The Ontario Securities Commission

OSC Bulletin

November 18, 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

November 21, 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
Cadillac Fairview Tower
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20 Queen Street West
Toronto, Ontario
M5H 3S8

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Paulette L. Kennedy	—	PLK
Edward P. Kerwin	—	EPK
Vern Krishna	—	VK
Christopher Portner	—	CP
Judith N. Robertson	—	JNR
Charles Wesley Moore (Wes) Scott	—	CWMS

SCHEDULED OSC HEARINGS

November 21, November 23-30, 2011 10:00 a.m.	**Majestic Supply Co. Inc., Suncastle Developments Corporation, Herbert Adams, Steve Bishop, Mary Kricfalusi, Kevin Loman and CBK Enterprises Inc.** s. 37, 127 and 127.1 D. Ferris in attendance for Staff Panel: EPK/PLK
November 21, 2011 2:00 p.m. November 23-25, 2011 10:00 a.m. November 28, 2011 2:00 p.m.	**Shaun Gerard McErlean, Securus Capital Inc., and Acquiesce Investments** s. 127 M. Britton in attendance for Staff Panel: VK/JDC
November 21, 2011 10:00 a.m.	**Investment Industry Regulatory Organization Of Canada v. Mark Allen Dennis** S. 21.7 S. Horgan in attendance for Staff Panel: MGC/SOA
November 22, 2011 9:00 a.m.	**Portus Alternative Asset Management Inc., Portus Asset Management Inc., Boaz Manor, Michael Mendelson, Michael Labanowich and John Ogg** s. 127 H Craig in attendance for Staff Panel: JEAT

November 23, 2011 9:15 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: JEAT
November 23, 2011 10:00 a.m.	**American Heritage Stock Transfer Inc., American Heritage Stock Transfer, Inc., BFM Industries Inc., Denver Gardner Inc., Sandy Winick, Andrea Lee McCarthy, Kolt Curry and Laura Mateyak** s. 127 J. Feasby in attendance for Staff Panel: CP
November 23, 2011 11:00 a.m.	**Zungui Haixi Corporation, Yanda Cai and Fengyi Cai** s. 127 J. Superina in attendance for Staff Panel: CP
November 24, 2011 10:00 a.m.	**FactorCorp Inc., FactorCorp Financial Inc. and Mark Twerdun** s. 127 C. Price in attendance for Staff Panel: CP
November 24, 2011 2:30 p.m.	**New Found Freedom Financial, Ron Deonarine Singh, Wayne Gerard Martinez, Pauline Levy, David Whidden, Paul Swaby and Zompas Consulting** s. 127 A. Heydon in attendance for Staff Panel: CP
November 28, 2011 10:00 a.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: CP
November 29, 2011 10:00 a.m.	**MBS Group (Canada) Ltd., Balbir Ahluwalia and Mohinder Ahluwalia** s. 37, 127 and 127.1 C. Rossi in attendance for staff Panel: JEAT
December 5, 2011 10:00 a.m.	**Irwin Boock, Stanton Defreitas, Jason Wong, Saudia Allie, Alena Dubinsky, Alex Khodjiaints Select American Transfer Co., Leasesmart, Inc., Advanced Growing Systems, Inc., International Energy Ltd., Nutrione Corporation, Pocketop Corporation, Asia Telecom Ltd., Pharm Control Ltd., Cambridge Resources Corporation, Compushare Transfer Corporation, Federated Purchaser, Inc., TCC Industries, Inc., First National Entertainment Corporation, WGI Holdings, Inc. and Enerbrite Technologies Group** s. 127 and 127.1 H. Craig in attendance for Staff Panel: MGC

December 5 and December 7-15, 2011 10:00 a.m.	**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)** s. 127 J. Lynch/S. Chandra in attendance for Staff Panel: JDC
December 5 and December 7-16, 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: EPK/PLK
December 7, 2011 10:00 a.m.	**Sextant Capital Management Inc., Sextant Capital GP Inc., Otto Spork, Robert Levack and Natalie Spork** s. 127 T. Center in attendance for Staff Panel: TBA
December 12-13, 2011 10:00 a.m.	**Investment Industry Regulatory Organization of Canada v. TD Securities Inc., Kenneth Nott, Aidin Sadeghi, Christopher Kaplan, Robert Nemy and Jake Poulstrup** S. 21.7 D. Ferris in attendance for Staff Panel: MGC/JNR
December 16, 2011 9:30 a.m.	**North American Financial Group Inc., North American Capital Inc., Alexander Flavio Arconti, and Luigino Arconti** s. 127 M. Vaillancourt in attendance for Staff Panel: JEAT
December 19, 2011 9:00 a.m.	**New Hudson Television Corporation, New Hudson Television L.L.C. & James Dmitry Salganov** s. 127 C. Watson in attendance for Staff Panel: MGC
December 19, 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. Watson in attendance for Staff Panel: VK/EPK
December 21, 2011 10:00 a.m.	**Innovative Gifting Inc., Terence Lushington, Z2A Corp., and Christine Hewitt** s. 127 M. Vaillancourt in attendance for Staff Panel: PLK

December 21, 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: VK/MCH
January 3-10, 2012 10:00 a.m.	**Simply Wealth Financial Group Inc., Naida Allarde, Bernardo Giangrosso, K&S Global Wealth Creative Strategies Inc., Kevin Persaud, Maxine Lobban and Wayne Lobban** s. 127 and 127.1 C. Johnson in attendance for Staff Panel: JDC
January 11, 2012 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: CP
January 12-13, 2012 10:00 a.m.	**Richvale Resource Corp., Marvin Winick, Howard Blumenfeld, John Colonna, Pasquale Schiavone, and Shafi Khan** s. 127(7) and 127(8) J. Feasby in attendance for Staff Panel: EPK
January 18-23, 2012 10:00 a.m.	**Peter Beck, Swift Trade Inc. (continued as 7722656 Canada Inc.), Biremis, Corp., Opal Stone Financial Services S.A., Barka Co. Limited, Trieme Corporation and a limited partnership referred to as "Anguilla LP"** s. 127 B. Shulman in attendance for Staff Panel: TBA
January 18-30 and February 1-10, 2012 10:00 a.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
January 26-27, 2012 10:00 a.m.	**Empire Consulting Inc. and Desmond Chambers** s. 127 D. Ferris in attendance for Staff Panel: TBA
February 1, 2012 10:00 a.m.	**Ciccone Group, Medra Corp. (a.k.a. Medra Corporation), 990509 Ontario Inc., Tadd Financial Inc., Cachet Wealth Management Inc., Vincent Ciccone (a.k.a. Vince Ciccone), Darryl Brubacher, Andrew J Martin, Steve Haney, Klaudiusz Malinowski, and Ben Giangrosso** s. 127 M. Vaillancourt in attendance for Staff Panel: TBA

February 1-13, February 15-17 and February 21-23, 2012 10:00 a.m.	**Irwin Boock, Stanton Defreitas, Jason Wong, Saudia Allie, Alena Dubinsky, Alex Khodjiaints Select American Transfer Co., Leasesmart, Inc., Advanced Growing Systems, Inc., International Energy Ltd., Nutrione Corporation, Pocketop Corporation, Asia Telecom Ltd., Pharm Control Ltd., Cambridge Resources Corporation, Compushare Transfer Corporation, Federated Purchaser, Inc., TCC Industries, Inc., First National Entertainment Corporation, WGI Holdings, Inc. and Enerbrite Technologies Group** s. 127 and 127.1 H. Craig in attendance for Staff Panel: TBA
February 15-17, 2012 10:00 a.m.	**Maitland Capital Ltd., Allen Grossman, Hanoch Ulfan, Leonard Waddingham, Ron Garner, Gord Valde, Marianne Hyacinthe, Dianna Cassidy, Ron Catone, Steven Lanys, Roger McKenzie, Tom Mezinski, William Rouse and Jason Snow** s. 127 and 127.1 D. Ferris in attendance for Staff Panel: TBA
February 29 – March 12 and March 14- 21, 2012 10:00 a.m.	**Ameron Oil and Gas Ltd., MX-IV Ltd., Gaye Knowles, Giorgio Knowles, Anthony Howorth, Vadim Tsatskin, Mark Grinshpun, Oded Pasternak, and Allan Walker** s. 127 H. Craig/C. Rossi in attendance for Staff Panel: TBA
March 8, 2012 10:00 a.m.	**Energy Syndications Inc., Green Syndications Inc., Syndications Canada Inc., Land Syndications Inc. and Douglas Chaddock** s. 127 C. Johnson in attendance for Staff Panel: TBA
March 12, March 14-26, and March 28, 2012 10:00 a.m.	**David M. O'Brien** s. 37, 127 and 127.1 B. Shulman in attendance for Staff Panel: TBA
April 2-5, April 9, April 11-23 and April 25-27, 2012 10:00 a.m.	**Bernard Boily** s. 127 and 127.1 M. Vaillancourt/U. Sheikh in attendance for Staff Panel: TBA
April 30-May 7, May 9-18 and May 23-25, 2012 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: TBA
May 9-18 and May 23-25, 2012 10:00 a.m.	**Crown Hill Capital Corporation and Wayne Lawrence Pushka** s. 127 A. Perschy in attendance for Staff Panel: TBA

September 21, 2012 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 H. Craig in attendance for Staff Panel: TBA
TBA	**Yama Abdullah Yaqeen** s. 8(2) J. Superina in attendance for Staff Panel: TBA
TBA	**Microsourceonline Inc., Michael Peter Anzelmo, Vito Curalli, Jaime S. Lobo, Sumit Majumdar and Jeffrey David Mandell** s. 127 J. Waechter in attendance for Staff Panel: TBA
TBA	**Frank Dunn, Douglas Beatty, Michael Gollogly** s. 127 K. Daniels in attendance for Staff Panel: TBA
TBA	**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	**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: TBA
TBA	**Gold-Quest International, Health and Harmoney, Iain Buchanan and Lisa Buchanan** 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

C. Watson 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: TBA

TBA

Merax Resource Management Ltd. carrying on business as Crown Capital Partners, Richard Mellon and Alex Elin

s. 127

T. Center in attendance for Staff

Panel: TBA

TBA

Alexander Christ Doulis (aka Alexander Christos Doulis, aka Alexandros Christodoulidis) and Liberty Consulting Ltd.

s. 127

S. Horgan in attendance for Staff

Panel: TBA

TBA

Uranium308 Resources Inc., Michael Friedman, George Schwartz, Peter Robinson, and Shafi Khan

s. 127

H. Craig/C.Rossi in attendance for Staff

Panel: TBA

TBA

Paul Donald

s. 127

C. Price in attendance for Staff

Panel: TBA

TBA

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

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

TBA

Goldpoint Resources Corporation, Pasqualino Novielli also known as Lee or Lino Novielli, Brian Patrick Moloney also known as Brian Caldwell, and Zaida Pimentel also known as Zaida Novielli

s. 127(1) and 127(5)

C. Watson in attendance for Staff

Panel: TBA

TBA

Lehman Brothers & Associates Corp., Greg Marks, Kent Emerson Lounds and Gregory William Higgins

s. 127

C. Rossi in attendance for Staff

Panel: TBA

TBA

Peter Sbaraglia

s. 127

J. Lynch in attendance for Staff

Panel: TBA

TBA

Ground Wealth Inc., Armadillo Energy Inc., Paul Schuett, Doug DeBoer, James Linde, Susan Lawson, Michelle Dunk, Adrion Smith, Bianca Soto and Terry Reichert

s. 127

S. Schumacher in attendance for Staff

Panel: TBA

TBA

Shallow Oil & Gas Inc., Eric O'Brien, Abel Da Silva, Gurdip Singh Gahunia aka Michael Gahunia and Abraham Herbert Grossman aka Allen Grossman

s. 127(7) and 127(8)

H. Craig in attendance for Staff

Panel: TBA

TBA

Heir Home Equity Investment Rewards Inc.; FFI First Fruit Investments Inc.; Wealth Building Mortgages Inc.; Archibald Robertson; Eric Deschamps; Canyon Acquisitions, LLC; Canyon Acquisitions International, LLC; Brent Borland; Wayne D. Robbins; Marco Caruso; Placencia Estates Development, Ltd.; Copal Resort Development Group, LLC; Rendezvous Island, Ltd.; The Placencia Marina, Ltd.; and The Placencia Hotel and Residences Ltd.

s. 127

A. Perschy / B. Shulman in attendance for Staff

Panel: TBA

TBA

Sino-Forest Corporation, Allen Chan, Albert Ip, Alfred C.T. Hung, George Ho and Simon Yeung

s. 127

A. Perschy/H. Craig in attendance for Staff

Panel: TBA

TBA **Carlton Ivanhoe Lewis, Mark Anthony Scott, Sedwick Hill, Leverage Pro Inc., Prosporex Investment Club Inc., Prosporex Investments Inc., Prosporex Ltd., Prosporex Inc., Prosporex Forex SPV Trust, Networth Financial Group Inc., and Networth Marketing Solutions**

s. 127 and 127.1

H. Daley in attendance for Staff

Panel: TBA

TBA **Normand Gauthier, Gentree Asset Management Inc., R.E.A.L. Group Fund III (Canada) LP, and CanPro Income Fund I, LP**

s. 127

B. Shulman in attendance for Staff

Panel: TBA

TBA **Vincent Ciccone and Medra Corp.**

s. 127

M. Vaillancourt 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

LandBankers International MX, S.A. De C.V.; Sierra Madre Holdings MX, S.A. De C.V.; L&B LandBanking Trust S.A. De C.V.; Brian J. Wolf Zacarias; Roger Fernando Ayuso Loyo, Alan Hemingway, Kelly Friesen, Sonja A. McAdam, Ed Moore, Kim Moore, Jason Rogers and Dave Urrutia

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

1.1.2 Notice of Ministerial Approval of Amendments to Form 51-102F6 Statement of Executive Compensation and Consequential Amendments

NOTICE OF MINISTERIAL APPROVAL
OF AMENDMENTS TO
FORM 51-102F6
STATEMENT OF EXECUTIVE COMPENSATION

AND

CONSEQUENTIAL AMENDMENTS

On August 15, 2011, the Minister of Finance approved amendments made by the Ontario Securities Commission (the **Commission**) to Form 51-102F6 *Statement of Executive Compensation (in respect of financial years ending on or after December 31, 2008)* and consequential amendments to National Instrument 51-102 *Continuous Disclosure Obligations*; Form 58-101F1 *Corporate Governance Disclosure* and Form 58-101F2 *Corporate Governance Disclosure (Venture Issuers)* (collectively, the **Amendments**).

The Amendments were approved by the Commission on July 19, 2011.

The Amendments have an effective date of October 31, 2011. The Amendments were published in Chapter 5 of the Bulletin on July 22, 2011 at (2011) 34 OSCB 8047.

November 18, 2011

1.1.3 Notice of Memorandum of Understanding between the OSC and FINRA

NOTICE OF MEMORANDUM OF UNDERSTANDING
BETWEEN THE OSC AND FINRA

On November 10, 2011, the Ontario Securities Commission and the United States Financial Industry Regulatory Authority, Inc. (FINRA) entered into a Memorandum of Understanding (MOU), with a focus on enforcement. The MOU will facilitate the exchange of information with respect to regulated entities that operate across our respective borders. The MOU provides a mechanism for consultation and cooperation between FINRA and the OSC, and establishes a strong framework to enhance the ability of the OSC and FINRA to oversee securities firms and markets. The arrangement will also facilitate the exchange of information on firms and individuals under common supervision, support collaboration on investigations and enforcement matters and provide a more complete view of market activity.

The MOU is subject to the approval of the Minister of Finance, and was delivered to the Minister on November 14, 2011. Subject to the Minister's approval, the MOU will take effect in Ontario on January 18, 2012.

Questions may be referred to:

Jean-Paul Bureaud
Manager
Office of Domestic and International Affairs
Tel: 416-593-8131
E-mail: jbureaud@osc.gov.on.ca

November 18, 2011

MEMORANDUM OF UNDERSTANDING ("MOU")

Between

Financial Industry Regulatory Authority, Inc. **1735 K Street, NW** **Washington, DC 20006** **("FINRA")**	**and**	**Ontario Securities Commission** **20 Queen Street West, Suite 1903** **Toronto, ON M5H 3S8** **("OSC")**

Recitals

A. The Financial Industry Regulatory Authority, Inc. (FINRA) is the largest independent regulator for all securities firms doing business in the United States, created in July 2007 through the consolidation of National Association of Securities Dealers, Inc. and the member regulation, enforcement and arbitration functions of the New York Stock Exchange (NYSE). In 2010, FINRA signed an agreement with NYSE Euronext whereby FINRA would assume the market surveillance and related enforcement functions for NYSE Euronext's U.S. equities and options markets, which encompass the NYSE, NYSE Arca, and NYSE-Amex markets. FINRA is dedicated to investor protection and market integrity through effective and efficient regulation.

B. The Ontario Securities Commission (OSC) is the regulatory body responsible for overseeing Ontario's capital markets. The OSC is a self-funded Crown corporation accountable to the Ontario Legislature through the Minister of Finance. The OSC administers and enforces Ontario's securities and commodity futures laws. Its mandate is to provide protection to investors from unfair, improper or fraudulent practices and to foster fair and efficient capital markets and confidence in capital markets. The OSC regulates various types of capital market participants. These participants include individuals and companies advising on or trading in securities or commodities futures (unless under an exemption), public companies, investment funds, self-regulatory organizations and marketplaces.

C. FINRA and OSC wish to enter into this MOU to provide a formal basis for the exchange of regulatory Information and investigative assistance.

Operative Part

Definitions

1. In this MOU, unless the context requires otherwise:

   a. "Administering" an applicable law, regulation or requirement includes enforcing the same;

   b. "Agency" or "Agencies" means a national or provincial governmental or non-governmental public agency responsible for prosecuting, regulating or enforcing Laws falling within the areas of responsibility of the Authority;

   c. "Authority" means FINRA or OSC. Together, FINRA and OSC are the "Authorities";

   d. "FINRA" means the Financial Industry Regulatory Authority, Inc.;

   e. "Information" means either Authority's confidential and regulatory information. For example, this could include any relevant information relating to the activities of the individuals or bodies regulated and supervised by the Authorities, in particular, trading activities, the registration and licensing information of supervised individuals or bodies, their disciplinary history, and with respect to supervisory examination and inspections, the substance of inspection reports (any and all issues identified and addressed during such examinations or inspections, actions (and action plans) taken in response to issues identified, and all outstanding issues), information on the transactions (name of client buy side/sell side, name of intermediary, and reason for operation), and any other information mutually agreed upon by the Authorities on a case-by-case basis;

   f. "Laws" means any law, regulation, or regulatory rules or requirement applicable in the United States of America and/or in Ontario and, where the context permits, includes any rule, guidance or policy made or given by or to be taken into account by an Authority;

   g. "OSC" means the Ontario Securities Commission;

   h. "Person" or "Persons" means a natural person, legal entity, partnership or unincorporated association;

i. "Requested Authority" means the Authority to whom the request is made under this MOU;

j. "Requesting Authority" means the Authority making a request under this MOU.

Purpose and Principles

2. The purpose of this MOU is to establish a formal basis for co-operation between the Authorities, including the exchange of Information.

3. This MOU does not modify or supersede any Laws in force and applying to the Authorities. This MOU sets forth a statement of intent and accordingly does not create any enforceable rights, any legally binding obligations or agreement. However, the provisions set forth in Sections 14, 15, 16, 17, and 18 shall be binding upon the Authorities and survive the termination of the MOU.

4. The Authorities acknowledge that they may provide Information under this MOU only if permitted or not prevented under any Laws or by any Agency.

Scope of Assistance

5. FINRA and OSC agree that the scope of assistance shall be as follows:

a. The Authorities will, within the framework of this MOU, provide each other with the fullest assistance permissible to secure compliance with the respective Laws of the Authorities.

b. In cases where the Information requested may be maintained by, or available to, another authority within the country of the Requested Authority, FINRA and OSC will endeavour to provide full assistance in obtaining the Information requested to the extent permitted by law. If necessary, the Requested Authority shall provide the Requesting Authority with sufficient Information to establish direct contact between the Requesting Authority and the other authority.

c. The Requested Authority shall endeavour to assist the Requesting Authority, through reasonable measures, in correcting inaccurate Information if such assistance is requested by the Requesting Authority.

d. Each request for assistance will be assessed on a case-by-case basis by the Requested Authority to determine whether assistance can be provided under the terms of this MOU and pursuant to any Laws. A request for assistance may be denied in whole or in part by the Requested Authority:

i. Where the request would require the Requested Authority to act in a manner that would violate domestic law;

ii. Where a criminal proceeding has already been initiated in the jurisdiction of the Requested Authority based upon the same facts and against the same Persons, or the same Persons have already been the subject of the final punitive sanctions on the same charges by the competent authorities of the jurisdiction of the Requested Authority, unless the Requesting Authority can demonstrate that the relief or sanctions sought in any proceedings initiated by the Requesting Authority would not be of the same nature or duplicative of any relief or sanctions obtained in the jurisdiction of the Requested Authority;

iii. Where the request is not made in accordance with the provisions of this MOU;

iv. Where the provision of assistance would be too burdensome so as to disrupt the proper performance of the Requested Authority's functions;

v. Where compliance with the request may otherwise be prejudicial to the performance by the Requested Authority of its functions or business objectives;

vi. On grounds of public interest or essential national or provincial interest; and

vii. Where the Authorities, after consultation, mutually agree that compliance with the request would not be in the best interests of either or both Authorities.

Assistance will not be denied based on the fact that the type of conduct under investigation would not be a violation of the Laws of the Requested Authority.

e. Where a request for assistance is denied, or where assistance is not available under domestic law, the Requested Authority will provide the reasons for not granting the assistance in writing to the Requesting Authority.

Provision of Unsolicited Information

6. The Authorities may provide to each other or arrange to be provided, to the extent permitted by their respective Laws and procedures, without prior request and solely on a voluntary basis, Information which they believe to be helpful to the other Authority for the discharge of its functions and for the purposes which they may specify in the communication.

Requests for Assistance

7. If a request for assistance is made, each Authority will use reasonable efforts to provide assistance to the other, subject to the Laws, jurisdictional limits, and 5(d) (iv). Assistance may include, but is not limited to:

a. Providing Information in the possession of the Requested Authority;

b. Obtaining specified Information from persons designated by the Requesting Authority or any third party who may possess the requested Information. Upon request, the Requested Authority will obtain other Information relevant to the request;

c. Seeking responses to questions and/or a statement (or where permissible, testimony under oath) from persons designated by the Requesting Authority, or from any third party who is in possession of Information that may assist in the execution of the request;

d. Unless otherwise arranged by the Authorities, Information requested under this MOU will be gathered in accordance with the procedures applicable in the jurisdiction of the Requested Authority and by persons designated by the Requested Authority. Where permissible under the Laws of the jurisdiction of the Requested Authority, a representative of the Requesting Authority may be present at the taking of statements and testimony, may ask questions and may provide specific questions to be asked of any witness;

e. Confirming or verifying Information provided to it for that purpose by the Requesting Authority; or

f. Exchanging Information on or discussing issues of mutual interest.

8. In the event that the Requesting Authority seeks additional Information, beyond 7(a)-(f) above, the Authorities will discuss the request on a case by case basis and may take additional steps provided that they are in furtherance of the Authorities' respective regulatory purposes.

9. Where the specific conduct set out in the request for assistance may constitute a breach of a law, regulation or requirement in both the territory of the Requesting and the Requested Authorities, the relevant Authorities will consult to determine the most appropriate means for each Authority to provide assistance.

Procedure for Requests

10. Requests for the provision of Information shall be made in writing. To facilitate assistance, the Requesting Authority should specify in any request:

a. The specific Information or other regulatory assistance requested. This should include reference to relevant Laws and/or a description of the supervisory review and/or the facts underlying the investigation that are subject of the request and the purpose for which the assistance is sought;

b. Any Information known to, or in the possession of, the Requesting Authority that might assist the Requested Authority in identifying either the persons believed to possess the Information or documents sought or the places where such Information may be obtained;

c. If Information is provided by the Requesting Authority for confirmation or verification, the Information and the kind of confirmation or verification sought;

d. How the Information is likely to be used, including the details of any possible onward disclosure of Information provided to the Requesting Authority, and including to whom such disclosure would be made and the purpose such disclosure would serve.

11. In instances of urgent circumstances, requests for assistance may be made by telephone, email or facsimile, provided such communication is confirmed through an original, signed document.

Permissible Use of Information

12. The Requesting Authority may use Information furnished in response to a request for assistance under this MOU solely for:

    a. The purposes set forth in the request for assistance, including ensuring compliance with the Laws related to the request; or

    b. A purpose within the general framework of the use stated in the request for assistance, including conducting an investigation or enforcement proceeding, or assisting in a self-regulatory organization's surveillance or enforcement activities (insofar as it is involved in the supervision of trading or conduct that is the subject of the request). This use may include enforcement proceedings which are public, and any attendant disclosure obligations.

13. If a Requesting Authority intends to use Information furnished under this MOU for any purpose other than those stated in 12(a) – (b) above, it must obtain the prior written consent of the Requested Authority.

Confidentiality

14. The Authorities agree that, to the extent permitted by their respective laws, they shall maintain strict confidentiality in respect of any Information, including but not limited to, non-public documents, data, or Information which has become known to them in connection with this MOU.

    a. The Authorities shall not use, disclose, copy or publish any Information for any purpose other than as provided under this MOU without the prior written approval of the Requested Authority unless or until the Information is:

        i. Lawfully in the receiving party's possession prior to this MOU and not under a duty of non-disclosure;

        ii. Voluntarily disclosed by a third party so long as that party is not under a duty of non-disclosure;

        iii. Voluntarily disclosed to the public by the Requested Authority; or

        iv. Generally known to the public.

    b. Except for permitted disclosure of non-public Information as provided in this Section 14, each Authority agrees:

        i That it will keep confidential all non-public Information shared under this MOU, including but not limited to, any requests made under this MOU, the fact and contents of such requests, and any other non-public matters arising under this MOU, consultations between or among the Authorities, and unsolicited assistance;

        ii That the Requesting Authority will request and obtain prior written consent from the Requested Authority before disclosing to a third party any non-public Information received from the Requested Authority;

    c. All intellectual property rights, title and interest associated with each Authority's Information, including without limitation, patent, trademark, copyright, trade secret rights, and moral rights shall remain in and the confidential information of the respective Authority. Further, neither Authority will use, in any manner, including advertising or publicity or in any way related to this MOU or the subject matter hereof, the name of the other Authority or its affiliates or any of their directors, officers, managers, employees, consultants or agents or any trade name, trademark, service mark, logo, symbol or copyright, whether any of the above are registered or unregistered, of the other Authority or its affiliates, except with the express written consent of such other Authority.

    d. If there is a legally enforceable demand for Information supplied under this MOU, the Authority that has received the demand will, to the extent permitted by law, notify the Authority that supplied the Information subject to the demand and receive its consent prior to disclosing such Information, unless this is not practicable for reasons of urgency. In the event of a legally enforceable demand, the Requesting Authority will notify the Requested Authority prior to complying with the demand. If the Requested Authority that supplied

the Information does not consent to such disclosure, then the Requesting Authority receiving the demand will use all reasonable legal means to resist such a demand, including asserting such appropriate legal exemptions or privileges with respect to that Information as may be available.

e. Notwithstanding anything otherwise set forth herein, the parties acknowledge that FINRA may be required to disclose Information to the SEC: a) in connection with the SEC's regulatory or oversight jurisdiction over FINRA; or b) in the course of fulfilling any of FINRA's regulatory responsibilities, including responsibilities under the Securities Exchange Act of 1934 or other applicable law. In the case of such disclosure, FINRA will use reasonable efforts to advise the SEC of any restrictions on the use or onward sharing of the Information as may be requested or imposed by the OSC. FINRA also agrees to use reasonable efforts to notify the OSC of any such disclosure to the SEC.

f. Where the specific conduct set out in the request for assistance may constitute a breach of a law, regulation or requirement in both the territory of the Requesting and the Requested Authorities, the Authorities will consult to determine the most appropriate means for each Authority to provide assistance.

Costs

15. If the cost of fulfilling a request is likely to be substantial (i.e., entail extraordinary efforts, or is outside the ordinary course of business), the Requested Authority may, as a condition of agreeing to give assistance under this MOU, require the Requesting Authority to make a contribution to costs.

Warranty Disclaimer and Limitation of Liability

16. The Authorities hereby disclaim and make no representations or warranties, express or implied, as to merchantability, non-infringement, data accuracy, accuracy of informational content, data handling capabilities, or otherwise, with respect to this MOU.

The Authorities will not be liable for, nor will the measure of damages include, any direct, indirect, incidental, special or consequential damages, including lost profits or savings, arising out of or relating to their actions or omission under this MOU, even if the Authorities have been advised of the possibility of such losses or damages; provided that, in the event of an actual or threatened breach of the Confidentiality provisions hereof, the Authority that has not breached or threatened to breach such provisions may pursue injunctive relief with respect thereto.

Commencement and Termination

17. This MOU will take effect after both Authorities have signed it and, with respect to the OSC, when it has been approved by the Ontario Minister of Finance, and will continue to have effect until terminated by either Authority giving thirty (30) days advance written notice to the other Authority.

Disputes

18. The Authorities shall use reasonable efforts to settle amicably all disputes arising out of or in connection with the MOU or its interpretation.

Contact Points

19. The Authorities will provide a list of contact points to which Information or requests for Information or assistance under this MOU should be directed, and which should be updated when necessary.

Entire Agreement

20. The Authorities agree that this MOU supersedes any outstanding agreements between the Authorities pursuant to which the Authorities share Information. All changes or modifications to this MOU must be agreed to in writing between the Authorities.

Executed by the Authorities:

FINRA
Rick Ketchum
Chairman & Chief Executive Officer
Financial Industry Regulatory Authority, Inc.
1735 K Street, NW
Washington, DC 20006

"Richard Ketchum"

Date: November 10, 2011

OSC
Howard Wetston
Chair
Ontario Securities Commission
20 Queen Street West, Suite 1903
Toronto, ON M5H 3S8

"Howard Wetston"

Date: November 10, 2011

1.4 Notices from the Office of the Secretary

1.4.1 Juniper Fund Management Corporation et al.

FOR IMMEDIATE RELEASE
November 10, 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 the hearing in this matter is adjourned to December 21, 2011 at 10:00 a.m.; and Mr. Brown shall provide the Commission with an update and further evidence about his progress and medical condition by November 30, 2011 at 5:00 p.m.

A copy of the Order dated November 9, 2011 is available at **www.osc.gov.on.ca**.

OFFICE OF THE SECRETARY
JOHN P. STEVENSON
SECRETARY

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Director, Communications & Public Affairs
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416-593-2361

Dylan Rae
Media Relations Specialist
416-595-8934

For investor inquiries:

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

1.4.2 Maple Leaf Investment Fund Corp. et al.

FOR IMMEDIATE RELEASE
November 10, 2011

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

AND

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

TORONTO – The Commission issued its Reasons and Decision following the hearing on the merits held in January 2011 in the above named matter.

A copy of the Reasons and Decision dated November 9, 2011 is available at **www.osc.gov.on.ca**.

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1.4.3 Carlton Ivanhoe Lewis et al.

FOR IMMEDIATE RELEASE
November 11, 2011

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

AND

IN THE MATTER OF
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

TORONTO – Following the release of the Reasons and Decision dated October 27, 2011, Staff of the Ontario Securities Commission filed an Amended Statement of Allegations dated January 10, 2011 with the Office of the Secretary in the above noted matter.

A copy of the Amended Statement of Allegations dated January 10, 2011 is available at **www.osc.gov.on.ca**.

OFFICE OF THE SECRETARY
JOHN P. STEVENSON
SECRETARY

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

AND

IN THE MATTER OF
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

AMENDED STATEMENT OF ALLEGATIONS

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

I. Overview

1. During 2007 and 2008, two separate but related foreign exchange ("forex") investment schemes were conceived and promoted to Ontario investors, one under the name of Prosporex and the other under the name Dominion. Both of the forex schemes involved persons holding insurance licences issued by the Financial Services Commission of Ontario ("FSCO") and their associates. This proceeding is in respect of the "Prosporex" scheme.

2. Both of the forex schemes were structured as "investment clubs". Individual investors signed investment contracts and pooled their funds with the funds of others, with the pooled funds to be invested by third party forex brokers in foreign exchange transactions. The investors were to share the resulting investment gains or losses.

3. Both of the forex investment schemes utilized multi-level or pyramid marketing techniques whereby investors were compensated to recruit others to purchase the forex investment contracts. In both of the forex schemes false promises and unrealistic forward looking statements about investment returns were made to the investors so as to persuade them to purchase the forex investment contracts.

4. Approximately $26 million in total was directed to both of the forex schemes; few if any investors received the return of their invested capital. The vast majority of the $26 million was borrowed from AGF Trust Company ("AGF Trust") pursuant to applications for RSP loans facilitated by the FSCO – licensed insurance agency. The Respondents knew that the forex investment was not an RSP eligible product. The Prosporex scheme concerns approximately $24 million of the total raised.

