarking review, historical market valuation of the Subordinate Voting Shares and a review of the proposed repurchase of the Class B Shares, including information concerning dilution to the holders of Subordinate Voting Shares resulting from the Proposal, and a sensitivity analysis on the theoretical trading value of the Subordinate Voting Shares at a range of different trading multiples and reflecting the Proposal;
- the potential metrics by which the Proposal may be assessed by Shareholders and other third parties;
- the terms of the Consulting Agreements;
- the potential benefits to Magna and its subsidiaries of entering into the amendments to the Consulting Agreements contemplated by the Proposal;
- a report prepared by PwC and addressed to the Special Committee as to the estimated fair market value of the business of E-Car;
- information provided by executive management and management of E-Car concerning the business of E-Car, including its financial performance and prospects and the financial and business implications for Magna of the proposed establishment of the E-Car Partnership;
- Magna's five-year business plan (through December 31, 2014) relating to the business of E-Car;

- the proposed terms of the E-Car Partnership, including the relative control rights and equity interests of the partners, and the proposed terms of the transfer of the assets comprising the business of E-Car to the E-Car Partnership;

- the potential benefits to Magna of the establishment of the E-Car Partnership;

- information provided by executive management concerning the impact of the Proposal on Magna, if implemented, including information as to the potential financial impact and with respect to any material contracts to which Magna or any of its subsidiaries is a party;

- drafts of the Transaction Agreement to be entered into by Magna to govern the Proposal;

- potential implications for Magna in the event that the Proposal does not proceed, including if the Proposal is not approved or is announced and subsequently withdrawn; and

- advice from the Special Committee's independent legal advisors as to the role and duties of the Special Committee in its review of the Proposal.

The Proposal to be voted on by Shareholders developed since the original conceptual proposal was first presented to Mr. Stronach to reflect, among other things, further discussions between members of executive management and the Chair of the Special Committee and Mr. Stronach and Ms. Belinda Stronach, in their capacity as representatives of the Stronach Trust.

Determinations of the Special Committee

At a meeting of the Special Committee held on May 5, 2010, the Special Committee delivered its report to the Magna Board in which it concluded that the Magna Board should:

- submit the Arrangement Resolution to a vote of the Shareholders at the Meeting and, in furtherance thereof, authorize Magna to enter into the Transaction Agreement; and

- make no recommendation to Shareholders as to how they should vote in respect of the Arrangement Resolution but advise Shareholders they should take into account the considerations described below under "Factors Considered by the Special Committee", among others, in determining how to vote in respect of the Arrangement Resolution.

Factors Considered by the Special Committee

In reaching its conclusion, the Special Committee considered a number of factors, including the following:

- the Proposal is structured as a plan of arrangement under the OBCA requiring approval by, among others: (i) a majority of the votes cast by the Minority Class A Subordinate Voting Shareholders at a special meeting of Shareholders; and (ii) the Court after a hearing at which the Court will determine the fairness and reasonableness of the Proposal;

- if implemented, the Proposal would result in the elimination of Magna's dual class share structure which may provide some or all of the following benefits to Magna:

    - the trading price of the Subordinate Voting Shares may increase relative to the pre-announcement trading price to the extent that the trading price reflected a discount attributable to the dual class share structure;

    - all Shareholders will have a vote in proportion to their relative equity stake in Magna, consistent with the capital structure of many of its competitors;

    - certain investors who choose not to invest, or whose investment policies prevent them from investing, in shares of corporations with dual class share structures may now consider purchasing Subordinate Voting Shares, thereby potentially enhancing liquidity; and

    - the Subordinate Voting Shares may be more attractive for purposes of raising capital or as acquisition currency in the future;

- the terms of the Class B Shares contain no "coat-tail" protection for the holders of the Subordinate Voting Shares in the event of a change of control transaction involving the purchase of the Class B Shares;

- there is no "sunset" provision under the terms of the Class B Shares pursuant to which the dual class share structure otherwise would terminate as of a specified date;

- the terms of the Transaction Agreement;

- each of Magna and the Stronach Trust retains the right to terminate the Transaction Agreement if it reasonably concludes, after discussions with the other parties to the Transaction Agreement, that shareholder approval of the Arrangement Resolution is unlikely to be received or if the Final Order is unlikely to be received before August 31, 2010;

- the Stronach Trust has agreed to support the Proposal, subject to approval by the holders of the Subordinate Voting Shares, and has confirmed that it is not willing to consider or support any alternative transaction at this time;

- the Stronach Trust has advised that, if the Arrangement is not implemented, it is content with maintaining the status quo;

- if the Proposal is not pursued, there is no assurance that any further proposal to eliminate the dual class share structure of Magna would be forthcoming;

- the Amended Consulting Agreements will provide certainty to Magna and to shareholders as to the term, scope and financial terms of Mr. Stronach's continued involvement with Magna;

- the purchase price for the assets that comprise the E-Car Partnership would be equal to fair market value as determined by mutual agreement taking into account the valuation work conducted by PwC for the Special Committee;

- the E-Car Partnership would mitigate the risks and expenditures that Magna would otherwise make in order to pursue the vehicle electrification business and, at the same time, provide Magna with a substantial equity stake in the business and afford Magna preferred supplier status; and

- the Proposal is exempt from the formal valuation and minority approval requirements of MI 61-101.

In addition to the foregoing, the Special Committee considered advice from its independent legal and financial advisors, as well as Magna's legal advisors.

The Special Committee did not make any recommendation with respect to the Proposal, including as to the fairness of the Arrangement to Magna, its Shareholders or other stakeholders or as to how Shareholders should vote their Subordinate Voting Shares with respect to the Arrangement Resolution. The Special Committee is not making any such recommendation for a number of reasons, including those set out below:

- while the Proposal, if implemented, would result in the elimination of Magna's dual class share structure, certain of the benefits that may arise as a result were not capable of being quantified in advance, including the potential increase in the trading value of the Subordinate Voting Shares if the Proposal is implemented;

- advice from CIBC that, if Magna's potential purchase for cancellation of all of the outstanding Class B Shares in consideration for a combination of 9,000,000 newly-issued Subordinate Voting Shares and $300 million in cash were implemented, the dilution to the holders of Subordinate Voting Shares (disregarding the impact of any potential change in the trading multiple for the Subordinate Voting Shares as a result of the change in the capital structure) would be significantly greater than was the case for other historical transactions in which dual class share structures were collapsed. The historical transactions reviewed by CIBC were similar in some respects, but not identical, to the proposed repurchase of the Class B Shares; pursuant to the terms of its engagement with the Special Committee, CIBC did not provide a fairness opinion, adequacy opinion or formal valuation; and

- the unique circumstances of Magna and its relationship with its founder, Mr. Stronach, and the value placed on that relationship, including Mr. Stronach's influence on the culture and key operating principles on which Magna was founded, including the Corporate Constitution, and the significant growth and development of Magna since the implementation of Magna's dual class share structure.

In view of the numerous factors considered in connection with its evaluation of the Proposal, the Special Committee did not find it practicable to, and did not, quantify or otherwise attempt to assign relative weight to specific factors in reaching its conclusions. The foregoing discussion of the information and factors considered and evaluated by the Special Committee is not

exhaustive of all factors considered and evaluated by the Special Committee. The conclusions of the Special Committee were made after considering the totality of the information and factors.

Determination of the Magna Board

The Magna Board has determined that it is in the best interests of Magna to submit the Arrangement Resolution to a vote of the Shareholders. In making this determination, Messrs. Stronach and Walker and Ms. Belinda Stronach, having declared their interests in the Arrangement due to their direct or indirect interests in the Stronach Trust, abstained from voting. At a meeting of the Magna Board held on May 5, 2010, the Magna Board authorized Magna to enter into the Transaction Agreement. The Transaction Agreement was entered into before the opening of trading on the TSX and the NYSE on May 6, 2010.

In accordance with the report of the Special Committee, the Magna Board has authorized the submission of the Arrangement Resolution to a vote of the Shareholders. Shareholders should carefully review and consider the Arrangement and the considerations identified by the Special Committee and the Magna Board, as described above under “Factors Considered by the Special Committee”, and reach their own conclusions as to whether to vote for or against the Arrangement Resolution.

The Magna Board makes no recommendation as to how Shareholders should vote in respect of the Arrangement Resolution.”

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Chapter 4

Cease Trading Orders

4.1.1 Temporary, Permanent & Rescinding Issuer Cease Trading Orders

Company Name	Date of Temporary Order	Date of Hearing	Date of Permanent Order	Date of Lapse/Revoke
Cathay Forest Products Corp.	01 Feb 11	14 Feb 11		

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
Cathay Forest Products Corp.	08 Dec 10	20 Dec 10	20 Dec 10	01 Feb 11	01 Feb 11
Mint Technology Corp.	07 Jan 11	19 Jan 11	21 Jan 11	02 Feb 11	

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
Cathay Forest Products Corp.	08 Dec 10	20 Dec 10	20 Dec 10	01 Feb 11	01 Feb 11
Seprotech Systems Incorporated	04 Jan 11	17 Jan 11	17 Jan 11		
Mint Technology Corp.	07 Jan 11	19 Jan 11	21 Jan 11	02 Feb 11	

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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	Tot Purchase Price ($)	No. of Securities Distributed
12/17/2010	21	African Gold Group, Inc. - Units	12,040,000.00	17,200,000.00
12/08/2010	60	AgriMarine Holdings Inc. - Units	1,669,000.00	6,676,000.00
12/16/2010	134	Alderon Resource Corp. - Units	20,075,000.00	9,125,000.00
12/10/2010	63	Alexis Minerals Corporation - Common Shares	11,435,999.76	47,649,998.00
01/14/2011	42	Alix Resources Corp. - Units	390,000.00	3,000,000.00
07/29/2010	14	Almaden Minerals Ltd. - Common Shares	1,204,585.20	916,331.00
09/22/2010 to 09/28/2010	47	Almaden Minerals Ltd. - Common Shares	8,625,000.00	3,450,000.00
12/03/2010	66	Artha Resources Corporation - Units	3,000,000.00	20,000,000.00
12/09/2010	90	Asantae, Inc. - Units	1,500,000.00	6,000,000.00
04/20/2009	6	ASG Hotesl Real Estate Investment Trust - Units	206,000.00	20,600.00
12/22/2010	7	Ashburton Ventures Inc. - Units	800,000.00	10,000,000.00
12/22/2010	20	Augustine Ventures Inc. - Units	1,230,000.00	6,150,000.00
12/22/2010	3	AurCrest Gold Inc - Units	377,400.00	2,040,000.00
12/16/2010	1	Aurizon Mines Ltd. - Common Shares	1,600,000.00	213,845.00
04/01/2010 to 12/31/2010	1	BlackRock Mortgage (Offshore) Investors AIV I, L.P. - Limited Partnership Interest	514,813.07	N/A
12/23/2010	8	Bolero Resources Corp. - Units	2,000,000.00	4,000,000.00
12/14/2010	5	Canadian International Minerals Inc. - Common Shares	1,232,000.00	2,240,000.00
12/23/2010	22	Canadian Zinc Corporation - Common Shares	2,500,000.30	3,571,429.00
12/20/2010	2	Canuc Resources Corporation - Units	100,000.00	500,000.00
12/29/2010	1	CardioComm Solutions Inc. - Units	300,000.00	6,000,000.00
01/01/2010 to 12/31/2010	1	CC&L American Equity Fund - Trust Units	90,982.11	14,772.70
01/01/2010 to 12/31/2010	5	CC&L Bond Fund - Trust Units	2,809,939.60	260,275.71
01/01/2010 to 12/31/2010	2	CC&L Canadian Equity Fund - Trust Units	12,749.41	1,450.14
01/01/2010 to 12/31/2010	2	CC&L EAFE Equity Fund - Trust Units	267,950.74	33,120.59

Transaction Date	No. of Purchasers	Issuer/Security	Tot Purchase Price ($)	No. of Securities Distributed
01/01/2010 to 12/31/2010	1	CC&L Group Global Fund - Trust Units	1,331.24	179.19
01/01/2010 to 12/31/2010	2	CC&L US Equity Fund - Trust Units	179,779.27	27,589.23
12/15/2010	53	Copper Fox Metals Inc. - Common Shares	2,002,500.00	2,225,000.00
12/22/2010	45	Corazon Gold Corp. - Receipts	4,905,000.00	17,800,000.00
01/01/2010 to 09/01/2010	5	Curavuture Fund L.P. - Units	7,953,876.49	68,925.46
01/12/2011	1	Cypress Development Corp. - Common Shares	9,750.00	50,000.00
12/23/2010	18	Dejour Enterprises Ltd. - Common Shares	888,939.70	2,339,315.00
01/10/2011	1	Divestco Inc. - Units	100,000.12	454,546.00
01/10/2011	37	Douglas Lake Minerals Inc. - Units	1,091,750.00	22,000,000.00
12/22/2010	1	Electrovaya Inc. - Unit	5,000,000.00	1.00
12/30/2010	4	Fancamp Exploration Ltd. - Units	852,280.00	1,369,006.00
12/23/2010	26	Focus Metals Inc. - Units	1,250,000.00	5,000,000.00
12/23/2010	23	Gitennes Exploration Inc. - Units	280,000.00	4,000,000.00
01/01/2010 to 12/31/2010	2	Global Alpha Long-Short Equity Portfolio - Trust Units	300,000.00	3,000.00
01/29/2010 to 12/31/2010	27	Good Opportunities Fund - Units	733,300.00	N/A
01/20/2011	17	Grenville Gold Corporation - Common Shares	920,000.00	4,000,000.00
12/23/2010 to 01/31/2011	46	Harte Gold Corp. - Flow-Through Shares	2,521,000.00	3,263,000.00
01/01/2010 to 12/31/2010	12	HCP Credit Quality Recovery Fund L.P. - Limited Partnership Units	4,214,600.00	4,213.60
01/01/2010 to 12/31/2010	27	HCP Financials Long/Short Fund L.P. - Limited Partnership Units	8,476,000.00	8,476.00
01/31/2010 to 12/31/2010	109	Highwater Diversified Opportunities Fund L.P. & Highwater Diversified Trust - Units	8,167,975.46	8,167,975.46
12/31/2010	2	Houston Lake Mining Inc. - Common Shares	500,000.00	3,125,000.00
12/22/2010	52	Jourdan Resources Inc. - Common Shares	1,250,500.05	6,000,000.00
12/10/2010 to 12/17/2010	15	Kent Exploration Inc. - Units	614,400.00	5,120,000.00
12/30/2010	1	Lexam Explorations Inc. - Units	5,000,000.00	4,960,318.00
01/11/2011	1	Loncor Resources Inc. - Options	0.00	100,000.00
01/11/2011	1	Loncor Resources Inc. - Options	0.00	100,000.00
12/01/2010	4	Lorus Therapeutics Inc. - Common Shares	1,660,750.35	1,581,667.00

Transaction Date	No. of Purchasers	Issuer/Security	Tot Purchase Price ($)	No. of Securities Distributed
12/22/2010	32	Loyalist Group Limited - Units	323,687.55	2,157,917.00
12/23/2010	1	Mandalay Resources Corporation - Common Shares	0.00	1,885,938.00
01/01/2010 to 12/31/2010	2	MB Balanced Fund - Units	314,000.00	29,240.00
01/01/2010 to 12/31/2010	2	MB Balanced Growth Fund - Units	545,227.00	45,731.31
01/01/2010 to 12/31/2010	1	MB Balanced Plus Fund - Units	200,000.00	20,550.76
01/01/2010 to 12/31/2010	3	MB Canadian Equity Growth Fund - Units	1,537,266.00	20,115.37
01/01/2010 to 12/31/2010	4	MB Canadian Equity Value Fund - Units	1,159,000.00	92,027.70
01/01/2010 to 12/31/2010	8	MB Canadian Equity (Core) Fund - Units	3,347,449.03	308,997.55
01/01/2010 to 12/31/2010	22	MB Fixed Income Fund - Units	18,981,319.00	332,446.28
01/01/2010 to 12/31/2010	6	MB Global Equity Fund - Units	2,957,898.73	253,187.38
01/01/2010 to 12/31/2010	4	MB Global Equity Growth Fund - Units	3,356,955.00	438,550.81
01/01/2010 to 12/31/2010	16	MB Money Market Fund - Units	13,397,000.00	1,339,700.00
01/01/2010 to 12/31/2010	1	MB Select Balanced Fund - Units	1,025,216.26	120,348.34
01/01/2010 to 12/31/2010	4	MB Short Term Fixed Income Fund - Units	3,113,000.00	306,272.87
01/12/2011	12	Metropolitan Life Global Funding I - Notes	209,000,000.00	209,000,000.00
12/21/2010	2	Mexivada Mining Corp. - Units	400,000.00	2,758,620.00
12/23/2010	1	Mexivada Mining Corp. - Units	400,000.00	2,758,620.00
12/15/2010	25	Murgor Resources Inc. - Common Shares	1,002,500.00	4,010,000.00
01/14/2011	5	Mustang Minerals Corp. - Common Shares	1,956,060.00	19,560,600.00
12/14/2010 to 12/23/2010	3	Nebu Resources Inc. - Units	1,460,000.00	9,125,000.00
12/23/2010	78	NioGold Mining Corp. - Flow-Through Shares	21,414,800.34	N/A
12/13/2010	3	Orbit Garant Drilling Inc. - Common Shares	999,997.80	173,010.00
01/20/2011	32	Oro Mining Limited - Units	12,253,349.75	35,009,571.00
11/16/2010	7	Pele Mountian Resources Inc. - Units	1,200,000.00	4,102,563.00
12/20/2010	1	Phonetime Inc. - Units	700,000.00	10,000,000.00