II. The Respondents

5. Carlton Ivanhoe Lewis ("Lewis") is an individual residing in the Province of Ontario. Lewis was licensed by the Financial Services Commission of Ontario ("FSCO") as a life insurance and an accident and sickness insurance agent until on or about May 27, 2009 at which his time license expired. Lewis was earlier registered with the Commission as a salesperson with a scholarship plan dealer, however that registration terminated on June 16, 2003 and Lewis has not been registered by the Commission in any capacity since that date.

6. Sedwick Hill ("Hill") is an individual residing in the Province of Ontario. Hill was registered in the category of mutual funds salesperson with Keybase Financial Group Inc., until October 29, 2009 at which time a temporary cease trade order was made against him by the Commission. Hill was also licensed with FSCO as a life insurance and accident and sickness insurance agent until November 18, 2008 at which time his license expired.

7. LeveragePro Inc. ("LeveragePro") was incorporated pursuant to the *Canada Business Corporations Act* by Lewis, Hill another individual on May 15, 2006. Hill and Lewis were the owners and directors of LeveragePro and were its directing minds. Hill and Lewis operated bank accounts on behalf of LeveragePro.

8. LeveragePro is not registered with the Commission in any capacity.

9. Mark Anthony Scott ("Scott") is a individual residing in the Province of Ontario. Scott held a FSCO license to sell insurance products, however that license expired several years before the events in issue. Scott has never been registered with the Commission in any capacity.

10. Lewis, Hill and Scott incorporated Prosporex Investment Club Inc. ("Prosporex") under the Ontario *Business Corporations Act* on May 18, 2007. Prosporex has never been registered by the Commission in any capacity.

11. During the course of operating the Prosporex investment scheme the principals of Prosporex caused related companies with variants of the "Prosporex" name to be incorporated in other jurisdictions for the purpose of facilitating the scheme. "Prosporex Investments Inc." and "Prosporex Ltd." were incorporated by Lewis on the island of Nevis in the West Indies. "Prosporex Inc." appears to be a trade name adopted by the principals of Prosporex, and Prosporex Forex SPV Trust is another entity established by them. These related Prosporex entities were often used interchangeably by the principals in their communications with investors; they were all wholly controlled by Lewis, Hill and Scott, and all were used to facilitate the Prosporex forex scheme and had no other business purpose.

12. For the purpose of this Statement of Allegations, all of the entities identified above are referred to collectively with the Prosporex Investment Club Inc. as "Prosporex".

13. Lewis, Scott and Hill were the directing minds of Prosporex and used it to conduct one of the two forex investment schemes referred to in paragraphs 1 and 2 of this Statement of Allegations.

14. Networth Financial Group Inc. was incorporated under the Ontario *Business Corporations Act* on January 12, 2004 by Scott and his spouse, Sharon Scott. Scott was the directing mind of Networth and used it to facilitate the Prosporex forex investment scheme.

15. Networth Marketing Solutions is an unincorporated entity created and controlled by Scott and also used by him to facilitate the Prosporex forex investment scheme. This unincorporated entity and Networth Financial Group Inc. are referred to collectively as "Networth".

Other Relevant Entities

16. LeveragePro was party to a distribution agreement with AGF Trust ("Distribution Agreement"). Pursuant to the Distribution Agreement, LeveragePro was able to make application to AGF Trust for RSP investment loans on behalf of its clients. The Distribution Agreement required all such loan proceeds to be directed to eligible investments.

III. Background Information

17. In or about 2007, Lewis, Hill and Scott became involved in a direct marketing campaign whereby forex investments would be promoted to individuals. Scott purported to have taken a course in forex trading and professed to be knowledgeable about investing in foreign exchange contracts.

18. Lewis, Hill and Scott jointly established an investment club whereby individuals would be solicited to pool their funds for investment by experienced forex traders in forex transactions. The members of the "club" were told that they would receive their proportionate share of the gains resulting from the forex trading. Prosporex was the entity into which the investors' funds would be placed for subsequent investment in foreign exchange transactions.

19. Investors signed a Prosporex Participation Agreement to subscribe to the forex investment; that Agreement was intended to govern the forex investment and provided in material part as follows:

> **"This agreement is for the purpose of participating collectively in the pooling of funds into Managed Foreign Currency Trading Accounts and sharing in the profits and loss of this initiative.**
>
> **PROSPOREX INVESTMENT CLUB INC. is not a Currency Trader or Brokerage House and does not make any claim to be so. We are simply managing the pooling of members to participate in this income generating service through our relationships with highly experienced Traders and Brokerage firms.**
>
> **Contributions are made by money order payable to PROSPOREX INVESTMENT CLUB INC.**
>
> **1) Monthly Payout Earn up-to 20% of your contribution payable monthly from net profits. Monthly deposits start 60 days after the account setup date and are made on the first day of each month or the next business day thereafter.**

2) Annual Renewable Earnings are compounded weekly from net profits. The Term starts on the account setup date.

I understand there will be no other expenses incurred on my behalf by PROSPOREX INVESTMENT CLUB INC. I understand that any costs for the wiring of funds from my contribution profit will be paid by me (the depositor). …

20. The forex investment as described in the above Agreement is an investment contract and hence a security within the meaning of the *Securities Act* ("the *Act*").

21. It was not disclosed to investors, either within the Prosporex Participation Agreement or otherwise, that their funds would be invested in anything other than the forex investment. It was not disclosed that investors' funds would be used to pay draws or salaries to the principals of Prosporex, or be directed to non-forex uses by the principals of Prosporex.

22. Individuals who wished to purchase the forex investment were told that in order to do so they had to first complete Networth forms and pay a fee to join Networth. There was no business reason to interpose Networth; it was merely a conduit through which fees were charged. Networth rendered no services in exchange for the fee paid by the Prosporex investors.

23. Prosporex operated from premises at 1315 Lawrence Avenue, East, Unit 404, Toronto, Ontario. Lewis, Hill and Scott conducted or caused to be conducted sales presentations at Prosporex's office at which prospective investors were advised to purchase the forex investment. They represented that forex investors would earn as much as 5% to 10% per month on their investment, and that they could expect to receive such returns on their investment each month if they chose the monthly payout option. Attendees who chose to become investors were also told that if they recruited others to invest they would receive additional compensation.

24. In order to facilitate Prosporex's sale of the forex investments, the principals of Prosporex directly or indirectly advised the investors to invest with borrowed funds. They engaged in a course of conduct whereby, under LeveragePro's Distribution Agreement with AGF Trust, LeveragePro would apply for RSP loans on behalf of the Prosporex investors. The loan proceeds would be received by LeveragePro then transferred by LeveragePro to Prosporex. Prosporex was to thereafter transfer the RSP loan proceeds to the forex traders to conduct forex transactions.

25. The principals of Prosporex submitted AGF Trust RSP Loan Applications to AGF Trust in the name of forex investors. The Application forms provided as follows:

"You acknowledge that it will be your responsibility to ensure the Loan proceeds are appropriately applied to RSP/RESP contributions. You agree to maintain your RSP/RESP as approved by AGF Trust Company ("AGF Trust"), until such time as the Loan is paid in full. For value received, you irrevocably authorize AGF Trust to advance and direct the Loan proceeds for contribution to an RSP/RESP as approved by AGF Trust."

26. Rather than AGF advancing the loans as RSP contributions, LeveragePro took advantage of the Multi Fund Option available under the Distribution Agreement. This permitted LeveragePro to receive the RSP Loan proceeds directly from AGF, subject to the following:

"You (viz. LeveragePro) agree to invest such loan proceeds in eligible investments in accordance with the Customer's Investment instructions upon receipt of Loan proceeds from AGF Trust."

27. Lewis, Hill and Scott all knew or ought to have known that the forex investment was not an RSP eligible investment. They signed (in the case of Lewis) or caused to be signed AGF Trust RSP Loan Applications which falsely represented that the proceeds would be invested in RSP-eligible products. They knew or ought to have known that AGF Trust would not have lent the funds it did to LeveragePro had it known that the loan proceeds were not going to be invested in RSP eligible investments.

28. LeveragePro, Lewis, Hill and Scott knowingly participated in misleading AGF Trust. During the period of time that Prosporex operated approximately $25 million was borrowed from AGF Trust pursuant to RSP Loan Applications and not directed to RSP products as required by the Distribution Agreement and the Loan Application.

29. The Respondents misrepresented to the investors that their invested capital (being the amount of each investor's AGF RSP Loan) would be invested in forex investments. Contrary to that representation, Staff to date have determined that the Respondents:

a) Invested less than half of the investors' capital with forex brokers;

b) Used investors' capital to pay them out the monthly payouts of "up to 20%" on their capital which had been promised in the Prosporex Participation Agreement;

c) Paid $1,704,422 to or for the benefit of Sedwick Hill;

d) Paid $1,712,768 to or for the benefit of Ysis Entertainment Inc., a corporation of which Hill was an owner, officer and director and which promoted a theatre show;

e) Paid $553,975 to or for the benefit of Carlton Lewis;

f) Paid $94,723 to or for the benefit of Mark Scott;

g) Paid or caused to be paid approximately $3 million into New Zealand Bank accounts in the name of Global Fin Net Ltd. T/A Prosporex, which were under the control of Scott. From one of the New Zealand accounts, approximately $2 million was transferred to offshore banks for which there has been no accounting. Scott also caused payments to be made from these New Zealand accounts to Networth and another company in which he had an interest. The net impact of the above on the Prosporex Investment Club investors was $1,421,200.

h) Paid $1 million dollars to invest in waste management technology;

i) Directed funds to the promoters of other (non-forex) off-shore investment schemes; and

j) Paid $770,000 to establish a business in Jamaica, of which $370,000 was paid directly to Carlton Lewis.

IV. Allegations

The Deception of AGF Trust

30. As described above, $25 million worth of RSP loans were facilitated by LeveragePro and its principals and the loan proceeds were diverted to non-RSP uses. When an AGF Trust representative attempted to question LeveragePro about these loans, Lewis and Hill misled the AGF Trust representative so as to be able to continue the Prosporex investment scheme.

The Deception of Prosporex Investors

31. Prosporex investors who elected the monthly payout option under their Prosporex Participation Agreement received cheques issued by Networth and Prosporex purporting to represent monthly returns from the forex trading net profits.

32. These returns did not derive from actual forex trading profits. Lewis and Hill between themselves decided on a ad hoc basis each month what amount to return to investors and cheques were issued accordingly. The monthly "payouts" were funded by new money coming into the forex investment scheme from later Prosporex investors.

33. The object of paying these false "returns" was to deceive investors into thinking that the forex investment was very profitable. By this means investors were induced to increase their investment in Prosporex and to recruit friends and family to become investors in Prosporex.

The unregistered distribution of securities and the unregistered sale and advising in relation to securities

34. Lewis, Hill and Scott were at no time registered to advise in or to trade securities. The creation and sale of the forex investment contracts by them and by Prosporex was a distribution of securities within the meaning of the *Act*. The activities of Lewis, Hill and Scott in promoting and selling the forex investment to investors constituted offering securities advice and effecting securities trades. None of the Respondents were registered in either capacity.

35. The majority of Prosporex investors lost all or substantially all of their invested capital. As that capital was virtually all borrowed from AGF Trust they remain indebted to AGF Trust for the amounts of their RSP loans. The present value of their Prosporex investment is nil. The investors have been financially harmed by virtue of their involvement with the Respondents.

V. Conduct Contrary to Public Interest

36. Lewis, Hill, Scott, Prosporex and Networth have engaged in the unregistered trading of securities and the unregistered advising in securities, contrary to Sections 25(1)(a) and (c) of the *Act*;

37. Lewis, Hill, Scott and Prosporex engaged in an illegal distribution of securities contrary to Section 53(1) of the *Act*;

38. Lewis, Hill, Scott, Prosporex and Networth engaged in fraudulent or misleading conduct contrary to Sections 126.1 and 126.2 of the *Act*;

39. All Respondents acted contrary to the public interest; and

40. Such further allegations as Staff may advise and the Commission permit.

DATED at Toronto, the 10th day of January, 2011.

1.4.4 Bernard Boily

FOR IMMEDIATE RELEASE
November 15, 2011

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

AND

IN THE MATTER OF
BERNARD BOILY

TORONTO – The Commission issued an Order in the above named matter which provides that this matter is adjourned to a confidential pre-hearing conference to be held on December 13, 2011 at 9:00 a.m.

A copy of the Order dated November 10, 2011 is available at **www.osc.gov.on.ca.**

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1.4.5 MBS Group (Canada) Ltd. et al.

FOR IMMEDIATE RELEASE
November 16, 2011

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

AND

IN THE MATTER OF
MBS GROUP (CANADA) LTD., BALBIR AHLUWALIA
AND MOHINDER AHLUWALIA

TORONTO – Take notice that the hearing to consider a further extension of the Temporary Order has been rescheduled to be heard on November 29, 2011 at 10:00 a.m. at the office of the Commission and not on December 1, 2011.

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Chapter 2

Decisions, Orders and Rulings

2.1 Decisions

2.1.1 3P International Energy Corp.

Headnote

Multilateral Instrument 11-102 Passport System and National Policy 11-203 Process for Exemptive Relief Applications in Multiple Jurisdictions – Exemption from requirements in subsection 4.11(4), 4.12(1) and 4.14(1) of National Instrument 52-107 Acceptable Accounting Principles and Auditing Standards (NI 52-107) to reconcile acquisition statements to the issuer's GAAP, permit the use of ISAs and to prepare the *pro forma* financial statements in accordance with issuer's GAAP – The Filer wants relief from the requirement to include a reconciliation to Canadian GAAP in annual financial statements of the acquired business and to have those statements audited in accordance with Canadian or US GAAS – The Filer will prepare *pro forma* financial statements in accordance with the guidance set out in section 8.7(9) of Companion Policy 51-102CP as it applies to financial years beginning on or after January 1, 2011 for all periods presented.

Applicable Legislative Provisions

National Instrument 52-107 Acceptable Accounting Principles and Auditing Standards, s. 5.1.

November 10, 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
3P INTERNATIONAL ENERGY CORP.
(the "Filer")

DECISION

Background

The principal regulator in the Jurisdiction has received an application from the Filer for a decision under the securities legislation of the Jurisdiction of the principal regulator (the "**Legislation**") exempting the Filer from certain requirements in National Instrument 52-107 – *Acceptable Accounting Principles and Auditing Standards* ("**NI 52-107**"). Specifically, the Filer seeks the following relief:

1. that the acquisition statements (the "**Acquisition Statements**") of JSC Tysagaz ("**Tysagaz**") may be audited in accordance with International Standards on Auditing ("**ISA**") issued by the International Auditing and Assurance Standards Boards ("**IAASB**") notwithstanding section 4.12(1) of NI 52-107;

2. that the requirement under section 4.11(4) of NI 52-107 to reconcile acquisition statements to the issuer's generally accepted accounting principles ("**GAAP**") does not apply to the Acquisition Statements; and

3. that the *pro forma* statements of the Filer to be included in the business acquisition report (the "**BAR**") to be filed by the Filer in respect of the acquisition of JSC Tysagaz be prepared in accordance with International Financial Reporting

Standards, ("**IFRS**") as issued by the International Accounting Standards Board ("**IASB**") notwithstanding subsection 4.14(1) of NI 52-107

(collectively, the "**Exemption Sought**").

Under National Policy 11-203 *Process for Exemptive Relief Applications in Multiple Jurisdictions* (for a passport application):

(a) The Ontario Securities Commission (the "**Commission**") is the principal jurisdiction for the application; and

(b) The Filer has provided notice that section 4.7(1) of Multilateral Instrument 11-102 *Passport System* is intended to be relied upon in each of British Columbia and Alberta (the "**Non-Principal Passport Jurisdictions**").

Interpretation

Terms defined in National Instrument 14-101 *Definitions* and NI 52-107 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 exists pursuant to articles of incorporation dated April 3, 2008 filed in accordance with the *Business Corporations Act* (Ontario).

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

3. The Filer's common shares are listed on the TSX Venture Exchange (the "**TSXV**") under the symbol "DOH" and the Filer is a reporting issuer in Ontario and the Non-Principal Passport Jurisdictions.

4. The Filer is a "venture issuer" within the meaning of National Instrument 51-102 *Continuous Disclosure Obligations* ("**NI 51-102**"), and has been and is anticipated to be a "venture issuer" at all relevant times for the purposes of this application.

5. The Filer's financial year end is June 30 of each year.

6. The Filer is not, to its knowledge, in default of its reporting issuer obligations under the Legislation and the legislation of the Non-Principal Passport Jurisdictions.

7. The Filer's annual financial statements for the years up to and including the financial year ended June 30, 2011 have been prepared in accordance with Canadian GAAP determined with reference to Part V of the Canadian Institute of Chartered Accountants ("**CICA**") Handbook applicable to publicly accountable enterprises ("**Canadian GAAP**") and audited in accordance with Canadian GAAS.

8. The Filer's annual financial statements for the current financial year, commencing July 1, 2011 and ending June 30, 2012, will be prepared in accordance with IFRS, as per Part I of the CICA Handbook applicable to publicly accountable enterprises for financial years beginning on or after January 1, 2011, and will be audited in accordance with Canadian GAAS.

9. The Filer's first interim period for its current financial year ended on September 30, 2011.

10. The Filer's interim financial report for the interim period ended September 30, 2011 (the "**Q1 Interim Financial Report**"), will be prepared in accordance with IFRS.

11. Due to the 30-day extension to the filing deadline applicable to an issuer's first IFRS interim financial report, the deadline to file an issuer's first IFRS interim financial report for a venture issuer is the 90th day after the end of the interim period, which will be December 29, 2011 for the Filer's Q1 Interim Financial Report.

JSC Tysagaz Acquisition

12. On September 6, 2011, the Filer completed the acquisition of all of the issued and outstanding shares of Tysagaz, a Ukrainian company with operations in the Ukraine. A material change report dated September 12, 2011 with respect to the acquisition of Tysagaz has been filed on the System for Electronic Document Analysis and Retrieval ("**SEDAR**").

13. Tysagaz is an operating business that has had continuous activity for a number of years.

14. The acquisition of Tysagaz is a "significant acquisition" for the Filer within the meaning of Part 8 of NI 51-102. Consequently, the filer must file a BAR in accordance with Part 8 of NI 51-102 within 75 days of the completion of the acquisition.

15. Tysagaz' year end is December 31 of each year.

Presentation of Acquisition Statements and Pro Forma Financial Statements

16. Subsection 4.11(4) of NI 52-107 provides that if acquisition statements are prepared using accounting principles that are different from the issuer's GAAP, the acquisition statements must, among other things, be reconciled to the Filer's GAAP.

17. Subsection 4.12(1) of NI 52-107 provides that acquisition statements must be audited in accordance with Canadian GAAS or U.S. GAAS. Although subsection 4.12(2) of NI 52-107 provides limited exceptions to the general requirements set out in subsection 4.12(1) of NI 52-107, the exceptions do not apply in the context of the Tysagaz Acquisition.

18. Subsection 4.14(1) of NI 52-107 provides that *pro forma* financial statements must be prepared in accordance with the issuer's GAAP.

19. The Filer is seeking to present the most meaningful financial information to investors in the context of the Filer's transition to IFRS. The Filer believes that the presentation of the Acquisition Statements and the *pro forma* financial statements to be included in the BAR (the "**Pro Forma Statements**") in IFRS would constitute higher quality financial information than if the Acquisition Statements are reconciled to, and the Pro Forma Statements presented in, Canadian GAAP.

20. The Filer believes that the rationale for presenting the Acquisition Statements and the Pro Forma Statements of the Filer in IFRS is supported by the fact that the Filer will be presenting its financial statements in IFRS on a go-forward basis.

21. The Acquisition Statements of Tysagaz to be included in the BAR will be prepared in accordance with IFRS.

22. The Acquisition Statements for the year ended December 31, 2010 will be audited by Baker Tilly (Ukraine).

23. The auditor of Tysagaz has represented to the Filer that the auditor has expertise and experience in ISA issued by the IAASB.

24. The Filer will include in the BAR clear disclosure as to the basis of presentation of the Acquisition Statements and the fact that the Acquisition Statements have been audited in accordance with ISA issued by the IAASB.

25. The Pro Forma Statements will be prepared in accordance with the guidance in section 8.7(9) of Companion Policy 51-102CP as it applies to financial years beginning on or after January 1, 2011. As part of the preparation of the required Pro Forma Statements, the Filer will identify accounting policy differences between Canadian GAAP and IFRS that would potentially have a material impact and which could be reasonably estimated, and will describe such differences in the notes to the Pro Forma Statements in the course of describing the adjustments presented relating to the financial results of the Filer.

26. Paragraph 20 of Part 1 of the Assurance Handbook of the Canadian Institute of Chartered Accountants provides that the ISA issued by the IAASB have been adopted as Canadian Auditing Standards for audits of financial statements for periods ending on or after December 14, 2010.

27. The Filer believes that the relief sought herein is appropriate in the context of transition to IFRS and would ultimately provide investors with the most meaningful financial information regarding the Filer and its business.

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 Filer includes in the BAR, Acquisition Statements for Tysagaz for the year ended December 31, 2010 that are prepared in accordance with IFRS as issued by the IASB, are audited in accordance with ISA issued by the IAASB, and are accompanied by an auditor's report that does not contain a reservation;

(b) the *Pro forma* Statements in the BAR:

(i) are prepared in accordance with the guidance in section 8.7(9) of Companion Policy 51-102CP as it applies to financial years beginning on or after January 1, 2011 and the material differences between the Filer's GAAP and the accounting principles used to prepare the Pro Forma Statements are explained;

(ii) quantify the effect of materials differences between the Filer's GAAP and the accounting principles used to prepare the Pro Forma Statements that relate to recognition, measurement and presentation, including a tabular reconciliation between net income reported in the Filer's financial statements and net income computed for purposes of the Pro Forma Statements;

(c) the Filer includes in the BAR its opening transition date statement of financial position as at July 1, 2010;

(d) the Filer includes in the BAR its equity reconciliations as described in paragraph 24(a) of IFRS *1 First-time Adoption of International Financial Reporting Standards* ("IFRS 1") (supplemented by the details required by paragraphs 25 and 26 of IFRS 1); and

(e) the BAR otherwise complies with the requirements of Form 51-102F4 *Business Acquisition Report*.

"Kelly Gorman"
Deputy Director, Corporate Finance Branch
Ontario Securities Commission

2.1.2 AlphaPro Management Inc. et al.

Headnote

National Policy 11-203 Process for Exemptive Relief Applications in Multiple Jurisdictions – relief granted from NI 81-102 to permit mutual funds to invest in underlying ETFs that are mutual funds and to allow top funds to pay brokerage commissions for purchase or sale of ETF units – relief needed because underlying ETFs are mutual funds that do not file simplified prospectus and are not index participation units and because top funds and underlying ETFs are managed by the same manager or an affiliate – underlying ETFs are subject to NI 81-102 and are not commodity pools under NI 81-104 – units will be primarily bought or sold over the exchange on the same conditions as other securities traded on the exchange– relief subject to no short-selling of underlying ETFs by top funds, and underlying ETFs must not rely on relief from sections 2.3, 2.6(a) and (b), 2.7 and 2.8 of NI 81-102.

Applicable Legislative Provisions

National Instrument 81-102 Mutual Funds, ss. 2.5(2)(a) and (e), 19.1.

October 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
ALPHAPRO MANAGEMENT INC.
HORIZONS INVESTMENT MANAGEMENT INC.
JOVFINANCIAL SOLUTIONS INC.
(the Filers)

AND

THE TOP FUNDS
(as defined below)

DECISION

BACKGROUND

The principal regulator in the Jurisdiction has received an application from the Filers for a decision under the securities legislation of the Jurisdiction of the principal regulator (the **Legislation**) for an exemption (the **Exemption Sought**) relieving the existing mutual funds listed at Schedule "A", Schedule "B" and Schedule "C" (the **Existing Top Funds**) and such mutual funds that may be managed by the Filers or their affiliates in the future (the **Future Top Funds**, and together with the Existing Top Funds, the **Top Funds** and individually, a **Top Fund**) that are subject to National Instrument 81-102 – *Mutual Funds* (**NI 81-102**), from the prohibitions in:

(a) paragraph 2.5(2)(a) of NI 81-102 to permit each Top Fund to invest in exchange traded mutual funds that are not subject to National Instrument 81-101 – *Mutual Fund Prospectus Disclosure* (**NI 81-101**); and

(b) paragraph 2.5(2)(e) of NI 81-102 to permit each Top Fund to pay brokerage commissions in relation to its purchase and sale on a recognized exchange of securities of exchange traded mutual funds that are managed by the Filers, or an affiliate or associate of the Filers

(collectively, the **Exemption Sought**).

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

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

(b) the Filers have provided notice that section 4.7(1) of Multilateral Instrument 11-102 – *Passport System* (**MI 11-102**) is intended to be relied upon in each of the other provinces and territories of Canada.

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:

About the Filers

1. AlphaPro Management Inc. (**AlphaPro**) is a corporation incorporated pursuant to the laws of Canada, and Horizons Investment Management Inc. (**Horizons Investment**) and JovFinancial Solutions Inc. are corporations incorporated pursuant to the laws of the Province of Ontario.

2. The Filers, or an affiliate of the Filers, acts as, or will act as, the investment fund manager of the Top Funds.

3. The Filers are not in default of the securities legislation of any of the provinces or territories of Canada.

About the Top Funds

4. The Top Funds are, or will be, open-ended mutual funds organized and governed under the laws of a jurisdiction of Canada.

5. The Top Funds are or will be governed by the provisions of NI 81-102.

6. Each Top Fund distributes securities pursuant to a simplified prospectus and annual information form prepared under NI 81-101 or a long form prospectus prepared under Form 41-101F2 – *Information Required in an Investment Fund Prospectus* (**Form 41-101F2**).

7. The Top Funds are, or will be, reporting issuers in some or all of the provinces and territories of Canada.

8. The Existing Top Funds are not in default of any requirements of the securities legislation of any province or territory of Canada.

9. The Filers would like to be able to invest the assets of the Top Funds in the exchange traded funds listed at Schedule "D" (the **Existing Underlying ETFs**) and such future exchange-traded mutual funds that may be established by AlphaPro or its affiliates or associates in the future (the **Future Underlying ETFs** and together with the Existing Underlying ETFs, the **Underlying ETFs** or individually an **Underlying ETF**).

10. The investment by a Top Fund in securities of an Underlying ETF will be made in accordance with the fundamental investment objective of the Top Fund and will represent the business judgment of responsible persons uninfluenced by considerations other than the best interests of the Top Funds.

About the Underlying ETFs

11. AlphaPro or an affiliate is or will be the investment fund manager of the Underlying ETFs.

12. Each Underlying ETF is, or will be:

    (a) an open end mutual fund, subject to NI 81-102 and National Instrument 41-101 – *General Prospectus Requirements* (**NI 41-101**);

    (b) a reporting issuer each of the provinces and territories of Canada; and

(c) listed on the Toronto Stock Exchange (the **TSX**) or another "recognized exchange" in Canada as that term is defined in securities legislation.

13. The Existing Underlying ETFs are not in default of any requirements of the securities legislation of any province or territory of Canada.

14. Each Underlying ETF distributes, or will distribute, its securities pursuant to a long form prospectus prepared under Form 41-101F2.

15. Each Underlying ETF does not or will not, at the time of purchase by a Fund, hold more than 10% of the market value of its net assets in securities of other mutual funds other than securities of money market funds or index participation units.

16. Each Underlying ETF issues, or will issue, units which are qualified for distribution in each of the provinces and territories of Canada.

17. The Underlying ETFs do not or will not issue "index participation units" as defined in NI 81-102.

18. Each Underlying ETF does not or will not pay management or incentive fees which to a reasonable person would duplicate a fee payable by the Top Funds for the same service.

19. Where the investment fund manager of a Top Fund (the **Top Fund Manager**) determines that the management fees and incentive fees (the **Fees**) payable by an Underlying ETF to its investment fund manager (the **Underlying ETF Manager**) would duplicate a fee payable by the Top Fund for the same service, either

(a) The Underlying ETF Manager will pay a management fee rebate to the Top Fund that is equal to the Fees paid to it by that Underlying ETF and the Top Fund Manager will pay an amount equal to those Fees to the Underlying ETF Manager; or

(b) The Top Fund Manager will pay to the Top Fund an amount equal to the Fees payable to the Underlying ETF Manager in respect of the Top Fund's investment in the Underlying ETF.

20. Holders of units of an Underlying ETF may:

(a) sell units of an Underlying ETF on the TSX or another recognized exchange in Canada on which units of an Underlying ETF are listed for trading;

(b) redeem units of that Underlying ETF in any number for cash at a redemption price of 95% of the closing price for the unit on the applicable exchange on the effective day of redemption; or

(c) redeem or exchange a prescribed number of units (a **PNU**) of the Underlying ETF for cash or securities equal to the net asset value of each PNU tendered for redemption or exchange, respectively.

21. Each Underlying ETF may, from time to time, retain:

(a) National Bank Financial Inc., an associate of AlphaPro, to act as its designated broker, distributor and securities lending agent;

(b) Natcan Investment Management Inc., an associate of AlphaPro, to act as portfolio sub-adviser;

(c) Horizons Investment, an affiliate of each Filer, to act as its manager, trustee, or portfolio manager; and

(d) Leon Frazer & Associates Inc., currently an affiliate of each Filer, to act as its manager, trustee, portfolio manager, or sub-adviser.

22. Each Underlying ETF is not, or will not be, a commodity pool governed by National Instrument 81-104 – *Commodity Pools* (**NI 81-104**).

23. No Underlying ETF has, or will have, a net market exposure greater than 100% of its net asset value.

24. The Existing Underlying ETFs primarily achieve, and Future Underlying ETFs will primarily achieve, their investment objectives through direct holdings of securities and, in some circumstances, through investment in specified derivatives

for hedging and non-hedging purposes, in accordance with their investment objectives and strategies and with NI 81-102.

25. All brokerage costs related to trades in securities of the Underlying ETFs will be borne by the Top Funds in the same manner as any other portfolio transaction made on an exchange.

26. If a Top Fund makes a trade in securities of an Underlying ETF with or through an affiliate or associate of the Filers acting as dealer, the Filers will comply with their obligations under National Instrument 81-107 *Independent Review Committee for Investment Funds* in respect of any proposed related party transactions. Lastly, all such related party transactions will be disclosed to securityholders of the relevant Top Fund in its management report of fund performance.

Reasons for the Exemption Sought

27. An investment in an Underlying ETF by a Top Fund is an efficient and cost effective alternative to administering one or more investment strategies directly or engaging a sub-adviser to implement an investment strategy for a Top Fund.

28. Absent the Exemption Sought, an investment by a Top Fund in an Underlying ETF would be prohibited by paragraph 2.5(2)(a) of NI 81-102 solely because the Underlying ETF is not governed by NI 81-101.

29. An investment by a Top Fund in an Underlying ETF would not qualify for the exemption in paragraph 2.5(3) of NI 81-102 from paragraph 2.5(2)(a) of NI 81-102 because the Underlying ETF does not issue index participation units.

30. The only material difference between the Underlying ETFs and any other mutual fund governed by NI 81-102 is the method of distribution. If the Exemption Sought is granted, the Top Funds will be permitted to purchase units of a mutual fund that is listed on the TSX (or other recognized exchange) in the same manner that they are permitted to invest in a mutual fund that is not listed on the applicable exchange.

31. It is anticipated that many of the trades conducted by the Top Funds would not be of the size necessary for the Top Fund to be eligible to purchase or redeem a PNU directly from the Underlying ETF. As a result, it is anticipated that the majority of trading in respect of units of the Underlying ETFs will be conducted in the secondary market using the facilities of a recognized exchange.

32. Absent the Exemption Sought, when the Top Funds trade securities of an Underlying ETF on a recognized exchange, paragraph 2.5(2)(e) would not permit the Fund to pay any brokerage fees incurred in connection with the trade.

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) a Top Fund does not short sell securities of an Underlying ETF; and

(b) the Underlying ETFs do not rely on exemptive relief from

(i) the requirements of section 2.3 of NI 81-102 regarding the purchase of physical commodities;

(ii) the requirements of sections 2.7 and 2.8 of NI 81-102 regarding the purchase, sale or use of specified derivatives, with the exception of the relief from paragraphs 2.7(1)(a) and 2.8(1) of NI 81-102 granted to certain Underlying ETFs pursuant to the In the Matter of AlphaPro Management Inc. decision dated November 18, 2010; and

(iii) paragraphs 2.6 (a) and (b) of NI 81-102 with respect to the use of leverage.

“Chantal Mainville”
Acting Manager, Investment Funds Branch
Ontario Securities Commission

SCHEDULE "A"

ALPHAPRO FUNDS

Fund Name	Manager Trustee	Portfolio Manager	Portfolio Sub-Adviser
Horizons Dividend ETF	AlphaPro Management Inc.	Horizons Investment Management Inc.[1]	Leon Frazer & Associates Inc.[1]
Horizons Global Dividend ETF	AlphaPro Management Inc.	Horizons Investment Management Inc.[1]	Guardian Capital LP
Horizons North American Value ETF	AlphaPro Management Inc.	Horizons Investment Management Inc.[1]	Patient Capital Management Inc.
Horizons North American Growth ETF	AlphaPro Management Inc.	Horizons Investment Management Inc.[1]	n/a
Horizons Balanced ETF	AlphaPro Management Inc.	Horizons Investment Management Inc.[1]	Hillsdale Investment Management Inc.
Horizons Corporate Bond ETF	AlphaPro Management Inc.	Horizons Investment Management Inc.[1]	Natcan Investment Management Inc.[2]
Horizons Preferred Share ETF	AlphaPro Management Inc.	Horizons Investment Management Inc.[1]	Natcan Investment Management Inc.[2]
Horizons Floating Rate Bond ETF	AlphaPro Management Inc.	Horizons Investment Management Inc.[1]	Natcan Investment Management Inc.[2]

[1] Affiliate of the Manager
[2] Affiliate of a minority shareholder of the Manager

SCHEDULE "B"

HORIZONS INVESTMENT FUNDS

Fund Name	Manager	Trustee	Portfolio Manager	Portfolio Sub-Adviser
Jov Prosperity Canadian Fixed Income Fund	Horizons Investment Management Inc.	RBC Dexia Investor Services Trust	T.E. Investment Counsel Inc.[1]	Addenda Capital Inc.
				Canso Investment Counsel Inc.
Jov Prosperity Canadian Equity Fund	Horizons Investment Management Inc.	RBC Dexia Investor Services Trust	T.E. Investment Counsel Inc.[1]	Triasima Portfolio Management Inc.
				McLean Budden Limited
				Foyston, Gordon & Payne Inc.
Jov Prosperity U.S. Equity Fund	Horizons Investment Management Inc.	RBC Dexia Investor Services Trust	T.E. Investment Counsel Inc.[1]	Epoch Investment Partners, Inc.
				McLean Budden Limited
Jov Prosperity International Equity Fund	Horizons Investment Management Inc.	RBC Dexia Investor Services Trust	T.E. Investment Counsel Inc.[1]	n/a

[1] Affiliate of the Manager

SCHEDULE "C"

JOVFINANCIAL FUNDS

Fund Name	Manager	Trustee	Portfolio Manager	Portfolio Sub-Adviser
Jov Leon Frazer Preferred Equity Fund	JovFinancial Solutions Inc.	JovFinancial Solutions Inc.	Leon Frazer & Associates Inc.[1]	n/a
Jov Bond Fund	JovFinancial Solutions Inc.	JovFinancial Solutions Inc.	Leon Frazer & Associates Inc.[1]	n/a
Jov Leon Frazer Dividend Fund	JovFinancial Solutions Inc.	JovFinancial Solutions Inc.	Leon Frazer & Associates Inc.[1]	n/a
Jov Conservative ETF Portfolio	JovFinancial Solutions Inc.	JovFinancial Solutions Inc.	Hahn Investment Stewards & Company Inc.[2]	n/a
Jov Balanced ETF Portfolio	JovFinancial Solutions Inc.	JovFinancial Solutions Inc.	Hahn Investment Stewards & Company Inc.[2]	n/a
Jov Growth ETF Portfolio	JovFinancial Solutions Inc.	JovFinancial Solutions Inc.	Hahn Investment Stewards & Company Inc.[2]	n/a
Jov Canadian Equity Class of Jov Corporate Funds Ltd.	JovFinancial Solutions Inc.	n/a	Leon Frazer & Associates Inc.[1]	T.I.P. Wealth Manager Inc.

[1] Affiliate of the Manager
[2] Associate of the Manager

SCHEDULE "D"

EXISTING UNDERLYING ETFS

Horizons Dividend ETF
Horizons Global Dividend ETF
Horizons North American Value ETF
Horizons North American Growth ETF
Horizons Balanced ETF
Horizons Corporate Bond ETF
Horizons Preferred Share ETF
Horizons Floating Rate Bond ETF
Horizons Enhanced Income Equity ETF
Horizons Enhanced Income Energy ETF
Horizons Enhanced Income Financials ETF
Horizons Enhanced Income Gold Producers ETF
Horizons Enhanced Income US Equity (USD) ETF
Horizons Enhanced Income International Equity ETF

2.1.3 Uranium Participation Corporation

Headnote

NP 11-203 – National Instrument 81-106 Investment Fund Continuous Disclosure – Exemption from the requirement to prepare on a continuing basis financial statements in accordance with Canadian generally accepted accounting principles – A closed-end mutual fund trust listed on the TSX – Significant IFRS issues such as classification of puttable instruments and consolidation are not expected to impact the Fund's financial statements.

Applicable Legislative Provisions

National Instrument 81-106 Investment Fund Continuous Disclosure, ss. 2.6, 17.1.

October 25, 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
URANIUM PARTICIPATION CORPORATION
(the Filer)

DECISION

Background

The principal regulator in the Jurisdiction has received an application from the Filer for a decision under the securities legislation of the Jurisdiction of the principal regulator (the **Legislation**) for exemptive relief pursuant to section 17.1 of National Instrument 81-*106 Investment Fund Continuous Disclosure* (**NI 81-106**) from the requirement under section 2.6 of NI 81-106 to permit the financial statements of the Filer to be prepared in accordance with International Financial Reporting Standards as issued by the International Accounting Standards Board (**IFRS-IASB**) rather than Canadian generally accepted accounting principles (**Canadian GAAP**) (the **Exemption Sought**).

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

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

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

Interpretation

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

Representations

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

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

2. The Filer is a reporting issuer in all provinces and territories of Canada.

3. The Filer is not in default of securities legislation in any province of Canada.

4. The Filer is its own investment fund manager, and has applied to the Ontario Securities Commission to be registered as such.

5. The Filer was incorporated on March 15, 2005 under the *Business Corporations Act* (Ontario).

6. The Filer is an "investment fund" as defined in the *Securities Act* (Ontario) and is subject to NI 81-106.

7. As disclosed in the Annual Information Form for the Filer dated May 19, 2011, the investment and operation restrictions of the Filer provide that, among other things, at least 85% of the gross proceeds from any offering by the Filer will be invested or held for investment in uranium. Pursuant to the By-laws of the Filer, the Filer retains the remaining 15% in cash for paying expenses of the Filer.

8. The authorized capital of the Filer is an unlimited number of common shares (the **Common Shares**).

9. The Common Shares of the Filer are listed for trading on The Toronto Stock Exchange.

10. The net asset value of the Filer is calculated and published monthly.

11. The Filer's year end is February 28.

12. As an investment fund, the Filer is required to file financial statements on a semi-annual basis.

13. Most publicly accountable enterprises transitioned their financial statements for financial years beginning on or after January 1, 2011 to IFRS-IASB. The Canadian Accounting Standards Board has confirmed that the transition date for investment companies is January 1, 2013. The Filer wishes to adopt IFRS-IASB early in order to present its financial statements on the same basis as other similar Canadian listed issuers.

14. The Filer has been preparing for the implementation of IFRS-IASB over the last few years.

15. The Filer, in consultation with its external auditors, has made a significant commitment of time and resources to fully research and plan for the impact of its adoption of IFRS-IASB for financial periods prior to January 1, 2013 including, but not limited to, the consideration of the impact of IFRS-IASB on financial statement presentation and related disclosure requirements under applicable securities legislation, internal controls, investor relations, information technology systems, and business and contractual arrangements with service providers to the Filer.

16. The Filer has carefully assessed the readiness of its employees, management and board of directors for its adoption of IFRS-IASB for financial periods beginning on or after March 1, 2011, and has concluded that all such persons are adequately prepared for the Filer's adoption of IFRS-IASB for financial periods beginning on or after March 1, 2011.

17. The Filer, in consultation with its external auditors, has determined that the Common Shares can be classified as equity instruments under IFRS-IASB. The Common Shares of the Filer are not redeemable and, therefore, are not puttable instruments.

18. The Filer invests, through its wholly-owned subsidiaries (the investment companies), in uranium oxide in concentrates (U_3O_8) and uranium hexafluoride (UF_6) (collectively, **Uranium**). The Filer does not hold any portfolio equity investments. In accordance with Accounting Guideline 18 *Investment Companies*, the financial statements of the Filer represent the consolidated investments in Uranium and the financial position and results of operations of its wholly-owned subsidiaries. The Filer, in consultation with its external auditors, will present its subsidiaries' investments in Uranium at fair value in its consolidated financial statements and will continue to consolidate its subsidiaries under IFRS-IASB.

19. The Filer is a corporation and therefore, unlike investments funds formed as trusts, is required under Canadian GAAP to account for deferred taxes and, in consultation with its external auditors, expects that it will continue to account for deferred taxes under IAS 12 *Income Taxes*. The tax treatment under IAS 12 *Income Taxes* will be similar to Canadian GAAP for public enterprises as the Filer will continue to accrue a future tax liability for deferred income taxes under IAS 12 *Income Taxes* based on temporary differences between the financial reporting and tax bases of assets or liabilities, measured using the substantively enacted tax rates and laws that are expected to apply when the differences are expected to reverse. Additionally, the benefit of the tax losses which are available to be carried forward will be recognized as assets to the extent that they are more likely than not to be recoverable from future taxable income.

20. The annual and interim financial statements of the Filer for all subsequent financial periods to the date of the decision will be prepared in accordance with IFRS-IASB.

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 Exemption Sought ceases to apply upon the application of any amendment to section 2.6 of NI 81-106 that changes the acceptable accounting principles, only as applicable to financial years beginning on or after the date on which the amendment comes into force.

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

2.1.4 J.P. Morgan Securities LLC

Headnote

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

Instruments Cited

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

November 11, 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
J.P. MORGAN SECURITIES LLC
("Filer")

DECISION

Background

The principal regulator in the Jurisdiction has received an application from the Filer (the "**Application**") for a decision under the securities legislation of the Jurisdiction of the principal regulator (the "**Legislation**") for an exemption from the requirement contained in section 13.12 [*restriction on lending to clients*] of National Instrument 31-103 *Registration Requirements, Exemptions and Ongoing Registrant Obligations* ("**NI 31-103**") that a registrant must not lend money, extend credit or provide margin to a client (the "**Exemption Sought**").

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

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

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

Interpretation

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

Representations

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

1. The Filer is a company incorporated under the laws of the State of Delaware. Its head office is located at 383 Madison Avenue, New York, NY 10179, United States of America ("**U.S.A.**").

2. The Filer is a wholly owned subsidiary of J.P. Morgan Securities Holdings LLC, a Delaware corporation, and an indirect wholly owned subsidiary of JP Morgan Chase & Co., a Delaware corporation.

3. The Filer is registered as a broker-dealer with the United States ("**U.S.**") Securities and Exchange Commission ("**SEC**"), and is a member of the Financial Industry Regulatory Authority ("**FINRA**"). This registration permits the Filer to carry on in the U.S.A., being its home jurisdiction, substantially similar activities that registration as an investment dealer would authorize it to carry on in the Jurisdiction if the Filer were registered under the Legislation as an investment dealer.

4. The Filer is a member of major securities exchanges, including the NASDAQ and NYSE Euronext ("**NYSE**").

5. In addition, the Filer is relying on the international dealer exemption under section 8.18 of NI 31-103 and the international adviser exemption under section 8.26 of NI 31-103 in the Canadian provinces of British Columbia, Alberta, Saskatchewan, Manitoba, Québec, New Brunswick, Nova

Scotia, Prince Edward Island, Newfoundland and Labrador.

6. The Filer acts as a primary dealer in U.S. government securities, makes markets in money market instruments and U.S. government agency securities, underwrites and trades corporate debt and asset-backed securities, municipal bonds and notes, common and preferred stock and convertible bond offerings, advises clients on business strategies, capital structures and financial strategies, and structures derivative transactions to meet client needs. The Filer also enters into repurchase and resale agreements, including matched-book transactions, and securities borrowed and loaned transactions to finance securities activities.

7. The Filer is registered, or has applied to be registered, as a restricted dealer, with terms and conditions including that it may only deal with permitted clients as defined in section 1.1. of NI 31-103, in the Canadian Jurisdictions. As a restricted dealer under the securities legislation of the Canadian Jurisdictions, the Filer is subject to the prohibition on lending money, extending credit or providing margin to a client in section 13.12 of NI 31-103.

8. The Filer may engage in activities which may be considered lending money, extending credit or providing margin to clients. All such activities are conducted in compliance with the rules of its home jurisdiction.

9. In certain comments received on NI 31-103, after it was published for comment, it was suggested that the prohibitions in section 13.12 should not apply to certain dealers that are members of foreign self-regulatory organizations, or subject to regulatory requirements in a foreign jurisdiction, where the dealer is subject to margin regimes similar to that imposed by the Investment Industry Regulatory Organization of Canada ("**IIROC**"). The Canadian Securities Administrators responded to these comments by suggesting that these circumstances could be considered on a case-by-case basis, through exemption applications, and that an exemption should be made available to registrants who have "adequate measures in place to address the risks involved and other related regulatory concerns".

10. The Filer is subject to regulations of the Board of Governors of the U.S.A. Federal Reserve System ("**FRB**"), the SEC, FINRA and the NYSE regarding the lending of money, extension of credit and provision of margin to clients (the "**U.S.A. Margin Regulations**") that provide protections that are substantially similar to the protections provided by the requirements regarding the lending of money, extension of credit and provision of margin to clients to which dealer members of IIROC are subject. In particular, the Filer is subject to the margin requirements imposed by the FRB, including Regulations T, U and X, under applicable SEC rules and under NYSE Rule 431.The Filer is in compliance in all material respects with all applicable U.S.A. Margin Regulations.

Decision

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

The decision of the principal regulator under the Legislation is that the Exemption Sought by the Filer is granted so long as:

(a) the head office or principal place of business of the Filer is in the U.S.A.;

(b) the Filer is registered under the securities legislation of the U.S.A. in a category of registration that permits it to carry on the activities in the U.S.A. that registration as an investment dealer would permit it to carry on in the Jurisdiction;

(c) by virtue of the registration referred to in paragraph (b), including required membership in one or more self-regulatory organizations, the Filer is subject to requirements in respect of its lending money, extending credit or providing margin to clients (including clients that are located in Canada) that result in substantially similar regulatory protections to those provided for under the capital and margin requirements of IIROC that would be applicable to the Filer if it were registered under the Legislation as an investment dealer and were a member of IIROC.

It is further the decision of the principal regulator that the Exemption Sought shall expire on the date that is the earlier of:

(a) the date that the Filer's registration as a restricted dealer in the Jurisdiction expires or is revoked; and

(b) March 31, 2013.

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

2.1.5 J.P. Morgan Securities LLC

Headnote

Multilateral Instrument 11-102 section 4.7(1) Exemption granted from requirement to file Form 31-103 F1 U.S. broker/dealer subject to U.S. reporting requirements registered as restricted dealer and thus required to file Form 31-103 F1 pursuant to section 12.1 of National Instrument 31-103 Conditions concerning filing of SEC Form X-17a-5 (FOCUS Report) in lieu of Form 31-103F1 and notification of any issues.

Applicable Legislative Provisions

Multilateral Instrument 11-102, s. 4.7(1).
National Instrument 31-103 Registration Requirements, Exemptions and Ongoing Registrant Obligations, ss. 12.1, 15.1.

November 11, 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
J.P. MORGAN SECURITIES LLC
(the "Filer")

DECISION

Background

The principal regulator in the Jurisdiction has received an application from the Filer (the "**Application**") for a decision under the securities legislation of the Jurisdiction of the principal regulator (the "**Legislation**") that, for the purposes of sections 12.1 *Capital Requirements* ("**Section 12.1**") of National Instrument 31-103 *Registration Requirements, Exemptions and Ongoing Registrant Obligations* ("**NI 31-103**") the Filer be permitted to calculate its excess working capital using United States ("**U.S.**") Securities and Exchange Commission ("**SEC**") Form X-17a-5 (FOCUS Report) (the "**FOCUS Report**") rather than Form 31-103F1 *Calculation of Excess Working Capital* ("**Form 31-103F1**") and for the purposes of section 12.12(1)(b) *Delivering Financial Information Dealer* ("**Section 12.12(1)(b)**") of NI 31-103, the Filer be permitted to deliver the FOCUS Report in lieu of Form 31-103F1 for so long as the Filer is subject to SEC Rule 15c3-1 *Net Capital Requirements for Brokers or Dealers* ("**Rule 15c3-1**") and SEC Rule 17a-5 *Reports to be Made by Certain Brokers and Dealers* ("**Rule 17a-5**") (the "**Exemption Sought**").

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

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

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

Interpretation

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

Representations

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

1. The Filer is a corporation formed under the laws of the State of Delaware. Its head office is located at 383 Madison Avenue, New York, NY, 10179, United States.

2. The Filer is a wholly owned subsidiary of JP Morgan Chase & Co., a publicly owned United States financial services corporation.

3. The Filer is registered as a broker-dealer with the SEC, and is a member of the Financial Industry Regulatory Authority ("**FINRA**"). The Filer is a member of a number of major U.S. securities exchanges, including the New York Stock Exchange ("**NYSE**") and NASDAQ.

4. The Filer is a futures commission merchant registered with the U.S. National Futures Association.

5. The Filer provides a variety of capital raising, investment banking, market making, brokerage, and advisory services, including fixed income and equity sales and research, commodities trading, foreign exchange sales, emerging markets activities, securities lending, investment banking and derivatives dealing for governments, corporate and financial institutions. The Filer also conducts proprietary trading activities.

6. The Filer is relying on the international dealer exemption under s. 8.18 of NI 31-103 in British Columbia, Alberta, Saskatchewan, Manitoba, Ontario, Québec, Nova Scotia, Newfoundland & Labrador, New Brunswick and Prince Edward Island.

7. The Filer is registered, or has applied to be registered, as a restricted dealer, with terms and conditions, in the Canadian Jurisdictions.

8. Under NI 31-103, the Filer is required to calculate its excess working capital using Form 31-103F1.

9. The Filer is subject to regulatory capital requirements under the *Securities Exchange Act of 1934*, specifically Rule 15c3-1, that are designed to provide protections that are substantially similar to the protections provided by the regulations regarding excess working capital to which dealer members of the Investment Industry Regulatory Organization of Canada ("**IIROC**") are subject, and the Filer is in compliance in all material respects with Rule 15c3-1. The SEC and FINRA have the responsibility for ensuring that the Filer operates in compliance with Rule 15c3-1.

10. The Filer is required to prepare and file a FOCUS Report with United States regulators, which is the financial and operational report containing a net capital calculation.

11. The FOCUS Report provides a more comprehensive description of the business activities of the Filer, and more accurately reflects those activities including client lending activity, than would be provided by Form 31-103F1, and the minimum SEC Rule 15c3–1 requirements applicable to the Filer are a substantially greater amount than the minimum requirement of NI 31-103.

Decision

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

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

(a) the Filer is registered under the securities legislation of the United States in a category of registration that permits it to carry on the activities in the United States that registration as an investment dealer would permit it to carry on in the Jurisdiction;

(b) by virtue of the registration referred to in paragraph (a), including required membership in one or more self-regulatory organizations, the Filer is subject to Rule 15c3-1 and Rule 17a-5; and that the protections provided by Rule 15c3-1 and Rule 17a-5 in respect of maintaining excess net capital are substantially similar to the protections provided by the capital requirements of IIROC that would be applicable to the Filer if it were registered under the Legislation as an investment dealer and were a member of IIROC;

(c) the Filer submits the FOCUS Report in lieu of Form 31-103F1;

(d) the Filer prepares the FOCUS Report on an unconsolidated basis;

(e) the Filer does not guarantee any debt of a third party;

(f) the Filer gives prompt written notice to the principal regulator of any significant issues arising from analysis by U.S. securities regulators of the FOCUS report filed by the Filer pursuant to FINRA and SEC requirements;

(g) the Filer gives written notice to the principal regulator immediately if excess net capital as calculated on line 25, page 6 of the FOCUS Report is less than zero, and ensures that such capital is not less than zero for 2 consecutive days; and

(h) the Filer provides the principal regulator with at least five days written notice prior to any repayment of subordinated intercompany debt or termination of a subordination agreement with respect to intercompany debt.

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

2.1.6 J.P. Morgan Clearing Corp.

Headnote

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

Instruments Cited

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

November 11, 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
J.P. MORGAN CLEARING CORP.
(the "Filer")

DECISION

Background

The principal regulator in the Jurisdiction has received an application from the Filer (the "**Application**") for a decision under the securities legislation of the Jurisdiction of the principal regulator (the "**Legislation**") for an exemption from the requirement contained in section 13.12 [*restriction on lending to clients*] of National Instrument 31-103 *Registration Requirements*, *Exemptions and Ongoing Registrant Obligations* ("**NI 31-103**") that a registrant must not lend money, extend credit or provide margin to a client (the "**Exemption Sought**").

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

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

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

Interpretation

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

Representations

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

1. The Filer is a company incorporated under the laws of the State of Delaware. Its head office is located at One Metrotech Center North, Brooklyn, NY 11201, United States of America ("**USA**").

2. The Filer is a wholly owned subsidiary of J.P. Morgan Securities LLC, a Delaware corporation, and an indirect wholly owned subsidiary of JP Morgan Chase & Co., a Delaware corporation.

3. The Filer is registered as a broker-dealer with the United States ("**U.S.**") Securities and Exchange Commission ("**SEC**"), and is a member of the Financial Industry Regulatory Authority ("**FINRA**"). This registration permits the Filer to carry on in the USA, being its home jurisdiction, substantially similar activities that registration as an investment dealer would authorize it to carry on in the Jurisdiction if the Filer were registered under the Legislation as an investment dealer.

4. The Filer is a member of major securities exchanges, including the Chicago Stock Exchange and NYSE Euronext ("**NYSE**").

5. The Filer is a Foreign Approved Participant of the Montreal Exchange and a Registered Futures Commission Merchant of ICE Futures Canada, Inc. The Filer is also a member of the CME Group (including the Chicago Board of Trade), ICE Futures U.S., Inc., and other principal U.S. commodity exchanges, and may facilitate trades through affiliated or unaffiliated member firms on

all other exchanges, including exchanges in Canada, France, Italy, Japan, Singapore, Spain, Taiwan, Mexico, Korea and the United Kingdom.

6. The Filer is relying on the international dealer exemption under section 8.18 of NI 31-103 in the Canadian Jurisdictions.

7. The Filer was established for the express purpose of holding and financing customer accounts and clearing and settling transactions. The Filer does not make proprietary investments or engage in market making activities.

8. The Filer may engage in activities which may be considered lending money, extending credit or providing margin to clients. All such activities are conducted in compliance with the rules of its home jurisdiction.

9. The Filer is registered, or has applied to be registered, in the category of restricted dealer, with terms and conditions including that it may only deal with permitted clients as defined in section 1.1 of NI 31-103 in the Canadian Jurisdictions. As a restricted dealer under the securities legislation of the Canadian jurisdictions, the Filer is subject to the prohibition on lending money, extending credit or providing margin to a client in section 13.12 of NI 31-103.

10. In certain comments received on NI 31-103, after it was published for comment, it was suggested that the prohibitions in section 13.12 should not apply to certain dealers that are members of foreign self-regulatory organizations, or subject to regulatory requirements in a foreign jurisdiction, where the dealer is subject to margin regimes similar to that imposed by the Investment Industry Regulatory Organization of Canada ("**IIROC**"). The Canadian Securities Administrators responded to these comments by suggesting that these circumstances could be considered on a case-by-case basis, through exemption applications, and that an exemption should be made available to registrations who have "adequate measures in place to address the risks involved and other related regulatory concerns".

11. The Filer is subject to regulations of the Board of Governors of the USA Federal Reserve System ("**FRB**"), the SEC, FINRA and the NYSE regarding the lending of money, extension of credit and provision of margin to clients (the "**USA Margin Regulations**") that provide protections that are substantially similar to the protections provided by the requirements regarding the lending of money, extension of credit and provision of margin to clients to which dealer members of IIROC are subject. In particular, the Filer is subject to the margin requirements imposed by the FRB, including Regulations T, U and X, under applicable SEC rules and under FINRA Rule 4210. The Filer is in compliance in all material respects with all applicable USA Margin Regulations.

Decision

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

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

(a) the head office or principal place of business of the Filer is in the USA;

(b) the Filer is registered under the securities legislation of the USA in a category of registration that permits it to carry on the activities in the USA that registration as an investment dealer would permit it to carry on in the Jurisdiction;

(c) by virtue of the registration referred to in paragraph (b), including required membership in one or more self-regulatory organizations, the Filer is subject to requirements in respect of its lending money, extending credit or providing margin to clients (including clients that are located in Canada) that result in substantially similar regulatory protections to those provided for under the capital and margin requirements of IIROC that would be applicable to the Filer if it were registered under the Legislation as an investment dealer and were a member of IIROC.

It is further the decision of the principal regulator that the Exemption Sought shall expire on the date that is the earlier of:

(a) the date that the Filer's registration as a restricted dealer in the Jurisdiction expires or is revoked; and

(b) March 31, 2013.

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

2.1.7 Comverse Technology, Inc.

Headnote

National Policy 11-203 Process for Relief in Multiple Jurisdictions – relief granted under subsection 74(1) of the Securities Act (Ontario) from the prospectus and registration requirements of the Act in connection with the distribution of securities by an issuer in settlement of outstanding litigation against that issuer – relief also granted from the resale restrictions relating to the resale of such securities, subject to certain conditions.

Applicable Legislative Provisions

Securities Act (Ontario), R.S.O. 1990, c. S.5, as am., s. 74(1).
National Instrument 45-102 Resale of Securities, s. 2.6(3).

November 15, 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
COMVERSE TECHNOLOGY, INC.
(The Filer)

DECISION

Background

The principal regulator in the Jurisdiction has received an application from the Filer for a decision under the securities legislation of the Jurisdiction of the principal regulator (the **Legislation**) that (i) the issuance, delivery and distribution by the Filer of shares of its common stock (**Common Stock**) to claimants (**Canadian Claimants**) to be made in the Jurisdiction and each of the Passport Jurisdictions (as defined below) (the Settlement Shares) pursuant to the settlement of certain class action litigation in the United States (as described below) be exempt from the prospectus requirement of the Legislation; and (ii) that the provisions of section 2.14 of National Instrument 45-102 *Resale of Securities* be available to the resale of these Settlement Shares (the **Exemption Sought**).

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

(a) the Ontario Securities Commission (the **OSC**) 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 each of British Columbia, Manitoba and Québec (the **Passport Jurisdictions**).

Interpretation

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

Representations

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

1. The Filer is a New York corporation, which maintains its principal executive office at 810 Seventh Avenue, New York, N.Y. 10019.

2. The Filer is a registrant under the United States *Securities Exchange Act of 1934*, as amended (the **Exchange Act**).

3. The Common Stock of the Filer is listed on the NASDAQ Global Select Market (the **Exchange**) under the symbol CMVT. As at October 28, 2011, there were 206,038,130 shares of Common Stock issued and outstanding.

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

5. The Filer is not a reporting issuer in any Canadian jurisdiction. Its Common Stock is not listed or quoted in any Canadian market.

6. On April 16, 2006, the first of five individual class actions was filed against the Filer and certain of its former officers and directors (the **Defendants**) alleging violations of Section 10(b) and 20(a) of the Exchange Act. These actions included: Caifa v. Comverse Technology, Inc., 06-CV-1825 (E.D.N.Y.); *Gorman v. Comverse Technology, Inc.*, 06-CV-2738 (E.D.N.Y.); *Nadel v. Comverse Technology, Inc.,* 06-cv-3190-RPP (S.D.N.Y.); *Thomas v. Comverse Technology, Inc.,* 06-cv-3445- RPP (S.D.N.Y.); and Moore v. Comverse Technology, Inc., 06-cv-04418-RPP (S.D.N.Y.).

7. By Order dated August 24, 2006, the cases pending in the Southern District of New York were transferred to the United States District Court for the Eastern District of New York (the **Court**), and were consolidated into a single action captioned *In re Comverse Technology, Inc. Securities Litigation*, 06-1825 (NGG) (RER).

8. On March 2, 2007, the Court appointed Menorah Insurance Co. Ltd. and Mivtachim Pension Funds, Ltd. as lead plaintiff (**Lead Plaintiff)** in the consolidated class action, and Pomerantz Haudek Grossman & Gross LLP as lead counsel (**Lead Counsel**).

9. A "Consolidated Amended Complaint" (the **Comverse Action**) was filed on March 23, 2007, alleging violations of the federal securities laws. With respect to these claims, Lead Plaintiff asserted that the Defendants issued false and misleading statements in violation of Sections 10(b), 14(a), and 20(a) of the Exchange Act.

10. The named defendants were the Filer, certain of its former senior officers and directors and members of the Filer's Audit Committee and Stock Option and Remuneration Committee.

11. A "Stipulation of Settlement" settling the Comverse Action was entered into by the Filer, Lead Plaintiff and the individual Defendants on December 16, 2009 (as amended, the **Settlement)**. The Settlement was amended by the parties on June 19, 2010.

12. On June 23, 2010, the Court approved the Settlement requiring, among other things, the Defendants to make a series of payments totalling US$225,000,000 (**Settlement Amount**) to the "Settlement Fund", of which US$165,000,000 was to be paid by the Filer. Attorney fees and expenses, notification costs, a compensatory award to the Lead Plaintiff, and claims administration costs will be paid out of the Settlement Amount. The Settlement Amount minus these fees, costs, expenses, and awards shall be distributed to the Class (as defined below). After giving effect to prior payments and before making certain adjustments provided for in the Settlement, the final amount payable by the Filer on or before November 15, 2011 is up to US$92,500,000.

13. The Court certified, for the purposes of the Settlement only, a class of all purchasers of the Common Stock (the **Class**) during the period from April 30, 2001 through January 29, 2008 (the **Class Period**), both dates inclusive, subject to certain exclusions.

14. In agreeing to settle the Comverse Action, the Defendants have denied and continue to deny, *inter alia*, that the Lead Plaintiff and the Class have suffered all damages alleged in the Comverse Action; that the price of the Filer's securities was artificially inflated by reason of the alleged misrepresentations, omissions, or otherwise; and that the alleged harm suffered by the Lead Plaintiff and the Class, if any, were causally linked to the alleged misrepresentations or omissions in the Comverse Action. Nonetheless, the Defendants concluded that further litigation of the Comverse Action would be protracted, burdensome, and expensive, and that it is desirable to secure releases and that the action be fully and finally settled and terminated.

15. Each member of the Class received from Lead Counsel a notice in April 2010 which, among other things, informed the Class that each member of the Class had the right to request that they be excluded from the Class so as not to be bound by the outcome of the Comverse Action and so as to preserve their right to take action against the Defendant independently of the Comverse Action. On June 23, 2010, the Settlement was approved and in order to receive payment from the Settlement Amount, a Class member had to submit a proof of claim form in order to be entitled to their share of the Settlement Amount.

16. There were approximately 12,000 individual claimants from 30 different countries, including approximately 2,646 individual claimants outside of the United States, that comprise the class of Authorized Claimants. Among the Authorized Claimants, only 22 Canadian Claimants provided an address located in the Jurisdictions and are entitled to receive Settlement Shares totalling approximately 13,000 shares.

Province	# of Authorized Claimants by Jurisdiction	Settlement Shares
Ontario	14	7,264
British Columbia	1	12
Québec	6	5,716
Manitoba	1	12
Total:	**22**	**13,004**

17. The Settlement provided that US$82,500,000 of the Settlement Amount could be paid in Common Stock rather than in cash, at the election of the Filer, so long as the Common Stock is listed on a US national securities exchange at the time of such election and the Filer followed the Court approved notice procedure and the procedure for determining the number of shares of Common Stock to be issued. The Filer availed itself of this election with respect to the final payment due November 15, 2011 and delivered the requisite notice to the Class pursuant to the process outlined in the Settlement on October 21, 2011. In total, 12,462,236 shares of Common Stock will be issued to Authorized Claimants in approximately 30 different countries, including Canada, at the election of the Filer, in satisfaction of the Settlement Amount, representing approximately

6% of the current outstanding Common Stock of such shares, approximately 0.10% will be issued to Canadian Claimants, which represents approximately 0.006% of the Filer's current outstanding Common Stock. The plan of allocation, which was formulated and administered by Lead Counsel and approved by the Court on June 23, 2010 as part of the Settlement, provides that, to the extent the Filer elects to pay any portion of the Settlement Amount in Settlement Shares, such shares will be allocated on a *pro rata* basis to each Class member that submitted a proof of claim by the applicable date (each an **Authorized Claimant**) as calculated by the administrator of the Settlement pursuant to the provisions of the Settlement. There is no provision in the plan of allocation to permit the Filer to pay cash in lieu of the Settlement Shares to Authorized Claimants in selected jurisdictions.

18. The Filer is relying on the exemption from the registration requirements under the US Securities Act of 1933, as amended (the **US Securities Act**), pursuant to the exemption contained in Section 3(a)(10) thereof, and the Court was informed of the Filer's intention to rely on such exemption. Section 3(a)(10) provides a registration exemption from the US Securities Act for offers and sales of securities that are exchanged for securities, claims or property interests. The exemption requires, in relevant part, that a court must approve the fairness of the terms and conditions of the exchange to those to whom the securities are to be issued.

19. The Settlement required that the shares be listed on a US national securities exchange and shall not bear any legend restricting its transferability.