Transaction Date	No. of Purchasers	Issuer/Security	Tot Purchase Price ($)	No. of Securities Distributed
01/01/2010 to 12/31/2010	10	Premium Value Partnership L.P. - Units	1,864,058.87	2,950.18
01/01/2010 to 12/31/2010	1	Private Client Balanced Canadian Equity Portfolio - Trust Units	300,177.27	15,423.76
01/01/2010 to 12/31/2010	8	Private Client US Short Term Bond Portfolio - Trust Units	1,985,045.76	192,567.95
07/06/2010	2	Rainy River Resources Ltd. - Common Shares	63,500.00	10,000.00
01/14/2011	4	Razore Rock Resources Inc. - Units	55,000.00	1,100,000.00
12/10/2010 to 12/17/2010	101	Rio Verde Minerals Corporation - Common Shares	8,545,000.00	17,413,500.00
12/15/2010	1	RJK Explorations Ltd. - Units	350,000.00	5,000,000.00
01/20/2011	2	Royal Bank of Canada - Common Shares	1,980,800.00	2,000.00
12/23/2010	5	Russell Breweries Inc. - Units	120,000.00	1,500,000.00
12/10/2010	17	Sahara Energy Ltd. - Common Shares	500,000.00	10,000,000.00
12/13/2010	1	Scheer, Rowlett & Associates Canadian Equity Fund - Trust Units	6,518.10	415.21
12/21/2010	89	Seafield Resources Ltd. - Units	15,000,000.00	30,000,000.00
12/08/2010	55	Sentosa Mining Limited - Common Shares	640,000.00	3,200,000.00
01/01/2010 to 10/01/2010	10	Sevenoaks Opportunities Fund LP - Limited Partnership Units	1,330,000.00	1,330.00
12/22/2010	4	Slam Exploration Ltd. - Units	1,050,000.00	5,000,000.00
12/20/2010	3	Sniper Resources Limited - Units	78,000.00	260,000.00
12/16/2010	13	Source Exploration Corp. - Units	4,160,000.28	8,000,000.00
12/16/2010	64	Southern Andes Energy Inc. - Units	7,872,000.00	19,680,000.00
10/29/2010 to 11/16/2010	1	Star Yield Trust - Units	28,849,169.78	5,771,240.00
12/07/2010	35	Starfield Resources Inc. - Common Shares	5,122,020.08	52,456,640.00
12/23/2010	52	Strategic Oil & Gas Ltd. - Flow-Through Shares	5,692,500.00	5,175,000.00
12/23/2010	33	Strike Minerals Inc. - Units	768,220.00	7,212,500.00
01/14/2011 to 01/21/2011	17	Stroud Resources Ltd. - Units	576,060.10	8,229,430.00
01/25/2011	1	Terra Firma Capital Corporation - Common Shares	268,500.00	895,000.00
09/10/2010	3	Thunderbird Energy Corporation - Units	550,000.00	3,666,667.00
12/09/2010	134	Touchstone Exploration Inc. - Receipts	10,764,023.00	19,380,668.00
08/06/2010	12	Triton Logging Inc. - Notes	561,014.69	N/A
05/05/2010	1	Trueclaim Exploration Inc. - Common Shares	14,250.00	150,000.00

Transaction Date	No. of Purchasers	Issuer/Security	Tot Purchase Price ($)	No. of Securities Distributed
06/07/2010 to 08/04/2010	21	Tulox Resources Inc. - Common Shares	208,600.00	N/A
01/18/2011	20	VentriPoint Diagnostics Ltd - Units	333,200.00	1,960,000.00
12/23/2010	47	VentriPoint Diagnostics Ltd - Units	1,475,665.42	8,680,385.00
12/16/2010	39	Viper Gold Ltd. - Units	1,288,750.00	5,155,000.00
01/19/2011 to 01/21/2011	57	VIQ Solutions Inc. - Units	1,000,000.00	2,000,000.00
12/23/2010	20	Visible Gold Mines Inc ("VGM") - Common Shares	4,925,000.00	9,234,375.00
01/01/2010 to 09/01/2010	4	West Face Long Term Opportunities Limited Partnership - Capital Commitment	2,150,000.00	2,150,000.00
04/01/2010 to 09/01/2010	3	WFC Opportunities Trust - Trust Units	900,000.00	82,250.00
12/31/2010	18	Wildcat Exploration Ltd. - Units	450,000.00	9,000,000.00
12/22/2010	90	X-TAL MINERALS CORP. - Receipts	11,500,000.00	11,500,000.00

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Chapter 11

IPOs, New Issues and Secondary Financings

Issuer Name:
Adherex Technologies Inc.
Principal Regulator - Ontario
Type and Date:
Preliminary Short Form Prospectus dated January 26, 2011
NP 11-202 Receipt dated January 27, 2011
Offering Price and Description:
OFFERING TO THE HOLDERS OF COMMON SHARES THE RIGHTS TO SUBSCRIBE FOR UP TO 425,000,000 UNITS AT A PRICE OF $0.03 PER UNIT (EACH UNIT CONSISTING OF ONE COMMON SHARE AND ONE COMMON SHARE PURCHASE WARRANT) Rights Exercise Price: $0.03 per Unit (upon the exercise of one whole Right)
Underwriter(s) or Distributor(s):
-
Promoter(s):
-
Project #1690779

Issuer Name:
Arcan Resources Ltd.
Principal Regulator - Alberta
Type and Date:
Preliminary Short Form Prospectus dated January 31, 2011
NP 11-202 Receipt dated January 31, 2011
Offering Price and Description:
$75,000,000.00 - 6.25% Convertible Unsecured Subordinated Debentures due February 28, 2016
Price: $1,000 per Debenture
Underwriter(s) or Distributor(s):
RBC Dominion Securities Inc.
Haywood Securities Inc.
National Bank Financial Inc.
BMO Nesbitt Burns Inc.
CIBC World Markets Inc.
Paradigm Capital Inc.
Wellington West Capital Markets Inc.
PI Financial Corp.
Stifel Nicolaus Canada Inc.
Promoter(s):
-
Project #1692525

Issuer Name:
Argosy Energy Inc.
Principal Regulator - Alberta
Type and Date:
Preliminary Short Form Prospectus dated January 26, 2011
NP 11-202 Receipt dated January 26, 2011
Offering Price and Description:
$$12,550,000.00 - $8,850,000.00 - 3,000,000 Common Shares and $3,700,000 -1,000,000 Flow-Through Shares
Price: $2.95 per Common Share and $3.70 per Flow-Through Share
Underwriter(s) or Distributor(s):
GMP Securities L.P.
Desjardins Securities Inc.
Canaccord Genuity Corp.
Clarus Securities Inc.
Maison Placements Canada Inc.
Promoter(s):
-
Project #1690555

Issuer Name:
Arsenal Energy Inc.
Principal Regulator - Alberta
Type and Date:
Preliminary Short Form Prospectus dated January 28, 2011
NP 11-202 Receipt dated January 28, 2011
Offering Price and Description:
$18,800,500.00 - 19,790,000 Common Shares Price: $0.95 per Common Share
Underwriter(s) or Distributor(s):
Wellington West Capital Markets Inc.
PI Financial Corp.
Canaccord Genuity Corp.
Casimir Capital Ltd.
Promoter(s):
-
Project #1691610

Issuer Name:
Australian Banc Income Fund
Principal Regulator - Ontario
Type and Date:
Preliminary Long Form Prospectus dated January 28, 2011
NP 11-202 Receipt dated January 28, 2011
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 Minimum purchase: 100 Class A Units or Class F Units
Underwriter(s) or Distributor(s):
BMO Nesbitt Burns Inc.
HSBC Securities (Canada) Inc.
CIBC World Markets Inc.
RBC Dominion Securities Inc.
National Bank Financial Inc.
Scotia Capital Inc.
TD Securities Inc.
GMP Securities L.P.
Canaccord Genuity Corp.
Raymond James Ltd.
Macquarie Private Wealth Inc.
Dundee Securities Corporation
Mackie Research Capital Corporation
Wellington West Capital Markets Inc.
Promoter(s):
Connor, Clark & Lunn Capital Markets Inc.
Project #1691577

Issuer Name:
Azure Dynamics Corporation
Principal Regulator - Ontario
Type and Date:
Preliminary Short Form Prospectus dated January 28, 2011
NP 11-202 Receipt dated January 28, 2011
Offering Price and Description:
$17,500,000.00 -53,030,303 Common Shares Price: $0.33 per Offered Share
Underwriter(s) or Distributor(s):
Raymond James Ltd.
Cormark Securities Inc.
National Bank Financial Inc.
Paradigm Capital Inc.
Promoter(s):
-
Project #1691403

Issuer Name:
Bauer Performance Sports Ltd.
Principal Regulator - Ontario
Type and Date:
Preliminary Long Form Prospectus dated January 27, 2011
NP 11-202 Receipt dated January 28, 2011
Offering Price and Description:
$ * - * Common Shares Price: $ * per Common Share
Underwriter(s) or Distributor(s):
RBC Dominion Securities Inc.
CIBC World Markets Inc.
BMO Nesbitt Burns Inc.
Scotia Capital Inc.
TD Securities Inc.
Macquarie Capital Markets Canada Ltd.
Promoter(s):
-
Project #1691136

Issuer Name:
Blue River Resources Ltd.
Principal Regulator - British Columbia
Type and Date:
Preliminary Long Form Prospectus dated January 25, 2011
NP 11-202 Receipt dated January 27, 2011
Offering Price and Description:
Minimum: $1,100,000.00 (5,500,000 Shares); Maximum: $1,500,000.00 (7,500,000 Shares) Price: $0.20 per Share
Underwriter(s) or Distributor(s):
Union Securities Ltd.
Promoter(s):
Robin Bjorklund
Cathy Edwards
Griffin Jones
Richard Silas
Project #1690077

Issuer Name:
Calvista Gold Corporation
Principal Regulator - Ontario
Type and Date:
Preliminary Long Form Prospectus dated January 27, 2011
NP 11-202 Receipt dated January 28, 2011
Offering Price and Description:
$ * - * COMMON SHARES Price: $ * PER COMMON SHAR
Underwriter(s) or Distributor(s):
Haywood Securities Inc.
Promoter(s):
Norvista Resources Corpation
Project #1691325

Issuer Name:
Canadian Convertibles Income Plus Fund
Principal Regulator - Ontario
Type and Date:
Preliminary Long Form Prospectus dated January 26, 2011
NP 11-202 Receipt dated January 27, 2011
Offering Price and Description:
Maximum $75,000,000.00 (7,500,000 Units) Price: $10.00 per Unit Minimum Purchase: * Units
Underwriter(s) or Distributor(s):
BMO Nesbitt Burns Inc.
CIBC World Markets Inc.
RBC Dominion Securities Inc.
National Bank Financial Inc.
GMP Securities L.P.
Scotia Capital Inc.
HSBC Securities (Canada) Inc.
Wellington West Capital Markets Inc.
Desjardins Securities Inc.
Macquarie Private Wealth Inc.
Dundee Securities Corporation
Laurentian Bank Securities Inc.
Manulife Securities Incorporated
Promoter(s):
Propel Capital Corporation
Project #1690637

Issuer Name:
Claymore Silver Bullion Trust
Principal Regulator - Ontario
Type and Date:
Preliminary Short Form Prospectus dated January 26, 2011
NP 11-202 Receipt dated January 26, 2011
Offering Price and Description:
75,000,000 (* Non-Hedged Units) Maximum Price: $● per Non-Hedged Unit Maximum Purchase: ● Non-Hedged Units
Underwriter(s) or Distributor(s):
GMP Securities L.P.
TD Securities Inc.
Canaccord Genuity Corp.
BMO Nesbitt Burns Inc.
Scotia Capital Inc.
National Bank Financial Inc.
HSBC Securities (Canada) Inc.
Raymond James Ltd.
Desjardins Securities Inc.
Dundee Securities Corp.
Haywood Securities Inc.
Mackie Research Capital Corporation
Rothenberg Capital Management Inc.
Wellington West Capital Markets Inc.
Promoter(s):
Claymore Investments Inc.
Project #1690367

Issuer Name:
Dacha Strategic Metals Inc.
Principal Regulator - Ontario
Type and Date:
Preliminary Short Form Prospectus dated January 27, 2011
NP 11-202 Receipt dated January 27, 2011
Offering Price and Description:
$100,000,000.00 - Common Shares Price: $ * per Common Share
Underwriter(s) or Distributor(s):
BMO Nesbitt Burns Inc.
CIBC World Markets Inc.
TD Securities Inc.
Canaccord Genuity Corp.
GMP Securities L.P.
Mackie Research Capital Corporation
Dundee Securities Corporation
HSBC Securities (Canada) Inc.
Macquarie Private Wealth Inc.
Raymond James Ltd.
Desjardins Securities Inc.
Euro Pacific Canada Inc.
Wellington West Capital Markets Inc.
Promoter(s):
-
Project #1690910

Issuer Name:
Diversified Convertibles Fund
Principal Regulator - Ontario
Type and Date:
Preliminary Long Form Non-Offering Prospectus dated January 26, 2011
NP 11-202 Receipt dated January 27, 2011
Offering Price and Description:
-
Underwriter(s) or Distributor(s):
-
Promoter(s):
Propel Capital Corporation
Project #1690638

Issuer Name:
EnerVest 2011 Flow-Through LP - CDE Units
EnerVest 2011 Flow-Through LP - CEE Units
Principal Regulator - Alberta
Type and Date:
Preliminary Long Form Prospectus dated January 26, 2011
NP 11-202 Receipt dated January 27, 2011
Offering Price and Description:
$40,000,000.00 - Maximum Offering 1,600,000 CEE and/or CDE Units Price: $25.00 per CEE or CDE Unit
Underwriter(s) or Distributor(s):
CIBC World Markets Inc.
RBC Dominion Securities Inc.
BMO Nesbitt Burns Inc.
National Bank Financial Inc.
Scotia Capital Inc.
TD Securities Inc.
Canaccord Genuity Corp.
GMP Securities L.P.
HSBC Securities (Canada) Inc.
Macquarie Private Wealth Inc.
Raymond James Ltd.
Wellington West Capital Markets Inc.
Desjardins Securities Inc.
Dundee Securities Corporation
Mackie Research Capital Corporation
Canaccord Genuity Corp.
Promoter(s):
EnerVest 2011 General Partner Corp.
Canoe Financial LP
Project #1690677/1690681

Issuer Name:
Equal Energy Ltd.
Principal Regulator - Alberta
Type and Date:
Preliminary Short Form Prospectus dated January 26, 2011
NP 11-202 Receipt dated January 26, 2011
Offering Price and Description:
$45,000,000.00 -6.75% Convertible Unsecured Junior Subordinated Debentures Price: $1,000 per Debenture
Underwriter(s) or Distributor(s):
Scotia Capital Inc.
CIBC World Markets Inc.
Desjarinds Securities Inc.
Wellington West Capital Markets Inc.
Canaccord Genuity Corp.
Jennings Capital Inc.
Promoter(s):
-
Project #1690532

Issuer Name:
Ford Auto Securitization Trust
Principal Regulator - Ontario
Type and Date:
Preliminary Base Shelf Prospectus dated January 31, 2011
NP 11-202 Receipt dated January 31, 2011
Offering Price and Description:
Up to $3,500,000,000 of Asset-Backed Notes
Underwriter(s) or Distributor(s):
-
Promoter(s):
Ford Credit Canada Limited
Project #1692283

Issuer Name:
Formation Metals Inc.
Principal Regulator - British Columbia
Type and Date:
Preliminary Short Form Prospectus dated January 26, 2011
NP 11-202 Receipt dated January 26, 2011
Offering Price and Description:
$80,000,000.00 - * Units Price: $ * per Unit
Underwriter(s) or Distributor(s):
Byron Securities Limited
Cormark Securities Inc.
Jennings Capital Inc.
Promoter(s):
-
Project #1690610

Issuer Name:
Fortress Paper Ltd.
Principal Regulator - British Columbia
Type and Date:
Preliminary Short Form Prospectus dated January 26, 2011
NP 11-202 Receipt dated January 27, 2011
Offering Price and Description:
$50,042,250.00 - 967,000 Common Shares Price: 51.75 per Offered Share
Underwriter(s) or Distributor(s):
Raymond James Ltd.
Dundee Securities Corporation
RBC Dominion Securities Inc.
Cormark Securities Inc.
TD Securities Inc.
Acumen Capital Finance Partners Limited
Promoter(s):
-
Project #1690459

Issuer Name:
Global Advantaged Telecom & Utilities Income Fund
Principal Regulator - Ontario
Type and Date:
Preliminary Long Form Prospectus dated January 26, 2011
NP 11-202 Receipt dated January 27, 2011
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.
Scotia Capital Inc.
HSBC Securities (Canada) Inc.
National Bank Financial Inc.
Canaccord Genuity Corp.
Desjardins Securities Inc.
Dundee Securities Corporation
Raymond James Ltd.
Wellington West Capital Markets Inc.
Industrial Alliance Securities Inc.
Mackie Research Capital Corporation
Macquarie Private Wealth Inc.
Promoter(s):
Harvest Portfolios Group Inc.
Project #1690567

Issuer Name:
Marret Multi-Strategy Income Fund
Principal Regulator - Ontario
Type and Date:
Preliminary Long Form Prospectus dated January 31, 2011
NP 11-202 Receipt dated January 31, 2011
Offering Price and Description:
Class A Units and Class F Units Maximum $* (Maximum * Class A Units and/or Class F Units)
Price; $12.00 per Unit
Underwriter(s) or Distributor(s):
RBC Dominion Securities Inc.
CIBC World Markets Inc.
Promoter(s):
Marret Asset Management Inc.
Project #1692330

Issuer Name:
Telferscot Resources Inc.
Principal Regulator - Ontario
Type and Date:
Preliminary Long Form Prospectus dated January 28, 2011
NP 11-202 Receipt dated January 31, 2011
Offering Price and Description:
Maximum of 2,500,000 Common Shares
Underwriter(s) or Distributor(s):
-
Promoter(s):
James Garcelon
Exploratus Ltd.
Project #1691363

Issuer Name:
Advantaged Canadian High Yield Bond Fund
Principal Regulator - Ontario
Type and Date:
Preliminary Long Form Prospectus dated January 31, 2011
NP 11-202 Receipt dated January 31, 2011
Offering Price and Description:
Class A Units and Class F Units
Maximum $* (*Class A Units and Class F Units)
Price: $10.00 per Unit
Underwriter(s) or Distributor(s):
Scotia Capital Inc.
Promoter(s):
Scotia Capital Inc.
Project #1692331