20. In the absence of the relief requested herein, the issuance, delivery and distribution of Settlement Shares in the Jurisdictions will be subject to the applicable prospectus requirements of the Legislation and no statutory prospectus exemptions are believed to be available under the Legislation to enable the Filer to distribute Settlement Shares to all Canadian Recipients in accordance with the terms and conditions of the Settlement. In addition, the resale of Settlement Shares will be subject to applicable resale rules.

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.

"Wes. M. Scott"

"James D. Carnwath"

2.1.8 Natcan Investment Management Inc. and National Bank Mortgage Fund

Headnote

National Policy.11-203 – Process for Exemptive Relief Applications in Multiple Jurisdictions – Relief granted from s. 13.5(2)(b)(ii) of NI 31-103 permit the portfolio manager of a Fund to cause the Fund to purchase or sell mortgages from or to the investment portfolio of an associate – relief subject to conditions including IRC approval and valuation in accordance with Regulation No. 29.

Applicable Legislative Provisions

National Instrument 31-103 Registration Requirements and Exemptions, ss. 13.5(2)(b), 15.1.

November 2, 2011

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

AND

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

AND

IN THE MATTER OF
NATCAN INVESTMENT MANAGEMENT INC.
(The Filer)

AND

NATIONAL BANK MORTGAGE FUND
(The Fund)

DECISION

Background

The securities regulatory authority or regulator in each of the Jurisdictions (**Decision Maker**) has received an application from the Filer (the Application) for a decision under the securities legislation of the Jurisdictions (the **Legislation**) pursuant to section 15.1 of *Regulation 31-103 respecting Registration Requirements, Exemptions and Ongoing Registrant Obligations* (**Regulation 31-103**) for relief from the prohibition in sub-paragraph 13.5(2)(b)(ii) of Regulation 31-103 to permit the Filer, or any other affiliate of National Bank of Canada (**NBC**) that acts as portfolio manager for the Fund in the future, to cause the Fund to purchase or sell mortgages from or to the investment portfolio of any of the NBC Affiliates (the **Exemption Sought**).

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

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

(b) the Filer has provided notice that subsection 4.7(1) of *Regulation 11-102 respecting Passport System* (**Regulation 11-102**) is intended to be relied upon in British Columbia, Alberta, Saskatchewan, Manitoba, New Brunswick, Nova Scotia, Newfoundland and Labrador, and Northwest Territories; and

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

Interpretation

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

"NBC Affiliates", means NBC and the Affiliates;

"the Affiliates", means National Bank Financial Inc., National Bank Financial Ltd. and other affiliates of the Filer acting as principal.

Representations

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

1. The Filer is the portfolio manager of the Fund.

2. The Filer is a corporation organized under the laws of the province of Québec, with its head office located in Montréal, Québec. NBC has a direct and indirect majority interest in the Filer.

3. The Filer is registered under applicable securities legislation (i) as an adviser in the category of portfolio manager and as a dealer in the category of exempt market dealer in each jurisdiction of Canada except Prince Edward Island, Yukon and Nunavut; (ii) as an investment fund manager and a derivatives portfolio manager in the province of Québec; and (iii) as a commodity trading manager in the province of Ontario.

4. National Bank Securities Inc. (the **Manager**) is the investment fund manager of the Fund.

5. The Manager is a corporation organized under the laws of Canada, with its head office located in Montréal, Québec. NBC indirectly wholly owns the Manager.

6. The Manager is registered under applicable securities legislation (i) as a dealer in the category of mutual fund dealer in each jurisdiction of Canada; and (ii) as an investment fund manager in the province of Québec. The Manager is a member of the Mutual Fund Dealers Association of Canada.

7. The Fund is an open-ended mutual fund, organized as a trust pursuant to the laws of Ontario. The Fund is a reporting issuer in each jurisdiction of Canada. Units of the Fund are qualified for sale under a simplified prospectus and annual information form prepared and filed in accordance with the requirements of *Regulation 81-101 respecting Mutual Fund Prospectus* in each jurisdiction of Canada.

8. Neither of the Filer nor the Fund is in default of securities legislation in any of the jurisdictions of Canada, except for a non-compliance to sub-paragraph 13.5(2)(b)(ii) of Regulation 31-103 and a non-compliance to section 4.2 of *Regulation 81-102 respecting Mutual Funds* (**Regulation 81-102**) with respect to purchases of mortgages from NBC prior to November 27, 2009. The Fund has inadvertently failed to obtain relief from section 4.2 of Regulation 81-102 (for which separate relief has been requested) and the Filer has inadvertently failed to obtain the Exemption Sought.

9. Disclosure of purchases from NBC was provided in the simplified prospectus and other disclosure documents filed with the securities regulatory authorities in the jurisdictions of Canada and delivered to the Fund's unitholders upon request as required pursuant to the Legislation. The Fund has not purchased any mortgages from any NBC Affiliate since November 27, 2009.

10. The Manager has appointed an independent review committee (**IRC**) under *Regulation 81-107 respecting Independent Review Committee for investment Funds* (**Regulation 81-107**) for the Fund.

11. The IRC has been informed of the failure to obtain the Exemption Sought for purchases of mortgages from NBC prior to November 27, 2009 and of the filing of the Application.

12. The IRC of the Fund will consider the policies and procedures of the Manager and will provide its approval on whether the proposed transactions in mortgages achieve a fair and reasonable result for the Fund in accordance with subsection 5.2(2) of Regulation 81-107.

13. The Fund's investment objectives are to provide a high level of income while providing sustained capital growth and preserving capital. The purchase and sale of mortgages by the Fund from or to NBC Affiliates is consistent with the investment objectives of the Fund.

14. Mortgages purchased by the Fund from NBC are purchased pursuant to *Regulation No. 29 respecting Mutual Funds Investing in Mortgages* (**Regulation No. 29**) at the "modified lender's rate" (namely at the principal amount which will produce a yield to the Fund not more than a quarter of one percent less than the interest rate at which NBC is making commitments, at the time of purchase, to loan on the security of comparable mortgages), in accordance with a Mutual Reliance Review System decision dated March 18, 2004.

15. The Fund purchases mortgages from NBC and may purchase mortgages from the other NBC Affiliates.

16. NBC has been retained to administer the mortgages held in the Fund that have been acquired from NBC pursuant to a sale and mortgage administration agreement. Mortgages purchased from an NBC Affiliate other than NBC will also be administered in accordance with an administration agreement to be entered into by or on behalf of the Fund.

17. The Fund only purchases a mortgage from an NBC Affiliate if:

    (a) the transaction is made in accordance with the "Not at Arm's Length Transactions" provision of Regulation No. 29;

    (b) where the transaction is made pursuant to the modified lender's rate (namely, at the principal amount which will produce a yield to the Fund of not more than a quarter of one percent less than the interest rate at which NBC is making commitments, at the time of purchase, to loan on the security of comparable mortgages):

        (i) the NBC Affiliate that sells the mortgage to the Fund enters into an agreement (the **Repurchase Agreement**) with the Fund whereby the NBC Affiliate is obligated to repurchase it if the mortgage goes into default for more than 90 days and in circumstances benefiting the Fund; and

        (ii) the Filer considers that the Repurchase Agreement is sufficient to justify the difference in yield referred to in sub-paragraph (b) above;

    (c) NBC guarantees the performance of the Affiliate under the Repurchase Agreement referred to in sub-paragraph (b)(i) above;

    (d) the Manager causes the Fund to comply with the disclosure provisions of Regulation No. 29, subject to the representations made in connection with the Exemption Sought; and

    (e) the simplified prospectus of the Fund discloses that the Fund will engage in principal transactions in mortgages with the NBC Affiliates.

18. The provisions of Regulation No. 29 set out guidelines relating to the acquisition of mortgages by a mutual fund from lending institutions with whom such fund does not deal at arm's length and provide certain protections to the investing public.

19. The Filer only causes the Fund to purchase a mortgage from or sell a mortgage to an NBC Affiliate if the transaction is made in accordance with the "Not at Arm's Length Transactions" provision of Regulation No. 29.

20. None of the NBC Affiliates from which mortgages are purchased or to which mortgages are sold for the Fund, or any of their directors, officers or employees, participate in the formulation of investment decisions made on behalf of, or advice given to, the Fund by the Filer.

21. All decisions to purchase mortgages for the Fund's portfolio from an NBC Affiliate are made based on the judgment of responsible persons uninfluenced by considerations other than the best interests of the Fund.

22. The Filer is of the view that the purchase and sale of mortgages between the Fund and NBC Affiliates are in the best interests of the Fund.

23. To the extent that the Fund purchases mortgages from, or sells mortgages to, NBC Affiliates, this fact is set out in each of the simplified prospectus, annual information form and management report of fund performance of the Fund in accordance with applicable securities legislation.

24. Sub-paragraph 13.5(2)(b)(ii) of Regulation 31-103 prohibits a registered adviser from causing an investment portfolio managed by it, including an investment fund for which it acts as an adviser, to purchase or sell a security from or to the investment portfolio of an associate of the Filer or of any other "responsible person".

25. NBC has a direct and/or indirect majority interest in the Filer and the Affiliates and thus the NBC Affiliates are associates of the Filer. As a result, the Filer is prohibited by sub-paragraph 13.5(2)(b)(ii) of Regulation 31-103 from causing the Fund to purchase or sell mortgages from or to the investment portfolio of the NBC Affiliates.

26. Regulation 81-107 does not provide an exemption for principal trading of the type contemplated by the Exemption Sought.

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 purchase or sale is consistent with, or is necessary to meet, the investment objective of the Fund;

(b) the IRC of the Fund has approved the transaction in accordance with subsection 5.2(2) of Regulation 81-107;

(c) the Manager, as manager of the Fund, complies with section 5.1 of Regulation 81-107;

(d) the Manager, as manager of the Fund, and the IRC of the Fund comply with section 5.4 of Regulation 81-107 for any standing instructions the IRC provides in connection with the transactions;

(e) the Fund keeps the written records of the transactions as described in paragraph 6.1(2)(g) of Regulation 81-107; and

(f) the mortgages are acquired from an NBC Affiliate or sold to an NBC Affiliate in accordance with Regulation No. 29 (or any successor policy, instrument or regulation) and this information is disclosed in accordance with Regulation No. 29 (or any successor policy, instrument or regulation), including disclosure through inclusion in a document incorporated by reference into the simplified prospectus of the Fund.

“Patrick Déry”
Superintendent, Client Services,
Compensation and Distribution

2.1.9 Morgan Stanley Smith Barney LLC and Morgan Stanley & Co. LLC

Headnote

National Policy 11-203 Process for Exemptive Relief Applications in Multiple Jurisdictions – Exemption from the requirements to calculate excess working capital using the Form 31-103F1 Calculation of Excess Working Capital (Form 31-103F1), and the requirement to deliver a completed Form 31-103F1 showing the calculation of its excess working capital as at the end of the financial year and as at the end of the immediately preceding financial year, granted to two registrants, registered in the category of exempt market dealer, so long as each Filer calculates its excess net capital using the U.S. Securities and Exchange Commission (SEC) Form X-17a-5 (the FOCUS Report) and delivers the FOCUS Report in lieu of delivering its respective Form 31-103F1 as required by NI 31-103.

Applicable Legislative Provisions

National Instrument 31-103 Registration Requirements, Exemptions and Ongoing Registrant Obligations, ss. 12.1, 12.12.
Multilateral Instrument 11-102 Passport System, s. 4.7(1).

November 15, 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

MORGAN STANLEY SMITH BARNEY LLC

AND

MORGAN STANLEY & CO. LLC
(The Filers; Each, A Filer)

DECISION

Background

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

(i) the requirements of section 12.1 – *Capital Requirements* of National Instrument 31-103 *Registration Requirements, Exemptions and Ongoing Registrant Obligations* (**NI 31-103**) that each Filer maintain excess working capital calculated using Form 31-103F1 *Calculation of Excess Working Capital* (**Form 31-103F1**), and

(ii) the requirements of section 12.12 *Delivering financial information* – dealer NI 31-103 that each Filer deliver a completed Form 31-103F1 showing the calculation of its excess working capital as at the end of the financial year and as at the end of the immediately preceding financial year,

so long as each Filer calculates excess net capital using the U.S. Securities and Exchange Commission (**SEC**) Form X-17a-5 (the **FOCUS Report**) and delivers its FOCUS Report in lieu of delivering Form 31-103F1 as required by NI 31-103 (the **Exemption Sought**).

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

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

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

1. Morgan Stanley Smith Barney LLC (**MSSB**) is a limited liability company formed under the laws of the State of Delaware. The head office of MSSB is located in Purchase, New York, United States of America. MSSB is a direct wholly-owned subsidiary of Morgan Stanley Smith Barney Holdings LLC. (**Holdings**). MSSB is a joint venture between Morgan Stanley (**MS**) and Citigroup Inc. (**CG**) with MS and CG's interest in the joint venture held through their indirect interests in Holdings. MS indirectly holds a 51% interest in Holdings and CG indirectly holds the remaining 49% interest. MSSB is registered as a broker-dealer and investment adviser with the SEC and is a member of the Financial Industry Regulatory Authority (**FINRA**). MSSB is a member of all major U.S. stock exchanges and U.S. commodity futures exchanges. MSSB is registered as an exempt

market dealer (**EMD**) in each of the provinces and territories of Canada.

2. Morgan Stanley & Co. LLC (**MS&Co**) is a limited liability company governed by the laws of the State of Delaware. The head office of MS&Co is located in New York, New York, United States of America. MS&Co is an indirect wholly-owned subsidiary of MS. MS&Co is registered as a broker-dealer and investment adviser with the SEC and is a member of FINRA. MS&Co is a member of all major U.S. stock exchanges and U.S. commodity futures exchanges. MS&Co is registered as an EMD in each of the provinces and territories of Canada.

3. Under NI 31-103, EMDs are generally permitted to act as dealers in trading securities being distributed under a prospectus exemption or securities that, if the trades were distributions, would be exempt from the prospectus requirement, and are subject to capital, insurance and proficiency requirements and other ongoing compliance requirements. In particular, an EMD is required to calculate its excess working capital using Form 31-103F1.

4. The Filers are subject to regulatory capital requirements under the *Securities Exchange Act of 1934* that are designed to meet regulatory objectives comparable to the capital requirements of NI 31-103, including the requirement to maintain excess working capital calculated using Form 31-103F1. These regulatory capital requirements are set forth in SEC Rule 15c3-1 – *Net Capital Requirements for Brokers or Dealers* (**SEC Rule 15c3-1**), and are designed to provide protections that are substantially similar to the protections provided by the regulations regarding excess working capital to which dealer members of the Investment Industry Regulatory Organisation of Canada (**IIROC**) are subject, and the Filers are in compliance in all material respects with SEC Rule 15c3-1 SEC Rule 15c3-1 requires each Filer to be in compliance with all applicable net capital requirements on a moment-to-moment basis, to notify the SEC immediately if excess capital declines by 20% or more or declines to a level below the Filer's minimum net capital requirement, and to suspend all business operations during any period in which the Filer is not in compliance with SEC Rule 15c3-1. FINRA has responsibility for ensuring that the Filers operate in compliance with SEC Rule 15c3-1.

5. The net capital calculations prescribed by SEC Rule 15c3-1 for credit risk and operational risk are generally more conservative than the calculations prescribed by Form 31-103F1. SEC Rule 15c3-1 also requires each Filer to account for any guarantee of debt of a third party in calculating its excess net capital.

6. Each Filer will, in the event that it provides a guarantee of any debt of a third party, deduct the total amount of the guarantee from its excess net capital on the FOCUS Report, consistent with the required treatment of such a guarantee under Form 31-103F1.

7. MSSB uses the method of computing net capital provided for in Appendix A to SEC Rule 15c3-1 (**Haircut Method**). The Haircut Method requires MSSB to value the securities it holds at market prices and to apply discounts (i.e. haircuts) based on each security's risk characteristics. The percentage amount of the haircut varies depending on the type of security, the maturity date and the quality and marketability of the security. The Haircut Method allows MSSB to apply reduced haircuts where MSSB employs a hedging or risk offset strategy. This methodology is very similar to the IIROC approach.

8. MS&Co has been approved by the SEC pursuant to SEC Rule 15c3-1 to use the alternative method of computing net capital contained in Appendix E to SEC Rule 15c3-1, and therefore files such supplemental and alternative reports as may be prescribed by the SEC. The Alternative Net Capital (**ANC**) method provides large broker-dealers meeting specified criteria with an alternative to use mathematical models such as the value at risk model to calculate capital requirements for market and derivatives related credit risk. Firms must document and implement a comprehensive internal risk management system which addresses market, credit, liquidity, legal and operational risk at the firm.

9. Section 12.1 of NI 31-103 provides that (1) if, at any time, the excess working capital of a registered firm, as calculated using the Form 31-103F1, is less than zero, the registered firm must notify the regulator as soon as possible; and (2) a registered firm must ensure that its excess working capital, as calculated using Form 31-103F1, is not less than zero for two consecutive days.

10. Subsection 12.12(1)(b) of NI 31-103 requires that a registered dealer, must deliver to the regulator no later than the 90th day after the end of its financial year a completed Form 31-103F1 showing the calculation of the dealer's excess working capital as at the end of the financial year and as at the end of the immediately preceding financial year, if any.

11. Compliance with sections 12.1 and 12.12(1)(b) of NI 31-103 would present undue burden and additional costs for the Filers, who are already subject to regulatory capital requirements under the SEC rules that are designed to meet comparable regulatory protections.

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) each Filer is registered, and in good standing, under the securities legislation of the United States in a category of registration that permits it to carry on the activities in the United States that registration as an investment dealer would permit it to carry on in the Jurisdictions;

(b) by virtue of the registration referred to in paragraph (a), including required membership in one or more self-regulatory organizations, each Filer is subject to SEC Rule 15c3-1 and SEC Rule 17a-5 *Reports to be Made by Certain Brokers and Dealers* (**SEC Rule 17a-5**); and that the protections provided by SEC Rule 15c3-1and SEC Rule 17a-5 in respect of maintaining excess net capital are substantially similar to the protections provided by the capital requirements of IIROC that would be applicable to each Filer if it was registered under the Legislation as an investment dealer and were a member of IIROC;

(c) each Filer delivers to the principal regulator no later than the 90th day after the end of its respective financial year its FOCUS Report as filed with the SEC and FINRA;

(d) each Filer prepares its FOCUS Report on an unconsolidated basis;

(e) each Filer notifies the principal regulator as soon as possible if at any time its excess net capital as reported in box 3920 of its most recently filed FOCUS Report, declines to or is less than zero for two consecutive days;

(f) each Filer submits to the principal regulator as soon as possible a copy of any notification made by the Filer to the SEC and/or FINRA if its excess net capital, as reported in box 3910 of its most recently filed FOCUS Report, declines by 20% or more or declines to a level below the Filer's minimum net capital as required by SEC Rule 15c3-1 or if the Filer suspends its business operations during any period in which the Filer is not in compliance with applicable net capital requirements set forth in SEC Rule 15c3-1;

(g) each Filer gives prompt written notice to the principal regulator if it has received written notice from the SEC or FINRA of any material non-compliance in the calculation of its excess net capital as reported in a FOCUS Report filed by the Filer pursuant to SEC and FINRA requirements; and

(h) each Filer provides the principal regulator with at least five days written notice prior to any repayment of subordinated intercompany debt or termination of a subordination agreement with respect to intercompany debt.

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

2.1.10 Mackenzie Financial Corporation et al.

Headnote

National Policy 11-203 Process for Exemptive Relief Applications in Multiple Jurisdictions – Relief granted from sections 2.3(f), 2.3(h), 2.5(2)(a) and 2.5(2)(c) of National Instrument 81-102 Mutual Funds to permit mutual funds to invest up to 10% of net assets in aggregate in underlying ETFs which may be leveraged index bull and bear ETFs, inverse ETFs, leveraged gold ETFs, leveraged silver ETFs, metals ETFs, traded on Canadian or US stock exchanges, subject to certain conditions.

Applicable Legislative Provisions

National Instrument 81-102 Mutual Funds, ss. 2.3(f), 2.3(h), 2.5(2)(a), 2.5(2)(c), 19.1.

November 9, 2011

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

AND
IN THE MATTER OF
THE PROCESS FOR EXEMPTIVE RELIEF
APPLICATION IN MULTIPLE JURISDICTION

AND

IN THE MATTER OF
MACKENZIE FINANCIAL CORPORATION
(the Manager)

AND

IN THE MATTER OF
MACKENZIE UNIVERSAL GOLD BULLION CLASS,
MACKENZIE UNIVERSAL PRECIOUS METALS FUND,
MACKENZIE UNIVERSAL WORLD PRECIOUS METALS CLASS, MACKENZIE UNIVERSAL WORLD RESOURCE CLASS
(collectively, the Precious Metals Funds)

BACKGROUND

The principal regulator in the Jurisdiction has received an application from the Manager for a decision under the securities legislation of the Jurisdiction of the principal regulator (the **Legislation**) for the following relief:

(a) exempting the Precisions Metals Funds from the prohibitions contained in paragraphs 2.3(f), 2.3(h), 2.5(2)(a), and 2.5(2)(c) of National Instrument 81-102 *Mutual Funds*, in order to permit the Precious Metals Funds to purchase and hold securities of the following types of exchange-traded funds (the **Underlying ETFs**):

a. **Leveraged ETFs** comprising of the following:

i. exchange-traded funds that seek to provide daily results that replicate the daily performance of a specified widely-quoted market index (the **Underlying Index**) by a multiple of up to 200% (Leveraged Bull ETFs), or an inverse multiple of up to 200% (**Leveraged Bear ETFs**, which together with Leveraged Bull ETFs are referred to collectively in this decision as **Leveraged Index ETFs**);

ii. exchange-traded funds that seek to provide daily results that replicate the daily performance of their Underlying Index by an inverse multiple of up to 100% (**Inverse ETFs**);

iii. exchange-traded funds that seek to provide daily results that replicate the daily performance of gold and/or silver, or the value of a specified derivative the underlying interest of which is gold and/or silver by a multiple of up to 200% (**Leveraged Gold ETFs** and **Leveraged Silver ETFs**, respectively); and

b. **Metals ETFs** comprising of exchange-traded funds that seek to replicate the performance of gold, silver, platinum, palladium and/or rhodium on an unlevered basis, or the value of a specified derivative the underlying interest of which is gold, silver, platinum, palladium and/or rhodium on an unlevered basis; and

(b) revoking the decision document granted by the Principal Regulator on January 13, 2009 (the **Previous Decision)**, insofar as the Previous Decision applied to the Precious Metals Funds

(collectively, the **Requested Relief**).

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

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

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

INTERPRETATION

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

REPRESENTATIONS

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

The Manager and the Precious Metals Funds

1. The Manager is a corporation governed by the laws of Ontario, is registered as a Portfolio Manager and Exempt Market Dealer in each Canadian jurisdiction, and has applied for registration in Ontario as an Investment Fund Manager. The Manager is also registered in Ontario under the *Commodity Futures Act* (Ontario) in the category of Commodity Trading Manager.

2. Each Precious Metals Fund is an open-end mutual fund trust or a class of shares of a mutual fund corporation established under the laws of Ontario.

3. The Manager is the investment fund manager and portfolio manager of the Precious Metals Funds.

4. Each Precious Metals Fund is qualified for distribution in all provinces and territories of Canada under a simplified prospectus and annual information form prepared in accordance with National Instrument 81-101 – *Mutual Fund Prospectus Disclosure* (**NI 81-101**), and receipted by the securities regulators in the applicable jurisdictions.

5. Each Precious Metals Fund is governed by the provisions of NI 81-102, and a reporting issuer in all of the provinces and territories of Canada.

6. Neither the Manager, nor any of the Precious Metals Funds, is in default of securities legislation in any province or territory of Canada.

Investment in Underlying ETFs

7. Each Underlying ETF will be a “mutual fund” (as such term is defined under the *Securities Act* (Ontario)), and will be listed and traded on a stock exchange in Canada or the United States.

8. Each Leveraged Index ETF will be rebalanced daily to ensure that its performance and exposure to its Underlying Index will not exceed +/- 200% of the corresponding daily performance of its Underlying Index.

9. Each Inverse ETF will be rebalanced daily to ensure that its performance and exposure to its Underlying Index will not exceed -100% of the corresponding daily performance of its Underlying Index.

10. Each Leveraged Gold ETF and Leveraged Silver ETF will be rebalanced daily to ensure that its performance and exposure to its underlying gold or silver interest, respectively, will not exceed +200% of the corresponding daily performance of its underlying gold or silver interest, respectively.

11. The leverage will be limited and monitored daily.

12. The maximum loss that can result from an investment by a Precious Metals Fund in an Underlying ETF will be limited to the amount invested by the Precious Metals Fund in securities of that Underlying ETF.

13. The Manager submits that there are no liquidity concerns with permitting the Precious Metals Funds to invest in an Underlying ETF.

14. The Manager submits that the Requested Relief will give the Precious Metals Funds additional flexibility in certain market conditions, which may otherwise cause a Precious Metals Fund to have significant cash positions and, therefore, deter from its ability to achieve its investment objectives.

15. The use of Metals ETFs are attractive investments for the Precious Metals Funds, as they provide efficient and cost effective means of achieving exposure to gold, silver, platinum, palladium and rhodium, and present no greater volatility than holding such metals as physical commodities.

16. As the aggregate investments in the Underlying ETFs would be 10% or less of the net assets of the Precious Metals Fund, taken at the market value thereof at the time of the investment, the Manager submits that there would be no significant change to the risk profile of a Precious Metals Fund.

17. The Precious Metals Funds will not invest in leveraged Metals ETFs or inverse Metals ETFs other than Leveraged Gold ETFs and Leveraged Silver ETFs.

18. Mackenzie Universal Gold Bullion Class will not purchase or hold ETFs with an underlying interest in rhodium, since it is not otherwise permitted to invest in rhodium directly.

19. An investment by a Precious Metals Fund in securities of an Underlying ETF will represent the business judgement of responsible persons uninfluenced by considerations other than the best interests of the Precious Metals Fund.

Previous Decision

20. The Previous Decision exempts mutual funds managed by the Manager or an affiliate of the Manager, currently and in the future, from paragraph 2.5(2)(a) of NI 81-102, permitting those funds to invest in certain funds managed by BetaPro Management Inc. Upon obtaining the Requested Relief, the Precious Metals Funds will not rely on the Previous 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 Requested Relief is granted provided that:

(a) the investment by a Precious Metals Fund in securities of an Underlying ETF is in accordance with the fundamental investment objectives of the Precious Metals Fund;

(b) the securities of the Underlying ETFs are traded on a stock exchange in Canada or United States;

(c) the securities of the Underlying ETFs are treated as specified derivatives for the purposes of Part 2 of NI 81-102;

(d) a Precious Metals Fund does not short sell securities of an Underlying ETF;

(e) a Precious Metals Fund does not purchase securities of an Underlying ETF, if immediately after the transaction, more than 10% of the net assets of the Precious Metals Fund in aggregate, taken at market value at the time of the purchase, would consist of securities of the Underlying ETFs;

(f) if a Precious Metals Fund is permitted to short sell, the Precious Metals Fund does not enter into any transaction if, immediately after the transaction, more than 20% of the net assets of the Precious Metals Fund, taken at market value at the time of the transaction, would consist of, in aggregate, securities of the Underlying ETFs and all securities sold short by the Precious Metals Fund; and

(g) the prospectus of each Precious Metals Fund discloses, or will disclose the next time it is renewed after the date hereof, in the Investment Strategy section of the prospectus, the fact that the Precious Metals Fund has obtained relief to invest in Underlying ETFs, together with the risks associated with investments in the Underlying ETFs, to the extent they differ from direct investments in precious metals, securities or the use of derivatives generally.

"Chantal Mainville"
Acting Manager
Investment Funds Branch

2.1.11 Global 45 Split Corp. – s. 1(10)(b)

Headnote

Securities Act (Ontario) – relief granted to cease being a reporting issuer in the provinces of Canada – filer able to make necessary representations for granting relief on a simplified basis under OSC Staff Notice 12 -703 – Preferred Format of Applications to the Director under Section 83 of the Securities Act.

Applicable Legislative Provisions

Securities Act(Ontario), s. 1(10)(b).

November 14, 2011

Global 45 Split Corp.
c/o McMillan LLP
Brookfield Place, Suite 4400
181 Bay Street
Toronto, Ontario
M5J 2T3

Dear Sirs/Mesdames:

Re: Global 45 Split Corp. (the Applicant) – Application for a decision under the securities legislation of all the provinces of Canada (other than British Columbia) (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 not in default of any of its obligations under the Legislation as a reporting issuer; and

(d) The Applicant will not be a reporting issuer or the equivalent in any jurisdiction in Canada immediately following the Decision Makers granting the relief requested.

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.

"Chantal Mainville"
Acting Manager, Investment Funds Branch
Ontario Securities Commission

2.2 Orders

2.2.1 Juniper Fund Management Corporation et al. – Rule 9.2 of the OSC Rules of Procedure

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
(Rule 9.2 of the Ontario Securities Commission Rules of Procedure)

WHEREAS the merits hearing in this matter relating to the Amended Statement of Allegations dated July 5, 2007, with respect to the respondents Juniper Fund Management Corporation, Juniper Income Fund, Juniper Equity Growth Fund and Roy Brown (a.k.a. Roy Brown-Rodrigues) commenced on September 19, 2011 and continued on September 20, 21, 22, 23, 28, 29, 2011, October 5, 2011 and November 9, 2011;

AND WHEREAS by email dated November 6, 2011, Mr. Brown requested an adjournment of the merits hearing for medical reasons and by email dated November 7, 2011, he provided supporting evidence for this request;

AND WHEREAS at the hearing on November 9, 2011, the Commission considered the factors to grant an adjournment set out in Rule 9.2 of the Ontario Securities Commission *Rules of Procedure* (2010) 33 O.S.C.B. 8017, the evidence provided by Mr. Brown and whether reasonable accommodations could be made for Mr. Brown;

IT IS HEREBY ORDERED THAT:

(1) The hearing in this matter is adjourned to December 21, 2011 at 10:00 a.m.; and

(2) Mr. Brown shall provide the Commission with an update and further evidence about his progress and medical condition by November 30, 2011 at 5:00 p.m.

DATED at Toronto on this 9th day of November, 2011.

"Vern Krishna"

"Margot C. Howard"

2.2.2 Bernard Boily – Rule 6.7

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

AND

IN THE MATTER OF
BERNARD BOILY

ORDER
(Pre-Hearing Conference – Rule 6.7)

WHEREAS the Ontario Securities Commission (the "Commission") issued a Notice of Hearing and Staff of the Commission ("Staff") filed a Statement of Allegations in this matter on March 29, 2011 against Bernard Boily (the "Respondent");

AND WHEREAS on April 28, 2011, the Commission ordered that the matter be adjourned to June 29, 2011;

AND WHEREAS on July 5, 2011, the Commission ordered that the matter be adjourned to a confidential pre-hearing conference to be held on September 13, 2011 and that the following dates be reserved for the hearing on the merits in this matter: April 2, 3, 4, 5, 9, 11, 12, 13, 16, 17, 18, 19, 20, 23, 25, 26 and 27, 2012;

AND WHEREAS on September 13, 2011, the Commission ordered that the matter be adjourned to a confidential pre-hearing conference to be held on November 10, 2011 and that the hearing on the merits in this matter shall commence on April 2, 2012 at 10:00 a.m. and continue on the following dates: April 3, 4, 5, 9, 11, 12, 13, 16, 17, 18, 19, 20, 23, 25, 26 and 27, 2012;

AND WHEREAS on November 10, 2011, counsel for Staff and the Respondent appeared before the Commission for a pre-hearing conference;

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

IT IS ORDERED that this matter is adjourned to a confidential pre-hearing conference to be held on December 13, 2011 at 9:00 a.m.

DATED at Toronto this 10th day of November, 2011.

"Vern Krishna"

Chapter 3

Reasons: Decisions, Orders and Rulings

3.1 OSC Decisions, Orders and Rulings

3.1.1 Maple Leaf Investment Fund Corp. et al.

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

AND

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

REASONS AND DECISION

Hearing dates:	January 10, 12-14, and 17-19, 2011		
Decision:	November 9, 2011		
Panel:	Christopher Portner	–	Commissioner and Chair of the Panel
	Paulette L. Kennedy	–	Commissioner
Appearances:	Anna Perschy Carlo Rossi	–	For the Ontario Securities Commission
	Alistair Crawley (Crawley Meredith Brush LLP) – attended on January 10, 2011	–	For Tulsiani Investments Inc. and Sunil Tulsiani
	No one appeared for	–	Joe Henry Chau
	the Respondents:	–	Maple Leaf Investment Fund Corp.

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REASONS AND DECISION

I. INTRODUCTION

A. Background

[1] This was a hearing before the Ontario Securities Commission (the "**Commission**") pursuant to section 127 of the *Securities Act*, R.S.O. 1990, c. S.5, as amended (the "**Act**"), to consider whether Maple Leaf Investment Fund Corp. ("**MLIF**"), Joe Henry Chau (also known as Henry Joe Chau, Shung Kai Chow and Henry Shung Kai Chow, referred to herein as "**Chau**"), Tulsiani Investments Inc. ("**Tulsiani Investments**") and Sunil Tulsiani ("**Tulsiani**") (collectively, the "**Respondents**") breached provisions of the Act and/or acted contrary to the public interest.

[2] Ravinder Tulsiani ("**Ravinder**"), who is referred to in the style of cause of the two Statements of Allegations issued in this matter, entered into a settlement agreement with Staff of the Commission ("**Staff**") that was approved by a Commission panel on December 21, 2010. In December 2008, Ravinder was the chief executive officer and a director of Tulsiani Investments. Ravinder is a former registrant in various capacities whose registration with the Commission ended on April 25, 2006.

[3] A Statement of Allegations was filed by Staff on February 12, 2010 in connection with a Notice of Hearing issued by the Commission on the same day. An Amended Statement of Allegations was filed by Staff on October 29, 2010. This proceeding relates to the sale of securities of MLIF to over 80 investors. Staff alleges that securities of MLIF were sold to investors in breach of the Act and in a manner that was contrary to the public interest.

[4] Staff alleges that the conduct at issue transpired during the period from June 2007 to and including April 2009 (the "**Material Time**"). The allegations are set out below at paragraphs 21 to 26.

[5] Staff alleges that, from June 2007 to and including January 2009, Chau and MLIF sold four series of MLIF bonds to the public, namely, the MLIF 100, 200, 300 and 400 series of bonds (referred to herein, collectively, as the "**MLIF bonds**" or, individually, as the "**100, 200, 300 or 400 series of bonds**", as applicable). The proceeds derived from the sale of the MLIF bonds were alleged to have been used, directly or indirectly, to fund, or facilitate the funding of, a hotel, casino and condominium project in Curacao in the Netherlands Antilles (the "**Project**"). In particular, Chau and MLIF are alleged to have:

(a) Maintained a website for MLIF promoting the Project and the MLIF bonds;

(b) Placed advertisements in newspapers promoting the MLIF bonds;

(c) Employed and/or contracted with telemarketers to promote and sell MLIF bonds;

(d) Conducted seminars and meetings and provided written materials to investors promoting the Project and the MLIF bonds;

(e) Accepted funds from investors for the purchase of the MLIF bonds;

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

(g) Assisted and directed investors with respect to the completion of the MLIF Forms.

[6] Staff alleges that, from December 2008 to and including January 2009, Tulsiani and Tulsiani Investments sold the 400 series of bonds to the public, including, primarily, the members of an organization they operated known as the Private Investment Club ("**PIC**"). In particular, Tulsiani and/or Tulsiani Investments are alleged to have:

(a) Invited potential investors to attend meetings and/or seminars to learn about the MLIF bonds;

(b) Made representations to potential investors about the MLIF bonds at meetings, seminars and/or in email messages;

(c) Accepted funds from investors for the purchase of the MLIF bonds and delivered the funds to a lawyer to be placed in his trust account;

(d) Controlled the use of investor funds; and/or

(e) Assisted and directed investors with respect to the completion of the MLIF Forms.

[7] In addition, in selling the 400 series of bonds, at issue is whether Tulsiani and Tulsiani Investments provided advice to potential investors with regard to such bonds, including providing opinions with respect to the merits of investing in such bonds and their level of risk, and by expressly or impliedly recommending or endorsing them.

[8] Staff alleges that the Respondents raised over $4.5 million in the aggregate from the sale of the MLIF bonds to over 80 investors. Approximately $1.4 million of this amount was returned to investors as "interest" and/or by way of "redemptions".

[9] These are our reasons and decision (the "**Reasons and Decision**").

B. History of the Proceeding

[10] A temporary cease trade order was first issued against MLIF and Chau on May 5, 2009, and was subsequently extended on May 15, 2009, November 10, 2009, February 17, 2010 and February 25, 2010. A temporary cease trade order was first issued against Tulsiani and Tulsiani Investments on June 26, 2009, and was subsequently extended on July 9, 2009, August 18, 2009, December 9, 2009 and February 25, 2010. On April 21, 2010, the temporary cease trade orders were continued in respect of the Respondents "until a decision is rendered following a hearing on the merits in relation to the matters raised in the Notice of Hearing issued on February 12, 2010 and the accompanying Statement of Allegations".

[11] Prior to the hearing on the merits, Chau made a preliminary motion for the hearing on the merits to be heard electronically which was dismissed by a different panel. At the commencement of the hearing on the merits, Chau made a further motion to be permitted to testify by telephone. The disposition of these motions is addressed below.

[12] We heard evidence on the merits in this matter on January 10, 12, 13, 14, 17, 18 and 19, 2011. Following the hearing on the merits, we received written submissions from Staff dated February 4, 2011, written submissions from Chau and MLIF dated February 11, 2011 and reply submissions from Staff dated February 17, 2011.

C. The Respondents

i. The Corporate Respondents

[13] MLIF is an Ontario company that was incorporated on January 11, 2007. MLIF, which purports to be an investment company, has never been a reporting issuer in Ontario and has never been registered with the Commission.

[14] Tulsiani Investments is an Ontario company incorporated on May 28, 2007. Tulsiani Investments is not a reporting issuer and has never been registered with the Commission.

[15] Tulsiani Investments purports to offer investors high-yield revenue properties that provide great potential for growth. During the period from at least December 2008 to and including January 2009, Tulsiani Investments operated PIC which provided investment opportunities to its members.

[16] MLIF and Tulsiani Investments will be referred to in these Reasons and Decision collectively as the "**Corporate Respondents**".

ii. The Individual Respondents

[17] Neither Chau nor Tulsiani was registered in any capacity with the Commission during the Material Time.

[18] Chau, a resident of Markham, Ontario during part of the Material Time, is the President, Chief Executive Officer and a director of MLIF.

[19] Tulsiani, a resident of Brampton, Ontario, is the President and a director of Tulsiani Investments.

[20] Chau and Tulsiani will be referred to in these Reasons and Decision collectively as the "**Individual Respondents**".

II. OVERVIEW OF THE ALLEGATIONS

A. Trading and Advising in Securities of MLIF

[21] Staff alleges in the Amended Statement of Allegations that, in relation to the conduct referred to above, Chau, MLIF, Tulsiani and Tulsiani Investments traded in securities of MLIF and that Tulsiani and Tulsiani Investments advised investors to invest in MLIF securities.

[22] Staff further alleges that the sale of the MLIF bonds referred to above constituted trades in securities not previously issued, and that the activities of Chau and MLIF constituted distributions for which no preliminary prospectus or a prospectus had been filed with the Commission, and no prospectus receipt had ever been issued to qualify the sale of MLIF securities.

[23] During the Material Time, none of Chau, MLIF, Tulsiani or Tulsiani Investments was registered with the Commission to trade in securities, and neither Tulsiani nor Tulsiani Investments was registered with the Commission to provide advice with respect to securities.

B. Prohibited Representations

[24] Staff alleges that Chau and MLIF made prohibited representations to investors, with the intention of effecting a trade in securities of MLIF or shares of other companies represented to be associated with MLIF, that such securities would be listed on a stock exchange. In particular, Staff alleges that Chau and MLIF represented to potential investors in the MLIF bonds that the bonds were convertible into MLIF founder shares or other MLIF shares, which shares would be listed on the Toronto Stock Exchange ("**TSX**") or TSX Venture Exchange. Staff also alleges that Chau and MLIF represented to potential investors in MLIF founder shares or other MLIF shares or the shares of other companies represented to be associated with MLIF that MLIF expected that these shares would be listed on the TSX or TSX Venture Exchange.

C. Fraudulent Conduct

[25] Staff alleges that Chau and MLIF engaged in acts, practices or courses of conduct relating to securities that they knew or reasonably ought to have known perpetrated a fraud on investors and that were contrary to the public interest by:

(a) Making representations to investors in the 100 or 200 series of bonds which they knew or reasonably ought to have known were false, inaccurate and misleading, that:

  (i) investor funds would be placed in a Guaranteed Investment Certificate ("**GIC**") at The Toronto-Dominion Bank ("**TD Bank**") or another bank, where they would remain for a two-year term;

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

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

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

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

(b) Failing to maintain investor funds in the 100 and/or 200 series of bonds in GICs as represented to investors and cashing the GICs shortly after purchasing them;

(c) Paying amounts purporting to be interest to investors in the 100, 200, 300 and/or 400 series of bonds in the absence of any revenue, profit or retained earnings by MLIF;

(d) Making interest payments or redeeming bonds acquired by earlier investors with funds received from new investors;

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

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

D. Conduct Contrary to Ontario Securities Law and Contrary to the Public Interest

[26] The specific allegations made by Staff which are referred to in the Amended Statement of Allegations are as follows:

(a) From June 2007 to January 2009, Chau and MLIF traded in securities of MLIF without being registered to trade in securities and in circumstances where no exemption was available to them, contrary to subsection 25(1)(a) of the Act;

(b) From December 2008 to January 2009, Tulsiani and Tulsiani Investments acted, solicited, negotiated or otherwise conducted themselves in a manner that constituted the furtherance of trading securities without being registered to trade in securities and in circumstances where no exemption was available to them, contrary to subsection 25(1)(a) of the Act.

(c) Tulsiani and Tulsiani Investments provided advice with respect to investing in MLIF securities without being registered to advise in securities, contrary to subsection 25(1)(c) of the Act;

(d) Chau and MLIF made representations without the written permission of the Director under the Act (the "**Director**"), with the intention of effecting a trade in securities of MLIF that such securities would be listed on a stock exchange or quoted on a quotation and trade reporting system, contrary to subsection 38(3) of the Act;

(e) The activities of Chau and MLIF constituted distributions of securities of MLIF for which no preliminary prospectus had been filed and no receipt had been issued by the Director, contrary to subsection 53(1) of the Act;

(f) Chau and MLIF engaged or participated in acts, practices or courses of conduct relating to the securities of MLIF and the business of MLIF which they knew or reasonably ought to have known would perpetrate a fraud on investors, contrary to subsection 126.1(b) of the Act;

(g) Chau and Tulsiani, in their capacity as directors and officers of the Corporate Respondents, namely, MLIF and Tulsiani Investments, respectively, authorized, permitted or acquiesced in the Corporate Respondents' non-compliance with Ontario securities law, and accordingly, are deemed to have failed to comply with Ontario securities law, pursuant to section 129.2 of the Act; and

(h) The Respondents' conduct was contrary to the public interest and harmful to the integrity of Ontario's capital markets.

III. OVERVIEW OF SUBMISSIONS BY CHAU AND MLIF

[27] Although Chau decided not to appear at the hearing, Chau and MLIF filed written submissions dated February 11, 2011 in response to Staff's written submissions.

[28] In his submissions, Chau provided a background to the facts at issue. We have reproduced this background in part as follows:

> In the summer of 2007, we started the investment operation of Maple Leaf Investment Corp in Markham, Ontario. It was the business of the company to develop real estate and market condominiums. The history of our company is short while my personal experience in development is considerably long. Our Certificate of Incorporation was hung right at the entrance. I do not believe anyone would be confused by this fact. It is puzzling to see that the OSC staff tried so hard to emphasis that we were a start up company because we clearly demonstrated our business registration to the public. The only project we had at the time was the Curacao hotel condominium project. In fact, that was our only asset. If anyone confused our then status with our past projects (it was labeled clearly as our Past Projects on our website), it is regrettable. After deciding on Curacao as our project site, we proceeded to arranging financing. The consideration was whether to go to the bank or to the public. We chose the latter, believing that we were bringing a good viable investment for the public accredited investors to participate in. Retaining a reputable law firm, Henderson Laffere [sic] in Ottawa, we prepared the Bond Offerings. We were advised to offer these bonds only to Accredited Investors and have them sign Accredited Investors Declarations before we do business with them. We advertised and marketed accordingly. We were not told by the lawyers that we also had to file for exemption. In fact, when we were approached by the OSC in

> 2008 and called the law firm, they were still uncertain whether we had to file for this exemption. If we did anything crossing the line, we were badly advised by the lawyers. It was not intentional.
>
> …
>
> The practices of the Company were nothing unconventional, including: borrowing (bonds or loans), financing, refinancing, paying out loans (redeeming bonds), shares held by companies, investment through related companies, loans to related or unrelated companies, director's accounts, receivables, fixed deposit account (GIC) when the funds were not being used, bank loans against collaterals (GIC etc), transfer of funds through lawyer accounts, commissions paid to agencies etc. The OSC staff is trying to paint a dark picture of our Company and myself by describing these business activities with undertones. Trying to reveal facts is one thing but witch hunting is another. Many of the facts were partial and twisted with inaccurate timing or situations. For example, the OSC staff is emphasizing that we redeemed some bonds and paid interest on them even though the Company was not making a profit. This was so misleading to the public making people think that we were operating like a scam. In fact, we were just trying to fulfill our obligation to pay interest as we promised and redeem these bonds, which were loans, when they were due. There were mentioning of funds going into my personal account but without mentioning of the funds I injected into the Company account. There were many entries of funds going in from my personal account, from companies I controlled indirectly and the St. Martinus University International Admissions Ltd. The amounts of credit and debit should almost even out. When there was no mentioning of my getting the minimum pay as the CEO, there was mentioning of me buying a bath tub as if it was a yacht. I believe pursuing the truth is not the same as smearing the respondent by presenting half truths and selected evidences.
>
> ...
>
> **C. The status of MLIF in the late 2008**
>
> MLIF was in the pre-construction stage at that time. We retained project managers, architects, engineers and designers to do the design and application work in Curacao. We did the planning and marketing in Markham, Ontario. In October, 2008, we succeeded in getting a Preliminary Financing Offer of $14 millions from the Royal Bank in Curacao. To increase our liquid cash, we offered a 400 series bond. Unfortunately, the financial crisis blew up in November, 2008 caused our construction plan to derail. The Royal Bank withdrew their offer. The OSC investigation that followed made sure that we could not refinance our project. We tried to use the St. Martinus University to help with financing and that was why we offered it to investors as collateral. Our last effort did not pay out though.
>
> OSC staff tried to paint a picture that MLIF was in dire financial position at that time. We do not deny that the Company needed financing during that period. Why was it a point to make while so many thousands of companies were in the same position at that time? Even some giants including many banks, fell in that financial crisis. In hind sight, we could have been more conservative in our approach. Any misfortune the Company and our investors suffer was not pre-meditated. I personally made some wrong decisions but all of them were made with the best of intentions.
>
> Whether the projects were big successes or failures depend on many circumstantial factors. We should not judge a project or its organizer by the end result. A project is independent of its past projects whether they are successes or not. Any hinting of their relationship is preposterous and misleading. By the same token, a difficult time of the Company at a certain time does not mean that the project is a bad project. There are too many cases of people or companies turning around after suffering recessions.
>
> We might have talked about the past but it was for the customers to make their own decisions based on the present project itself.

[29] Further, in his written submissions, Chau provided an explanation about the status of MLIF in late 2008. The submissions by Chau and MLIF also address the following subjects: (a) The Intended Purpose of TD GIC; (b) The Accredited Investor's Declaration; (c) The Status of MLIF in Late 2008 (set out above); (d) The Use of Funds; (e) The Related or Unrelated Projects; (f) The Alleged Misuse of Funds by H. Chau; and (g) The Alleged Fraudulent Conduct of Respondents. We have considered these various submissions below, as appropriate, when relevant to our determination of the issues.

IV. PRELIMINARY ISSUES

A. The Failure of the Respondents to Appear at the Hearing

[30] With the exception of the first day of the hearing, none of the Respondents was represented or appeared at the hearing. Subsection 7(1) of the *Statutory Powers Procedure Act*, R.S.O. 1990, c. S.22, as amended (the "**SPPA**") provides that:

> Where notice of an oral hearing has been given to a party to a proceeding in accordance with this Act and the party does not attend at the hearing, the tribunal may proceed in the absence of the party and the party is not entitled to any further notice in the proceeding.

[31] The Commission has previously exercised its jurisdiction to proceed in the absence of a party when it is satisfied that a respondent was provided with adequate notice of the hearing (See *Re Sunwide Finance Inc.* (2009), 32 O.S.C.B. 4671 ("***Sunwide***") at para. 18; and *Re First Global Ventures, S.A.* (2007), 30 O.S.C.B. 10473 ("***First Global***") at paras. 110-112).

[32] In this matter, counsel for Tulsiani and Tulsiani Investments only attended in person on the morning of the first day of the hearing. Chau and MLIF participated on the morning of the first day of the hearing by telephone for the purpose of having their motion to testify by telephone heard. After their motion was denied, we reiterated to Chau and MLIF that they would be welcome to attend in person at any time; however, they chose not do so.

[33] We are satisfied that Staff took all reasonable steps available to them to provide adequate notice of this proceeding to all of the Respondents and that we were entitled to proceed in their absence in accordance with subsection 7(1) of the SPPA.

[34] Although the Respondents did not attend the hearing, Chau filed written submissions on behalf of himself and MLIF. Tulsiani and Tulsiani Investments, through their counsel, made the admissions set out below at paragraphs 48 to 52 for us to rely upon when determining whether they were involved in breaches of the Act and/or conduct contrary to the public interest.

B. Motions by Chau

i. Motion for the Hearing to be Conducted Electronically by Video-Conference

[35] On August 12, 2010, Chau brought a motion for an order that the hearing on the merits in this matter be conducted electronically by video conference. Staff contested Chau's motion for an electronic hearing. None of the other Respondents took a position with respect to the motion.

[36] Chau, who was in China at the time of the motion (and participated in the hearing by telephone conference call from China), moved for an electronic hearing on the grounds that he was unable for financial reasons to travel to Ontario for an oral hearing or to retain counsel to represent him.

[37] On August 13, 2010, an order was issued dismissing the motion, and on October 12, 2010, written reasons for denying Chau's motion for an electronic hearing were issued. In considering the motion, the Panel stated the following factors as relevant to the decision to dismiss the motion (*Re Maple Leaf Investment Fund Corp.* (2010), 33 O.S.C.B. 9851 at para. 18):

(a) The matters involved in this matter are serious and Chau had put Staff's conduct in issue;

(b) Conducting a fifteen-day hearing on the merits by video conference would present many challenges. It would be more difficult (i) for Staff to conduct any cross-examination of Chau, if Chau decided to testify, and to submit documents to him; (ii) for the hearing Panel to assess Chau's credibility; and (iii) for the hearing Panel to appropriately manage the hearing process and ensure that any party outside the hearing room that was participating by video conference was acting appropriately and followed the accepted rules of procedure before the Commission;

(c) No matter what arrangements were made for a video conference hearing, there would be a significant risk that the hearing would be disrupted or delayed by the failure of the electronic arrangements;

(d) The rules of natural justice do not require that the hearing on the merits in this matter be conducted electronically. Chau had the opportunity to attend the hearing on the merits in person or by counsel and to make full answer and defence. Regardless of the outcome of the motion, Staff would continue to provide Chau with notice of this proceeding and Chau would be able to obtain transcripts of the testimony given at the hearing on the merits and to arrange to obtain documents and other materials tendered in evidence;

(e) Chau's conduct that would be the subject matter of the hearing on the merits took place in Ontario at a time when Chau was a resident of Ontario. He left the jurisdiction after he was interviewed by Staff as part of the

investigation that gave rise to this proceeding. That is not to suggest that there was necessarily any connection between those two events; only to note that Chau voluntarily left the jurisdiction knowing that a Commission investigation was on-going that could lead to a proceeding before the Commission;

(f) Chau submitted that he was not able or prepared to contribute to the costs of conducting the hearing electronically. That is certainly not a determining factor, but it is a consideration. In effect, the Commission was being requested to conduct a hearing on the merits in a manner that may create disruption, delay and a less efficient and fair process while incurring substantial costs in doing so; and

(g) Staff objected to an electronic hearing on the merits on the basis that, in all of the circumstances, Staff would be significantly prejudiced by such a hearing.

[38] The Panel which ruled on the motion addressed in paragraph 35 did not address the question of whether Chau should be permitted to testify electronically at the hearing on the merits, leaving this issue for us to decide should Chau decide to pursue his request to testify at the hearing by telephone.

ii. Motion to be Permitted to Testify Electronically at the Hearing

[39] On the first day of the hearing, Chau attended by telephone to present a motion seeking an order permitting him to have his testimony heard by telephone. Chau argued that he should be given the opportunity to testify by telephone as he was unable to attend in person and was not financially able to retain counsel to represent him at the hearing. He further argued that the Commission bear some responsibility for the losses suffered by investors including MLIF. Finally, Chau argued that, if not allowed to testify by telephone, the fairness and completeness of the hearing would be jeopardized as a number of the allegations made by Staff were not totally true or were totally false.

[40] After a careful review of the motion materials and Chau's arguments, we denied his request on the basis that there would be significant prejudice to Staff to proceed in the manner he proposed, but encouraged him to attend the hearing in person; however, Chau did not re-attend. Our ruling was as follows:

> CHAIR: The panel has heard your arguments and staff's response. We are satisfied that there would be significant prejudice to the staff to proceed in the manner that you have suggested. We believe the principles articulated in Vice-Chairman Turner's comments on the prior hearing are equally applicable to today's hearing.
>
> As a consequence, we do not accept and cannot accept your motion. But we do invite you, as has been indicated by staff, to participate in the hearing. There is enough time for you to make arrangements to be in Toronto to participate, and we invite you and encourage you to do so. But to accommodate the request that you have made, we do not believe would be appropriate.
>
> We will provide more detailed reasons in our eventual decision. But we are going to proceed today without your participation by telephone. And to repeat, we encourage you to participate in the process and to be in touch with the secretary's office to do so if you are prepared to attend in person and to participate in the manner set out in prior communication to you from the Commission.
>
> (Hearing Transcript dated January 10, 2011 at p. 47)

[41] Although the motion Panel deferred to the hearing Panel the question of whether Chau should be authorized to testify by telephone, we were of the view that the factors articulated by the motion Panel in the reasons for denying Chau's motion dated October 12, 2010 were equally relevant to Chau's request to testify by telephone and endorsed them. In particular, we found the factors cited in paragraph 37(b) of these Reasons and Decision to be compelling and, accordingly, dismissed Chau's request to testify by telephone.

C. The Appropriate Standard of Proof

[42] The standard of proof applicable in Commission proceedings is the civil standard of the balance of probabilities. In *F.H. v. McDougall*, [2008] 3 S.C.R. 41 ("***McDougall***"), the Supreme Court of Canada stated that different approaches had been taken by courts and administrative tribunals in evaluating evidence on this standard, and heightened standards had often been applied when allegations against a defendant were particularly serious, including in cases of professional misconduct and fraud (*McDougall*, *supra*, at paras. 26-39).

[43] The Supreme Court of Canada made it clear that there is only one civil standard of proof for all allegations, namely, that we must decide this matter on the balance of probabilities. In doing so, we must scrutinize the evidence before us "with

care" and be satisfied "whether it is more likely than not that an alleged event occurred" (*McDougall*, *supra*, at para. 49). We are satisfied that the events described in these Reasons and Decision are more likely than not to have occurred.

[44] This standard of proof also applies to the allegations of fraud, including breaches of subsection 126.1(b) of the Act.

D. The Use of Hearsay

[45] Some of the evidence introduced was in the nature of hearsay. Subsection 15(1) of the SPPA governs the use of hearsay evidence in Commission proceedings:

> Subject to subsections (2) and (3), a tribunal may admit as evidence at a hearing, whether or not given or proven under oath or affirmation or admissible as evidence in a court,
>
> (a) any oral testimony; and
>
> (b) any document or other thing,
>
> relevant to the subject-matter of the proceeding and may act on such evidence, but the tribunal may exclude anything unduly repetitious.

[46] Although hearsay evidence is admissible under the SPPA, we must determine the appropriate weight to be given to that evidence. A careful approach must be taken to avoid placing undue reliance on uncorroborated evidence that lacks sufficient indicia of reliability (See *Starson v. Swayze*, [2003] 1 S.C.R. 722 at para. 115; and *Sunwide*, *supra*, at para. 22).

[47] Further, while documentary evidence adduced by Staff to prove the allegations against the Respondents constituted hearsay evidence, we find that this evidence was also corroborated by or was consistent with other documentary evidence. Such documentary evidence included:

(a) Banking documents;

(b) The MLIF Forms, including the subscription agreements, and other legal documents;

(c) Lists of investors and other documents provided to Staff by certain Respondents;

(d) Copies of letters and email messages from certain Respondents to or from other Respondents or third parties; and

(e) Copies of legal documents referring to transactions between certain of the Respondents and third parties.

E. Admissions

i. Admissions by Tulsiani and Tulsiani Investments

[48] Counsel for Tulsiani and Tulsiani Investments, Alistair Crawley ("Crawley"), attended at the commencement of the hearing to make certain admissions on behalf of his clients. Through their counsel, Tulsiani and Tulsiani Investments admitted that:

(a) They had sold and assisted in the selling of securities, namely, the 400 series of bonds, to members of the public;

(b) Those securities had not been qualified by a prospectus under the Act;

(c) They breached subsection 25(1)(a) of the Act and acted contrary to the public interest.

[49] Tulsiani further admitted that he authorized, permitted or acquiesced in the actions of Tulsiani Investments.

[50] With respect to the allegation of providing advice, Tulsiani and Tulsiani Investments admitted that they had promoted the sale of the 400 series of bonds, and that they had recommended these bonds to members of the public.

[51] Crawley also indicated that he would return for the sanctions hearing. He acknowledged on behalf of his clients their understanding that Staff would call evidence at the hearing relating to their conduct which would be taken into account by us in determining the matter on the merits and in any hearing regarding the imposition of appropriate sanctions.

[52] Crawley stated on the record:

> MR. CRAWLEY:
>
> In this particular proceeding, *Mr. Tulsiani admits that he was engaged in the distribution of securities as is alleged in the amended statement of allegations.* And Ms. Perschy is going to be providing you with an overview during her opening statement.
>
> But the allegation which is really set out at paragraph 11 of the statement of allegations – that is, the sale of the Maple Leaf 400 bond series to members of the public – it's admitted by Mr. Tulsiani that the Maple Leaf bond –
>
> …
>
> So it's acknowledged by Sunil Tulsiani that the – his actions in selling and assisting in the sale of the Maple Leaf 400 series bonds to members of the public. *He was engaged in the sale of securities. Those securities had not been qualified by a prospectus under the Act.*
>
> *And therefore, he admits that he has breached section 25(1)(a) of the Securities Act. And I think it logically follows that that conduct would be found to be contrary to the public interest. So Mr. Tulsiani acknowledges that his conduct in this regard is contrary to the Act.*
>
> Due to Mr. Tulsiani's current financial circumstances, the extent of my retainer has been quite narrow. I did not have a mandate to be able to fully review all of the disclosure made by staff and, accordingly, haven't been in a position to come here and make more detailed factual admissions.
>
> So the position of Mr. Tulsiani is that he wants to make it clear that he acknowledges that he's breached the Act. *He's engaged in trades without being registered in securities that have not been qualified by a prospectus.*
>
> He acknowledges and accepts that he will be subject to sanctions by this Commission, and his current intention will be to attend the sanctions hearing, at the very least, as it pertains to himself as he has, of course, acknowledged being in breach of the Act.
>
> Due to Mr. Tulsiani's financial circumstances, he is not in a position to have myself as counsel attend the hearing on the merits to review and perhaps challenge the evidence of staff. However, based on the fact that he is admitting the breaches that have been alleged, he's made the decision to have me attend at the outset to advise you of his position and status and by way of explanation for neither himself nor myself attending the hearing on the merits.
>
> The only allegation as it pertains to Mr. Tulsiani where I don't have instructions to make a specific admission is with respect to the allegation that he was advising with respect to the sale of this series of bonds. It is – *Mr. Tulsiani does acknowledge that he was promoting the sale of the bond. He was recommending these bonds to members of the public. So those admissions, he can make.*
>
> And then, of course, the Commission is more than capable of making the determination as to what the legal consequence of that conduct is as it pertains to the allegation of advising. *However, he has already admitted to being in breach of section 25 of the Act in relation to subsection (1)(a).*
>
> So with the leave of the Commission, at this juncture, without intending any disrespect to the Commission or this process, I would ask that I be able to absent myself at this juncture. And Mr. Tulsiani would appear when the hearing is convened to order sanctions.
>
> …
>
> CHAIR: Thank you. And I take it, Mr. Crawley, that is understood by both – by your clients, being both corporate and individual, that we can make whatever findings based on whatever evidence is led by staff during his or your absence.
>
> MR. CRAWLEY: That is correct. And I can confirm – I should have mentioned that the admissions pertain to Tulsiani Investments and, in particular, that *Sunil Tulsiani does also admit that he authorized, permitted, or acquiesced in the actions –*

…

MR. CRAWLEY: – on behalf of Tulsiani Investments, so just to close that loop. He, of course, does appreciate that evidence is going to be called. Some of that evidence is going to pertain to his conduct in respect of this matter and, of course, will be taken into account by this Commission in making its findings on the merits and, ultimately, in ordering sanctions, and that is understood.

(Emphasis added)

(Admissions of Tulsiani in Hearing Transcript dated January 10, 2011 at pp. 8-12 and 14)

ii. Admissions by Chau and MLIF

[53] Chau also made the following factual admissions:

(a) MLIF is an Ontario company incorporated on January 11, 2007;

(b) MLIF purports to be an investment company;

(c) During the Material Time, MLIF represented to investors that it was going to construct and operate the Project;

(d) MLIF never filed a preliminary prospectus or a prospectus with the Commission, and no prospectus receipt was ever issued to qualify the sale of the MLIF bonds;

(e) MLIF was not registered with the Commission in any capacity during the Material Time;

(f) Chau was a resident of Markham, Ontario, during part of the Material Time and is the president, chief executive officer and director of MLIF;

(g) Chau was not registered with the Commission in any capacity during the Material Time;

(h) From 2007 to and including January 2009, MLIF and Chau sold four series of MLIF bonds to the public, namely the 100, 200, 300 and 400 series of bonds;

(i) In total, Chau, MLIF, Tulsiani, Ravinder and Tulsiani Investments raised over $4.5 million from the sale of MLIF bonds to over 80 investors;

(j) Approximately $1.4 million of this amount was returned to investors as alleged interest and/or the proceeds of redemption;

(k) Chau and MLIF represented to potential investors in MLIF bonds that the bonds were convertible into MLIF founder shares or other MLIF shares, which shares would be listed on the TSX or TSX Venture Exchange;

(l) Chau and MLIF represented to potential investors in MLIF founder shares or other MLIF shares or the shares of other companies represented to be associated with MLIF that MLIF expected that these shares would be listed on the TSX or TSX Venture Exchange;

(m) Chau and MLIF represented to investors that their funds would be placed in a GIC at TD Bank or another bank;

(n) Chau and MLIF represented to some investors that investor funds would remain in GICs until needed to pay for the purchase of land for the Project;

(o) Chau and MLIF represented to some investors that investor funds were to be used as collateral to assist MLIF in obtaining a construction loan for the Project; and

(p) Chau and MLIF represented to investors that they would be paid interest on their bonds partly from their GICs at TD Bank or another bank and partly by MLIF.

V. THE ISSUES

[54] This matter raises the following issues for our consideration:

(a) Did Chau, MLIF, Tulsiani and Tulsiani Investments trade in securities of MLIF without being registered to trade in securities, contrary to subsection 25(1)(a) of the Act?

(b) Did Tulsiani and Tulsiani Investments engage in advising with respect to investing in securities of MLIF without being registered to advise in securities, contrary to subsection 25(1)(c) of the Act?

(c) Did Chau and MLIF engage in distributions of securities of MLIF when a preliminary prospectus and a prospectus had not been filed and receipts had not been issued for them by the Director, contrary to subsection 53(1) of the Act?

(d) Did Chau and MLIF, with the intention of effecting a trade in securities of MLIF, make representations without the written permission of the Director that such securities would be listed on a stock exchange or quoted on a quotation and trade reporting system, contrary to subsection 38(3) of the Act?

(e) Did Chau and MLIF engage or participate in acts, practices or courses of conduct relating to MLIF securities that Chau and MLIF knew or reasonably ought to have known perpetrated a fraud on persons or companies, contrary to subsection 126.1(b) of the Act?

(f) Did Chau, in his capacity as a director and officer of MLIF, authorize, permit or acquiesce in the commission of the violations of subsections 25(1)(a), 53(1), 38(3) and 126.1(b) of the Act set out above by MLIF?

(g) Did Tulsiani, in his capacity as a director of Tulsiani Investments, authorize, permit or acquiesce in the commission of the violations of subsections 25(1)(a) and 25(1)(c) of the Act set out above by Tulsiani Investments?

(h) Was the conduct of the Respondents contrary to the public interest?

VI. THE EVIDENCE

A. Description of the Evidence Presented

[55] Staff called 11 witnesses at the hearing. Nine were Ontario investors, whom we have identified as Investors One to Nine in these Reasons and Decision, and two were Staff investigators.

[56] To protect the privacy of all investor witnesses, we have referred to them anonymously rather than using their respective names. In addition, to protect the personal information of the investor witnesses in this matter, we have required that Staff provide a redacted version of the record.

[57] The two Staff investigators were Larry Masci ("**Masci**") and Indi Dhillon ("**Dhillon**").

[58] Staff adduced 140 exhibits at the hearing through their witnesses.