Issuer Name:
AlphaNorth 2011 Flow-Through Limited Partnership
Principal Regulator - Ontario
Type and Date:
Final Long Form Prospectus dated January 31, 2011
NP 11-202 Receipt dated January 31, 2011
Offering Price and Description:
Subscription Price: $10.00 per Unit
Maximum Offering: $25,000,000.00 (2,500,000 Units);
Minimum Offering: $5,000,000.00 (500,000 Units)
Underwriter(s) or Distributor(s):
Canaccord Genuity Corp.
GMP Securities L.P.
National Bank Financial Inc.
Scotia Capital Inc.
Wellington West Capital Markets Inc.
Mackie Research Capital Corporation
Macquarie Capital Markets Canada Ltd.
Desjardins Securities Inc.
Dundee Securities Corporation
Raymond James Ltd.
MGI Securities Inc.
Queensbury Securities Inc.
Union Securities Ltd.
Promoter(s):
AlphaNorth Asset Management
Pinetree Capital Ltd.
PowerOne Asset Management Limited
Project #1683315

Issuer Name:
Can-Financials Income Corp.
Principal Regulator - Ontario
Type and Date:
Final Long Form Prospectus dated January 24, 2011
NP 11-202 Receipt dated January 26, 2011
Offering Price and Description:
Maximum issue: $250,000,000.00 (25,000,000 Shares) @ $10.00 per Share; Minimum Issue: $30,000,000.00 (3,000,000 Shares) @ $10.00 per Share
Underwriter(s) or Distributor(s):
CIBC World Markets Inc.
National Bank Financial Inc.
RBC Dominion Securities Inc.
BMO Nesbitt Burns Inc.
Scotia Capital Inc.
TD Securities Inc.
Canaccord Genuity Corp.
HSBC Securities (Canada) Inc.
Raymond James Ltd.
Wellington West Capital Markets Inc.
Mackie Research Capital Corporation
Macquarie Private Wealth Inc.
Promoter(s):
First Asset Investment Management Inc.
Project #1679186

Issuer Name:
Canada Dominion Resources 2011 Limited Partnership
Principal Regulator - Ontario
Type and Date:
Final Long Form Prospectus dated January 27, 2011
NP 11-202 Receipt dated January 28, 2011
Offering Price and Description:
Price per Unit: $25.00 - Minimum Subscription: $5,000 (200 Units)
Underwriter(s) or Distributor(s):
RBC Dominion Securities Inc.
CIBC World Markets Inc.
Dundee Securities Corporation
National Bank Financial Inc.
BMO Nesbitt Burns Inc.
Scotia Capital Inc.
TD Securities Inc.
Canaccord Genuity Corp.
HSBC Securities (Canada) Inc.
Macquarie Private Wealth Inc.
Manulife Securities Incorporated
Raymond James Ltd.
Desjardins Securities Inc.
Wellington West Capital Markets Inc.
Promoter(s):
Canada Dominion Resources 2011 Corporation
Goodman & Company, Investment Counsel Ltd.
Project #1681042

Issuer Name:
Cardiome Pharma Corp.
Principal Regulator - British Columbia
Type and Date:
Final Base Shelf Prospectus dated January 26, 2011
NP 11-202 Receipt dated January 26, 2011
Offering Price and Description:
U.S.$250,000,000.00:
Common Shares
Preferred Shares
Debt Securities
Warrants
Underwriter(s) or Distributor(s):
-
Promoter(s):
-
Project #1677194

Issuer Name:
Claymore Gold Bullion ETF
Principal Regulator - Ontario
Type and Date:
Final Long Form Prospectus dated January 26, 2011
NP 11-202 Receipt dated January 28, 2011
Offering Price and Description:
Hedged Common Units and Non-Hedged Common Units @ Net Asset Value
Underwriter(s) or Distributor(s):
Claymore Investments, Inc.
Promoter(s):
-
Project #1681451

Issuer Name:
Creststreet 2011 FT National Class
Creststreet 2011 FT Québec Class
Principal Regulator - Ontario
Type and Date:
Final Long Form Prospectus dated January 27, 2011
NP 11-202 Receipt dated January 28, 2011
Offering Price and Description:
Maximum Offering: $25,000,000
(2,500,000 Creststreet 2011 FT National Class Units @ $10.00/Unit)
Underwriter(s) or Distributor(s):
Scotia Capital Inc.
CIBC World Markets Inc.
National Bank Financial Inc.
BMO Nesbitt Burns Inc.
Dundee Securities Corporation
HSBC Securities (Canada) Inc.
Canaccord Genuity Corp.
GMP Securities L.P.
Raymond James Ltd.
Wellington West Capital Markets Inc.
Desjardins Securities Inc.
Industrial Alliance Securities Inc.
Manulife Securities Incorporated
Union Securities Ltd.
Promoter(s):
Creststreet Asset Management Limited
Project #1674841/1674843

Issuer Name:
Dundee Real Estate Investment Trust
Principal Regulator - Ontario
Type and Date:
Final Short Form Prospectus dated January 28, 2011
NP 11-202 Receipt dated January 28, 2011
Offering Price and Description:
$125,139,000.00 - 4,130,000 REIT Units, Series A PRICE: $30.30 per Unit
Underwriter(s) or Distributor(s):
TD Securities Inc.
Scotia Capital Inc.
CIBC World Markets Inc.
BMO Nesbitt Burns Inc.
RBC Dominion Securities Inc.
Dundee Securities Corporation
Canaccord Genuity Corp.
Raymond James Ltd.
Brookfield Financial Corp.
Desjardins Securities Inc.
HSBC Securities (Canada) Inc.
National Bank Financial Inc.
Promoter(s):
-
Project #1689176

Issuer Name:
Dynamic Venture Opportunities Fund Ltd.
Type and Date:
Final Long Form Prospectus dated January 28, 2011
Receipted on January 31, 2011
Offering Price and Description:
Class A Shares - Series II @ Net Asset Value
Underwriter(s) or Distributor(s):
-
Promoter(s):
-
Project #1677857

Issuer Name:
Horizons Advantaged Equity Fund Inc.
Type and Date:
Final Long Form Prospectus dated January 27, 2011
Receipted on January 31, 2011
Offering Price and Description:
Class A Shares, Series III
Underwriter(s) or Distributor(s):
-
Promoter(s):
CFPA Sponsor Inc.
Project #1680389

Issuer Name:
Horizons AlphaPro Balanced ETF
Horizons AlphaPro Corporate Bond ETF
Horizons AlphaPro Dividend ETF
Horizons AlphaPro Floating Rate Bond ETF
Horizons AlphaPro Global Dividend ETF
Horizons AlphaPro Managed S&P/TSX 60 ETF
Horizons AlphaPro North American Growth ETF
Horizons AlphaPro North American Value ETF
Horizons AlphaPro Preferred Share ETF
Horizons AlphaPro S&P/TSX 60 Equal Weight Index ETF
Principal Regulator - Ontario
Type and Date:
Final Long Form Prospectus dated January 19, 2011
NP 11-202 Receipt dated January 31, 2011
Offering Price and Description:
Class E Units @ Net Asset Value
Underwriter(s) or Distributor(s):
-
Promoter(s):
ALPHAPRO MANAGEMENT INC.
Project #1674846

Issuer Name:
IBI Group Inc.
Principal Regulator - Ontario
Type and Date:
Final Short Form Prospectus dated January 24, 2011
NP 11-202 Receipt dated January 26, 2011
Offering Price and Description:
$50,000,000.00 - 6.00% Convertible Unsecured Subordinated Debentures (Convertible into Common Shares that Have Limited Voting Rights) Price $1,000 per Debenture
Underwriter(s) or Distributor(s):
CIBC World Markets Inc.
TD Securities Inc.
National Bank Financial Inc.
BMO Nesbitt Burns Inc.
Scotia Capital Inc.
Canaccord Genuity Corp.
Raymond James Ltd.
Desjardins Securities Inc.
Laurentian Bank Securities Inc.
Macquarie Capital Markets Canada Ltd.
NCP Northland Capital Partners Inc.
Dundee Securities Corp.
Northern Securities Inc.
Stonecap Securities Inc.
Promoter(s):
-
Project #1685989

Issuer Name:
INDEXPLUS Dividend Fund
Principal Regulator - Alberta
Type and Date:
Final Long Form Prospectus dated January 27, 2011
NP 11-202 Receipt dated January 28, 2011
Offering Price and Description:
$250,000,000.00 (maximum) (maximum – 20,833,333 Units) $12.00 per Unit
Underwriter(s) or Distributor(s):
CIBC World Markets Inc.
RBC Dominion Securities Inc.
BMO Nesbitt Burns Inc.
National Bank Financial Inc.
Scotia Capital Inc.
TD Securities Inc.
GMP Securities L.P.
Canaccord Genuity Corp.
Dundee Securities Corporation
HSBC Securities (Canada) Inc.
Raymond James Ltd.
Macquarie Private Wealth Inc.
Middle Capital Corporation
Wellington West Capital Markets Inc.
Promoter(s):
Middlefield Limited
Project #1680955

Issuer Name:
Macquarie Emerging Markets Infrastructure Income Fund
Principal Regulator - Ontario
Type and Date:
Final Long Form Prospectus dated January 26, 2011
NP 11-202 Receipt dated January 27, 2011
Offering Price and Description:
$100,000,008 Maximum
8,333,334 Combined Units
$12.00 per Combined Unit
Underwriter(s) or Distributor(s):
RBC Dominion Securities Inc.
CIBC World Markets Inc.
BMO Nesbitt Burns Inc.
National Bank Financial Inc.
Scotia Capital Inc.
Macquarie Private Wealth Inc.
GMP Securities L.P.
Canaccord Genuity Corp.
HSBC Securities (Canada) Inc.
Desjardins Securities Inc.
Dundee Securities Corporation
Raymond James Ltd.
Wellington West Capital Markets Inc.
Promoter(s):
Connor, Clark & Lunn Capital Markets Inc.
Project #1679046

Issuer Name:
Maple Leaf Short Duration 2011 Flow-Through Limited Partnership
Principal Regulator - British Columbia
Type and Date:
Final Long Form Prospectus dated January 28, 2011
NP 11-202 Receipt dated January 31, 2011
Offering Price and Description:
$30,000,000.00 (Maximum); $5,000,000.00 (Minimum) - 1,200,000 Limited Partnership Units (Maximum)
200,000 Limited Partnership Units (Minimum) Price per Unit: $25.00 Minimum Purchase: $5,000 (200 Units)
Underwriter(s) or Distributor(s):
Scotia Capital Inc.
Dundee Securities Corporation
BMO Nesbitt Burns Inc.
HSBC Securities (Canada) Inc.
GMP Securities L.P.
Mackie Research Capital Corporation
Canaccord Genuity Corp.
Macquarie Private Wealth Inc.
Raymond James Ltd.
M Partners Inc.
Union Securities Ltd.
Wellington West Capital Markets Inc.
Promoter(s):
Maple Leaf Short Duration Holdings Ltd.
Project #1679753

Issuer Name:
Metals Plus Income Corp.
Principal Regulator - Ontario
Type and Date:
Final Long Form Prospectus dated January 27, 2011
NP 11-202 Receipt dated January 28, 2011
Offering Price and Description:
Maximum $100,000,000.00 - (10,000,000 Class A Shares)
Underwriter(s) or Distributor(s):
BMO Nesbitt Burns Inc.
CIBC World Markets Inc.
National Bank Financial Inc.
Scotia Capital Inc.
Canaccord Genuity Corp.
HSBC Securities (Canada) Inc.
GMP Securities L.P.
Raymond James Ltd.
Dundee Securities Corporation
Mackie Research Capital Corporation
Macquarie Private Wealth Inc.
Desjardins Securities Inc.
Manulife Securities Incorporated
Wellington West Capital Markets Inc.
Promoter(s):
Faircourt Asset Management Inc.
Project #1674301

Issuer Name:
Montero Mining and Exploration Ltd.
Principal Regulator - Ontario
Type and Date:
Final Long Form Prospectus dated January 25, 2011
NP 11-202 Receipt dated January 26, 2011
Offering Price and Description:
$4,000,000.00 - 8,000,000 Units at $0.50 per Unit
Underwriter(s) or Distributor(s):
Byron Securities Limited
Haywood Securities Inc.
Promoter(s):
Antony Harwood
Project #1656007

Issuer Name:
Pathway Mining 2011 Flow-Through Limited Partnership
Principal Regulator - Ontario
Type and Date:
Final Long Form Prospectus dated January 27, 2011
NP 11-202 Receipt dated January 28, 2011
Offering Price and Description:
$30,000,000.00 (Maximum Offering) - A Maximum of 3,000,000 Limited Partnership Units; $5,000,000.00 (Minimum Offering) - A Minimum of 500,000 Limited Partnership Units
Subscription Price: $10.00 per Limited Partnership Unit
Underwriter(s) or Distributor(s):
Wellington West Capital Inc.
HSBC Securities (Canada) Inc.
BMO Nesbitt Burns Inc.
Burgeonvest Bick Securities Limited
Mackie Research Capital Corporation
Raymond James Ltd.
Canaccord Genuity Corp.
Dundee Securities Corporation
Macquarie Capital Markets Canada Ltd.
Industrial Alliance Securities Inc.
M Partners Inc.
Union Securities Ltd.
Promoter(s):
Pathway Mining 2011 Inc.
Project #1679067

Issuer Name:
Pathway Quebec Mining 2011 Flow-Through Limited Partnership
Principal Regulator - Ontario
Type and Date:
Final Long Form Prospectus dated January 25, 2011
NP 11-202 Receipt dated January 27, 2011
Offering Price and Description:
$20,000,000.00 (Maximum Offering) - A Maximum of 2,000,000 Limited Partnership Units @ $10.00/Unit
$5,000,000.00 (Minimum Offering) - A Minimum of 500,000 Limited Partnership Units @ $10.00/Unit
Underwriter(s) or Distributor(s):
Wellington West Capital Inc.
Desjardins Securities Inc.
HSBC Securities (Canada) Inc.
Industrial Alliance Securities Inc.
BMO Nesbitt Burns Inc.
Canaccord Genuity Corp.
Dundee Securities Corporation
Laurentian Bank Securities Inc.
Promoter(s):
Pathway Quebec Mining 2011 Inc.
Project #1680394

Issuer Name:
Penfold Capital Acquisition IV Corporation
Principal Regulator - Ontario
Type and Date:
Amended and Restated CPC Prospectus dated January 26, 2011 to the CPC Prospectus dated December 10, 2010
NP 11-202 Receipt dated January 27, 2011
Offering Price and Description:
Minimum Offering: $375,000.00 or 3,750,000 Common Shares; Maximum Offering: $1,000,000.00 or 10,000,000 Common Shares Price: $0.10 per Common Share
Underwriter(s) or Distributor(s):
Northern Securities Inc.
Promoter(s):
Gary M. Clifford
Project #1575388

Issuer Name:
Senior Gold Producers Income Corp.
Principal Regulator - Ontario
Type and Date:
Final Long Form Prospectus dated January 27, 2011
NP 11-202 Receipt dated January 28, 2011
Offering Price and Description:
Maximum $125,000,000.00 - 12,500,000 Class A Shares @ $10.00/Sh.; Minimum of $20,000,000.00 - 2,000,000 Class A Shares @ $10.00/Sh.
Underwriter(s) or Distributor(s):
RBC Dominion Securities Inc.
CIBC World Markets Inc.
BMO Nesbitt Burns Inc,
National Bank Financial Inc.
Scotia Capital Inc.
TD Securities Inc.
HSBC Securities (Canada) Inc.
Raymond James Ltd.
GMP Securities L.P.
Mackie Research Capital Corporation
Macquarie Private Wealth Inc,
Canaccord Genuity Corp.
Dundee Securities Corporation
Desjardins Securities Inc.
Manulife Securities Incorporated
Wellington West Capital Markets Inc.
Promoter(s):
Brompton Funds Management Limited
Project #1678214

Issuer Name:
Sprott 2011 Flow-Through Limited Partnership
Principal Regulator - Ontario
Type and Date:
Final Long Form Prospectus dated January 28, 2011
NP 11-202 Receipt dated January 31, 2011
Offering Price and Description:
$125,000,000.00 (maximum) 5,000,000 Limited Partnership Units Price per Unit: $25
Minimum Subscription: $5,000 (200 Units)
Underwriter(s) or Distributor(s):
RBC Dominion Securities Inc.
CIBC World Markets Inc.
TD Securities Inc.
BMO Nesbitt Burns Inc.
National Bank Financial Inc.
Canaccord Genuity Corp.
Dundee Securities Corporation
HSBC Securities (Canada) Inc.
Scotia Capital Inc.
GMP Securities L.P.
Wellington West Capital Markets Inc.
Desjardins Securities Inc.
Macquarie Private Wealth Inc.
Manulife Securities Incorporated
Promoter(s):
Sprott 2011 Corporation
Project #1679137

Issuer Name:
Sprott Tactical Balanced Fund
Principal Regulator - Ontario
Type and Date:
Final Simplified Prospectus dated January 26, 2011
NP 11-202 Receipt dated January 27, 2011
Offering Price and Description:
Series A, Series T, Series F, Series I and Series D Units
Underwriter(s) or Distributor(s):
-
Promoter(s):
Sprott Asset Management LP
Project #1679263

Issuer Name:
TD Canadian Quantitative Research Portfolio
Principal Regulator - Ontario
Type and Date:
Final Simplified Prospectus dated January 28, 2011
NP 11-202 Receipt dated January 28, 2011
Offering Price and Description:
Series A and Series F Units
Underwriter(s) or Distributor(s):
-
Promoter(s):
FIRST DEFINED PORTFOLIO MANAGEMENT CO.
TD WATERHOUSE CANADA INC.
Project #1678263

Issuer Name:
The Keg Royalties Income Fund
Principal Regulator - British Columbia
Type and Date:
Final Short Form Prospectus dated January 28, 2011
NP 11-202 Receipt dated January 28, 2011
Offering Price and Description:
$10,237,500.00 - 750,000 Units Price: $13.65 per Offered Unit
Underwriter(s) or Distributor(s):
National Bank Financial Inc.
CIBC World Markets Inc.
Promoter(s):
-
Project #1689317

Issuer Name:
Wi-LAN Inc.
Principal Regulator - Ontario
Type and Date:
Final Short Form Prospectus dated January 27, 2011
NP 11-202 Receipt dated January 28, 2011
Offering Price and Description:
$75,240,000.00 - 11,400,000 COMMON SHARES PRICE: $6.60 PER COMMON SHARE
Underwriter(s) or Distributor(s):
CIBC World Markets Inc.
Paradigm Capital Inc.
Wellington West Capital Markets Inc.
Canaccord Genuity Corp.
Fraser Mackenzie Limited
NCP Northland Capital Partners Inc.
Promoter(s):
-
Project #1688658

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Chapter 12

Registrations

12.1.1 Registrants

Type	Company	Category of Registration	Effective Date
Voluntary Surrender	Angler Management LP	Exempt Market Dealer	January 26, 2011
Voluntary Surrender	Boucher & Company Inc.	Exempt Market Dealer	January 26, 2011
Voluntary Surrender	HD Agency Inc.	Exempt Market Dealer	January 26, 2011
Change in Registration Category	IPC Investments Corporation	From: Mutual Fund Dealer and Exempt Market Dealer To: Mutual Fund Dealer	January 27, 2011
Change in Registration Category	Stonecastle Investment Management Inc.	From: Portfolio Manager To: Portfolio Manager and Exempt Market Dealer	January 28, 2011
New Registration	High Rock Capital Management Inc.	Portfolio Manager	January 28, 2011
New Registration	Portland Private Wealth Services Inc.	Investment Dealer	January 28, 2011
New Registration	Dundee Securities Ltd.	Investment Dealer and Investment Fund Manager	January 28, 2011
Name Change	From: Dundee Securities Corporation/Corporation de Valeurs Mobilieres Dundee To: DWM Securities Inc./Valeurs Mobilieres DWM Inc.	Investment Dealer and Investment Fund Manager	January 28, 2011

Type	Company	Category of Registration	Effective Date
Suspended for non-payment of Capital Markets Participation Fees	McNulty Private Capital Inc.	Exempt Market Dealer	January 31, 2011
Suspended for non-payment of Capital Markets Participation Fees	Tricycle Asset Management	Exempt Market Dealer	January 31, 2011
Suspended for non-payment of Capital Markets Participation Fees	Kirzner, Eric F.	Commodity Trading Advisor	January 31, 2011
Suspended for non-payment of Capital Markets Participation Fees	Captus Partners Ltd.	Exempt Market Dealer	January 31, 2011
Suspended for non-payment of Capital Markets Participation Fees	Fiera Capital Inc.	Limited Market Dealer & Investment Counsel & Portfolio Manager, Commodity Trading Manager	January 31, 2011
Suspended for non-payment of Capital Markets Participation Fees	J.P. Morgan Investment Management Inc.	Portfolio Manager, Commodity Trading Manager	January 31, 2011
Suspended for non-payment of Capital Markets Participation Fees	Montrose Hammond & Co.	Exempt Market Dealer, Portfolio Manager, Commodity Trading Manager	January 31, 2011
Suspended for non-payment of Capital Markets Participation Fees	Mountainview Asset Management Inc.	Exempt Market Dealer, Portfolio Manager	January 31, 2011
Suspended for non-payment of Capital Markets Participation Fees	Quantum Global Financial Corp.	Commodity Trading Manager	January 31, 2011
Suspended for non-payment of Capital Markets Participation Fees	Status Financial Inc.	Mutual Fund Dealer, Exempt Market Dealer	January 31, 2011
Suspended for non-payment of Capital Markets Participation Fees	Transamerica Investment Management, LLC	Portfolio Manager	January 31, 2011

Type	Company	Category of Registration	Effective Date
Suspended for non-payment of Capital Markets Participation Fees	DePutter Publishing Ltd.	Commodity Trading Manager	January 31, 2011
Suspended for non-payment of Capital Markets Participation Fees	FPC First Pacific Capital (Canada) Corp.	Exempt Market Dealer	January 31, 2011
Surrender of Registration	Bolder Investment Partners, Ltd.	Investment Dealer	January 31, 2011
Change in Registration Category	Fidelity Investments Canada ULC	From: Mutual Fund Dealer, Portfolio Manager and Commodity Trading Manager To: Mutual Fund Dealer, Portfolio Manager, Commodity Trading Manager and Investment Fund Manager	February 1, 2011
Change in Registration Category	Coleford Investment Management Ltd.	From: Portfolio Manager To: Portfolio Manager and Investment Fund Manager	February 1, 2011

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Chapter 13

SROs, Marketplaces and Clearing Agencies

13.1 SROs

13.1.1 IIROC Rules Notice – Request for Comments – Proposed Amendment of Sections 5.4 and 5.7 of IIROC By-law No. 1 – Director Election and Term – Filling Vacancies

RULES NOTICE

REQUEST FOR COMMENTS

PROPOSED AMENDMENT OF SECTIONS 5.4 AND 5.7 OF IIROC BY-LAW NO. 1

11-0050
February 4, 2011

Proposed Amendment of Sections 5.4 and 5.7 of IIROC By-law No. 1 – Director Election and Term – Filling Vacancies

Summary of nature and purpose of proposed Amendments

On August 11, 2010, the Board of Directors (the Board) of the Investment Industry Regulatory Organization of Canada (IIROC) passed proposed amendments to section 5.4 and 5.7 of IIROC By-law No. 1 to permit the Board to appoint a director to fill a Board vacancy for a term less than the remainder of the term of the retired director. The proposed amendments were subject to Member, regulatory and Industry Canada approvals and were subsequently approved by resolution of the Members at the Annual Meeting of Members held on September 15, 2010.

Under IIROC's current By-law No. 1, where a member of the Board retires before the end of his or her two year term, the remaining Board members have the authority to appoint an individual to fill the vacancy for the remainder of the retiring director's term of office. There is currently no procedure which would allow the Board to make a Board appointment for a shorter term of office, or for Members to approve the appointment. For example, if a director retires six months into her 2 year term, the Board is limited to appointing an individual for the remaining 18 months.

The proposed amendments passed by the Board would permit the Board to appoint a director to fill a Board vacancy for a shorter period of time than the remainder of the term of the retiring director. This amendment would address circumstances in which a retiring member left the Board with more than a year remaining in his/her term, allowing the Board to make a shorter term appointment and allowing Members to vote on individuals nominated to replace the retiring director at the next Annual General Meeting.

The proposed amendments will not affect the staggering of terms or the maximum length of terms under By-law No. 1.

Issues and specific proposed amendments

Specifically, the proposed amendments will:

- permit the Board to fill a vacancy for less than the remainder of the term; and
- enable Members to vote on the election of such individual to the Board at the Annual General Meeting immediately following the filling of the vacancy and maintain the staggering of the terms.

The proposed amendments will not affect the intended normal length of terms for directors of IIROC, which will continue to be two year terms, subject to a maximum of four terms. The proposed amendments will, however, provide greater flexibility in filling vacancies and allow for participation of Members in the election process for directors filling vacancies.

Analysis and Alternatives considered

By-law No. 1 provides that where a director vacancy has occurred mid-term, the Board may appoint a director to fill the vacancy for the remainder of the term of the retiring director. The Members are only permitted to vote on the election of such individual to the Board at the Annual General Meeting held upon the expiration of the term where the director is nominated to continue in

office. Where a director has resigned in the first year of a two year term, the Members do not vote on the election of such individual at the Annual General Meeting immediately following the filling of the vacancy, but at the Annual General Meeting following the expiration of the term.

The current provisions set out in sections 5.4 and 5.7 of By-law No. 1 were implemented at the time of the merger between the Investment Dealers Association of Canada (IDA) and Market Regulation Services Inc. (RS) in 2008. It was not contemplated at the time that the provisions in the event of a director's retirement during the first year of a two year term would result in Members not being entitled to vote on the election of such individual at the Annual General Meeting immediately following the filling of the vacancy. IIROC has introduced the proposed procedural amendments to sections 5.4 and 5.7 to deal with this situation. These amendments ensure that the same Member election process is followed regardless of whether a director has resigned in the first or second year of a two year term. The amendment would permit Members to vote on the election of a director who was appointed to fill a vacancy at the Annual General Meeting immediately following his/her appointment.

Proposed Rule classification

The purpose of the proposed amendments is to ensure that the relevant provisions of IIROC By-law No. 1 allow for engagement of IIROC members earlier in the governance process and thereby enhance IIROC's ability to fulfill its functions and responsibilities as a self-regulatory entity.

The Board, therefore, has determined that the proposed amendments are not contrary to the public interest.

The proposed amendments have been classified as Public Comment amendments.

Effects of the proposed amendments on market structure, Dealer Members, non-Dealer Members, competition and costs of compliance

IIROC has determined that the proposed amendments will only result in changes to the routine internal processes, practices and administration of IIROC and will have no material impact on investors, issuers, members, registrants or the capital markets in any province or territory of Canada.

Technological implications and implementation plan

The proposed amendments will not result in any technological implications for Dealer Members.
IIROC anticipates that the proposed amendments will be made effective on a date to be determined by IIROC following receipt of all approvals required pursuant to applicable securities legislation or by Industry Canada.

Request for public comment

Comments are sought on the proposed amendments. Comments should be made in writing. Two copies of each comment letter should be delivered by March 7, 2011 (30 days from the publication date of this Notice).

One copy should be addressed to the attention of:

Rosemary Chan
Senior Vice-President, General Counsel & Corporate Secretary
Investment Industry Regulatory Organization of Canada
Suite 1600, 121 King Street West
Toronto, ON M5H 3T9

The second copy should be addressed to the attention of:

Manager of Market Regulation
Ontario Securities Commission
19th Floor, Box 55
20 Queen Street West
Toronto, ON M5H 3S8
marketregulation@osc.gov.on.ca

Those submitting comment letters should be aware that a copy of their comment letter will be made publicly available on the IIROC website (www.iiroc.ca under the heading "IIROC Rulebook - Dealer Member Rules - Policy Proposals and Comment Letters Received").

Attachments

Attachment A – Black line copy of sections 5.4 and 5.7 of IIROC By-law No. 1 reflecting proposed amendments

Attachment A

**RESOLUTION OF THE BOARD OF DIRECTORS TO AMEND BY-LAWS –
AMENDMENTS TO IIROC BY-LAW NO. 1 – SECTIONS 5.4 AND 5.7 – DIRECTORS' TERMS**

BE IT RESOLVED THAT Sections 5.4 and 5.7 of the By-laws be amended to provide as follows (changes are marked for convenience only), such amendments to be effective on a date designated by the Board of Directors following receipt of any approvals required pursuant to applicable securities legislation or by Industry Canada:

Section 5.4 Election and Term

(1) Subject to Section 5.2 and subsection 5.4(2), the term of each Dealer Director, Independent Director and Marketplace Director elected at a meeting of Members shall expire at the dissolution or adjournment of the second annual meeting of Members following the annual meeting of Members at which the Director was elected. **Notwithstanding the foregoing sentence, the Board of Directors shall be authorized pursuant to subsection 5.5 (2) to nominate for election by the Members a Director with a term that may expire before the second annual meeting of Members following such election.**

(2) At the first annual meeting of Members, fourteen Directors shall be elected and the Board shall designate:

(a) Three of the positions of Independent Director, two of the positions of Dealer Director and one of the positions of Marketplace Director to be for a term that shall expire at the second annual meeting of Members; and

(b) Four of the positions of Independent Director, three of the positions of Dealer Director and one of the positions of Marketplace Director to be for a term that shall expire at the third annual meeting of Members.

(3) With the exception of the President, a Director may be elected to serve four consecutive terms in office but shall not be eligible to be elected to serve a fifth consecutive term. For purposes of determining the number of consecutive terms in office of a Director elected by the First Members in accordance with Section 5.2 who is re-elected at the first annual meeting of Members in accordance with subsection 5.4 (2) , his or her term in office prior to the first annual meeting of Members shall not be included. Those Directors elected at the first annual meeting of Members to serve for an initial one year term shall be limited to three additional consecutive terms in office.

Section 5.7 Filling Vacancies

If a vacancy in the Board shall occur for any reason, the vacancy shall be filled (allowing a reasonable period of time for doing so) for the balance of the term, **or such shorter term as the Board shall determine pursuant to Section 5.4,** of the Director that vacated the office by a resolution passed by the Board appointing a Director, provided that:

(a) If the vacancy is caused by the departure of the President, the person to be appointed to the office of the President has been appointed by the Board;

(b) If the vacancy is caused by the departure of an Independent Director, Dealer Director or Marketplace Director, the person to be appointed has been identified and recommended by the Corporate Governance Committee and in the case of a vacancy of:

(i) an Independent Director, the person recommended is qualified as an Independent Director,

(ii) a Dealer Director, the person recommended is qualified as a Dealer Director, and

(iii) a Marketplace Director, the person recommended is qualified as a Marketplace Director;

(c) In recommending a person for appointment to fill a vacancy the Corporate Governance Committee shall ensure that, if the person recommended is appointed, the Board would have:

(i) at least one Director, who need not be a Marketplace Director, with particular experience and expertise in respect of public venture equity markets,

(ii) a Marketplace Director recommended for appointment by TSX if, at the date of the recommendation:

(A) TSX is a Member, and

(B) the aggregate of the Market Share of TSX and each Marketplace that is an associate or an affiliated entity of TSX is not less than forty percent, and

(iii) at least one Director, who need not be a Marketplace Director, who is a partner, director, officer or employee of:

(A) a Marketplace,

(B) an associate of a Marketplace, or

(C) an affiliated entity of a Marketplace, other than TSX or a Marketplace that is an associate or an affiliated entity of TSX;

(d) If a Marketplace Director recommended for appointment by TSX is to be appointed, TSX shall notify the secretary of the Corporation in writing of the recommendation of a qualified candidate for appointment; and

(e) If the vacancy is caused by the failure to elect the required number of Directors, the Board may appoint a Director to fill the vacancy on the basis that the vacancy arose by reason of the departure of an Independent Director, Dealer Director or Marketplace Director (including a Marketplace Director to be recommended by TSX) and the provisions of subsections 5.7 (b), (c) and (d) shall apply according to whether the vacancy relates to an Independent Director, Member Director or Marketplace Director, as the case may be.

13.2 Marketplaces

13.2.1 TSX Notice of Approval – Housekeeping Amendments to the Toronto Stock Exchange Company Manual

TORONTO STOCK EXCHANGE

NOTICE OF APPROVAL

HOUSEKEEPING AMENDMENTS TO THE TORONTO STOCK EXCHANGE COMPANY MANUAL

Introduction

In accordance with the "Protocol for Commission Oversight of Toronto Stock Exchange Rule Proposals" between the Ontario Securities Commission (the "OSC") and Toronto Stock Exchange ("TSX"), TSX has adopted, and the OSC has approved, amendments (the "Amendments") to the TSX Company Manual (the "Manual"). The Amendments are considered non-public interest amendments.

Reasons for the Amendments

A brief summary of the Amendments and the rationale for them are in the chart at **Appendix B**. Generally, the Amendments represent a collection of minor drafting changes to facilitate use and understanding of the requirements in the Manual, based on the experience of TSX staff, as well as to incorporate guidance from Staff Notices into the body of the Manual to ease use of the Manual and improve transparency.

Text of Amendments

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

Effective Date

The Amendments become effective on **February 4, 2011**.

Appendix A

Non-Public Interest Amendments to the TSX Company Manual

Part I - Interpretation

"CDS" means CDS Clearing and Depositary Services Inc.;

"insider" has the same meaning as found in the OSA and also includes associates and affiliates of the insider; and "issuances to insiders" includes direct and indirect issuances to insiders; for the purposes of Section 613, TSX will consider as insiders of an issuer only those insiders who are "reporting insiders" as defined in National Instrument 55-104-Insider Reporting Requirements and Exemptions;

Sec. 309. Requirements for Eligibility for ~~listing Subject to Section 501~~[1] Listing – Non-Exempt Issuers[1]

(c) Technology Companies[7];

(i) a minimum of $10,000,000 in the treasury, the majority of which has been raised by the issuance of securities qualified for distribution by a prospectus;

(ii) adequate funds to cover all planned development and capital expenditures, and general and administrative expenses for a period of at least one year. A projection of sources and uses of funds including related assumptions covering the period (by quarter) signed by the Chief Financial Officer must be submitted[88]. The projection must also include actual financial results for the most recently completed quarter;

(iii) evidence, satisfactory to the Exchange, that the company's products or services are at an advanced stage of development or commercialization and that the company has the required management expertise and resources to develop the business[9];

(iv) minimum market value of the issued securities that are to be listed of at least $50,000,000; and

(v) minimum public distribution requirements as set out in Section 310, except that the minimum aggregate market value of the freely tradeable, publicly held securities to be listed should be $10,000,000.

OR

(d) Research and Development Companies.

(i) a minimum of $12,000,000 in the treasury, the majority of which has been raised by the issuance of securities qualified for distribution by a prospectus;

(ii) adequate funds to cover all planned research and development expenditures, general and administrative expenses and capital expenditures, for a period of at least two years. A projection of sources and uses of funds covering the period (by quarter) signed by the Chief Financial Officer must be submitted[10~~9~~10]. The projection must also include actual financial results for the most recently completed quarter;

(iii) a minimum two-year operating history that includes research and development activities; and

(iv) evidence, satisfactory to the Exchange, that the company has the technical expertise and resources to advance the company's research and development programme(s).[11]

Sec. 309.1. Requirements for Eligibility ~~for Exemption from Section 501~~[12] for Listing – Exempt Issuers[12]

Exceptional circumstances may justify the granting of a listing to an applicant ~~and/or an exemption from Section 501,~~on an exempt basis, in which case the application will be considered on its own merits. "Exceptional Circumstances" for this purpose will normally be confined to an affiliation with a substantial established enterprise and/or an exceptionally strong financial position.