[59] None of the Respondents tendered any evidence at the hearing.

[60] At the commencement of the hearing, a number of admissions were also made on behalf of Tulsiani and Tulsiani Investments, by their counsel, to which we referred above at paragraphs 48 to 52.

B. Evidence of the Alleged Facts and Events

[61] For a greater understanding of the issues in this matter, we have prepared the following summary of the facts and events in evidence before us.

i. Promotion and Sale of the 100 and 200 Series of Bonds and other Securities

[62] From at least June 2007 to January 2009, Chau and MLIF sold four series of MLIF bonds to the public, namely, the 100, 200, 300 and 400 series of bonds. The Respondents raised a total of $4,475,000 from the sale of the MLIF bonds to over 80 investors.

[63] In order to promote the MLIF bonds, Chau and MLIF:

(a) Placed advertisements in newspapers and maintained a website for MLIF;

(b) Conducted seminars and meetings and provided written materials to potential investors; and

(c) Employed and/or contracted with people to promote and sell the MLIF bonds.

[64] The MLIF advertisements referred to a casino or a casino and hotel investment and indicated that bonds and/or founder shares were available to investors. The advertisements indicated that limited quantities were available or that it was a "Limited Time Opportunity". The advertisements promised "HIGH RETURN, LOW RISK" and "GUARANTEED Returns with Tremendous Upside Potential" (emphasis in the original). Copies of MLIF advertisements which ran from January to March 2008 in the *Toronto Star* and other media were obtained by Staff and Investor Two testified that he saw a similar MLIF advertisement in the fall of 2007.

[65] The MLIF website and three MLIF brochures provided information about MLIF and its prior and then current projects. Two of the MLIF brochures were very similar and concerned the 100 series of bonds and the 200 series of bonds, respectively. Various investors testified that they received one or more MLIF brochures at MLIF seminars in June/July and September/October 2007. Staff viewed and downloaded extracts from the MLIF website in January and March 2008 and again during the period from March to May 2009.

[66] The website and the brochures indicated that "Maple Leaf", "Maple Leaf Group", and/or "Maple Leaf Investment Group" had successfully developed dozens of projects around the world over the previous 20 years and provided details of such previous projects. One MLIF brochure entitled simply "Maple Leaf Investment Fund Corp." indicated for example that "Through its investment arm, the Maple Leaf Investment Fund has invested in golf courses in Jasper, Alberta, office buildings in Calgary, motels and housing subdivisions in Ontario, retail shops in Hong Kong and apartment buildings in Tai Shan, China". It went on to describe Chau as the CEO and Chairman who had "led the Company and the whole team of hard working professionals in developing profitable projects in several continents".

[67] The MLIF website and brochures described their projects as offering high returns at low risk. The MLIF brochures stated in part as follows:

> …the Maple Leaf Investment Fund has found a solution to your problem – projects that have extremely low risk while at the same time, pay huge dividends beyond your wildest dreams.

The MLIF website similarly stated in part:

> …we have found a solution to your problem – projects which are low risk and which pay handsome returns on your investment.

[68] The MLIF website and one of the MLIF brochures referred to the Project as the "Maple Leaf Condominium Hotel Project" or the "Maple Leaf Investment Fund Brionplein Square Plaza Project" which MLIF was seeking to finance in part through bond offerings. The Project was described as being comprised of three parts: (i) one or more four star hotels; (ii) one or more casinos; and (iii) condominiums. The MLIF brochures referred to a Howard Johnson Hotel which MLIF had purchased and planned to expand and renovate and another six storey hotel MLIF was to build after buying a lot adjacent to the Howard Johnson Hotel (the "**West-End Property**") to be known as the Maple Leaf Hotel and Casino. The MLIF brochures also referred to an existing casino at the Howard Johnson Hotel which MLIF planned to expand as well as adding a second floor and another casino at the new Maple Leaf Hotel. The MLIF brochures indicated that 78 condominiums would be built on the Howard Johnson site and 150 units would be built on the site of the Maple Leaf Hotel. The MLIF website referred only to the Maple Leaf Hotel, a six storey 150 unit condominium and one casino.

[69] Two very similar MLIF brochures described the 100 and 200 series of bonds, respectively, and the MLIF website downloaded in 2008 described both series. The 100 and 200 series of bonds were available for a two-year term at a price of $25,000 per unit. There were three different types of bonds for both the 100 and 200 series of bonds which offered the following returns:

(a) 101/201 series of bond: a 2-year debenture "guaranteed" 10% annual interest (partly a bank GIC referred interest (referred to as approximately at the time 4% or 4.5%) paid annually, and a company guarantee for the remainder of the interest paid quarterly (5.5% or 6%));

(b) 101/202 series of bond: a 2-year debenture, "Bank GIC guarantee" (referred to as approximately at the time 4% or 4.5%) paid annually plus a "Standard Company Dividend" paid annually; and

(c) 103/203 series of bond: a 2-year debenture "guaranteed" 7% annual interest (partly a bank GIC, referred to as approximately at the time 4% or 4.5%, paid annually and partly a company guarantee for the remainder of the interest paid quarterly), and a half of the "Standard Company Dividend" paid annually.

[70] The three types of 100 and 200 series of bonds also had different entitlements for the holders to convert their principal investment in MLIF bonds to shares at certain prices and to acquire additional shares. However, all three types of the 100 and 200 series of bonds were represented to have the following characteristics:

(a) The principal investment would be "deposited into a Bank GIC account immediately";

(b) "Minimum return guarantee: Bank GIC interest…paid annually";

(c) "Maturity date: Two years from subscription"; and

(d) They would be "convertible" to "Maple Leaf Preferred Shares" (in the brochures) or "Maple Leaf Common A Shares" (on the website) after the two years.

[71] Potential investors attended MLIF seminars at which Chau and other officers or employees of MLIF gave presentations regarding MLIF, the Project and the 100 or 200 series of bond offerings and at which Chau and MLIF made the following representations to investors:

(a) Investor funds would immediately be placed in a GIC at TD Bank or another bank; and

(b) Investors would be paid interest on their bonds, partly from a GIC issued by TD Bank or another bank and partly by MLIF.

[72] All 100 and 200 series of bonds investors who testified described in varying degrees of detail the Project and the 100 or 200 series of bonds as applicable in terms that were similar to those set out in the brochures or on the website.

[73] One investor witness, Investor Three, a retired principal of a Montessori school, who had no investment experience at the time, testified that Chau described the three types of 100 series of bonds during the presentation she attended as follows:

> A. Bond mean – there are three category. Number 1, it's very safe. If you want to buy one bond, it cost 25,000, and this first one, the percentage is 10 percent. So it's very safe.
>
> Okay. The second one you can buy, it's number 102 – 101, 102, 103. 101 is very conservative. 102 for people like more aggressive. You only get 4 percent guaranteed from TD Bank, okay, from the 25,000, and then after, on top of that, you get half percent, 50 percent from dividend of the Maple Leaf Investment Fund. That's a lot.
>
> So number 3 he say you can – number 3 he said 7 percent. This is for people like to play safe; 7 percent. Four percent you get the investment interest from the TD Bank and then 3 percent from the Maple Leaf Investment Fund. Total, 7 percent. This percentage you can get two years. Every year annually you get paid by bank and by Maple Leaf, and that this guarantee is two years. So 25,000 is our principal on top of 7 percent. This is safe put in the bank.
>
> (Testimony of Investor Three in Hearing Transcript dated January 12, 2011 at p. 20)

[74] Investor Three spoke to Chau who indicated that her money would be kept in a TD GIC for two years:

> Q. …Can you just explain what you understood at that time the reference to the bank?
>
> A. I understood because the money is going to the bank, TD Bank, it's called, it stay [*sic*] there for two years as a GIC.
>
> Q. Okay. And who was saying that at that time?
>
> A. Joe, Henry Chau.
>
> …
>
> Q. – was there any discussion of risk of the investment?

> A. Not really.
>
> (Testimony of Investor Three in Hearing Transcript dated January 12, 2011 at p. 24)

[75] When Investor Three raised questions about where the money would go, Chau offered to take her to the bank where he would deposit the funds; however, when they did go to the bank, he had already deposited her cheque and introduced her to the bank manager.

[76] After investing, Investor Three initially volunteered and was later paid to work for MLIF. While she was at MLIF, seminars were held twice a week, one in English, one in Mandarin or Cantonese. She testified that these other seminars were similar to the one that she had attended.

[77] Chau told one investor, Investor Four, at an initial meeting that she "[did] not need to worry about money because the money will [be] put into the TD Bank GIC account" (Testimony of Investor Four in Hearing Transcript dated January 12, 2011 at p. 110). She subsequently attended a sales meeting with other potential investors during which Chau indicated that their money would be put into a TD GIC. She understood from Chau's presentation that the money would be used as collateral to permit MLIF to borrow money from the bank. Chau and MLIF acknowledged representing to some investors that investor funds would be used as collateral to assist MLIF to obtain a construction loan for the Project.

[78] Investor Two attended a presentation at which Chau discussed the guarantees concerning the bonds:

> Q. How much money was Mr. Chau and Maple Leaf – how much money were they looking to raise?
>
> A. He said that this particular project was around, like, 12 to $15-million. And he had already raised 8 to $10-million.
>
> Q. And what was to happen if he was unable to raise the monies that he was looking to raise?
>
> A. Yeah, he said that at the worst case scenario, company may belly up. And as your money will be in GIC, you will get your money back. That's like a guaranteed thing.
>
> (Testimony of Investor Two in Hearing Transcript dated January 10, 2011 at p. 129)

[79] Following the presentation, Investor Two raised questions with Chau and Chau gave him further assurances about the safety of his investment:

> A. Chau said that, yes, this money will be in GIC. You don't have to worry about it. And as I said in the presentation, like, even in the worst case scenario, your investment will be safe because it is going to be in GIC.
>
> (Testimony of Investor Two in Hearing Transcript dated January 10, 2011 at p. 139)

[80] Investor Two reviewed the MLIF brochure he received at the seminar with his wife following the seminar and decided to invest. He purchased a 203 series bond to have a safe investment on the basis of Chau's assurances:

> Q. If you could just summarize for the panel, why did you invest in this bond?
>
> A. From the assurance given by Mr. Chau, we thought that this is a very safe investment. According to him, like, our money will be in the bank in GIC. That's what my understanding is. Like, GIC is guaranteed, so at least I will get my principal back.
>
> (Testimony of Investor Two in Hearing Transcript dated January 10, 2011 at p. 154)

[81] Investor One, who could only understand simple communications in English, attended a seminar in Mandarin during which Chau used two words she did not know: "bond" and "GIC". Following the seminar, Vivian, an employee of MLIF, called repeatedly to tell Investor One what a great opportunity it was. At the urging of the MLIF employee, Investor One met with Raymond Tam, an officer of MLIF at the time ("**Tam**"), and raised concerns about the safety of the investment. Tam responded as follows:

> A. He said to me, first, my reputation is more important than your money. And the second thing he said to me was that the money we invested with them would be deposited into TD Bank, a two-year term deposit.

> And he pointed at a sample from TD Bank, a green kind of sample, saying that, after you invest with us, you will have the same thing. $25,000 investment, you would have something like this in your name. And he said, if you have concerns, you can go with us to deposit the money.
>
> Q. And what was he pointing to?
>
> A. TD Bank two-year term deposit letter kind of thing with green letters. There is a name, a customer's name. He said that person is one of their investors.
>
> …
>
> A. …So Mr. Tam told me that we invested money with the company, and the company would deposit the money into TD Bank for GIC for two-year term. And Mr. Tam said they really didn't need our money for their projects. They would put our money in the bank to prove that the company had money, and then they use it as a collateral to get loans from the bank to do their projects.
>
> …
>
> A. But I did believe that my money would be deposited into the bank in my name because that was the sample I was shown.
>
> (Testimony of Investor One in Hearing Transcript dated January 10, 2011 at pp. 84 and 87)

[82] Investor One invested her life savings of $50,000 in a 102 series of bond and a 103 series of bond with the understanding that she would receive her principal back in two years' time plus the interest. Chau received Investor One's money order and indicated that she did not need to go to the bank.

[83] Investor One became concerned when she received the GIC Confirmation of Investment (the "**GIC Certificates**") and did not see her name on it, unlike the sample Tam had shown her. Investor One raised her concern with Vivian and called Investor Three, an investor and MLIF employee. Chau called Investor One and explained that when MLIF had the clients' names on the GIC Certificates, the clients kept making inquiries at the bank which "caused a lot of inconvenience" (Testimony of Investor One in Hearing Transcript dated January 10, 2011 at p. 103); however, he reassured her that the Account Numbers on the GIC Certificates indicated that it was her investment. Investor Four raised the same issue with Chau and Chau provided a similar response.

[84] Staff obtained a number of MLIF bond certificates from investors and Chau. Each MLIF bond certificate had a separate Account Number. The investor lists provided by Chau from the 100 and 200 series of bond investors also set out Account Numbers for each MLIF bond held which matched the Account Numbers on the certificates for the MLIF bond. Staff also obtained a number of GIC Certificates from investors which set out in part on the left-hand side of the page the following:

> GUARANTEED INVESTMENT CERTIFICATE
>
> ISSUED BY TD MORTGAGE CORPORATION
>
> MAPLE LEAF INVESTMENT FUND CORP.
>
> FOR A/C …

[85] For each of the GIC Certificates, the number following the reference to "For A/C" matched MLIF's Account Number for that investor's MLIF bond set out on the bond certificates and the investor lists.

[86] All investors in the 100 and 200 series of bonds who testified confirmed that they invested $25,000 or more and were told by Chau and/or other MLIF employees and officers that:

(a) Their principal investment was being invested in a GIC, that it was guaranteed or safe or that they did not need to worry;

(b) Their interest would be paid in part annually from a bank GIC; and

(c) The term of the investment was two years, at the end of which term they could receive their principal back or convert to shares.

[87] In total, Chau and MLIF raised $975,000 from investors in the 100 and 200 series of bonds between June 2007 and March 2008. Chau signed the investors' subscription agreements on behalf of MLIF. Chau instructed the investors to make out their cheques to MLIF.

[88] Staff obtained signed subscription agreements for nearly all of the 100 and 200 series of bonds which reflected MLIF as the issuer of 100 or 200 series of bonds, as applicable (the "**Issuer**"). The agreements set out the type of bond being purchased (e.g. 101/201, 102/202 or 103/203), the amount, the two-year term to maturity from the date of the subscription, the applicable rates of return for the interest and the dividend. With respect to interest, the subscription agreements differentiated between the percentage "per annum from GIC, payable annually" and the percentage if applicable "per annum from the Issuer, payable quarterly".

[89] Most investors in the 100 and 200 series of bonds received some interest statements and some payments until April 2009. The interest statements, which included the Account Number on the Bond Certificate, set out an amount for the "Guaranteed Interest Rate" comprised of the "G.I.C [*sic*] Interest Rate" and the "Company Guaranteed Rate". Some of the interest statements indicated that the "G.I.C [*sic*] Interest Rate" was being "Paid annually by bank" while the "Company Guaranteed Rate" was being "Paid quarterly by company".

[90] Payments of the annual interest and the quarterly interest were made by separate cheques. Investors received email updates from Larry He, an MLIF employee, which also distinguished between "Annual GIC" payments and "Quarterly" payments. Chau prepared most of the email updates.

ii. Actual Status of 100 and 200 of Bond Investors and Further Offerings of Securities

[91] Investor One, one of the investors in the 100 and 200 series of bonds, testified that she was provided with a "Subscriber's Declaration" form when she invested and indicated that she did not qualify according to the definitions in the form but was told to check it off anyway:

> Q. All right. And there's a tick mark on the first box. Just a moment. That first box indicates:
>
> "I hereby declare that I'm an accredited investor as set out by the Ontario Securities Commission. I alone or together with my spouse beneficially own assets that have an aggregate realizable value before taxes but net of liabilities exceeding $1-million Canadian."
>
> So can you tell me, how did that come to be checked off?
>
> A. So I remember this very clearly. I needed to check one box. And although my English was not good, but I went through the three boxes. And I said, oh, this one, you are required to have an asset exceeding $1-million. I don't have this. I can't buy this.
>
> And then I was told, it doesn't matter. Nobody has so much money. Just pick one and check. I said, which one should I check? And I was told to check the first one.
>
> (Testimony of Investor One in Hearing Transcript dated January 10, 2011 at pp. 93-94)

[92] Another investor, Investor Three, also indicated that she did not qualify when Chau gave her MLIF's "Subscriber's Declaration" form and Chau told her that it did not matter:

> Q. And who provided you with this form?
>
> A. Henry Chau.
>
> Q. And did Mr. Chau tell you anything about this form?
>
> A. I ask question, you know, what is a million dollar there for? I said, I don't have that kind of money, and he doesn't explain much. He said, well, don't worry about that. That is just like decoration. So just sign.
>
> (Testimony of Investor Three in Hearing Transcript dated January 12, 2011 at p. 46)

[93] Investor Three signed the "Subscriber's Declaration" form at the time of investment but did not check any of the statements as she understood from Chau that it did not matter, it did not mean anything and was just a "decoration" (Testimony of Investor Three in Hearing Transcript dated January 12, 2011 at p. 49).

[94] Other investors in the 100 and 200 series of bonds gave similar evidence:

> Q. …And sorry, you may have said this already, but can I just confirm, who provided you with this form?
>
> A. Mr. Henry Chau.
>
> Q. And did Mr. Chau tell you anything about this form?
>
> A. He just asked me to sign this, right. Then I look at the contents and I told him, I said, none of the descriptions really – how you say? – suited my situation. Then he said, don't worry. This is, like, just a formality.
>
> (Testimony of Investor Four in Hearing Transcript dated January 12, 2011 at p. 119)

[95] Investors in the 100 and 200 series of bonds who testified gave evidence as to their financial situation. At the time that they invested in the MLIF bonds, none of them:

(a) Earned $200,000 in net annual income before taxes or $300,000 in annual net income together with a spouse;

(b) Beneficially owned, alone or together with their spouse, financial assets net of liabilities that had an aggregate realizable value before taxes of $1 million; or

(c) Beneficially owned, alone or together with their spouse, assets (including financial assets and other property) net of liabilities that had an aggregate realizable value before taxes of $5 million.

[96] Staff conducted personal and telephone interviews of over 30 bond investors in the course of its investigation, including a number of 100 and 200 series of bond investors. Staff asked about the investors' financial circumstances and determined that they did not meet the requirements for an accredited investor pursuant to the Act.

[97] MLIF did not file an accredited investor exemption report with the Commission until May 2009 by which time Staff had obtained temporary orders against MLIF and Chau including orders to cease trading. In addition to being late, the report was significantly deficient, lacking many details including particulars about each distribution of securities, what the securities were and the identity of the purchasers. Given Staff's interviews of investors, Staff determined that the report was misleading in that it purported to rely on the accredited investor exemption when investors did not qualify.

iii. Commencement of MLIF Business

[98] While Chau and MLIF presented MLIF in their seminars as an established company which was part of a group which Chau had led to complete many successful projects over the last twenty years, MLIF was only incorporated on January 11, 2007 and Chau is the only shareholder. Chau opened MLIF's bank accounts first at TD Bank and subsequently at the Royal Bank of Canada ("**RBC**"). In May 2007, MLIF applied for an operating line of credit of $10,000 and TD Bank required that MLIF provide a GIC in the same amount as collateral. In August 2007, TD Bank declined MLIF's application for an increase in the operating line of credit to $235,000, stating as follows:

> Business owner/guarantor has a weak credit history
> Business owner/guarantor has limited credit history
> Insufficient Total Net Worth
> Derogatory information on the business owner's/guarantor's credit bureau report

[99] In February 2008, Chau opened an account for MLIF at RBC (the "**MLIF RBC Account**") and MLIF applied for an operating line of credit of $100,000. RBC required that MLIF purchase a GIC in an amount equivalent to the maximum that could be borrowed against the operating line of credit.

[100] Chau is the sole authorized signatory on MLIF's main operating account at TD Bank (the "**MLIF TD Account**") and the MLIF RBC Account. All cheques were signed by Chau and all deposits, transfers and payments were made by him.

[101] On June 20, 2007, when Chau deposited the first funds from a 100 series of bond investor in the MLIF TD Account, that account was in an overdraft position. Another TD Bank account in the name of MLIF had no balance available at the time and the account had no significant activity between April 2007 to May 2009.

iv. MLIF's Delayed Purchases of TD GICs

[102] Of the $975,000 raised from 100 and 200 series of bonds investors, Chau and MLIF deposited $950,000 in the MLIF TD Account, representing the primary source of funds for that account. Chau and MLIF also deposited $25,000 directly into the MLIF RBC Account on September 3, 2008.

[103] On February 19, 2008, Chau and MLIF transferred $100,000 from the MLIF TD Account to the MLIF RBC Account to purchase a GIC in the amount of $100,000 which MLIF used as collateral for its RBC operating line of credit. Chau and MLIF used the remaining $850,000 in the MLIF TD Account to purchase GICs at TD Bank.

[104] In seminars open to the public, Chau and MLIF represented to 100 and 200 series of bond investors that the funds derived from the sale of MLIF bonds would be used to purchase a GIC immediately; however, that is not what occurred. After redeeming her initial investment, Investor Three purchased a 100 series of bond on July 20, 2007; however, her GIC Certificate indicated that it was purchased "as of August 24, 2007". Similarly, Investor Four purchased a 100 series of bond on July 16, 2007 and her GIC Certificate indicated that it was purchased "as of July 26, 2007".

[105] Staff's analysis of the TD banking documents also indicated that there were delays in placing funds in GICs. For example, three MLIF bonds were purchased on June 20, 22 and 28, 2007; however, only one GIC was purchased on June 28, 2007 and the next two were purchased on July 3 and 19, 2007, respectively. Eighteen 100 series of bonds were purchased in July, the first being on July 4, 2007; however, only four further GICs were purchased in July. Chau and MLIF next purchased GICs on August 13, 2008 when they purchased five and then another ten GICs on August 24, 2007. However, there were still delays in purchasing GICs as at least three further bonds were purchased in early August 2007 but MLIF did not purchase any other GICs until mid-September 2007.

v. MLIF Cashed TD GICs

[106] The funds did not remain in the TD GICs for two years until maturity as represented by Chau. After Investor Three read an article about MLIF indicating that Chau was taking money from investors, she became concerned about her investment and went to TD Bank where she was shocked to learn that Chau had cashed the GIC with her account number referenced about a week after it was purchased.

[107] The 100 and 200 series of bond investors' GIC Certificates set out the investor's bond certificate number on the left and also a further Account Number on the right hand side of the document which corresponded to TD Bank's Account Number for the GIC. None of the GIC Certificates was issued in the names of the investors and, accordingly, the investors had no security for the repayment of the funds they invested notwithstanding the representations made by the Respondents that their funds were secured. For example, TD Bank's records confirmed that the GIC with Investor Three's account number referenced was cashed on August 30, 2007, six days after it was purchased.

[108] The GIC with Investor Four's account number referenced was purchased on July 26, 2007. While Chau and MLIF repurchased Investor Four's MLIF bond in June 2008, TD Bank's records indicated that GIC was in fact cashed on August 20, 2007, less than a month after it was purchased.

[109] Staff's analysis of the banking documents revealed that Chau and MLIF cashed the first TD GIC on July 19, 2007. Chau and MLIF cashed a further nine TD GICs on August 20, 2007 and another nine on August 30, 2007. In more than half the cases, MLIF held the TD GICs for a week or less. In all but two cases, the GICs were held for fewer than 35 days.

[110] Chau and MLIF continued to promote and sell the 100 and 200 series of bonds giving the same presentations and making the same types of representations as they had to earlier investors. For example, Investor Two attended a presentation in the fall of 2007 and purchased a 200 series of bond on November 30, 2007; however, as of November 30, 2007, Chau and MLIF had cashed most of the GICs. Chau and MLIF sold most of the 100 and 200 series of bonds after they had started cashing the TD GICs previously purchased with funds from prior 100 series of bond investors.

[111] Chau told some investors that their funds would be used to purchase a GIC and used as collateral for a loan. He also told some investors that the funds would remain until needed to pay for the purchase of land for the Project. At best, MLIF only acquired an indirect interest in land in Curacao at the end of May 2008. However, of the $850,000 in TD GICs that MLIF had purchased with the funds from investors in the 100 and 200 series of bonds, $800,000 was cashed by the end of January 2008.

[112] As the GICs were cashed starting in July 2007, the money flowed back into the MLIF TD Account, MLIF's main operating account at TD.

vi. Other Misleading Statements and Omissions

[113] The MLIF brochures for the 100 and 200 series of bonds indicated that MLIF had purchased the Howard Johnson Hotel. They also indicated that the condominium sales were "expected to bring in a remarkable return" and that since "the two Brionplein residential blocks are built on the excessive land of the Howard Johnson Hotel, there is no land cost. It is a major contributor of [sic] the bottom line". Investor Two testified that Chau indicated in the fall of 2007 that the acquisition of the Howard Johnson Hotel was "half done" (Testimony of Investor Two in Hearing Transcript dated January 10, 2011 at p. 128). Chau admitted that MLIF discussed with the seller whether to buy the Howard Johnson Hotel or the West-End Property but did not acquire the Howard Johnson Hotel as it was sold to another party.

[114] The MLIF brochures indicated that the offering for each of the 100 and 200 series of bonds was up to a maximum of $28 million; however, Chau and MLIF raised only $775,000 and $200,000, respectively, from their sale.

[115] Investor Two testified that when Chau presented the Project to potential investors at a seminar in the fall of 2007, Chau stated that he had "already raised 8 to $10-million" (Testimony of Investor Two in Hearing Transcript dated January 10, 2011 at p. 129). Investor Three testified that in a subsequent seminar for investors in February or March 2008, Chau indicated that he had raised $15 million and patted his pocket saying "tonight in my pocket I have 15 million" and welcomed any investors who wished to do so to redeem their bonds (Testimony of Investor Three in Hearing Transcript dated January 12, 2011 at p. 89).

[116] Despite Chau's statement that he had $15 million in his pocket and was willing to redeem bonds, when investors sought to redeem their bonds, Chau discouraged them. One 100 series of bond investor, Investor Four, had several discussions with Chau beginning in February or March 2008 about redeeming as she had concerns that the hotel/condominium could not be built as promoted due to municipal planning restrictions as the area was designated as a heritage site. Chau admitted that he was waiting for funds from Curacao following the land closing and ultimately Investor Four only obtained an amount equivalent to her original $25,000 investment in June 2008. Investor Three, another 100 series of bond investor who also sought to redeem, was unable to get back her original investment.

[117] The last sale of a 200 series of bonds took place at the end of March 2008, at which time, the MLIF TD Account had a negative balance which continued until Chau and MLIF redeemed three TD GICs on November 10, 2008 to pay the overdraft.

vii. Sale of the 300 Series of Bonds and Use of Funds in the MLIF RBC Account

[118] Contrary to Chau's express written statement to Staff, Chau and MLIF started selling the 300 series of bonds in July 2008 without completing any listing process. Chau and MLIF raised $700,000 from the sales which were completed by October 7, 2008.

[119] Chau and MLIF deposited the $700,000 raised in the MLIF RBC Account.

[120] On June 12, 2008 and July 4, 2008, the Curacao-based notary representing Chau and MLIF, Andre Eshuis ("**Eshuis**"), transferred to the MLIF RBC Account $294,520 from the deposit fund relating to the sale of the condominiums. Some 100 series of bonds investors had been asking Chau to refund their investments since February or March 2008. In June 2008, after the initial funds were received from Curacao, Chau and MLIF provided refunds to two investors for the amounts paid for the purchase of their 100 series of bonds.

[121] In September 2008, Chau and MLIF transferred $208,820 (US$200,000) to Eshuis in Curacao. On a net basis, only approximately $85,000 was transferred from Curacao. The $700,000 raised from the sale of the 300 series of bonds was the most significant source of funds for that account in 2008.

[122] MLIF had one GIC in the amount of $100,000 at the MLIF RBC Account which was rolled over several times as it was the security for the operating line of credit. That GIC earned only $3,007 from the time it was purchased by MLIF.

[123] As there was insufficient money from the interest earned by the RBC GIC and Chau had already cashed nearly all of the TD GICs by the Spring of 2008, Chau caused MLIF to pay interest to investors in the 100, 200 and 300 series of bonds from the MLIF RBC Account. Between February 2008 and May 20, 2009, MLIF paid $50,608 in interest to investors in the 100, 200 and 300 series of bonds, including annual GIC interest.

[124] Chau was asked in July 2009 about the operations of the MLIF bank accounts and responded as follows:

> Q. 417 …So investors' funds would come in, these expenses would come out, correct?
>
> A. That's true.
>
> …

> Q. 447 Okay. So, in other words, the investors are put into a pool and you are paying interest from that pool; is that correct?
>
> A. Part of it would be.
>
> (Admissions of Chau in Hearing Transcript dated January 19, 2011 at pp. 171-172)

[125] In addition to paying interest to MLIF bond investors, Chau caused MLIF to pay the following from the funds in the MLIF RBC Account:

(a) $93,859 to Chau consisting almost entirely of net transfers to his personal RBC account and cash payments for salary or credit cards;

(b) $146,821 for various business expenses of MLIF, primarily office rent ($83,967) and salaries ($53,816), but not including $212,080 paid in commissions or fees; and

(c) $522,964 for or on behalf of other Chau-related entities.

viii. Sale and Promotion of the 400 Series of Bonds

[126] The Tulsiani Investments website and promotional materials relating to PIC and Tulsiani Investments indicated that Tulsiani was an Ontario Provincial Police ("**OPP**") officer for over 16 years and described him as "one of the most successful investors in the Toronto area".

[127] Ravinder was presented to investors at PIC meetings, on the Tulsiani Investments website and in promotional materials for PIC and Tulsiani Investments as a law graduate, as well as a former Financial Planner and Chief Compliance Officer for a large securities firm.

[128] The Tulsiani Investments website under the heading "Some of the many reasons for investing with Tulsiani Investments included:" was the statement, "We Do All the Work". On another page of the website, under the heading "We Do All the Work":

> When we bring an investor or partner into a deal, we handle the majority of the details. That is our job. Therefore, when an investor or partner works together with us, we take care of the details so you have a "stress free" and "hands off" investment.

The third point under the heading "Some examples of the details we look after are:" stated "Perform due diligence".

[129] Tulsiani and Tulsiani Investments commenced operating PIC in 2005.

[130] Tulsiani Investments and PIC shared the same office. Email messages were sent to investors from PIC email addresses on behalf of Tulsiani Investments.

[131] The investor witnesses understood Ravinder and Tulsiani to be the principals of PIC.

[132] A brochure provided to potential investors described PIC and Ravinder and Tulsiani's connections with PIC as follows:

> Private Investment Club (PIC) is a non-profit organization committed to providing real estate investment education to Canadians. PIC provides it's [sic] members with the opportunity to learn advanced real estate investment strategies to help them achieve financial freedom. The Club is designed to give it's [sic] members the knowledge and confidence to invest in real estate with little risk and no money down, right here in Canada.
>
> …
>
> Sunil and Ravinder Tulsiani are the visionaries who founded the Private Investment Club in January 2007. Sunil, a former Police Officer and Ravinder, previously a Chief Compliance Officer, decided to retire in order to become professional Real Estate Investors. They are two of the most successful real estate investors in Canada.

An article provided to potential investors entitled "Profiles of Success in Business: Creating Wealth Through Real Estate" stated:

> Our motto is put our money first and only then invite our investors to take advantage of any profitable deal.

[133] PIC held monthly meetings which had two parts. The first was open to the general public while the second was for members only. There was an opportunity to become a member between the public and members-only parts of the meetings. During the members-only portion of the meeting, Tulsiani presented an investment opportunity to PIC members.

[134] In the parts of the PIC meetings that were open to the public, Tulsiani presented himself as a former police officer who grew tired of the demands of the job and wanted to spend more time with his family. He explained that he went into real estate investing and described how he was able to use his police experience to investigate and negotiate transactions and complete the due diligence and how he became a millionaire.

[135] Tulsiani went on to say that he started PIC to give back to the community by providing training and education to people who wanted to make money, get out of the rat-race and have more time for their families.

[136] Tulsiani presented PIC as providing its members with the opportunity to participate in deals that in normal circumstances would not be available to the general public.

[137] In the public parts of the PIC meetings, Tulsiani indicated that he and Ravinder conducted the due diligence on, and invested in, every deal that they presented to PIC members.

[138] The article entitled "Profiles of Success in Business: Creating Wealth Through Real Estate" discussed at paragraph 132 above also stated:

> Since we do complete due diligence on all projects and invite our exclusive investors to participate in a turnkey franchise approach to real estate investing. All the homework is done for our investors as a result, our investors save time, resource and energy. Above all, we invest in every project with the client so we have a vested interest in the outcome.

[139] There was a fee to become a PIC member of approximately $700. However, various investor witnesses indicated that they obtained time-limited discounts and paid a lower fee ranging from $349 to $500 to join.

[140] One investor, Investor Five, testified that his PIC membership fee appeared on his credit card statement as a charge to "Tulsiani Investments Brampton ON".