Sec. 314. Requirements for Eligibility for Listing ~~Subject to Section 501~~[15] ~~-~~ Non-exempt issuers[15]

(a) Producing Mining Companies

(i) proven and probable reserves to provide a mine life of at least three years, as calculated by an independent qualified person[16], together with evidence satisfactory to the Exchange indicating a reasonable likelihood of future profitability supported by a feasibility study or documented historical production and financial performance;

(ii) either be in production or have made a production decision on the qualifying project or mine referred to in subparagraph 314(a)(i) above;

(iii) sufficient funds to bring the mine into commercial production, adequate working capital to fund all budgeted capital expenditures and carry on the business and an appropriate capital structure. A management-prepared 18-month projection (by quarter) of sources and uses of funds detailing all planned and required expenditures signed by the Chief Financial Officer must be submitted. The projection must also include actual financial results for the most recently completed quarter; and

(iv) net tangible assets[17] of $4,000,000.

Industrial Minerals—Industrial mineral companies (those with properties containing minerals which are not readily marketable) not currently generating revenues from production will normally be required to submit commercial contracts and meet the requirements under paragraph 314(a).

(b) Mineral Exploration and Development—Stage Companies

(i) an Advanced Property, detailed in a report prepared by an independent qualified person[18]. The Exchange will generally consider a property to be sufficiently advanced if continuity of mineralization is demonstrated in three dimensions at economically interesting grades;

(ii) a planned work programme of exploration and/or development, of at least $750,000[19] that is satisfactory to the Exchange, will sufficiently advance the property and is recommended by an independent qualified person[20];

(iii) sufficient funds to complete the planned programme of exploration and/or development on the company's properties, to meet estimated general and administrative costs, anticipated property payments and capital expenditures for at least 18 months. A management-prepared, 18-month projection (by quarter) of sources and uses of funds detailing all planned and required expenditures signed by the Chief Financial Officer must be submitted;

(iv) working capital of at least $2,000,000[21] and an appropriate capital structure; and

(v) net tangible assets[22] of $3,000,000.

Property Ownership—A company must hold or have a right to earn and maintain at least a 50% interest in the qualifying property. Companies holding less than a 50% interest, but not less than a 30% interest, in the qualifying property may be considered on an exceptional basis, based on programme size, stage of advancement of the property and strategic alliances. Where a company has less than a 100% interest in a qualifying property, the programme expenditure amounts attributable to the company will be determined based on its percentage ownership[23].

~~Industrial Minerals—Industrial mineral companies (those with properties containing minerals which are not readily marketable) not currently generating revenues from production will normally be required to submit commercial contracts and meet the requirements under paragraph 314(a).~~

Sec. 319. Requirements for Eligibility for Listing ~~Subject to Section 501~~[28] Non-Exempt Issuers[28]

Producing Oil & Gas Companies

(c) adequate funds to execute the programme and cover all other capital expenditures as well as general, administrative and debt service expenses, for a period of 18 months with an allowance for contingencies. A management-prepared 18-month projection (by quarter) of sources and uses of funds detailing all planned and required expenditures signed by the Chief Financial Officer must be submitted. The projection must also include actual financial results for the most recently completed quarter; and

Sec. 319.1. Requirements for Eligibility for Listing-Exempt ~~from Section 501~~[31] Issuers[31]

(a) proved developed reserves[32] of $7,500,000[33];

(b) pre-tax profitability from ongoing operations in the fiscal year preceding the filing of the listing application;

(c) pre-tax cash flow of $700,000 in the fiscal year preceding the filing of the listing application and an average annual pre-tax cash flow of $500,000 for the two fiscal years preceding the filing of the listing application; and~~,~~

(d) adequate working capital[34] to carry on the business and an appropriate capital structure.

Sec. 428.

All companies declaring a dividend on listed shares must promptly notify the Exchange's Listed Issuer Services of the particulars. Companies must complete and file a Form 5—Dividend/Distribution Declaration (Appendix H: Company Reporting Forms) with the Exchange. For the purposes of Exchange requirements, "dividends" also includes distributions to holders of listed securities other than shares, such as units.

The Exchange must have sufficient time to inform its Participating Organizations and the financial community of the details of each dividend declared. There must be a clear understanding in the market-place as to who is entitled to receive the dividend declared. Due to practical considerations, such as long holidays and weekends, the Exchange requires that at least seven trading days' notice be given to the Exchange in advance of the dividend record date, the record date being the date of closing of the transfer books of the company. Companies with tentative dividend plans should schedule their board meetings well in advance of the proposed record date.

The minimum seven (7) trading day notification period applies to all distributions, including special year end distributions by income trusts and other similar non-taxable entities, whether or not:

(a) the exact amount of the distribution is known;

(b) the distribution is to be paid in cash, trust units and/or other securities; or

(c) if the distribution is to be paid in securities, the securities to be distributed are immediately consolidated after the distribution, resulting in no change to the number of securities held by security holders.

Where the exact amount of the distribution is unknown, issuers should provide, at the time they file their Form 5, their best estimate of the anticipated amount of the distribution and indicate that such amount is an estimate. Details regarding the payment of the distribution in cash, trust units and/or other securities and whether such securities will be immediately consolidated must be provided. Upon determination of the exact amount of any estimated distribution, the issuer must disseminate the final details by press release and provide TSX's dividend administrator with a copy of the press release.

Notification of a distribution must be provided to TSX in accordance with Sections 428 to 435.2 even when the distribution is paid entirely in securities which are immediately consolidated following the distribution, resulting in no change to the number of securities held by security holders. Such distributions may have tax consequences for security holders, which could impact the market price of the securities.

Part V Special Requirements for Non-Exempt Issuers

Sec. 501.

(c) Transactions involving insiders or other related parties of~~:~~ the non-exempt issuer[1] (both as defined in Part I) and which (i) do not involve an issuance or potential issuance of listed securities~~,~~; or (ii) that are initiated or undertaken by the non-exempt issuer and materially affect control (as defined in Part I) require TSX acceptance under this Part V before the non-exempt issuer may proceed with the proposed transaction. Failure to comply with this provision may result in the suspension and delisting of the non-exempt issuer's listed securities (see Part VII of this Manual).

If the value of the consideration to be received by the insider or other related party exceeds 2% of the market capitalization of the issuer, TSX will require that:

[1] For the purposes of this section, "transactions involving insiders and other related parties of the non-exempt issuer" includes, but is not limited to, (a) services rendered for which fees and commissions are payable; (b) purchases and sales of assets; (c) interest to be received by an insider or other related party pursuant to a loan, but does not include the principal amount of a loan which must be repaid; and (d) a loan by a non-exempt issuer to an insider or a related party, which includes both the principal and interest on any loan.

(i) the proposed transaction be approved by the board on the recommendation of the directors who are unrelated to the transaction; and

(ii) the value of the consideration be established in an independent report, other than for executive or director compensation for services rendered unless the consideration appears to be commercially unreasonable, as determined by TSX.

In addition, if the value of the consideration to be received by the insider or other related party exceeds 10% of the market capitalization of the issuer, TSX will require that the transaction be approved by the issuer's security holders, other than the insider or other related party.

Sec. 602. General

(g) TSX will not apply its standards with respect to security holder approval (Section 604), private placements (Section 607), unlisted warrants (Section 608), acquisitions (Section 611) and security based compensation arrangements (Section 613) to issuers listed on another exchange where at least 75% of the trading value and volume over the six months immediately preceding notification occurs on that other exchange[1], provided that such other exchange is reviewing the transaction. These issuers must still comply with Section 602, at which time TSX will notify the issuer of their eligibility under this Subsection 602(g) and the documents and fees required for TSX acceptance of the notified transaction.

Sec. 604. Security Holder Approval

(d) Security holder approval is to be obtained from a majority of holders of voting securities at a duly called meeting of security holders. In certain circumstances in which TSX requires security holder approval of a transaction, the listed issuer may be in a position to provide TSX with written evidence that holders of more than 50% of the voting securities of the listed issuer (other than those securities excluded as required by TSX) are familiar with the terms of the proposed transaction and are in favour of it. In such circumstances, TSX will give consideration to permitting the listed issuer to proceed with the transaction without holding a meeting of security holders to formally approve it. Listed issuers using this exemption will be required to issue a press release at least five (5) business days in advance of the closing of the transaction disclosing the material terms of the transaction and that the listed issuer has relied upon this exemption. The press release must be ~~precleared with TSX.~~pre-cleared with TSX. A draft copy of the information circular or form of written consent must be filed with TSX and pre-cleared prior to mailing to security holders.

This procedure will not be available for security based compensation arrangements described in Section 613, backdoor listings described in Section 626 and security holder rights plans described in Section 634.

The disclosure provided to security holders in seeking security holder approval must be pre-cleared with TSX.

(e) ~~Upon written application, and other~~Other than in respect of Sections 612 and 613, a listed issuer ~~meeting continued listing requirements as set out in Part VII of this Manual will~~may apply to be exempted from security holder approval requirements ~~if the application is~~. The application must address why the listed issuer cannot seek security holder approval in a timely manner at a meeting or in writing and be accompanied by a resolution of the listed issuer's board of directors stating that:

(i) the listed issuer is in serious financial difficulty;

(ii) the application is made upon the recommendation of a committee of board member(s), free from any interest in the transaction and unrelated to the parties involved in the transaction;

(iii) the transaction is designed to improve the listed issuer's financial situation; and

(iv) based on the determination of the committee referred to in (ii) above, that the transaction is reasonable for the listed issuer in the circumstances.

Listed issuers applying to use this exemption must also provide TSX with the information set out in Staff Notice 2009-0003.

[1] For the purposes of determining whether an issuer is eligible under this subsection, TSX will consider aggregating trading value and volume occurring on multiple trading venues in the same jurisdiction as such other exchange.

Listed issuers ~~using~~applying to use this exemption will be required to issue a press release at least five (5) business days in advance of the closing of the transaction disclosing the material terms of the transaction and that the listed issuer has relied upon this exemption. The press release must be pre-cleared with TSX.

Listed issuers applying to use this exemption are expected to meet continued listing requirements as set out in Part VII of this Manual after completion of the transaction. Application to use this exemption will generally result in the issuer being placed under remedial delisting review.

Sec. 607. Private Placements

(e) The price per listed security for any private placement must not be lower than the market price less the applicable discount as follows:

Market Price	Maximum Discount
$0.50 or less	25%
$0.51 to $2.00	20%
Above $2.00	15%

TSX will allow the price per listed security for a particular transaction to be less than as provided for in this Subsection 607(e) provided that the listed issuer has received security holder approval (other than by security holders participating directly or indirectly in the transaction and such security holders' associates and affiliates).

Where a listed issuer, alone or with others, is spinning off a portion of its business or assets into another entity, and proposes to issue securities when the market price is unknown (e.g., at net asset value), TSX will consider such securities as being issued at a price that is lower than the market price less the maximum applicable discount. In such instance, security holder approval (other than by security holders participating directly or indirectly in the transaction and such security holders' associates and affiliates) will be required, and security holders must be provided with the information set out in Staff Notice 2005-0003. Other requirements may apply to such private placements as set out in Staff Notice 2006-0003.

Anti-dilution provisions providing adjustments for events for which not all security holders are compensated and which may result in securities being issued at a price lower than market price less the applicable discount will be permitted, provided they have been approved by security holders (excluding the votes attached to the securities held by insiders benefiting from these anti-dilution provisions). Listed issuers may refer to Staff Notice 2009-0006 for guidance on anti-dilution provisions acceptable to TSX.

TSX will discount the price per security by the amount of any fees or other amounts payable by the listed issuer to the subscriber, or its associates and affiliates, if the listed issuer cannot demonstrate that such amounts are commercially reasonable in the circumstances.

Listed ~~Issuers~~issuers may request price protection in advance of filing Form 11 — Notice of Private Placement by submitting Form 11A — Request for Price Protection.

(f) For all private placements:

(i) subject to paragraph (ii), the transaction must not close and the securities must not be issued prior to acceptance thereof by TSX and not later than 45 days (or, in circumstances where security holder approval is required pursuant to Subsection 607(g)~~,~~ and such approval is to be obtained at a duly called meeting of security holders, 135 days) from the date upon which the market price of the securities being issued is established;

(ii) a written request for an extension of the time period prescribed in paragraph (i) may be ~~granted in justifiable circumstances, provided that a written request for an extension is~~ filed with TSX in advance of the expiry of the 45-day or 135-day period, as applicable. Such extension will generally be granted if the price at which securities are issued still complies with the requirements set out in Subsection 607(e). Otherwise, TSX may grant such extension in justifiable circumstances;

(iii) in the case of a private placement of convertible securities, the underlying listed securities will be considered as being issued at a price per security less than the market price, unless the conversion price of such convertible security is defined as at least market price at the time of conversion, and will be regarded as being part of the number of securities being issued pursuant to the transaction;

(iv) listed securities issuable upon the exercise of warrants will be considered as being issued at a price per security less than the market price and will be regarded as being part of the number of securities being issued pursuant to the transaction;

(v) successive private placements will be aggregated for the purposes of Subsections 607(c)(ii) and 607(g)(i) if they are ~~proximate in time~~within the three (3) preceding months, have common placees and/or a common use of proceeds; and

(vi) the listed issuer must give TSX immediate notice in writing of the closing of the transaction.

(h) In order to list the additional securities issued and/or reserved for issuance pursuant to a private placement, listed issuers must:

(i) On the same business day of the closing of the private placement, provide TSX with: (A) an email or facsimile of the press release announcing the closing of the private placement; or (B) a written confirmation by email or facsimile that the private placement has closed; and

(ii) Prior to the close of business on the business day following the closing of the private placement, file with TSX all the required documents as outlined in the TSX conditional approval. Such documents may be filed using TSX SecureFile, by email or by courier.

Sec. 608. Unlisted Warrants

(b) A listed issuer may apply to TSX to amend the warrant exercise price or the term of the warrant provided that:

(i) disclosure of such amendments is made by way of press release ten (10) business days prior to the effective date of the change; and

(ii) the application is accompanied by a filing fee (see ~~Part VIII~~TSX Listing Fee Schedule).

Security holder approval will be required for:

(i) amendments to warrants held, directly or indirectly, by insiders; or

(ii) amendments to warrants resulting in an exercise price which is less than the market price of the securities determined on the date of the amending agreement. Amendments to in-the-money warrants will also require security holder approval.

Security holder approval must exclude the votes attached to the securities held by ~~insiders~~any holders whose warrants are proposed to be amended.

A copy of the press release, and evidence of security holder approval if applicable, must be provided to TSX prior to the press release being issued.

Sec. 609. Listed Warrants

(a) To apply to have warrants listed on TSX, the listed issuer must file a letter application and draft warrant indenture with TSX. The listing of warrants and amendments to listed warrants on TSX ~~is~~are considered on a case-by-case basis.

(c) The warrant trust indenture, or other document prescribing the rights of warrant holders, must be pre-cleared by TSX and contain appropriate anti-dilution provisions to ensure that the rights of the holders are protected in the event of an amalgamation, merger, stock dividend, subdivision, consolidation or other form of capital reorganization, or in the case of a major asset distribution to security holders. Listed Issuers should refer to Staff Notice 2009-0006 for guidance on anti-dilution provisions acceptable to TSX.

(d) Any proposed amendment to the terms of outstanding listed warrants must be accepted by TSX prior to the amendment becoming effective~~. Once warrants have been listed, TSX will not permit amendments to any of the essential terms of the warrants, such as the exercise price (except for anti-dilution purposes) or the expiry date~~. TSX will not list warrants in respect of which the warrant trust indenture (or equivalent document) entitles the directors of the listed issuer to change the exercise price (except for anti-dilution purposes) or which provides for the possibility of an amendment to the expiry date.

~~(f) To apply to have warrants listed on TSX, the listed issuer must file a letter application and draft warrant indenture with TSX.~~

(f) Once warrants have been listed, TSX will not generally permit amendments to any of the essential terms of the warrants, such as the exercise price (except for anti-dilution purposes) or the expiry date.

Sec. 611. Acquisitions

(h) In order to list the additional securities issued and/or reserved for issuance pursuant to an acquisition which has been conditionally approved by TSX, listed issuers must:

(i) On the same business day of the closing of the acquisition, provide TSX with: (A) an email or facsimile of the press release announcing the closing of the acquisition; or (B) a written confirmation by email or facsimile that the acquisition has closed; and

(ii) Prior to the close of business on the business day following the closing of the acquisition, file with TSX all the requirements documents as outlined in the TSX conditional approval. Such documents may be filed using TSX SecureFile, by email or by courier.

Sec. 613.

(a) When instituted, and when required for amendment, all security based compensation arrangements must be approved by:

(i) a majority of the listed issuer's directors; and

(ii) subject to Subsection 613(c), ~~by~~ the listed issuer's security holders.

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

(i) a majority of the listed issuer's directors; and

(ii) subject to Subsection 613(c), the listed issuer's security holders.

Security holders must pass a resolution specifically approving unallocated options, rights or other entitlements. Such resolution must also include the date by which the listed issuer must subsequently seek security holder approval, such date being no later than three years from the date the resolution was approved. Failure to obtain security holder approval will result in all unallocated options, rights or other entitlements being cancelled and the listed issuer will not be permitted to make further grants until security holder approval is obtained.

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

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

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

Prohibited Provisions Notwithstanding Security Holder Approval

(h) Notwithstanding that a security based compensation arrangement contains provisions: (1) contrary to or inconsistent with the following items, or (2) allowing amendments to the following items without security holder approval, and notwithstanding that such provisions may have been approved by the listed issuer's security holders:

(i) the exercise price for any stock options granted under a security based compensation arrangement or otherwise must not be lower than the market price of the securities at the time the option is granted; and

(ii) the arrangement must have a maximum number of securities issuable, either as a fixed number or a fixed percentage of the listed issuer's outstanding capital represented by such securities.

For the purposes of this Subsection 613(h)(ii), TSX will accept, as market price: (A) a closing market price at the time of the grant; or (B) a reasonable pre-determined formula, based on a weighted average trading price or average daily high and low board lot trading prices for a short period of time prior to the time of grant.

Amendments Requiring Specific Security Holder Approval

(i) Notwithstanding that a security based compensation arrangement contains a provision allowing amendments to the following items without security holder approval, specific security holder approval is required for:

(i) a reduction in the exercise price or purchase price under a security based compensation arrangement benefiting an insider of the issuer;

(ii) an extension of the term, under a security based compensation arrangement benefiting an insider of the issuer;

(iii) any amendment to remove or to exceed the insider participation limit;

(iv) an increase to the maximum number of securities issuable, either as a fixed number or a fixed percentage of the listed issuer's outstanding capital represented by such securities; and

(v) amendments to an amending provision within a security based compensation arrangement.

For the purposes of Subsection 613(i)(i) and (ii), if a listed issuer cancels options (or similar entitlements) held by insiders, or held by non-insiders where the amendment provision does not permit such amendment, and then re-grants those securities under different terms, TSX will consider this as an amendment to those securities and will require security holder approval, unless the re-grant occurs at least three months after the related cancellation.

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

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

Amendment Procedures

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

Blackout Periods

(m) Security based compensation arrangements may provide that the expiration term of an option (or similar entitlement) may be the later of a fixed expiration date or a date shortly after the expiration date should such date fall within or immediately after a blackout period, provided that:

(i) The blackout period is self-imposed by the listed issuer;

(ii) The period of time provided to exercise the option after the lifting of the blackout period be no more than ten (10) business days;

(iii) All participants under the security-based compensation arrangement are eligible for the extension, under the same terms and conditions; and

(iv) Security holders approve the amendment to the security-based compensation arrangement providing for such expiry term.

Backdating of Stock Options

(n) Listed issuers must notify TSX on a timely basis where it appears that stock options (and similar entitlements) may have been improperly dated or priced, during or following any investigation (including internal, self-initiated reviews) of the listed issuer's practices in relation to security-based compensation arrangements. In addition, in accordance with TSX's timely disclosure policy, listed issuers need to assess whether or not a news release is required where it appears that stock options (and similar entitlements) have been improperly dated or priced, during or following any review or investigation, and upon any resolution with TSX or other regulators.

Mergers and Acquisitions

(o) Notwithstanding the amendment provisions included in a security-based compensation arrangement, where a listed issuer is being acquired, outstanding options, rights and other entitlements may be: (i) cancelled for nominal consideration if out of the money; or (ii) exchanged for the consideration received by the listed issuer's security holders, on the basis of such options, rights or other entitlement's intrinsic value.

Sec. 614.

(c)

(i) A draft copy of the rights offering circular ("circular" includes a prospectus, if applicable) must be filed with TSX concurrently with the filing thereof with the securities commissions. TSX will subsequently advise the listed issuer of any deficiencies in the draft circular and of the further documentation that will be required.

(ii) Securities offered by way of rights offering are expected to be offered at a "significant discount" to market price at the time of pricing of the offering, which is expected to be at the time of filing of the (final) circular. A significant discount would be equal to at least the maximum discount to market price allowed for private placements as set forth in Subsection 607(e).

If a third party ("backstop") has agreed to subscribe for securities which are not otherwise subscribed for under the rights offering, and there is not a significant discount, TSX will require security holder approval if the rights offering could result in a material effect on control of the listed issuer.

Backstop fees payable in cash are acceptable to TSX provided the fees are commercially reasonable. Backstop fees payable in securities are acceptable to TSX for arm's length parties as a securities for debt transaction under S. 607 and provided that the fees are commercially reasonable. Backstop fees payable in securities to non-arm's length parties are considered security-based compensation arrangements and security holder approval is therefore required to be obtained at the next meeting.

(e) At least seven trading days in advance of the record date:

(i) all deficiencies raised by TSX must be resolved;

(ii) clearances for the rights offering must be obtained from all securities commissions having jurisdiction, and the listed issuer must so advise TSX;

(iii) all the terms of the rights offering must be finalized; and

(iv) TSX must receive all requested documents and applicable fees (see ~~Part VIII~~TSX Listing Fee Schedule).

Sec. 617. Stock Dividends

Listed issuers which issue stock dividends on a regular basis, whether pursuant to a formal stock dividend plan or otherwise, can either apply to list securities each time a dividend is declared or, alternatively, apply to list as a block the number of securities the listed issuer estimates will be issued as stock dividends over the next two years. The latter procedure could result in an ultimate saving in listing fees. See ~~Part VIII~~TSX Listing Fee Schedule.

Sec. 619. Name or Symbol Changes

(c) The following documents must be filed with TSX in connection with a name change:

(i) a notarial or certified copy of the Certificate of Amendment, or equivalent document;

(ii) a definitive specimen of the new or overprinted security certificate;

(iii) a copy of the written notice from ~~The Canadian Depository for Securities Limited~~CDS disclosing the CUSIP number(s) assigned to the issuer's listed securities after giving effect to the name change (see Section 350); and

(iv) the substitutional listing fee (see ~~Part VIII~~TSX Listing Fee Schedule).

(d) The listed issuer's securities will normally commence trading on TSX under the new name at the opening of business two (2) or three (3) trading days after all the documents set out in Subsection 619~~cc~~(c) are received by TSX.

(e) A listed issuer may request a change to the symbol assigned to its listed securities upon payment of the applicable fee (see ~~Part VIII~~TSX Listing Fee Schedule).

Sec. 621. Stock Consolidation

(d) The following documents must be filed with TSX on or prior to the day on which the Letters of Transmittal are sent to the security holders:

(i) one copy of the Letters of Transmittal~~:~~;

(ii) a notarial or certified copy of the Certificate of Amendment, or equivalent document;

(iii) opinion of counsel that all the necessary steps have been taken to validly effect the consolidation in accordance with applicable law;

(iv) a definitive specimen of the new security certificates~~:~~;

(v) a copy of the written notice from ~~The Canadian Depository for Securities Limited~~CDS disclosing the new CUSIP number assigned to the securities (see Section 350);

(vi) a written statement as to the intended mailing date of the Letters of Transmittal; and

(vii) the substitutional listing fee (see ~~Part VIII~~TSX Listing Fee Schedule).

In addition, the listed issuer may be required to file with TSX a completed form (Appendix D) showing the distribution of the securities on a post-consolidation basis.

Sec. 622. Security Reclassification (with no stock split)

(a) The following documentation must be filed with TSX in connection with a security reclassification (with no stock split):

(i) a notarial or certified copy of the Certificate of Amendment, or equivalent document;

(ii) an opinion of counsel that all the necessary steps have been taken to validly effect the security reclassification in accordance with applicable law;

(iii) a definitive specimen of the new or overprinted security certificate;

(iv) a copy of the written notice from ~~The Canadian Depository for Securities Limited~~CDS disclosing the CUSIP number(s) assigned to the securities (see Section 350);

(v) the substitutional listing fee (see ~~Part VIII~~TSX Listing Fee Schedule);

(vi) one copy of the Letters of Transmittal, if applicable; and

(vii) a written statement as to the intended mailing date of the Letters of Transmittal, if applicable.

Sec. 623.

(c) The minimum public distribution requirements for a supplemental listing are the same as the minimum requirements for original listing as set out in Section 310. However, TSX will give consideration to listing non-participating preferred securities and debt securities that do not meet these requirements if the market value of such securities outstanding is at least $2,000,000 and:

(i) if the securities are convertible into participating securities, such participating securities are listed on TSX and meet the minimum public distribution requirements for original listing; or

(ii) if the securities are not convertible into participating securities, the listed issuer is exempt from Section 501.

(d) The following documents must be filed with TSX within ninety (90) days of TSX's conditional acceptance of the supplemental listing (or within such later time as TSX may stipulate):

(i) a notarial or certified copy of the resolution of the board of directors of the listed issuer authoring the application to list the securities;

(ii) a notarial or certified copy of the Certificate of Amendment, or equivalent document, giving effect to the creation of the securities;

(iii) one commercial copy of the final prospectus, or other offering document, if applicable;

(iv) an opinion of counsel that the securities to be listed have been validly created in accordance with applicable law and that the securities are validly issued as fully paid and non-assessable;

(v) a definitive specimen of the security certificate;

(vi) a copy of the written notice from ~~The Canadian Depository for Securities Limited~~CDS disclosing the CUSIP number assigned to the securities (see Section 341);

(vii) one completed copy of the Statement Showing Number of Shareholders form (Appendix D) or, in the case of a prospectus underwriting, a certificate from the underwriter confirming that the securities have been distributed to at least 300 public board lot holders (unless TSX waives this requirement); and

(viii) the supplemental listing fee (see ~~Part VIII~~TSX Listing Fee Schedule).

Sec. 626.

(c) The transaction must be approved by the security holders of the listed issuer's participating securities at a meeting prior to completion of the transaction. For this purpose, holders of Restricted Securities, as defined in Part I, must be entitled to vote with the holders of any class of securities of the listed issuer which otherwise carry greater voting rights, on a basis proportionate to their respective residual equity interests in the issuer.

~~TSXs~~TSX's approval of a backdoor listing must be obtained before the transaction is submitted to security holders for approval. If this is impracticable, the information circular sent to security holders must include a statement that the proposed transaction is subject to the acceptance of TSX. ~~TSX will require the~~The listed issuer ~~to~~must file a draft of the information circular with TSX for review before the sending of the circular to the security holders.

Sec. 628. General.

(b) For the purposes of Sections 628, 629, 629.1 and 629.2:

(i) a purchase shall be deemed to have taken place when the offer to buy or the offer to sell, as the case may be, is accepted;

(ii) in determining the beneficial ownership of securities of a security holder or of any person or company acting jointly or in concert with the security holder, at any given date, the security holder, person or company shall be deemed to have acquired and be the beneficial owner of a security if the security holder, person or company is the beneficial owner of any issued security on that date;

(iii) in calculating the number of securities acquired by the listed issuer, securities purchased by a person or company acting jointly or in concert with the listed issuer, as determined in accordance with Section 91 of the OSA, during the period of an outstanding normal course issuer bid will be included. In certain circumstances, TSX will not aggregate securities purchased by a person or a company acting jointly or in concert with a listed issuer. Refer to Staff Notice 2008-0001 for further information; and

(iv) the number of securities that may be acquired by a listed issuer shall be adjusted to account for stock splits, consolidations and stock dividends, or other similar events.

Sec. 629. Special Rules Applicable to Normal Course Issuer Bids

(f) The listed issuer will issue a press release indicating its intention to make a normal course issuer bid, subject to TSX acceptance, prior to acceptance of the executed notice by TSX. The press release shall summarize the material aspects of the contents of the notice, including the number of securities ~~sought~~the listed issuer intends to repurchase, the method of disposition of the securities, if applicable, the reason for the bid and details of any previous purchases in the preceding 12 -month period, including the number of securities purchased and the volume weighted average price paid. If a press release has not already been issued, a draft press release must be provided to TSX and the listed issuer shall issue a press release as soon as the notice is accepted by TSX. A copy of the final press release shall be filed with TSX.

(k) Within 10 days of the end of each month in which any purchases are made, whether the securities were purchased through the facilities of TSX or otherwise, the listed issuer shall report its purchases to TSX stating the number of securities purchased during its purchases that month, giving the volume weighted average price paid and stating whether the securities have been cancelled, reserved for issuance or otherwise dealt with. Nil reports are not required. The listed issuer may delegate the reporting requirement to the broker appointed to make its purchases; however, the listed issuer bears the responsibility of ensuring timely reports are made. TSX periodically publishes a list of securities purchased pursuant to normal course issuer bids.

This paragraph also applies to purchases by non-independent trustees and to purchases by any party acting jointly or in concert with the listed issuer. Purchases by non-independent trustees and other parties acting jointly or in concert with the listed issuer are excluded from TSX's periodic publication of securities purchased pursuant to normal course issuer bids.

(l) TSX has set the following rules for listed issuers and brokers acting on their own behalf:

1. ***Price Limitations***—It is inappropriate for a listed issuer making a normal course issuer bid to abnormally influence the market price of its securities. Therefore, purchases made by listed issuers pursuant to a normal course issuer bid shall be made at a price which is not higher than the last independent trade of a board lot of the class of securities which is the subject of the normal course issuer bid. In particular, the following are not "independent trades":

(a) trades directly or indirectly for the account of (or an account under the direction of) an insider;

(b) trades for the account of (or an account under the direction of) the broker making purchases for the bid;

(c) trades solicited by the broker making purchases for the bid; and

(d) trades directly or indirectly by the broker making purchases for the bid which are made in order to facilitate a subsequent block purchase by the issuer at a certain price.

Notwithstanding the foregoing, TSX will not consider that a trade has been made at a price that is higher than the last independent trade provided that:

(i) The independent trade occurs no more than one second before the NCIB purchase creating the uptick;

(ii) The independent trade is a down tick to the previous trade and the NCIB purchase would not have created an uptick to the trade prior to the last independent trade; and

(iii) the price difference between the NCIB purchase and the independent trade is not more than $0.02.

2. ***Prearranged Trades***—It is important to investor confidence that all holders of identical securities be treated in a fair and even-handed manner by the listed issuer. Therefore, an intentional cross or pre-arranged trade, under a normal course issuer bid is not permitted, unless such trade is made in connection with the block purchase exception.

3. ***Private Agreements***—It is in the interest of security holders that transactions pursuant to an issuer bid should be made in the open market. This philosophy is also reflected in the OSA, which provides very limited exemptions for private agreement purchases. Therefore, purchases must be made by means of open market transactions.

4. ***Sales from Control***—Purchases pursuant to a normal course issuer bid shall not be made from a person or company effecting a sale from control block pursuant to Part 2 of National Instrument 45-102—Resale of Securities and Sections 630–633 of this Manual. It is the responsibility of the broker acting as agent for the listed issuer to ensure that it is not bidding in the market for the normal course issuer bid at the same time as a broker is offering the same class of securities of the listed issuer under a sale from control.

5. ***Purchases During a Circular Bid***—A listed issuer shall not make any purchases of its securities pursuant to a normal course issuer bid during a circular bid for those securities. This restriction applies during the period from the first public announcement of the bid until the termination of the period during which securities may be deposited under such bid, including any extension thereof. This restriction does not apply to purchases made solely as a trustee pursuant to a pre-existing obligation under a pension, stock purchase, stock option, dividend reinvestment or other plan.

In addition, if the listed issuer is making a securities exchange take-over bid, it shall not make any purchases of the security offered in the bid other than those permitted by OSC Rule 48-501 Trading During Distributions, Formal Bids and Share Exchange Transactions.

6. ***Undisclosed Material Information***—A listed issuer shall not make any purchases of its securities pursuant to a normal course issuer bid while the listed issuer possesses any material information which has not been disseminated. Reference is made to the TSX Timely Disclosure Policy in this regard. This restriction does not apply to normal course issuer bids carried out pursuant to automatic securities purchase plans established by the listed issuer in accordance with applicable securities laws, particularly Section 175 of Regulation 1015 of the OSA. All such plans must be pre-cleared by TSX prior to implementation. Please see OSC Staff Notice 55-701—Automatic Securities Disposition Plans and Automatic Securities Purchase Plans, or any successor notice, policy or instrument, for additional guidance.

7. ***Block Purchase Exception***—A listed issuer may make one block purchase per calendar week which exceeds the daily repurchase restriction contained in Subsection 628(a)(ix)(a), subject to maximum annual aggregate limits. Once the block purchase exception has been relied on, the listed issuer may not make any further purchases under the normal course issuer bid for the remainder of that calendar day.

8. ***Purchases at the Opening and Closing***—A listed issuer shall not make any purchases of its securities pursuant to a normal course issuer bid at the opening of a trading session, or during the 30 minutes before the scheduled close of a trading session. However, notwithstanding Subsection

629(l)(1), purchases of securities pursuant to a normal course issuer bid may be effected through the market on close facility.

(o) Listed issuers cancelling securities purchased through an NCIB must ensure that such securities are withdrawn from CDS and cancelled on the transfer agent's register in a timely manner once the NCIB purchase has been settled.

Sec. 635. Filing and Listing Procedure

(a) A draft of the proposed security holder rights plan (the "plan") or poison pill should be filed with TSX along with a covering letter requesting TSX accept the plan for filing. The letter must include the following:

(i) a statement as to whether the listed issuer is aware of any specific take-over bid for the listed issuer that has been made or is contemplated, together with full details regarding any such bid;

(ii) a description of any unusual features of the plan; and

(iii) a statement as to whether the plan treats any existing security holder differently from other security holders. The usual example of this is where, at the time of the plan's adoption a security holder (or group of related security holders) owns a percentage of securities that exceeds the triggering ownership threshold identified in the plan but such security holder is exempted from the operation of the plan.;

(iv) if a plan has a triggering threshold of less than 20%, a thorough rationale and explanation with respect to why the plan has such a triggering threshold; and

(v) any other significant information relevant to the plan or the application that is not otherwise disclosed in the letter application, such as knowledge of upcoming proxy contests, acquisitions/dispositions of a block of securities above the triggering threshold, if the listed issuer does not intend to seek security holder approval or if security holder approval of the plan is unlikely.

(b) If a listed issuer adopts a plan without pre-clearance from TSX, the listed issuer must:

(i) publicly announce the adoption of its plan as subject to TSX acceptance, and;

(ii) as soon as possible after the adoption of the plan, file with TSX a copy of the plan along with the covering letter described in Subsection 635(a).; and

(iii) publicly announce TSX's decision to defer its review of, consent to or to deny consent of a plan as soon as possible after TSX has rendered such decision.

Sec. 636. TSX Approach

(a) If a plan is adopted at a time when the listed issuer is not aware of any specific take-over bid for the listed issuer that has been made or is contemplated, TSX will not generally refuse the plan for filing, provided that it is ratified by the security holders of the listed issuer at a meeting held within six months following the adoption of the poison pill. Pending such security holder ratification, the plan is allowed to be in effect so that its intent is not circumvented prior to the security holders meeting. If security holders do not ratify the plan by the required time, the plan must be immediately cancelled and any rights issued thereunder must be immediately redeemed or cancelled. TSX will also defer its review of, or decision to consent to, a plan if the listed issuer does not intend to seek security holder approval for the plan or if security holder approval of the plan is unlikely.