[141] As part of their membership, PIC members were provided with mentorship sessions with Tulsiani. In addition to these mentorship sessions, PIC members could sign up for a service known as Millionaire Training Camp ("**MTC**") which was a three-day training program on how to become a chapter leader of PIC including finding investors, controlling meetings and presenting deals.

[142] Starting in the spring of 2008, Tulsiani and Tulsiani Investments began promoting the sale of MLIF condominium units in Curacao to PIC members.

[143] In early December 2008, Tulsiani and Tulsiani Investments solicited PIC members to attend a meeting in December at which the 401 series of bonds were promoted and sold.

[144] Commencing on December 12, 2008, Tulsiani and other employees of Tulsiani Investments emailed, directly or through chapter leaders, and/or called PIC members about this investment opportunity. Several of the emails signed by Tulsiani as President of PIC had a subject line which stated:

> Make 20% in 10 days … risk free ...

[145] The earliest email messages were addressed to "Dear VIP Investor" and indicated that the recipient was getting the first opportunity while subsequent messages were addressed to "Dear PIC Member". Both "VIP" investors and PIC members were advised that they were getting access to a "once in a lifetime commercial development opportunity". Some investors received several email messages from Tulsiani in this regard.

[146] The content of the email messages was very similar. The messages stated in bold text:

> **How would you like to earn 20% return in 10 days?**

[147] The message went on to indicate as follows:

> Here is a rare opportunity for you to make **20% in 10 days, without any risk** … the money stays in a trust account.
>
> (Emphasis in the original)

[148] The messages further indicated that the minimum investment was $50,000 though $25,000 may be considered and that the recipient was:

> … being notified prior to thousands of other investors. This will absolutely not last. Respond now.

[149] Tulsiani called Investor Nine on or about December 11, 2008 and told her about the investment opportunity: "you get 20 percent return in 10 days" (Testimony of Investor Nine in Hearing Transcript dated January 14, 2011 at p. 197). He then said that the time period was really short and it was already sold out but that he could place her name on a waiting list if she came to see him with the money so, "if someone cancel [*sic*], and you can jump in" (Testimony of Investor Nine in Hearing Transcript dated January 14, 2011 at p. 198). Other witnesses testified that Tulsiani would create a sense of urgency so people "take action" (Testimony of Investor Six in Hearing Transcript dated January 13, 2011 at p. 130).

[150] Tulsiani instructed PIC members to attend the Tulsiani Investments/PIC office on various days in mid-December with a certified cheque made out to "Vijai Sookhai Law Firm in Trust".

[151] Potential investors attended the Tulsiani Investments/PIC office on or around December 17, 2008 and met with Tulsiani, Chau and/or Ravinder. Chau, Tulsiani and other employees of Tulsiani Investments represented to potential investors in the 401 series of bonds that their funds would be used as "show money" to demonstrate to the bank that was providing the construction loan for the Project that MLIF had a certain amount of equity (Testimony of Investor Seven in Hearing Transcript dated January 14, 2011 at p. 26). Investors understood that their funds would be deposited in the trust account of lawyer Vijai Sookhai ("**Sookhai**"), where they would remain.

[152] Tulsiani represented to investors that he had conducted due diligence on the 400 series of bonds.

[153] Investor Seven and her sister met with Tulsiani, Ravinder and Chau at which Tulsiani did most of the talking. At the meeting, Investor Seven told them that the money she was investing was borrowed money and that she "can't afford to lose this money" because she just went through a separation so she had to know that the investment was safe (Testimony of Investor Seven in Hearing Transcript dated January 14, 2011 at p. 26). Tulsiani responded by telling her that he and his father were invested in the Project and that it was a "very, very secure investment" (Testimony of Investor Seven in Hearing Transcript dated January 14, 2011 at p. 27). Investor Seven further testified that Tulsiani frequently referred to his father at PIC meetings as "always very, very cautious" and "averse to any risk at all" and so the fact that Tulsiani was saying that his father invested "was saying that it was like a super secure investment" (Testimony of Investor Seven in Hearing Transcript dated January 14, 2011 at pp. 27-28).

[154] Investor Seven and her sister brought two cheques to the meeting as they were not sure in advance how much to invest but decided to invest all of the money, namely, $150,000 obtained from a line of credit, because they were told by Tulsiani, Ravinder and Chau that it was a secure investment and as a result of Tulsiani's further assurances that the money was in trust, was safe and that she would see her money in 10 days. Tulsiani also told Investor Seven that "our lawyer", Sookhai, was reviewing documents and making sure that everything was in order (Testimony of Investor Seven in Hearing Transcript dated January 14, 2011 at p. 29).

[155] Other investors also invested using a line of credit.

[156] The investors signed a "Subscriber's Declaration" indicating that they alone or with their spouse beneficially owned assets that had an aggregate realizable value (before taxes but net of liabilities) exceeding $1 million. Investor Nine testified through an interpreter regarding the declaration that she told Tulsiani that she did not qualify and how he responded:

> Q. And what did Sunil say to you?
>
> A. Sunil say [*sic*] that this investment is really safe and you get your money back really soon, so do not worry about it. So he tell [*sic*] me to check on it. So the check, I put it myself.
>
> (Testimony of Investor Nine in Hearing Transcript dated January 14, 2011 at p. 203)

[157] Investor Seven also indicated at the meeting with Tulsiani, Chau and Ravinder that she did not qualify but Tulsiani told her that it was just a technicality and that she needed to pick one and "most people are ticking the first box" indicating that they beneficially owned net assets exceeding $1 million before taxes (Testimony of Investor Seven in Hearing Transcript dated January 14, 2011 at p. 32). Investor Five raised the same concern with Chau who also dismissed it as a technicality saying that "it's not whether you really can demonstrate that you have a million dollars in assets", his perception was sufficient (Testimony of Investor Five in Hearing Transcript dated January 13, 2011 at p. 22). Chau also indicated that this was in regard to all assets including houses and cars and not just financial assets. Other investors gave similar testimony.

[158] Investor Nine, a single mother of limited means, decided to invest $100,000 using her line of credit on the basis that Tulsiani was a former police officer and the investment was only for a short term.

[159] Based on the presentations given to them, the investors signed an acknowledgement which Tulsiani also signed on behalf of Tulsiani Investments. Some of the investors were not provided time to read all of the related documentation.

[160] The investors signed the investors' subscription agreements for the 401 series of bonds and Chau signed on behalf of MLIF. Investors in the 401 series of bonds, including those on the waiting list or "stand-by pool", provided their funds to Tulsiani and/or Tulsiani Investments.

[161] Tulsiani sent email updates to investors in the 401 series of bonds and individuals on the waiting list.

[162] The 10-day period passed but investors in the 401 series of bonds did not receive any interest payments and their principal investments were not returned.

[163] Tulsiani sent email updates to some investors in the 401 series of bonds and individuals on the waiting list indicating that the holidays had caused delays. Some investors learned that contrary to what they had been given to understand, the commencement date for the 401 series of bonds required a triggering event that had not yet occurred and that their investments were in suspense.

[164] Tulsiani invited 401 series of bond investors to meetings in January 2009 and advised some investors that they would be provided with information about their investments at the meeting. Others were told there would be information about a further investment opportunity, namely, the 402 series of bonds.

[165] There were several meetings in January 2009. One occurred on January 18, 2009. On January 22, 2009, there were at least two meetings scheduled at the Tulsiani Investments/PIC office, one at 6:00 p.m. and another at 7:00 p.m. Chau and Tulsiani attended all of the meetings which were quite similar.

[166] Investor Seven attended the January 18, 2009 meeting believing she would get an update on the status of the 401 series of bonds. She was surprised when the meeting commenced with Chau giving a presentation regarding St. Martinus University (the "**University**"). She was confused and asked another investor if they were in the right meeting. Chau explained that the University would be additional collateral for the 402 series of bonds. Chau provided promotional materials about its financial situation and expected growth and about how Maple Leaf Education Fund ("**MLEF**"), an affiliate of MLIF and the University's majority shareholder, was going public and would be traded on the TSX Venture Exchange.

[167] Within 20 minutes of the commencement of the meeting, Chau and Tulsiani provided investors with forms to invest in the 402 series of bonds and convert from the 401 series of bonds. Tulsiani and Chau provided a subscription agreement for the 402 series of bonds and a document entitled "CONSENT FORM" for investors in the 401 series of bonds to convert into 402 and 402A series of bonds which referred to "Mr. Vijai Sookhai, attorney at law, who is holding my funds in trust".

[168] Investors Five and Nine attended the 6:00 p.m. meeting on January 22, 2009. Chau gave a presentation to the group and discussed the University, indicated that the University was going public and also provided promotional materials. He pledged the University as security for the 402 series of bonds and painted the investment as "so rosy" that "risks never really came up" (Testimony of Investor Five in Hearing Transcript dated January 13, 2011 at p. 43).

[169] Chau and Tulsiani also asked the 401 series of bond investors who attended the January 22 6:00 p.m. meeting to convert their bonds into the 402 series of bonds and sign the consent and subscription agreements. Chau and Tulsiani told investors that the 402 series of bonds would mature in 60 days and would pay 60% interest on the principal invested.

[170] Tulsiani, who had encouraged Investor Nine to attend the earlier 6:00 p.m. meeting as she was still on the waiting list for the 401 series of bonds, told her that the 402 series of bonds was "the best investment that you can get" (Testimony of Investor Nine in Hearing Transcript dated January 14, 2011 at p. 221).

[171] When the 6:00 p.m. meeting concluded, Tulsiani and Chau told the 401 series of bond investors who were scheduled for the 7:00 p.m. meeting that the "60% in 60 days deal", also known as the 402 series of bonds, was sold out. However, after

leaving to speak with Chau for a moment, Tulsiani returned and indicated that, despite not needing the money, Chau would give them the opportunity to convert their 401 series of bonds into the 402A series of bonds which had a 90-day maturity and would pay 60% interest on the principal invested.

> A. And then when our turn came, when the other people finished the meeting, Sunil came and said that, if I remember correctly, they were looking for $600,000 to get in this new arrangement, 60 days – 60 percent in 60 days, and that the $600,000 have already been accounted for by the people there, **so we really don't need your money**.
>
> Q. Okay. And when you say, "the people there", who are you referring to?
>
> A. The group who had the meeting before us.
>
> Q. Okay. And?
>
> A. And then the people said, what happens to us? I mean, we came all the way here and why are we not included in that?
>
> So he went back in and then a few minutes later he came back and he said that, okay, Henry Chau will explain it to you. We will make a new arrangement for you guys. And then they explained that, okay, this will be a new deal. This won't be the 60 days – 60 percent in 60 days. **We'll make a concession to this group because they came all the way in this winter.** We will make a new arrangement. We'll call it 60 percent in 90 days.
>
> (Emphasis added)
>
> (Testimony of Investor Six in Hearing Transcript dated January 13, 2011 at p. 151)

[172] Investor Six taped the second meeting at 7:00 p.m. Chau represented that investors' funds were still being held in trust and again discussed the University. Following Chau's presentation, Tulsiani explained the 402 series of bonds and commented on the differences between the 401 series of bonds and the 402 series of bonds, including the relative security of the two investments.

[173] Investor Six testified that there appeared to be no risk given the valuable security that Chau was offering:

> A. They were eager to convert because he explained to us that there is absolutely no risk, that there is a 250-million-dollar university as a security and there is the 5.2 million-dollar land for $600,000 of loan. So there is no risk, and Sunil was saying we don't lose anything to convert.
>
> (Testimony of Investor Six in Hearing Transcript dated January 13, 2011 at pp. 161-162)

[174] Tulsiani also acted as an intermediary between investors and Chau. In the context of providing this advice, Tulsiani told the investors present:

> I love Henry [Chau] but I am with you guys.
>
> (Testimony of Investor Six in Hearing Transcript dated January 13, 2011 at p. 177)

[175] Tulsiani further advised the investors in attendance that "he [Chau] doesn't really need the money" and continued, "to him [Chau] it's peanuts…it's nothing" (Testimony of Investor Six in Hearing Transcript dated January 13, 2011 at p. 179). In the context of commenting on the conversion from the 401 series to the 402A series of bonds, Tulsiani advised the investors: "you really have nothing to lose" (Testimony of Investor Six in Hearing Transcript dated January 13, 2011 at p. 174).

[176] From the presentations given, several investor witnesses testified that they understood the terms of the 401 and 402 series of bonds to be substantially the same.

[177] The Respondents raised $2.8 million from the promotion of the 400 series of bonds.

[178] Investors in the 400 series of bonds who testified gave evidence as to their financial situation. At the time that they invested in either the 401 or 402 series of bonds, none of them:

(a) Earned $200,000 in net annual income before taxes or $300,000 in annual net income together with a spouse;

(b) Beneficially owned alone or together with their spouse financial assets net of liabilities that had an aggregate realizable value before taxes of $1 million; or

(c) Beneficially owned alone or together with their spouse assets (including financial assets and other property) net of liabilities that had an aggregate realizable value before taxes of $5 million.

Actual Operations of MLIF in Late 2008 and 2009 and Use of 400 Series of Bond Funds

[179] In 2008, Tulsiani and Tulsiani Investments promoted the condominiums forming part of the Project to a number of PIC members including a few who later invested in the 400 series of bonds.

[180] On December 4 and 5, 2008, Chau wrote to Ravinder and Tulsiani who he referred to as "Marketing Genees" [sic] asking them to confirm that they were proceeding with the syndication campaign that week. He provided certain materials including Eshuis's confirmation of what had been paid for the purchase and paying down of the mortgages on the West-End Property. He expressed the hope that the materials were sufficient and indicated:

> … As I said, this is the time to make the big profit or to flop in the face, for both of us. Make it happen next week.

[181] Chau and Tulsiani discussed compensation a few days later. Chau proposed the following in that regard:

> 5) In addition to paying the bond interest to the bond purchasers, MLIF would pay 15% on the net profit from the sales of the condominiums and shops of the Maple Leaf Hotel in Curacao as a bonus to PIC. Half of the amount would be in cash and the other half would be in the form of second mortgage on the condominiums.
>
> 6) The estimated cash portion of the above bonus would be paid in 12 monthly instalments starting in March 2009.
>
> 7) The commission that was due to PIC from the sales of the about 60% sold condominiums would be paid to PIC by 12 monthly instalments in 2009.

[182] Tulsiani wanted the 15% in cash saying that "You will remember [that] I said, 15% of the estimated profit plus the commission owing divided by 12 (months)" but Chau insisted that 50% be paid out of the second mortgage to be taken on the condominiums.

[183] Neither Tulsiani nor Tulsiani Investments disclosed to investors that they were to receive a commission or compensation of any kind for the sale of the 400 series of bonds. Investor Five, who did not know of the discussions Tulsiani was having with Chau, testified that this would have changed his perception of the investment. His understanding from Tulsiani was that Tulsiani invested alongside investors in every deal and he was in the same position as Tulsiani.

[184] On December 19, 2008, following the promotion and sale of the 401 series of bonds, Chau instructed Sookhai to wire $1.4 million raised from the sales to Eshuis's trust account in Curacao.

[185] On December 25, 2008, Chau directed Sookhai, with the approval of Tulsiani to whom he sent a copy of his email message, to instruct Eshuis to "release US$100,000 to the second mortgage holder" of the West-End Property.

[186] On December 28, 2008, Sookhai instructed Eshuis to "release the sum of US$100,000.00 to the second mortgage holder of the [West-End Property]".

[187] On January 8, 2009, Caribbean Petrol Holding Ltd. and Nilajade Finance Holdings Inc., the holders of the second mortgage on the West-End Property (the "**Second Mortgage Holders**"), placed a lien on Eshuis's account. On the same day, Chau sent an email message to Tulsiani to have Sookhai instruct Eshuis to release a further US$50,000 to the Second Mortgage Holders. On January 9, 2009, Tulsiani emailed Sookhai "Please instruct Eshuis to release [US]$50,000 right away". Sookhai sent an email message to Eshuis on January 9, 2009 to authorize the release of US$50,000 to the Second Mortgage Holders.

[188] On January 20, 2009, Pacific European Finance N.V. ("**PEF**") placed a lien on the MLIF funds on deposit with Eshuis in order to collect the outstanding balance of the sale price of the West-End Property from MLIF. As of January 27, 2009, the overdue balance payable to PEF was US$1,867,711.86.

[189] On January 27, 2009, MLIF and PEF entered into an agreement to release the PEF lien and to also have the lien placed by the Second Mortgage Holders on January 8, 2009 released. MLIF agreed to pay the following amounts:

(a) US$500,000 to PEF, to reduce the outstanding debt; and

(b) US$401,000 to the account of MLEF, to be distributed on the instructions of MLEF and Global Health Education Partners Ltd. ("**GHEP**") as set out in their own separate agreement.

[190] On the same day, MLEF and GHEP entered into an agreement whereby MLEF agreed to transfer funds to creditors of Martinus University Services for and on behalf of GHEP representing payments that were due on September 30, 2008, October 31, 2008, November 30, 2008 and January 15, 2009.

[191] After reaching the agreements described above, Chau indicated to the parties in an email message copied to Sookhai that he would "instruct my parties about transferring of funds". On January 28, 2009, Sookhai sent instructions to Eshuis to make certain disbursements out of the funds held in trust. The funds, the original US$1.4 million less the US$150,000 authorized to be distributed previously, were to be transferred as follows:

(a) US$500,000 to PEF;

(b) US$401,000 to LFFW Law, Arend Dewinter in trust for MLEF;

(c) US$10,000 to Eshuis for legal fees; and

(d) US$339,000 to Sookhai's trust account.

Tulsiani was also aware of these instructions as he was copied on various email messages.

[192] The funds distributed in accordance with the foregoing agreements were received from investors in the 400 series of bonds but were diverted by Chau to uses other than the Project.

[193] Sookhai then sent to the MLIF RBC Account $401,208.74 in three tranches on January 30, 2009, February 20, 2009 and March 11, 2009, on Chau's direction as indicated on one of the cheques.

[194] Tulsiani was "aware at all times of each and every transaction which included all wiring of funds and receipt of funds and disbursement of funds".

[195] Chau caused MLIF to use the funds from the 400 series of bond investors sent by Sookhai primarily to pay the following:

(a) $42,900 to Chau consisting almost entirely of net transfers to his personal account at RBC, cash payments and payments for salary;

(b) $36,914 for various business expenses of MLIF, not including $70,000 paid to Tulsiani as commissions or fees;

(c) $137,899 to the University or MLEF; and

(d) $64,500 to MLI Acquisitions Ltd.

[196] In May 2009, as a result of pressure from the 402 and 402A series of bond investors who remained unpaid, Tulsiani forwarded an extensive exchange of email messages and documents relating to his and Tulsiani Investments' dealings with Chau and MLIF to the 402 series of bond investors. The email messages had the effect of disclosing to the investors for the first time that the funds they invested in the 402 and 402A series of bonds were being employed by Chau and MLIF as security for land transactions in Curacao and not, as represented by the Respondents, as so-called show money for prospective lenders.

[197] Investor Five testified that his reaction to the email chain as "one of those 'oh, my God' moments" (Testimony of Investor Five in Hearing Transcript dated January 13, 2011 at p. 72). Investor Seven described her reaction as a "complete shock" and the situation as a "betrayal" (Testimony of Investor Seven in Hearing Transcript dated January 14, 2011 at p. 80).

[198] Investor Six testified that he thought Tulsiani was "a very trustworthy person" and that this view only changed when he received the series of email messages discussed at paragraph 196 above (Testimony of Investor Six in Hearing Transcript dated January 13, 2011 at p. 187).

[199] The witnesses who invested in the 401 and/or 402 series of bonds, with the exception of Investor Seven who received a refund of $50,000, did not have the principal of their investments returned or receive any interest payments. The losses were very significant for most of these investors. Investments made by some investors ranged from $25,000 to $50,000.

[200] The witnesses who invested in the 100 and 200 series of bonds, with the exception of Investor Four, did not have the principal of their investments returned when the bonds matured. They too suffered significant financial losses. Investments made by the investors ranged from $25,000 to $50,000.

[201] Of the $4,475,000 invested in MLIF bonds, $1,275,000 was returned to investors, and $67,894 was paid out in interest to holders of the MLIF bonds. Of the $4,475,000 invested in the MLIF bonds, over $3.1 million was never returned to investors.

[202] Chau caused MLIF to pay him over $450,000 from the MLIF bank accounts between March 2007 and May 2009. He also caused MLIF to pay over $1.7 million on behalf of the University and other developments that were not part of the Project.

VII. ANALYSIS

A. Did Chau, MLIF, Tulsiani and Tulsiani Investments trade in securities of MLIF without being registered to trade in securities, contrary to subsection 25(1)(a) of the Act?

i. Submissions

Staff

[203] Staff submits that the Respondents traded in securities without registration, in circumstances in which no exemption from registration was available, contrary to subsection 25(1)(a) of the Act.

Chau and MLIF

[204] In their written submissions, Chau and MLIF do not specifically address this issue and rely on the purported accredited investor exemption which we discuss at paragraphs 263 to 284 below.

Tulsiani and Tulsiani Investments

[205] Through their counsel, Tulsiani and Tulsiani Investments admitted that they had engaged in the trading of securities of MLIF without being registered to do so, contrary to subsection 25(1)(a) of the Act.

ii. The Law

Trading Without Registration

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

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

[207] The definition of a "security" as defined in subsection 1(1) of the Act includes "any bond".

[208] Registration requirements play a key role in Ontario securities law and form one of the cornerstones of the regulatory framework of the Act. They impose requirements of proficiency, good character and ethical standards on those people and companies trading in and advising on securities. As the Commission stated in *Re Limelight Entertainment Inc.* (2008), 31 O.S.C.B. 1727 ("***Limelight***") at para. 135:

> Registration serves an important gate-keeping mechanism ensuring that only properly qualified and suitable individuals are permitted to be registrants and to trade with or on behalf of the public. Through the registration process, the Commission attempts to ensure that those who trade in securities meet the applicable proficiency requirements, are of good character, satisfy the appropriate ethical standards and comply with the Act.

[209] Further, as stated in *Gregory & Co. v. Quebec (Securities Commission)*, [1961] S.C.R. 584 at p. 588:

> The paramount object of the Act is to ensure that persons who, in the province, carry on the business of trading in securities or acting as investment counsel, shall be honest and of good repute and, in this way, to protect the public, in the province or elsewhere, from being defrauded as a result of certain activities initiated in the province by persons therein carrying on such a business. For the attainment of this object, trading in securities is defined in s. 14 [now s. 1.1]; registration is provided for in s. 16 [now s. 25] as a requisite to trade in securities…

[210] The definition of "trade" or "trading" as defined in subsection 1(1) of the Act includes:

> (a) any sale or disposition of a security for valuable consideration, whether the terms of payment be on margin, instalment or otherwise,…
>
> […]
>
> (e) any act, advertisement, solicitation, conduct or negotiation directly or indirectly in furtherance of any of the foregoing.

[211] Whether an act is in furtherance of a trade is a question of fact, to be determined in each case, based on whether there is a sufficiently proximate connection to the trade. As explained in the case *Re Costello* (2003), 26 O.S.C.B. 1617 ("***Costello***") at para. 47:

> There is no bright line separating acts, solicitations and conduct indirectly in furtherance of a trade from acts, solicitations and conduct not in furtherance of a trade. Whether a particular act is in furtherance of an actual trade is a question of fact that must be answered in the circumstances of each case. A useful guide is whether the activity in question had a sufficiently proximate connection to an actual trade.

[212] A contextual approach has been adopted by the Commission to determine whether a non-registered individual or company engaged in acts in furtherance of a trade. In applying this approach, the Commission should examine "the totality of [a respondent's] conduct and the setting in which the acts have occurred, the primary consideration of which is the effects the acts had on those to whom they were directed" (*Re Momentas Corp.* (2006), 29 O.S.C.B. 7408 ("***Momentas***") at para. 77; and *Re Sabourin* (2009), 32 O.S.C.B. 2707 at para. 59).

[213] Solicitation or direct contact with investors is not required for an act to constitute an act in furtherance of a trade (*Re Lett* (2004), 27 O.S.C.B. 3215 ("***Lett***") at paras. 48-51 and 64; and *Re Allen* (2005), 28 O.S.C.B. 8541 ("***Allen***") at para. 85).

[214] In *Momentas*, *supra*, at para. 80, the Commission reviewed the jurisprudence and listed the following examples of activities that have fallen within the scope of "acts in furtherance of a trade":

(a) Providing potential investors with subscription agreements to execute;

(b) Distributing promotional materials concerning potential investments;

(c) Issuing and signing share certificates;

(d) Preparing and disseminating materials describing investment programs;

(e) Preparing and disseminating forms of agreements for signature by investors;

(f) Conducting information sessions with groups of investors; and

(g) Meeting with individual investors.

[215] Other decisions by the Commission and other securities regulators have established that the following actions constitute acts in furtherance of a trade:

(a) Acceptance of funds from investors for the purpose of an investment (*Lett*, *supra*, at paras. 48-51 and 64; *Allen*, *supra*, at para. 85; and *Limelight*, *supra*, at para. 133);

(b) Depositing investor cheques for the purchase of shares in a bank account (*Limelight*, *supra*, at para. 133);

(c) Issuing and signing share certificates and instructing solicitors in connection with the issuance and exchange of shares (*Del Bianco v. Alberta (Securities Commission)* (2004), 357 A.R. 361 at para. 9); and

(d) Setting up websites intended to "excite the reader" about the company's prospects, soliciting potential investors by utilizing the content of the website, and/or using numerous misleading statements, which investors relied on when making their investments. The Commission has found that persons who provide the content and maintain websites that have a "proximate connection" to a trade have engaged in acts in furtherance of a trade (see *Re First Federal Capital (Canada) Corp.* (2004), 27 O.S.C.B. 1603 ("***First Federal***") at paras. 45 and 49; and *Re American Technology Exploration Corp.*, [1998] 4 B.C.S.C.W.S. 7).

iii. Analysis

[216] The following are our findings regarding breaches of subsection 25(1)(a) of the Act based on the evidence presented at the hearing.

Registration

[217] We find that none of the Respondents in this matter was ever registered with the Commission in any capacity, and as discussed at paragraphs 263 to 284 below, no registration exemptions were available to the Respondents as most, if not all, of the investors were not accredited investors.

Trading and Acts in Furtherance of Trades

Tulsiani and Tulsiani Investments

[218] Through their counsel, Tulsiani and Tulsiani Investments admitted that they engaged in trading the 400 series of bonds in breach of subsection 25(1)(a) of the Act.

Chau and MLIF

[219] Chau and MLIF acknowledged that they sold all four series of bonds.

[220] Staff submits, and we agree, that there is ample evidence that Chau and MLIF engaged in activities or a course of conduct which constituted "acts in furtherance of a trade".

[221] These activities can be summarized as follows:

(a) Maintaining a website for MLIF promoting the Project and the MLIF bonds;

(b) Placing advertisements in newspapers promoting the MLIF bonds;

(c) Employing people to promote and sell the MLIF bonds;

(d) Conducting seminars and meetings and providing written materials to investors promoting the Project and the MLIF bonds;

(e) Drafting and providing the MLIF Forms, including subscription agreements, to investors for the purchase of the MLIF bonds; and

(f) Assisting and directing investors with respect to the completion of the MLIF Forms.

iv. Findings

[222] Based on the admissions and evidence discussed at paragraphs 217 to 221 above, we find that all of the Respondents traded in securities of MLIF without being registered to trade in securities, contrary to subsection 25(1)(a) of the Act. For the reasons set out at paragraphs 263 to 284 below, there were no registration exemptions available to them.

B. Did Tulsiani and Tulsiani Investments engage in advising with respect to investing in securities of MLIF without being registered to advise in securities, contrary to subsection 25(1)(c) (now 25(3)) of the Act?

i. Submissions

Staff

[223] Staff submits that Tulsiani and Tulsiani Investments engaged in advising with respect to investing in securities of MLIF without being registered to advise in securities, contrary to subsection 25(1)(c) of the Act. In particular, Staff submits that these Respondents promoted the sale of the 400 series of bonds and recommended them to the public, as set out at paragraph 21 of our Reasons and Decision.

Tulsiani and Tulsiani Investments

[224] Through their counsel, Tulsiani and Tulsiani Investments admitted that they promoted the sale of the 400 series of bonds, and that they recommended them to members of the public.

ii. The Law

[225] The British Columbia Securities Commission in *Re Donas*, [1995] 14 B.C.S.C.W.S. 39 ("***Donas***") at p. 44 discussed the adviser registration requirement:

> It is because the very nature of advising involves the offering of an opinion or recommendation to others that the Act requires advisers to be registered and to meet certain conditions as to their education and experience. This requirement is intended to protect the public…

[226] In Ontario, the registration requirement for advising with respect to securities is set out in subsection 25(3) of the Act.

> (3) Unless a person or company is exempt under Ontario securities law from the requirement to comply with this subsection, the person or company shall not engage in the business of, or hold himself, herself or itself out as engaging in the business of, advising anyone with respect to investing in, buying or selling securities unless the person or company,
>
> (a) is registered in accordance with Ontario securities law as an adviser;
>
> (b) is a representative registered in accordance with Ontario securities law as an advising representative of a registered adviser and is acting on behalf of the registered adviser; or
>
> (c) is a representative registered in accordance with Ontario securities law as an associate advising representative of a registered adviser and is acting on behalf of the registered adviser under the supervision of a registered advising representative of the registered adviser.

[227] This subsection came into force with the amendments to the Act on September 28, 2009. Prior to the amendments, the registration requirement for advisers was set out in subsection 25(1)(c) of the Act:

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

[228] The new subsection 25(3) is substantively the same as its predecessor subsection 25(1)(c) when the definition of "adviser" is taken into account. The definition of "adviser" is set out in subsection 1(1) of the Act:

> **"adviser"** means a person or company engaging in or holding himself, herself or itself out as **engaging in the business of advising others as to the investing in or the buying or selling of securities**;
>
> (Emphasis added)

[229] During the Material Time, there was no exemption from the adviser registration requirements available to a "person" or "company" pursuant to section 5.1 of OSC Rule 45-501 – *Ontario Prospectus and Registration Exemptions*.

[230] The leading case on what constitutes "advising" is a decision of the British Columbia Securities Commission, *Donas*:

> As indicated by the definition of "advice", the nature of the information given or offered by a person is the key factor in determining whether that person is advising with respect to investment in or the purchase or sale of securities. A person who does nothing more than provide factual information about an issuer and its business activities is not advising in securities. A person who recommends an investment in an issuer or the purchase or sale of an issuers securities, or who distributes or offers an opinion on the investment merits of an issuer or an issuers securities, is advising in securities. If a person advising in securities is distributing or offering the advice in a manner that reflects a business purpose, the person is required to be registered under the Act.
>
> (*Donas*, *supra*, at p. 45)

[231] In *Re Maguire* (1995), 18 O.S.C.B. 4623 ("***Maguire***"), the Commission adopted the test set out in *Donas* and has continued to apply it in subsequent cases (See *Costello*; *Re Dodsley* (2003), 26 O.S.C.B. 1799; and *First Federal*).

[232] The Commission addressed the issue of what constitutes "advice" in *Costello*:

> Providing mere financial information as to specific securities does not constitute the giving of advice, but providing an opinion on the wisdom or value or desirability of investing in specific securities does: *Re Canadian Shareholders Association* (1992), 15 OSCB 617 (Canadian Shareholders).
>
> (*Costello*, *supra*, at paras. 28)

[233] Further, the provision of recommendations and information formulated by others may, nevertheless, constitute advising on behalf of the person providing the information (*First Federal*, *supra*, at para. 33).

iii. Analysis

[234] Tulsiani and Tulsiani Investments operated PIC. Tulsiani was presented to the public, and PIC members in particular, as someone who was qualified to provide investment advice, namely, a former OPP officer who possessed unique negotiation and due diligence skills that he had successfully employed to become a millionaire investor.

[235] Tulsiani and Tulsiani Investments represented at PIC meetings, in promotional materials for PIC and on the Tulsiani Investments website, that Tulsiani and Tulsiani Investments conducted the necessary due diligence and invested in every transaction that was presented to investors, thereby expressly or impliedly recommending each investment that was presented to PIC members.

[236] In addition, the evidence submitted at the hearing demonstrated that Tulsiani provided investors with advice specifically in relation to the MLIF bonds, which included:

(a) Tulsiani and employees of Tulsiani Investments/PIC, under the direction of Tulsiani, sending email messages to PIC members that referred to the 401 series of bonds as "risk free", a "rare opportunity" and "without any risk";

(b) Tulsiani commenting to PIC members over the telephone and in person that, among other things, the investment was "safe", "really safe" and "the best investment that you can get";

(c) Tulsiani telling investors "you really have nothing to lose" in respect of converting their 401 series of bonds to 402A series of bonds; and

(d) Tulsiani commenting on the relative security of the 401 series of bonds and 402/402A series of bonds.

[237] Further and as noted above at paragraphs 50 and 52, Tulsiani, through his counsel, admitted to promoting the sale of the MLIF bonds and "recommending these bonds to members of the public".

[238] In *Donas*, *supra*, at p. 45, the British Columbia Securities Commission held that merely providing information is not sufficient but that a recommendation to buy a specific security accompanied by a business purpose to the person making the recommendation suffices to constitute advising.