(b) In cases where a particular security holder may be exempted from the operation of a plan even though the security holder's percentage holding exceeds the plan's triggering ownership threshold, TSX will normally require that the plan be ratified by a vote of security holders that excludes the votes of the exempted security holder and its insiders as well as by a vote that does not exclude such security holder. TSX will not exclude parties other than those specifically exempted from the operation of the plan.

Sec. 637. Plan Amendment

No amendment of a plan that has been adopted by a listed issuer may be made without the prior written consent of TSX. In order to seek such consent, the listed issuer must file with TSX (i) a black-lined draft of the amended plan, (ii) a letter that

summarizes the proposed changes to the plan, and (iii) the requisite filing fee payable to TSX. If an amendment to a plan can reasonably be perceived to have been proposed as a response to a specific or contemplated take-over bid, TSX will treat the amended plan as a new plan in accordance with Subsection 636(c).

Sec. 704.

Trading may also be halted due to failure by the listed issuer to comply with requirements of TSX. In some cases, such as under Section 708, a halt may be changed to a suspension or delisting.

Sec. 707.

Expedited Review Process

(b) A listed issuer that has been notified that it is under delisting review:

(i) because of the applicability of any of the delisting criteria in Section 708, paragraph (a) of Section 710 or Sections 713 to 716 inclusive; or

(ii) because the listed issuer has failed to meet original listing requirements by the deadline set by TSX in connection with any of the events described in Section 717; or

(iii) because TSX believes that the expedited suspension from trading and delisting of the listed issuer's securities is warranted;

will be provided an opportunity to be heard, on an expedited basis, generally within 48 hours of notification, where the listed issuer may present submissions as to why its securities should not continue to be suspended or be suspended from trading immediately and delisted. If the listed issuer cannot satisfy TSX that a continued or an immediate suspension is unwarranted, TSX will determine to suspend or continue to suspend the listed issuer's securities from trading as soon as practicable after such hearing and the listed issuer's securities will be delisted on the 30th calendar day after the suspension date. During the period between the suspension date and delisting date, the listed issuer remains subject to all TSX requirements, including compliance with the provisions of Sections 501 and 602, regardless of whether the listed issuer had been exempted from the requirements of Section 501 prior to suspension.

Sec. 708.

At such time as TSX is advised or becomes aware that a listed issuer (or any of its significant subsidiaries), has become insolvent or bankrupt or has made an assignment for the benefit of creditors; or a trustee, receiver, liquidator or monitor has been appointed for the listed issuer or for a substantial part of its assets; or bankruptcy, reorganization, creditor arrangement or protection, insolvency, liquidation, winding up or similar proceedings are instituted by or against the listed issuer under the laws of any jurisdiction, the securities of the listed issuer may, at the discretion of TSX, in accordance with Section 704, be immediately halted from trading on TSX. ~~TSX will ordinarily halt trading, or prevent the lifting of a trading halt, of the listed issuer's securities in order to allow material information to be publicly disseminated or when inadequate information in respect of the listed issuer is available to the market, or when adequate information in respect of the listed issuer is not available to the market.~~

~~During the trading halt, or as soon as practicable after the trading halt is lifted, TSX shall notify the listed issuer that it is under delisting review and is subject to the Expedited Review Process (see Section 707).~~

Sec. 717.

Where a listed issuer substantially discontinues its business (for example, through the sale of all or substantially all of its assets in one or more transactions) or materially changes the nature of its business (for example, through the acquisition of an interest in another business which represents the majority of the market value of the listed issuer's assets or when its board of directors approves the transaction which becomes the principal operating enterprise of the listed issuer), the listed issuer shall notify TSX following approval of the transaction by its board of directors. TSX will normally require that the listed issuer meet original listing requirements. Failure of the listed issuer to meet ~~these~~applicable original listing requirements may result in the delisting of its securities.

Form: 12 | Issuer Name: **Stock Symbol:**

1. Securities Sought – State the following:

(a) Class(es) of securities subject to the NCIB: _____

(b) Total number of securities: _____

(i) issued and outstanding: (as of ___): _____

(ii) if applicable, in the total public float: (as of ___): _____

(c) Percentage of securities that may be purchased under the NCIB:

(i) % of issued and outstanding (maximum 5%): _____

(ii) % of the public float, as the case may be (maximum 10%): _____

(d) Maximum number of securities that may be acquired under the NCIB: _____

(e) Number of securities the issuer actually intends to acquire under the NCIB (i.e., not necessarily the maximum): _____

(f) Is the issuer an investment fund: _____

(i) If the answer is NO, the average daily trading volume for six months prior to date hereof: _____
_____

(g) Does the issuer have a class of restricted securities: _____

If the answer is YES:

(i) describe the voting rights of all equity securities: _____

(ii) if the issuer does not propose to make the same NCIB for all classes of voting and equity securities, the reasons for so limiting the NCIB: _____
_____
_____

(h) Whether the securities are going to be cancelled. If such securities are not cancelled, state how such securities will be dealt with: _____
_____
_____

2. Duration – State the dates on which the NCIB will commence and terminate. The NCIB may not extend for a period of more than one year from the date on which purchases may commence. (i.e., May 1, 2004 to April 30, 2005): _____
_____

3. Method of Acquisition – State the following:

(a) whether purchases will be effected through the facilities of TSX and identify any other exchanges or market places on which purchases will be made: _____
_____

(b) whether purchase and payment for the securities will be made by the issuer in accordance with the requirements of TSX: _____
_____

(c) whether the price that the issuer will pay for any securities acquired by it will be the market price of the securities at the time of acquisition: _____

(d) whether purchases (other than by way of exempt offer) will be made other than by means of open market transactions during the period the NCIB is outstanding: _____

4. **Consideration Offered –** State whether there are any restrictions on the price the offeror is prepared to pay and any other restrictions relating to the NCIB, such as specific funds available, method of purchasing, etc.: _____

5. **Reasons for the NCIB –** State the purpose or business reasons for the NCIB: _____

6. **Valuation –** State whether there has been any appraisal or valuation of the issuer to the best knowledge of the directors or officers of the issuer, after reasonable enquiry, regarding the issuer, its material assets or securities prepared within the two years preceding the date of the notice, together with a statement of a reasonable time and place at which such appraisal or valuation, or a copy thereof, may be inspected. For this purpose, the phrase appraisal or valuation means both an independent appraisal or valuation and a material non-independent appraisal or valuation. If there has been such an appraisal or valuation, include a summary of such appraisal or valuation: _____

7. **Previous Purchases** – Where the issuer has purchased securities under a NCIB within the past 12 months, state the following:

Method of acquisition: _____

The number of securities purchased: _____

the weighted average price paid per security: _____

8. **Persons Acting Jointly or In Concert with the Issuer** – Disclose the identity of any party acting jointly or in concert with the issuer: _____

9. **Acceptance by Insiders, Affiliates and Associates –**

(a) name of every director or senior officer of the issuer who intends to sell securities of the issuer during the course of the NCIB: _____

(b) where their intention is known after reasonable enquiry, the name of every associate of a director or senior officer of the issuer, person acting jointly or in concert with the issuer, or person holding 10% or more of any class of equity securities of the issuer, who intends to sell securities: _____

10. **Benefits from the NCIB** – State direct or indirect benefits to any of the persons or companies named in item 9 of selling or not selling securities of the issuer during the course of the NCIB. An answer to this item is not required where the benefits to such person or company of selling or not selling securities are the same as the benefits to any other securityholder who sells or does not sell: _____

_____

_____

_____

11. **Material Changes in the Affairs of the Issuer** – Disclose any previously undisclosed material changes or plans or proposals for material changes in the affairs of the issuer: _____

_____

_____

_____

12. **Participating Organization Information –**

(a) Name of brokerage firm: _____

(b) Name of registered representative: _____

(c) Address of brokerage firm: _____

(d) Fax number: _____

(e) Telephone number: _____

13. Disclose any significant information regarding the NCIB not disclosed above, including any details regarding the use of put options or forward purchase contracts in conjunction with the NCIB: _____

_____

_____

_____

14. **Certificate** – The undersigned, a director or senior officer of the issuer duly authorized by the issuer's board of directors, certifies that this notice is complete and accurate and in compliance with Section 629 and 629.1 of the TSX Company Manual. This notice contains no untrue statement of a material fact and does not omit to state a material fact that is required to be stated or that is necessary to make a statement not misleading in the light of the circumstances in which it is made.

_____
NAME

_____
TITLE

_____
DATE

Appendix B

Summary of Amendments

Section	Amendment	Rationale
Part I-Interpretation	Add definition for CDS. Update definition of “insider” to incorporate Staff Notice 2008-0001 in relation to the definition of insider for the purposes of security based compensation.	Simplify Manual. Incorporate recent amendments to National Instrument 55-104 – Insider Reporting Requirements and Exemptions and ease use of Manual by incorporating staff notices into the Manual where possible.
Subsections 309(c)(ii) and (d)(ii)	TSX will require that projections include actual results for the most recently completed quarter.	To provide transparency and ensure consistent application of requirements.
Section 309.1	Minor drafting.	Clarification of drafting.
Section 314(a) and (b)	Moving the requirements for industrial minerals from 314(b) to 314(a). Adding requirement that projections for producing mining companies in 314(a) include actual results for the most recently completed quarter.	To improve visibility of the requirements for industrial minerals and to provide transparency.
Section 319(c)	TSX will require that projections include actual results for the most recently completed quarter.	To provide transparency and ensure consistent application of requirements.
Section 319.1	Minor drafting.	Clarification of drafting.
Section 428	Incorporate Staff Notices 2005-0004 and 2008-0006 regarding distributions into the Manual.	Ease use of Manual by incorporating staff notices into the Manual where possible, to have related rules together.
Section 501(c)	Clarify drafting and add guidance regarding the application of the section by TSX.	Codifying existing practice to improve transparency.
Section 602(g)	Codify practice of requiring a transaction be subject to review by another exchange before granting interlisted issuer exemption. Adding guidance regarding the determination of trading value and volume for eligibility under this exemption.	Codifying existing practice to improve transparency. As a result of the proliferation of trading venues, particularly in the US, TSX will consider aggregating trading value and volume occurring on multiple trading venues in the same jurisdiction as the other exchange in determining eligibility for this exemption.
Section 604(d)	Codify practice of submission and pre-clearance of management information circular or form of written consent for required security holder approval.	Codifying existing practice to provide transparency.
Section 604(e)	Clarifying drafting and importing and cross referencing guidance from Staff Notice 2009-0003.	Clarify drafting to provide transparency and import Staff Notice reference to ease use of the Manual.
Section 607(e)	Importing and cross referencing Staff Notices 2005-0003, 2006-0003 and 2009-0006.	Import Staff Notice references to ease use of the Manual.

Section	Amendment	Rationale
Section 607(f)(i), (ii) and (v)	Clarifying time periods for obtaining security holder approval and when extensions to the deadline to close a private placement may be granted. Codifying practice of aggregating successive private placements over the preceding three months.	Clarification of drafting to provide certainty. Codifying existing practice to provide transparency.
Section 607(h)	New subsection being added to import guidance from Staff Notice 2005-0002.	Import Staff Notice to ease use of the Manual.
Section 608(b)	Codify practice that amendments to in-the-money warrants also require security holder approval. Clarify drafting.	Codifying existing practices to provide transparency.
Section 609 (a), (c), (d) and (f)	Clarify drafting. Incorporate reference to Staff Notice 2009-0006. Clarify permitted amendments to listed warrants.	Codifying existing practices to provide transparency. Import Staff Notice to ease use of the Manual.
Section 611(h)	New Subsection being added to incorporate Staff Notice 2005-0002 regarding listing additional securities.	Import Staff Notices to simplify and ease use of the Manual.
Section 613(a)	Incorporating Staff Notice 2006-0002 regarding security holder approval.	Import Staff Notices to simplify and ease use of the Manual.
Section 613(h)	Incorporating Staff Notice 2004-0002 regarding acceptable market price.	Import Staff Notice to simplify and ease use of the Manual.
Section 613(i)	Incorporating Staff Notices 2005-0001 and 2006-0004 regarding option cancellation and re-granting.	Import Staff Notices to simplify and ease use of the Manual.
Section 613(l), (m), (n) and (o)	Clarify drafting. New subsections being added to import guidance from Staff Notices 2006-0001 and 2006-0005 regarding blackout periods and backdating of stock options. Clarifying current practice regarding mergers and acquisitions.	Improve drafting. Import Staff Notices to ease use of the Manual and codify existing practices.
Section 614 (c)	New subsection (ii) added to codify existing practices and incorporate Staff Notice 2006-0004 regarding backstops of rights offerings. Clarifying that backstop fees payable in securities to non-arm's length parties will be considered security based compensation and require security holder approval.	Import Staff Notices to ease use of the Manual and codify existing practices.
Section 614(e)	Amending fee reference.	Part VIII of the Manual no longer contains fees.
Section 617	Amending fee reference.	Part VIII of the Manual no longer contains fees.
Section 619	Technical drafting amendments, including amending fee reference.	Improving drafting. Part VIII of the Manual no longer contains fees.
Section 621	Technical drafting amendments, including amending fee reference.	Improving drafting. Part VIII of the Manual no longer contains fees.
Section 622(a)	Technical drafting improvements, including amending fee reference.	Improving drafting. Part VIII of the Manual no longer contains fees.

Section	Amendment	Rationale
Section 623(c)	Clarifying drafting to include debt listings.	Clarifying drafting to provide transparency.
Section 623(d)	Technical drafting amendments, including amending fee reference.	Improving drafting. Part VIII of the Manual no longer contains fees.
Section 626(c)	Technical drafting improvements.	Improving drafting.
Section 628(b)(iii)	Incorporating Staff Notice 2008-0001 regarding acceptable market price.	In certain circumstances, TSX will provide aggregation relief for NCIBs as described in Staff Notice 2008-0001. Import Staff Notice to ease use of Manual.
Section 629(f)	Technical drafting improvements.	Improving drafting.
Section 629(k)	Technical drafting improvements.	Improving drafting.
Section 629(l)	Incorporating Staff Notice 2009-0006 regarding upticks.	Due to the continually increasing speed of order entry and trade execution, compliance with the Uptick Prohibition has become increasingly difficult. We have therefore added information regarding trades that will not be considered in violation of the Uptick Prohibition, subject to certain conditions.
Section 629(o)	Incorporating Staff Notice 2009-0002 regarding cancellation of securities purchased under an NCIB.	Securities purchased under an NCIB should be withdrawn from CDS and cancelled by the transfer agent in a timely manner in order to prevent reconciliation issues between CDS and the issuer's transfer agent.
Section 635(a)	Incorporating Staff Notice 2008-0006 regarding triggering thresholds of less than 20% and filing information requirements.	Securityholder rights plans are generally expected to have triggering thresholds of 20%, consistent with take over bid legislation. The adoption of plans with lower triggering thresholds will require a thorough rationale and explanation for consideration by TSX. Clarifying information to be filed with applications.
Section 635(b)	Incorporating Staff Notice 2006-0002 regarding the announcement of security holder rights plans.	Issuers are required to publicly announce TSX's decision with respect to a security holder rights plan.
Section 636(a)	Incorporating Staff Notice 2008-0006 regarding security holder approval of rights plans and TSX approval.	If issuers do not intend to seek security holder approval of a rights plan, or if approval is unlikely, TSX will defer its review and approval of the plan.

Section	Amendment	Rationale
Section 636(b) and Section 637	Incorporating Staff Notice 2009-0002 regarding amendments to security holder rights plans.	TSX will treat amendments to security holder rights plans that can be reasonably perceived to be proposed in response to a specific or contemplated take-over bid as a new plan and security holder approval will be required.
Section 704	Minor drafting.	Clarification of drafting.
Section 707(b)	Incorporating Staff Notice 2006-0004 regarding procedures under the expedited review process.	Import Staff Notices to ease use of the Manual and codify existing practices.
Section 708	Codifying existing practice with respect to insolvent or bankrupt listed issuers. Incorporating Staff Notice 2009-0005 with respect to amendments to bankruptcy and insolvency legislation.	TSX typically halts the trading of securities of listed issuers who are insolvent or bankrupt as such securities are inappropriate for trading on TSX. Such halts are typically converted into suspensions in accordance with Section 704.
Section 717	Clarifying timing of notice to TSX of a material change of business.	Clarify drafting to provide transparency.
Form 12-NCIB	Clarify that 1(e) should not merely restate maximum.	TSX considers it promotional and potentially misleading to overstate intended repurchases under an NCIB. Overstatements may result in TSX reviewing and potentially reducing future NCIBs based on historic repurchase numbers.

13.2.2 TSX Request for Comments – Amendments to Part VI of the TSX Company Manual

TORONTO STOCK EXCHANGE

REQUEST FOR COMMENTS

AMENDMENTS TO PART VI OF THE
TORONTO STOCK EXCHANGE ("TSX") COMPANY MANUAL
(THE "MANUAL")

TSX is publishing proposed changes to Part III, Part V and Part VI of the Manual (the "Amendments"). The Amendments are being published for a 30-day comment period.

The Amendments will be effective upon approval by the Ontario Securities Commission (the "OSC") following public notice and comment. Comments should be in writing and delivered by March 7, 2011 to:

Michal Pomotov
Legal Counsel
Toronto Stock Exchange
The Exchange Tower
130 King Street West
Toronto, Ontario M5X 1J2
Fax: (416) 947-4461
Email: tsxrequestforcomments@tsx.com

A copy should also be provided to:

Susan Greenglass
Director
Market Regulation
Ontario Securities Commission
20 Queen Street West
Toronto, Ontario M5H 3S8
Fax: (416) 595-8940
Email: marketregulation@osc.gov.on.ca

Comments will be publicly available unless confidentiality is requested.

Overview

TSX is seeking public comment on Amendments to the Manual. This Request for Comments explains the rationale and objectives of the Amendments. Following the comment period, TSX will review and consider the comments received and implement the Amendments, as proposed or as modified as a result of comments.

Summary of the Amendments

TSX is proposing:

A. to introduce a new subsection in Section 319 for a new subcategory of minimum listing requirements for oil & gas development stage companies;

B. to amend Subsections 501(c), 604(a)(ii) and 611(b) to provide for aggregation of transactions involving insiders over a six-month period;

C. to amend Subsection 613(c) to provide that no security holder approval will be required for employment inducements provided that the aggregate number of securities issued to officers under the exemption in the one-year preceding period is not more than 2% of the number of securities outstanding; and

D. to delete Subsection 614(n)(v) which provides that a rights offering must be unconditional.

Rationale and Discussion of the Amendments

A. Original Listing Requirements for Oil & Gas Development Stage Issuers

Recently, TSX has received several applications and inquiries about companies with large development stage projects. For example, oil sands projects often do not have proved developed reserves, which are a requirement under current TSX standards. In order to list such issuers, we have granted an exception to the reserve requirement. In granting such exemption, we have taken into account numerous factors, such as the level of contingent resources, market capitalization, the size of the initial public offering and the amount of cash on hand, in lieu of proved developed reserves.

The proposed new subcategory will facilitate the listing of development stage oil & gas issuers and has been developed based on our experience with recent applicants and inquiries. We believe that publishing these standards will (i) improve transparency and fairness since there may be issuers that do not apply for listing believing they cannot qualify based on our current standards, and (ii) establish appropriate standards for issuers listing under such category.

The proposed key requirements are:

(a) contingent resources of $500 million;

(b) a minimum market value of the issued securities to be listed of $200 million;

(c) a clearly defined development plan which will advance the property;

(d) sufficient funds for an 18-month period or to bring the property into commercial production; and

(e) an appropriate capital structure.

Based on the applicants and inquiries we have received, the contingent resources requirement is consistent with exemptions granted to date. The requirement is intended to set high standards for issuers listing under this subcategory. We may exclude certain resources due to the nature of the contingency associated with them. For example, contingent resources may be excluded if TSX does not believe the technology under development is sufficiently advanced to extract the resource and therefore to merit inclusion.

The market capitalization requirement of $200 million is intended to ensure that the market value is high enough to support the resource valuation in the technical report and the significant capital expenditures typically required for such projects. We generally expect that the market capitalization requirement will not be a barrier to entry, provided that the contingent resources requirement has been met.

The remaining requirements are consistent with other listing categories to ensure that an issuer has sufficient funds for an 18-month period and will be able to advance their project.

The value of the contingent resources will be required to be calculated the same way the value of proved developed reserves is calculated under our current requirements, as the net present value of future cash flows before income taxes, prepared on a forecast basis, and discounted, as set out in proposed Footnote 30B. The calculation for proved developed reserves is in Footnote 30 and includes a discount rate of 20%. It is proposed that the discount rate for calculating proved developed reserves and the value of contingent resources should both be set at 10%. At the time the discount rate was set for the calculation of proved developed reserves, interest rates were significantly higher, and a higher discount rate was therefore appropriate. Given the current interest rate environment, a discount rate of 20% is no longer appropriate. Footnote 30 will be revised to introduce a discount rate of 10%.

Questions:

1. Should TSX introduce listing requirements for applicants with contingent resources?

2. Should issuers that do not have reserves be listed under the oil and gas category?

3. Should specific contingencies be excluded? If so, what are they?

4. Is $500 million an appropriate value for contingent resources? If not, please explain.

5. Is $200 million an appropriate market capitalization? If not, please explain.

6. Is it appropriate to reduce the discount rate from 20% to 10%? Should the proved developed reserves requirements in Section 319 ($3 million) and Section 319.1 ($7.5 million) be increased in conjunction with the discount rate adjustment?

B. Aggregation of Consideration to Insiders

The private placement rules in Subsection 607(g)(ii) provide that insider transactions be aggregated over a six-month period in order to determine security holder approval requirements. This requirement was adopted to prevent issuers from avoiding security holder approval requirements by separating insider transactions into smaller tranches over a relatively short period of time. In transactions other than private placements, it has come to TSX's attention that issuers may seek to avoid security holder approval by similarly separating insider transactions into smaller tranches. Where such matters have come to the attention of TSX, TSX has exercised discretion to aggregate insider transactions over the six-month period preceding the transaction when determining whether security holder approval is required under: (i) Subsection 501(c) in relation to non-exempt issuers; (ii) Subsection 604(a)(ii) in relation to consideration to insiders; and (iii) Subsection 611(b) in relation to acquisitions. TSX is proposing to formally change each of these sections to pre-empt avoidance of security holder approval requirements and improve rule transparency and consistency for issuers.

Questions:

7. Is it appropriate to aggregate all consideration to insiders for the purposes of the security holder approval requirement? If not, please explain.

8. Is 10% the appropriate threshold for consideration of securities provided to insiders?

C. Employment Inducement Exemption from Security Holder Approval

Although TSX continues to support the exemption from security holder approval for security based compensation arrangements used as employment inducements, as set out in Subsection 613(c), TSX has become concerned that the limit of 2% per person can be potentially excessive and subject to abuse. The dilution suffered in such circumstances may be quite high if, for example, 2% is simultaneously offered to several officers as part of a corporate reorganization. Therefore, TSX is proposing to amend Subsection 613(c) to provide that no security holder approval will be required for employment inducements provided that the aggregate number of securities issued to officers under the exemption in the one-year preceding period is not more than 2% of the number of securities outstanding. At this level, we believe that issuers will still be able to use employment inducements without causing excessive dilution for security holders without their approval.

Questions:

9. Is it appropriate to aggregate employment inducements over a one-year period for the purposes of the security holder approval requirement? If not, explain.

10. Is 2% the appropriate threshold for consideration of securities provided as employment inducements? If not, what would be a suitable alternative threshold? Please provide support for your response.

D. Rights Offerings

Subsection 614(n)(v) of the Manual provides that a rights offering must be unconditional. TSX has therefore not allowed rights offerings where a condition had to be met in order to receive the securities upon exercising the rights, such as a minimum offering size. TSX is proposing to remove this requirement allowing for more flexibility in structuring rights offerings.

We believe that the requirement that rights offerings be unconditional was introduced principally to prevent: (i) the distribution of securities (i.e., the rights) whose value may be difficult to assess because the securities underlying the rights may not be issuable; (ii) uncertainty in the value of the securities underlying the rights which are trading "ex-distribution"; and (iii) trading in securities that may ultimately have no value in the event that the condition attached to the exercise of the right is not fulfilled.

In proposing this amendment, we considered the extensive disclosure framework under securities legislation in respect of rights offerings. Security holders receive a rights certificate as well as a circular or prospectus with detailed disclosure of the rights offering, which would disclose any conditions attached to the exercise of the rights. The circular or prospectus is also readily accessible on SEDAR. In order to fulfil timely disclosure obligations, the listed issuer's press releases must also fully describe the principal terms of the rights offering, including any conditions attached to the exercise of the rights. Therefore, there does not appear to be any impediment to security holders and investors having access to the required information to assess the value of the rights and securities underlying the rights and to make an informed investment decision.

In addition, market participants in Canada have grown more accustomed over the years to pricing and trading "contingent" securities such as subscription receipts. It has been TSX experience that market participants can adequately price such

securities and trade them in an orderly fashion. TSX has allowed rights offerings where rights are exercisable into subscription receipts which have been completed without any negative ramifications. While there was no condition attached to the issuance of the subscription receipts, there were conditions attached to the issuance of the securities underlying the subscription receipts. Considering the increased accessibility and availability of information to investors and increased investor sophistication, we believe any risk to market participants of conditional rights offerings is mitigated.

We also considered that US stock exchanges do not have a similar requirement. Market participants in the US are able to trade rights based on the information that is publicly available about the rights offering, including any conditions attached to the exercise of the rights. Removing this requirement will eliminate an inconsistency in regulatory requirements, which presented issues for interlisted issuers in particular.

We also note that Canadian Securities Administrators (CSA) members have expressed concerns about rights offerings without a minimum offering size where an issuer may not continue to operate as a going concern unless a minimum amount of funds is raised. In such circumstance, it may be preferable that the rights offering not close and the proceeds be returned to subscribers. Removing this requirement will provide flexibility for listed issuers to impose conditions on a rights offering for the benefit of investors.

We are not aware of any trading concerns with respect to a conditional rights offering. Furthermore, it is our understanding that back offices and CDS have mechanisms in place to either issue the securities underlying the rights or refund subscription proceeds.

Based on all of these factors, the purposes of the requirement that rights offerings must be unconditional do not appear to be as relevant as in the past.

With the proposed amendment, the distribution of the rights will remain unconditional as the record date for a rights offering must still be set at least seven trading days in advance once: (i) all deficiencies raised by TSX are resolved; (ii) clearances for the rights offering have been obtained from all securities commissions; (iii) all the terms of the rights offering are finalized; and (iv) all documents have been received by TSX, as contemplated in Subsection 614(e) of the Manual.

Questions:

11. Will the elimination of the requirement that rights offerings be unconditional have any negative effect on market participants such as the holders of the listed securities or buyers of the rights in the secondary market? If so, please explain.

12. Should TSX introduce specific disclosure requirements for rights offerings as a result of eliminating the requirement that rights offerings be unconditional? If so, what should the requirements be?

13. Should conditional rights offerings be subject to certain prerequisites? If so, under which circumstances should TSX approve a conditional rights offering?

Text of the Amendments

TSX is proposing the Amendments as set out in **Appendix A**.

Public Interest

TSX is publishing the Amendments for a 30-day comment period, which expires March 7, 2011. The Amendments will only become effective following public notice and the approval of the OSC.

APPENDIX A

PROPOSED AMENDMENTS TO THE TSX COMPANY MANUAL

Minimum Listing Requirements for Oil and Gas Companies

Sec. 319. Requirements for Eligibility for Listing Non-Exempt Issuers[28]

(b) Oil & Gas Development Stage Companies

(i) contingent resources[30A] of $500,000,000[30B];

(ii) a minimum market value of the issued securities that are to be listed of at least $200,000,000;

(iii) a clearly defined development plan, satisfactory to the Exchange, which can reasonably be expected to advance the property; [x3]

(iv) adequate funds to either: (A) execute the development plan and cover all other capital expenditures as well as general, administrative and debt service expenses, for a period of 18 months with an allowance for contingencies; or (B) bring the property into commercial production, and adequate working capital to fund all budgeted capital expenditures and carry on the business. A management-prepared 18-month projection (by quarter) of sources and uses of funds detailing all planned and required expenditures signed by the Chief Financial Officer must be submitted. The projection must also include actual financial results for the most recently completed quarter; and

(iv) an appropriate capital structure.

[30] - The Company must submit a technical report prepared by an independent technical consultant that conforms to National Instrument 51-101 and be acceptable to the Exchange. Reports prepared in conformity with other reporting systems deemed by the Exchange to be equivalent of National Instrument 51-101 will normally be acceptable also. The value of reserves should be calculated as the net present value of future cash flows before income taxes, prepared on a forecast basis, and discounted at a rate of ~~20~~10%. The Exchange may, at its discretion, also require the provision of a price sensitivity analysis.

[30A] – "contingent resources" are defined in accordance with Canadian Oil and Gas Evaluation Handbook and National Instrument 51-101, however the Exchange in its discretion may exclude certain resources classified as contingent resources after taking into consideration the nature of the contingency. The Exchange strongly recommends pre-consultation with the Exchange for any applicant applying under this listing category.

[30B] – The Company must submit a technical report prepared by an independent technical consultant that conforms to National Instrument 51-101 and be acceptable to the Exchange. Reports prepared in conformity with other reporting systems deemed by the Exchange to be the equivalent of National Instrument 51-101 will normally be acceptable also. The value of the resources should be calculated as the best case scenario of the net present value of future cash flows before income taxes, prepared on a forecast basis, and discounted at a rate of 10%. The Exchange may, at its discretion, also require the provision of a price sensitivity analysis.

Part V Special Requirements for Non-Exempt Issuers

Sec. 501.

(c) Transactions involving insiders or other related parties of the non-exempt issuer[1] (both as defined in Part I) and which (i) do not involve an issuance or potential issuance of listed securities; or (ii) that are initiated or undertaken by the non-exempt issuer and materially affect control (as defined in Part I) require TSX acceptance under this Part V before the non-exempt issuer may proceed with the proposed transaction. Failure to comply with this provision may result in the suspension and delisting of the non-exempt issuer's listed securities (see Part VII of this Manual).

If the value of the consideration to be received by the insider or other related party exceeds 2% of the market capitalization of the issuer, TSX will require that:

[1] For the purposes of this section, "transactions involving insiders and other related parties of the non-exempt issuer" includes, but is not limited to, (a) services rendered for which fees and commissions are payable; (b) purchases and sales of assets; (c) interest to be received by an insider or other related party pursuant to a loan, but does not include the principal amount of a loan which must be repaid; and (d) a loan by a non-exempt issuer to an insider or a related party, which includes both the principal and interest on any loan.

(i) the proposed transaction be approved by the board on the recommendation of the directors who are unrelated to the transaction; and

(ii) the value of the consideration be established in an independent report, other than for executive or director compensation for services rendered unless the consideration appears to be commercially unreasonable, as determined by TSX.

In addition, if the value of the consideration to be received by the insider or other related party exceeds 10% of the market capitalization of the issuer, TSX will require that the transaction be approved by the issuer's security holders, other than the insider or other related party.

During any six-month period, transactions with insiders or other related parties will be aggregated for the purposes of this Subsection.

Sec. 604. Security Holder Approval

(a) In addition to any specific requirement for security holder approval, TSX will generally require security holder approval as a condition of acceptance of a notice under Section 602 if in the opinion of TSX, the transaction:

(i) materially affects control of the listed issuer; or

(ii) provides consideration to insiders in aggregate of 10% or greater of the market capitalization of the listed issuer, during any six-month period, and has not been negotiated at arm's length.

If any insider of the listed issuer has a beneficial interest, direct or indirect, in the proposed transaction which differs from other security holders of the same class TSX will regard such a transaction as not having been negotiated at arm's length.

Sec. 611. Acquisitions

(b) Security holder approval will be required in those instances where the number of securities issued or issuable to insiders as a group, together with any securities issued or made issuable to insiders as a group for acquisitions during the preceding six months, in payment of the purchase price for an acquisition exceeds 10% of the number of securities of the listed issuer which are outstanding on a non-diluted basis, prior to the date of closing of the transaction. Insiders receiving securities pursuant to the transaction are not eligible to vote their securities in respect of such approval.

Sec. 613.

Exception to the Requirement for Security Holder Approval—Employment Inducements

(c) Security holder approval is not required for security based compensation arrangements used as an inducement to a person(s) or company(ies) not previously employed by and not previously an insider of the listed issuer, to enterprovided that: i) such person(s) or company(ies) enters into a contract of full time employment as an officer of the listed issuer, provided that; and ii) the number of securities made issuable to such person or companypursuant to this Subsection during any twelve month period do not exceed in aggregate 2% of the number of securities of the listed issuer which are outstanding, on a non-diluted basis, prior to the date of the arrangementthis exemption is first used during such twelve month period.

Sec. 614.

(n) The following requirements apply to rights which are listed on TSX, although TSX may, in appropriate circumstances, apply these requirements to rights not so listed:

(i) once the rights have been listed on TSX, TSX will not permit the essential terms of the rights offering, such as the exercise price or the expiry date, to be amended. However, under extremely exceptional circumstances, such as an unexpected postal disruption, TSX may grant an exemption from the requirement that the expiry date not be extended;

(ii) the rights offering must be open for a period of at least twenty-one (21) calendar days following the date on which the rights offering circular is sent to security holders or such longer period as is necessary to ensure that security holders, including security holders residing in foreign countries, will have sufficient time to exercise or sell their rights on an informed basis;

(iii) security holders must receive exactly one right for each security held. An exemption from this requirement will be considered if the rights offering entitles security holders to purchase more than one security for each security held (prior to giving effect to any additional subscription privilege); and

(iv) if the listed issuer proposes to provide a rounding mechanism, whereby security holders not holding a number of securities equally divisible by a specified number would have their entitlements adjusted upward, adequate arrangements must be made to ensure that beneficial owners of securities registered in the names of CDS, banks, trust companies, investment dealers or similar institutions will be treated, for purposes of such additional entitlements, as though they were registered security holders; and.

~~(v) the rights offering must be unconditional.~~

Chapter 25

Other Information

25.1 Approvals

25.1.1 Triumph Asset Management Inc./Gestion D'Actifs Triumph – s. 213(3)(b) of the LTCA

Headnote

Clause 213(3)(b) of the Loan and Trust Corporations Act – application by manager, with no prior track record acting as trustee, for approval to act as trustee of pooled funds and future pooled funds to be managed by the applicant and offered pursuant to a prospectus exemption.

Statutes Cited:

Loan and Trust Corporations Act, R.S.O. 1990, c. L.25, as am., s. 213(3)(b).

January 28, 2011

Fogler, Rubinoff LLP
95 Wellington Street West
Suite 1200
Toronto-Dominion Centre
Toronto, Ontario

M5J 2Z9

Attention: Elliott A. Vardin

Dear Sirs/Mesdames:

Re: Triumph Asset Management Inc./Gestion D'Actifs Triumph (the "Applicant") – Application pursuant to clause 213(3)(b) of the *Loan and Trust Corporations Act* (Ontario) for approval to act as trustee
Application No. 2010/0897

Further to your application dated December 2, 2010 (the "**Application**") filed on behalf of the Applicant, and based on the facts set out in the Application and the representation by the Applicant that the assets of Triumph Capital Appreciation Trust and Triumph Aggressive Opportunities Trust and such other funds as the Applicant may establish from time to time, will be held in the custody of a trust company incorporated and licensed or registered under the laws of Canada or a jurisdiction, or a bank listed in Schedule I, II or III of the *Bank Act* (Canada), or an affiliate of such bank or trust company, the Ontario Securities Commission (the "**Commission**") makes the following order

Pursuant to the authority conferred on the Commission in clause 213(3)(b) of the *Loan and Trust Corporations Act* (Ontario), the Commission approves the proposal that the Applicant act as trustee of Triumph Capital Appreciation Trust and Triumph Aggressive Opportunities Trust and such other funds which may be established and managed by the Applicant from time to time, the securities of which will be offered pursuant to a prospectus exemption.

Yours truly,

"Carol S. Perry"
Commissioner

"Vern Krishna"
Commissioner

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