[239] The Commission has held that a business purpose exists where the advisor expects to be remunerated in some respect; however, the source of the remuneration is apparently irrelevant. As the Commission noted in *First Federal*:

> […] Where a respondent expects to be remunerated in some respect with respect to his activities, a business purpose is reflected…
>
> Documentation made it clear that First Federal was to receive fees from the Trading Program. Whether the fees were payable by the Bank out of its own funds or out of the funds deposited into the deposit account by the investor is not entirely clear. What is relevant, however, in determining whether there was a commercial purpose for First Federal in giving advice is the fact that it was to receive remuneration because of its activities, regardless of the specific manner or the specific person from whom the remuneration would be paid. We note, incidentally, that the documentation required a direction to be signed by the investor, directing the Bank to pay fees to First Federal.
>
> (*First Federal*, *supra*, at paras. 29-30; see also *Costello* and *Re Hrappstead (c.o.b. North American Group*, [1999] 15 B.C.S.C.W.S.13 ("***Hrappstead***"))

[240] There is no need for advising to be the only business engaged in for there to be a business purpose (*Costello v. Ontario (Securities Commission)* (2004), 242 D.L.R. (4th) 301 at para. 62).

[241] In *Maguire*, the business purpose was evidenced by an advertisement in the Yellow Pages for "Investment Advisory Services" and by the receipt of a fee or commission relating to the investment made by the party acting on the evidence. The major business of Maguire was the giving of tax planning advice, and the securities advice was given in that context. Nevertheless, Maguire was held to be within that section (*Maguire*, *supra*, at p. 1801).

[242] In *Hrappstead*, the business purpose element was satisfied even though there was no evidence that any investors had acted on Hrappstead's advice or that he had received a payment of any kind in return for his advice. As to his business purpose, "one need look no further than what he stood to receive if the Investment Programs were successful …" (*Hrappstead*, *supra*, at p. 35)

[243] Staff submits that based on the evidence at the hearing, the business purpose requirement is met with respect to Tulsiani and Tulsiani Investments.

[244] PIC, which was operated by Tulsiani and Tulsiani Investments, charged a membership fee. Investor witnesses testified that they signed up as members, in large part, to learn from Tulsiani and to obtain access to the investment opportunities that Tulsiani recommended. Tulsiani portrayed himself as a successful investor, a millionaire who would mentor PIC members so that they would become millionaires themselves. This is supported by the individual mentorship sessions provided by Tulsiani that were included in the cost of membership as well as the "Millionaire Training Camp" opportunity offered by Tulsiani through PIC for an additional, and substantial, fee.

[245] Tulsiani clearly expected some kind of remuneration from Chau and MLIF as a result of promoting the MLIF bonds. This can be seen from the communications between Tulsiani and Chau about compensation discussed at paragraphs 181 and 182 above.

[246] Tulsiani and Tulsiani Investments, through PIC, had a clear interest in ensuring that the Project received the funding it required as Tulsiani had promoted the MLIF condominium units to PIC members and was entitled to receive further commissions from the sale of MLIF condominium units. Tulsiani was aware of the precarious financial position of the Project and faced reputational risk in the event of its failure, a fact acknowledged by Chau on at least two occasions, as seen in the series of email messages discussed at paragraph 196 above. He did not disclose these conflicts of interest to investors.

[247] As discussed at paragraph 217 above, Tulsiani and Tulsiani Investments were not registered under the Act to advise in securities.

iv. Findings

[248] Based on the forgoing, we find that Tulsiani and Tulsiani Investments engaged in advising with respect to investing in securities of MLIF without being registered to advise in securities, contrary to subsection 25(1)(c) of the Act.

C. Did Chau and MLIF engage in distributions of securities of MLIF when a preliminary prospectus and a prospectus had not been filed and receipts had not been issued for them by the Director, contrary to subsection 53(1) of the Act?

i. Submissions

Staff

[249] Staff submits that the activities of Chau and MLIF constituted distributions of securities of MLIF for which no prospectus was issued, contrary to subsection 53(1) of the Act.

Chau and MLIF

[250] In their written submissions, Chau and MLIF do not specifically address this issue and rely on the purported accredited investor exemption which we discuss at paragraphs 263 to 284 below.

ii. The Law

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

> No person or company shall trade in a security on his, her or its own account or on behalf of any other person or company if the trade would be a distribution of the security, unless a preliminary prospectus and a prospectus have been filed and receipts have been issued for them by the Director.

[252] The definition of "distribution" under subsection 1(1) of the Act provides that:

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

[253] As the Commission held in *Limelight*, a prospectus is fundamental to the protection of the investing public because it ensures that investors have full, true and plain disclosure of information to properly assess the risks of an investment and make an informed decision:

> The requirement to comply with section 53 of the Act is important because a prospectus ensures that prospective investors have full, true and plain disclosure of information to properly assess the risks of an investment and make an informed decision. The prospectus requirements of the Act play a significant role in the overall scheme of investor protection. As stated by the court in *Jones v. F.H. Deacon Hodgson Inc.* (1986), 9 O.S.C.B. 5579 (H.C.) at (p. 5590): "there can be no question but that the filing of a prospectus and its acceptance by the Commission is fundamental to the protection of the investing public who are contemplating purchase of the shares."
>
> (See, for example, *Limelight*, *supra*, at para. 139; and *First Global*, *supra*, at para. 145)

iii. Analysis

[254] As established above in our discussion of subsection 25(1)(a) of the Act, the Respondents all engaged in trades and/or acts in furtherance of a trade, as defined in the Act, of MLIF securities. The trading requirement in part (a) of the definition of "distribution" under the Act is therefore satisfied.

[255] The second requirement of the definition is that the securities in question have not been previously issued. The evidence demonstrated that Chau and MLIF sold MLIF bonds to investors and Chau had MLIF issue bond certificates to those investors at or near the time of such sales. Staff submits, and we agree, that there is clear evidence that the bonds had not previously been issued.

[256] The evidence further demonstrated that MLIF has never filed a prospectus with the Commission. Chau and MLIF admitted this fact and admitted that no prospectus had ever been issued to qualify the sale of MLIF securities.

iv. Findings

[257] In light of the evidence, we find that Chau and MLIF engaged in distributions of securities of MLIF when a preliminary prospectus and a prospectus had not been filed and receipts had not been issued for them by the Director, contrary to subsection 53(1) of the Act. For the reasons set out at paragraphs 263 to 284 below, there were no prospectus exemptions available to them.

D. Were any registration or prospectus exemptions available to the Respondents?

i. Submissions

Staff

[258] Staff submits that having provided evidence to establish that the Respondents traded in MLIF bonds without registration and that Chau and MLIF engaged in distributions of the MLIF bonds without qualifying them under a prospectus, the onus shifts to the Respondents to establish that an exemption from those requirements was available to them in the circumstances.

Chau and MLIF

[259] Chau submits that he relied on advice given to him by lawyers in Ottawa that he "should only offer these bonds to Accredited Investors and have them sign their declarations", and, accordingly, he did so. Chau further submits that the investors were told that completing the declarations was a requirement before they could participate. Chau submits that it was not his job to explain the requirement to the investors but had clearly instructed his staff that it was a necessity for the investors to declare their own positions.

[260] Chau submits that there is no proof of his staff coercing investors to complete the declarations improperly and thereby misstate their entitlement to accredited investor status, and that he did not normally deal with investors in connection with these issues.

Tulsiani and Tulsiani Investments

[261] Tulsiani and Tulsiani Investments admitted that they engaged in trading the 400 series of bonds in breach of subsection 25(1)(a) of the Act. They did not make any submissions with respect to the existence of any registration exemptions.

ii. The Law

[262] We agree with Staff that the onus shifts to the Respondents to establish that one or more exemptions from the registration and prospectus requirements are available to them (*Limelight*, *supra*, at para. 142).

The Accredited Investor Exemption

[263] During the Material Time, section 2.3 of National Instrument 45-106 – *Prospectus and Registration Exemptions* ("**NI 45-106**") provided an exemption from the prospectus and registration requirements if the purchaser purchased the security as principal and was an accredited investor.

[264] An "accredited investor" is defined in section 1.1 of NI 45-106 and includes the following:

> […]
>
> (j) an individual who, either alone or with a spouse, beneficially owns, directly or indirectly, financial assets having an aggregate realizable value that before taxes, but net of any related liabilities, exceeds $1,000,000,
>
> (k) an individual whose net income before taxes exceeded $200,000 in each of the 2 most recent calendar years or whose net income before taxes combined with that of a spouse exceeded $300,000 in each of the 2 most recent calendar years and who, in either case, reasonably expects to exceed that net income level in the current calendar year,
>
> (l) an individual who, either alone or with a spouse, has net assets of at least $5,000,000.
>
> […]

iii. Analysis

[265] On March 25, 2008, Staff made enquiries of Chau regarding the activities of MLIF. On April 8, 2008, Chau responded to Staff advising that MLIF was only selling bonds and shares to "Accredited Investors" in accordance with the Act. Chau further advised that this requirement was explained to investors in person, that Chau and MLIF diligently requested that purchasers examine their own financial position and sign an Accredited Investor's Declaration form declaring their financial positions and assets.

[266] Chau advised Staff that he was the only director and shareholder of MLIF. He further advised that none of his employees was commissioned sales staff and that he was the only one who handled the sales.

[267] Chau advised Staff that MLIF was targeted to be acquired by Maple Leaf International Acquisitions Ltd. which was in the process of becoming a Capital Pool Company under the rules of the TSX Venture Exchange. He indicated that one of Toronto's national law firms was preparing the prospectus but there had been delays, that MLIF had stopped announcing MLIF's expectation to merge in March 2008 and that a more realistic date would likely be near the end of the year. Chau concluded his letter to Staff as follows:

> As you might have noticed that we have decided to stop offering to the public before you sent us these questions because the efforts we put in and the obstacles we have to overcome are not worth the small amount of sales we achieved. We have decided to wait until we have finished with the public listing process before we will offer any products to the public.

[268] When considering the evidence before us, we find that most, if not all, of the MLIF bond investors who testified did not qualify as accredited investors.

[269] Each of Staff's investor witnesses testified with respect to their financial circumstances and none met the definition of an "accredited investor" set out in section 1.1 of NI 45-106.

[270] Further, Masci testified that, based on the investor reviews that he conducted, most of the investors did not meet this definition.

[271] The "Subscriber's Declaration" form that was presented to investors by the Respondents included three statements, the first of which read as follows:

> I alone, or together with my spouse, beneficially own assets that have an aggregate realizable value (before taxes but net of liabilities), exceeding [**C**] $1,000,000.00.
>
> (Emphasis added)

[272] The correct criterion, as stated above, is whether the investor alone, or together with his or her spouse, beneficially owns financial assets that have an aggregate realizable value that before taxes, but net of any related liabilities, exceeds $1,000,000.

[273] Seven of the nine investor witnesses testified that they checked this first box. Investor Three did not check any box and Investor Two checked the box which indicated that his net income before taxes exceeded $200,000 in each of the prior two years, and that he had a reasonable expectation of exceeding that net income level in the current year.

[274] Nonetheless, many of the investor witnesses testified that they indicated to one or more of the Respondents that they did not qualify even under this definition of an accredited investor.

[275] None of the investor witnesses testified that any legitimate efforts were made to determine whether they were in fact accredited investors.

[276] Accordingly, the accredited investor exemption was not available to the Respondents in relation to the trades of MLIF securities or to Chau and MLIF in relation to the distributions of MLIF securities.

[277] Staff submits that, in the alternative, even if Chau and MLIF had provided evidence that the purchasers of the MLIF bonds were accredited investors, the registration exemption was not available as MLIF was a market intermediary and the exemption in section 1.1 of NI 45-106 did not apply to market intermediaries (*Momentas*, *supra*, at para. 69; *Lett*, *supra*, at para. 65; *Allen*, *supra*, at para. 86; and section 2.43 of NI 45-106).

[278] An entity is captured by the definition of a market intermediary as long as there is a predominant function to distribute securities in an organized fashion. This is the case even though the entity has other business purposes at the same time (*Re IMAGIN Diagnostic Centres Inc.* (2010), 33 O.S.C.B. 7761 at para. 120).

[279] A significant amount of MLIF's resources, including the bulk of its workforce, were dedicated to the raising of capital.

[280] Investor Three testified that MLIF hosted two seminars a week, one in English and one in either Mandarin or Cantonese, during which members of the public were solicited to invest in the MLIF bonds and that her role was to participate in these seminars. Investor Three further testified that MLIF had a high turnover of staff and that there were approximately 13 to 16 people working at MLIF whose job was to "sell" (Testimony of Investor Three in Hearing Transcript dated January 12, 2011 at p. 36). Investor Three later clarified that by "sell" she meant the MLIF condominium units, MLIF shares and MLIF bonds. Investor Four testified that she was solicited by Investor Three to purchase the MLIF bonds and that Investor Three told her that she was employed by MLIF to sell the MLIF bonds.

[281] In *Momentas*, the Commission held that the extent to which a company's resources are dedicated to the raising of capital and whether a company's primary source of revenues is from its capital raising are relevant considerations when determining whether the company is a market intermediary (*Momentas*, *supra*, at paras. 55, 61 and 62).

[282] The evidence at the hearing showed that the only source of revenues for MLIF was through the sale of its bonds, shares and, later, its condominium units and the main business expenses for MLIF related to the raising of capital from investors.

[283] Further, a significant amount of investor funds were used to pay for MLIF office expenses, commissions and fees paid to salespersons and interest payments on the MLIF bonds.

iv. Findings

[284] Based on the foregoing, we find that the accredited investor exemption was not available to the Respondents in relation to the trades of MLIF securities or to Chau and MLIF in relation to the distributions of MLIF securities. We also find that even if Chau and MLIF had provided evidence that the purchasers of the MLIF bonds were accredited investors, Chau and MLIF were market intermediaries and, accordingly, were not entitled to rely on any accredited investor exemptions from the registration requirements under the Act.

E. Did Chau and MLIF, with the intention of effecting a trade in securities of MLIF, make representations without the written permission of the Director that such securities would be listed on a stock exchange or quoted on a quotation and trade reporting system, contrary to subsection 38(3) of the Act?

i. Submissions

Staff

[285] Staff submits that the representations made to investors and potential investors in MLIF were representations prohibited by subsection 38(3) of the Act.

Chau and MLIF

[286] Neither Chau nor MLIF made any submissions with respect to this issue.

ii. The Law

[287] Subsection 38(3) of the Act prohibits representations with respect to the future listing of a security on any stock exchange. Subsection 38(3) of the Act states:

> Subject to the regulations, no person or company, with the intention of effecting a trade in a security, shall, except with the written permission of the Director, make any representation, written or oral, that such security will be listed on any stock exchange or quoted on any quotation and trade reporting system, or that application has been or will be made to list such security upon any stock exchange or quote such security on any quotation and trade reporting system, unless,
>
> (a) application has been made to list or quote the securities being traded, and securities of the same issuer are currently listed on any stock exchange or quoted on any quotation and trade reporting system; or

(b) the stock exchange or quotation and trade reporting system has granted approval to the listing or quoting of the securities, conditional or otherwise, or has consented to, or indicated that it does not object to, the representation.

[288] Unlike subsection 38(2) of the Act, subsection 38(3) does not require an undertaking with respect to the future listing, only a representation. A representation about listing shares on a stock exchange is sufficient to constitute a violation of subsection 38(3) of the Act. For example, in the *Limelight* case, the Commission found that evidence of salespersons stating that Limelight shares would be listed on an exchange, with the timeframe given ranging from 10 to 12 days to a year, constituted a breach of subsection 38(3) of the Act (*Limelight*, *supra*, at para. 181).

iii. Analysis

[289] The evidence presented to us at the hearing established that Chau and MLIF made representations that MLIF would be listed on an exchange. Investors were told that MLIF would be going public and/or initiating an initial public offering in the near future and that the price of the shares would increase once MLIF was listed on an exchange. These representations were made in the context of selling the MLIF shares and MLIF bonds, which were represented to be convertible into shares, to investors. In addition, investors testified that they relied on, and were influenced by, those representations when deciding to invest.

[290] Chau and MLIF also made representations on the MLIF website that MLIF would be going public and would be listed on the TSX Venture (TSX-V). Chau repeated this misinformation by:

(a) Causing MLIF to send email updates referring to the status of the MLIF initial public offering and/or MLIF going public; and

(b) Making MLIF brochures available which referred to MLIF going public.

[291] Based on the evidence presented to us at the hearing, it is clear that Chau intended to effect trades in the shares of MLIF.

[292] MLIF promotional materials, email messages to investors and the Subscription Applications referred to the shares being listed on the "Toronto Exchange", the "Toronto Stock Exchange", the "Toronto Stock Exchange Venture" or the "TSX-V".

[293] The MLIF website (www.mapleleaffund.com) repeated many of these representations, including that MLIF "is pursuing going public and expects to be listed in Toronto Stock Exchange Venture (TSX-V)", and that "[a]fter maturity bondholders have the option of converting their principle [*sic*] investment into shares…"

[294] Both Investors Three and Four purchased shares.

[295] Further, the signed Subscription Applications that were approved by Chau on behalf of MLIF referred to the "Issuer" in the process of "getting listed at the Toronto Stock Exchange (TSXV)". These Subscription Applications were provided to investors at the time they invested in the shares. The testimony of the investor witnesses makes it clear that they understood from Chau that they were purchasing MLIF securities and that these securities would be listed on the TSX.

[296] We received no evidence that the Director provided written permission with respect to any representation relating to a listing on any stock exchange or quotation on any quotation and trade reporting system.

iv. Findings

[297] For these reasons, we are satisfied that, without the permission of the Director, Chau and MLIF made representations, with the intention of effecting a trade in securities of MLIF, that such securities would be listed on a stock exchange or quoted on a quotation and trade reporting system, contrary to subsection 38(3) of the Act.

F. Did Chau and MLIF engage in fraud in breach of subsection 126.1(b) of the Act?

i. Submissions

Staff

[298] Staff submits that the evidence shows that Chau and MLIF engaged in conduct relating to securities that they knew or reasonably ought to have known would perpetrate a fraud on MLIF bond investors.

Chau and MLIF

The use of funds

[299] Chau submits that MLIF had an obligation to pay back the loans according to the terms agreed upon, and that there was no restriction on the use of funds by MLIF or the project in which they would be invested. The Project was the one in which MLIF was invested at the time but it did not have to be the only project in which MLIF invested.

[300] In his written submissions, Chau, when addressing the issue surrounding the use of the funds, states that he acknowledged having used a portion of the funds to pay a salary to himself and his staff which he submits was not prohibited by the terms of the agreements with investors.

ii. The Law

[301] Subsection 126.1(b) of the Act prohibits conduct relating to securities that a person or company knows or reasonably ought to know would perpetrate a fraud. The basis for an allegation of fraud involving securities is found under subsection 126.1(b) of the Act, which states:

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

[302] In interpreting the term "fraud", the Commission has taken the approach by other securities regulators and adopted the definition from the decision of the Supreme Court of Canada in *R. v. Théroux*, [1993] 2 S.C.R. 5 ("***Théroux***").

[303] In *Anderson v. British Columbia (Securities Commission)* (2004), 192 B.C.A.C. 119 ("***Anderson***") (leave to appeal to the Supreme Court of Canada denied, [2004] S.C.C.A. No. 81 (S.C.C.)), the British Columbia Court of Appeal reviewed the legal test for fraud and relied on *Théroux*. In *Théroux*, *supra*, at para. 27, McLachlin J. (as she then was) summarized the elements of fraud as follows:

> …the *actus reus* of the offence of fraud will be established by proof of:
>
> 1. the prohibited act, be it an act of deceit, a falsehood or some other fraudulent means; and
>
> 2. deprivation caused by the prohibited act, which may consist in actual loss or the placing of the victim's pecuniary interests at risk.
>
> Correspondingly, the *mens rea* of fraud is established by proof of:
>
> 1. subjective knowledge of the prohibited act; and
>
> 2. subjective knowledge that the prohibited act could have as a consequence the deprivation of another (which deprivation may consist in knowledge that the victim's pecuniary interests are put at risk).

We also rely on the following cases:

- *Anderson*, *supra*, at para. 27;
- *Re Al-Tar Energy Corp.* (2010), 33 O.S.C.B. 5535 ("***Al-Tar***") at paras. 216-221;
- *Re Lehman Cohort Global Group Inc.* (2010), 33 O.S.C.B. 7041 at paras. 95-100;
- *Re Global Partners Capital* (2010), 33 O.S.C.B. 7783 at paras. 239-245; and
- *Re Borealis International Inc.* (2011), 34 O.S.C.B. 777 ("***Borealis***") at paras. 65-67.

The Act of Fraud

[304] The *actus reus* of the offence of fraud is established upon proof of two essential elements: a dishonest act and deprivation (*Théroux*, *supra*, at para. 16).

[305] The first element, the dishonest act, is established by proof of deceit, falsehood or "other fraudulent means". The second element, deprivation, is established by proof of detriment, prejudice, or risk of prejudice to the economic interests of the victim, caused by the dishonest act (*Théroux*, *supra*, at paras. 16 and 27).

Dishonest Acts: Deceit, Falsehood and "Other Fraudulent Means"

[306] A dishonest act may be established by proof of deceit, falsehood or "other fraudulent means" (*Théroux*, *supra*, at para. 16).

[307] In order to find fraud by deceit or by falsehood, "all that need be determined is whether the accused, as a matter of fact, represented that a situation was of a certain character, when, in reality, it was not" (Théroux, supra, at para. 18).

[308] The third category of dishonesty, "other fraudulent means", encompasses all other means other than deceit or falsehood, which can properly be characterized as dishonest. In considering whether an act is "dishonest", the Supreme Court of Canada has held that the issue is "determined objectively, by reference to what a reasonable person would consider to be a dishonest act". (*Théroux*, *supra*, at paras. 17-18; and *R. v. Olan*, [1979] 2 S.C.R. 1175 ("***Olan***") at p. 1180).

[309] Within the meaning of "other fraudulent means", courts have included the non-disclosure of important facts, the unauthorized diversion of funds and the unauthorized arrogation of funds or property (*R. v. Zlatic*, [1993] 2 S.C.R. 29 at p. 44; and *Théroux*, *supra*, at para. 18).

[310] In *Re Capital Alternatives Inc.*, 2007 ABASC 79 ("***Capital Alternatives***"), the Alberta Securities Commission also found fraud on the basis of the non-disclosure of information required to be disclosed to investors. In that case, the Alberta Securities Commission held that the omission of material information in an offering memorandum (what investors would be investing in, how their funds would be spent, the risks of the investment) "conveyed a thoroughly misleading picture of what investors were buying into and what was happening with their money" which was "misleading, deceitful and fraudulent". (*Capital Alternatives*, *supra*, at paras. 205-206, 209-215, 243-245, 258, 264-265, aff'd in *Alberta (Securities Commission) v. Brost* (2008), 440 A.R. 7 ("***Brost C.A.***"), at paras. 12 and 41).

[311] In *Borealis*, the Commission recently found fraud where partial information and misinformation was provided regarding the relationship of the issuer with other established entities and the amount of insurance coverage available to protect the investments. The Commission found that the investors were misled about the nature and extent of the security of the investment (*Borealis*, *supra*, at paras. 87, 88, 102, 104-108).

[312] The use of an investor's funds in an unauthorized manner also constitutes "other fraudulent means". In *R. v. Currie* (1984), 5 O.A.C. 280 ("***Currie***"), the accused solicited investments in a factoring scheme which would purchase the accounts receivable of a company known as "Water-Eze Products Ltd.". Investor funds specifically invested for the scheme, however, were diverted by the accused to an aviation company known as "Aerobec" (*Currie*, *supra*, at para. 7). The Ontario Court of Appeal rejected the argument that the accused had implied general discretionary power to invest the funds and noted that it was "clear that the investors responded to a very specific investment proposal" (*Currie*, *supra*, at para. 15). The fraud convictions were upheld.

Deprivation

[313] The second essential element of the *actus reus* of fraud, "deprivation", is satisfied on proof of:

(a) Actual loss to the victim;

(b) Prejudice to a victim's economic interests; or

(c) The risk of prejudice to the economic interests of a victim.

(*Théroux*, *supra*, at paras. 16 and 27)

[314] While actual economic loss suffered by a victim may establish deprivation, it is not required for a finding of fraud. Either "prejudice" or the risk of prejudice to an economic interest is sufficient (*Olan*, *supra*, at pp. 1182-1183; and *Théroux*, *supra*, at paras. 16-17 and 27).

[315] Prejudice to an economic interest may be established by proof that a victim faced a risk of economic loss, even if that risk did not materialize. "Risk of prejudice" consists of inducing an alleged victim through the accused's dishonesty, to take some form of economic action (such as the making of an investment or a loan), even if that action did not cause an actual economic loss or did not carry with it a risk of economic loss (*Borealis*, *supra*, at para. 19; *Re Borealis International Inc.* (2011), 34 O.S.C.B. 5261 at para. 10; *R. v. Downey*, [2002] O.J. No. 2228 (Ont. S.C.J.) at para. 9, aff'd, [2005] O.J. No. 6301 (Ont. C.A.); Nightingale, *The Law of Fraud and Related Offences* (loose-leaf) (Scarborough: Thomson Carswell, 2009) at pp. 4-22 and 4-38; and Ewart, *Criminal Fraud* (Toronto: Carswell, 1986) at p. 126).

[316] In *Théroux*, the accused was the directing mind of a company which entered into agreements with individuals for the purchase of residences and collected deposits on the basis of false representations that the deposits were insured by a government agency. In upholding the convictions of fraud, the Supreme Court of Canada stated:

> The trial judge found that the appellant deliberately lied to his customers, by means of verbal misrepresentations, a certificate of participation in the insurance scheme, and brochures advising that the scheme protected all deposits. **The lies were told in order to induce potential customers to enter into contracts for the homes the appellant was selling and to induce them to give him their money as deposits on the purchase of these homes. The trial judge also found that the appellant knew at the time he made these falsehoods that the insurance for the deposits was not in place.** Finally, he found that the appellant genuinely believed that the homes would be built and hence that there was no risk to the depositors. No "risk" used in this sense is the equivalent of saying the appellant believed the risk would not materialize.
>
> **Applying the principles discussed above, these findings establish that the appellant was guilty of fraud.** The *actus reus* of the offence is clearly established. The appellant committed deliberate falsehoods. **Those falsehoods caused or gave rise to deprivation. First, the depositors did not get the insurance protection they were told they would get. That, in itself, is a deprivation sufficient to establish the *actus reus* fraud.** Second, the money they gave to the appellant's company was put at risk, a risk which in most cases materialized. Again, this suffices to establish deprivation.
>
> (Emphasis added)
>
> (*Théroux*, *supra*, at paras. 41-42)

[317] In establishing deprivation, it is not necessary to prove that an accused ultimately profited or received an economic benefit or gain from the conduct (*Théroux*, *supra*, at para. 19).

The Mental Element of Fraud

[318] The requisite element of proof for the offence of fraud (the *mens rea*) is established by proof of:

(a) Subjective knowledge of the prohibited act; and

(b) Subjective knowledge that the prohibited act could have as a consequence the deprivation of another (which deprivation may consist in knowledge that the victim's pecuniary interests are put at risk).

(*Théroux*, *supra*, at para. 27)

[319] This subjective awareness can be inferred from the totality of the evidence; direct evidence as to the accused's specific knowledge at the time of the fraudulent acts is not required (*Théroux*, *supra*, at paras. 23 and 29; and *Brost C.A.*, *supra*, at para. 43).

[320] This subjective awareness of the accused may also be established by evidence showing that the accused was reckless or wilfully blind to the consequence of his or her conduct and the truth or falsity of their statements (*Théroux*, *supra*, at paras. 26 and 28).

[321] A sincere belief or hope that no risk or deprivation would ultimately materialize does not vitiate fraud. As stated in *Théroux*, a "sanguine belief that all will come out right in the end" is not a defence:

> Pragmatic considerations support the view of *mens rea* proposed above. A person who deprives another person of what the latter has should not escape criminal responsibility merely because, according to his moral or her personal code, he or she was doing nothing wrong or because of a sanguine belief that all will come out right in the end. Many frauds are perpetrated by people who

> think there is nothing wrong in what they are doing or who sincerely believe that their act of placing other people's property at risk will not ultimately result in actual loss to those persons. If the offence of fraud is to catch those who actually practise fraud, its mens rea cannot be cast so narrowly as this.
>
> (*Théroux*, *supra*, at para. 36)

[322] The operative language of subsection 126.1(b) of the Act is identical to the comparable provisions of subsection 57(b) of the British Columbia *Securities Act*, R.S.B.C. 1996, c. 418, as amended (the "**BC Act**"). In interpreting subsection 57(b) of the BC Act as it relates to the mental element of fraud, the British Columbia Court of Appeal in *Anderson* stated that:

> … s. 57(b) does not dispense with proof of fraud, including proof of a guilty mind…Section 57(b) simply widens the prohibition against participation in transactions to include participants who know or ought to know that a fraud is being perpetrated by others, as well as those who participate in perpetrating the fraud. It does not eliminate proof of fraud, including proof of subjective knowledge of the facts constituting the dishonest act, by someone involved in the transactions.
>
> (Emphasis in original)
>
> (*Anderson*, *supra*, at para. 26)

[323] When considering the mental element with respect to a corporation, it is sufficient to show that its directing minds knew or reasonably ought to have known that the acts of the corporation perpetrated a fraud to prove a breach of subsection 126.1(b) of the Act (See, for example, *Al-Tar*, *supra*, at para. 221).

iii. Analysis

[324] Chau and MLIF deceived the investors. The following is a summary of the material representations related to the MLIF bonds, MLIF and the Project that were false.

The 100 and 200 series of bonds

Minimum Guaranteed GIC Interest

[325] Chau repeatedly represented that the return on the 100 and 200 series of bonds included guaranteed minimum "GIC interest" which MLIF distinguished from the interest payable by MLIF. While continuing to make these representations about these characteristics of the 100 and 200 series of bonds to other potential investors and encouraging existing investors to promote to others, Chau caused MLIF to cash existing TD GICs, frequently within days of purchase. The use of investors' funds was totally inconsistent with the use represented by Chau and MLIF.

[326] Months after all of the TD GICs had been cashed, Chau deliberately maintained the fiction that the proceeds of the 100 and 200 series of MLIF bonds were being held in GICs earning the minimum guaranteed interest by using funds paid by new MLIF bond investors to pay "annual GIC interest" to existing investors.

Use of Funds – Maintained in a Bank GIC for two years

[327] Chau expressly represented to some 100 series of bond investors that their funds would remain in a bank GIC and provided them with a GIC Certificate which indicated that the funds would be held for two years. While continuing to make these representations about the use of funds raised from the sale of the 100 and 200 series of bonds, Chau caused MLIF to cash existing TD GICs, frequently within days of the purchase.

Use of Funds – Collateral for a Construction Loan for the Project

[328] Chau admitted that he made this representation to some investors; however, Chau caused MLIF to cash the TD GICs and used the funds to pay personal expenses, the ongoing operational expenses of MLIF which were primarily incurred in connection with raising capital, and expenses of other Chau-related companies that were not connected with the Project.

Risks of Investment – Funds Safe or Guaranteed

[329] Chau repeatedly represented to investors that the 100 and 200 series of bonds were a safe investment and/or that the return of the investors' principal was guaranteed. However, once Chau caused MLIF to cash the GICs and spend the money, the investors' funds were fully dissipated and there was little or no prospect of the return of the principal amounts invested by the investors.

The 400 Series of Bonds

Use of Funds – 401 Series of Bonds Would Stay in a Trust Account

[330] Chau made verbal representations and was present when Tulsiani indicated to potential 401 series of bond investors that the money would stay in Sookhai's trust account. Notwithstanding his representations, Chau directed that US$150,000 of the funds be released to pay the Second Mortgage Holders of the West-End Property. Despite having done so, Chau again represented to investors that the proceeds of the 401 series of bond funds were being held in a trust account.

MLIF

MLIF's Financial Situation

[331] Chau and Tam, an officer of MLIF, represented at different times that they had raised millions of dollars in capital and/or did not need investors' money; however, in reality, at the time that these representations were made, MLIF's financial situation was precarious and dependent on the infusion of further funds, primarily from new investors, just to keep operating. TD Bank and RBC only provided credit to the extent that it was secured by GICs and MLIF had to use investor funds to purchase the necessary collateral for the GICs issued by RBC. MLIF's main operating bank accounts were repeatedly in an overdraft position.

[332] Chau repeatedly indicated to all 100 and 200 series of bond investors through statements and promotional materials that such bonds were issued for a two-year term, that the funds would be placed in a bank GIC immediately and that the return on their investment included a guaranteed minimum "GIC interest" which MLIF distinguished from the additional interest payable by MLIF. In doing so, Chau misled investors that the proceeds of the 100 and 200 series of bonds would be deposited immediately and held in the bank GIC until the MLIF bonds matured in two years and acted dishonestly when he caused MLIF to cash the GICs and spend the proceeds derived therefrom partly to defray his personal expenses and partly to defray the expenses of his other companies.

[333] Chau and MLIF acted dishonestly and made serious and material omissions about the risks associated with investing in the MLIF bonds by failing to advise prospective and current investors that:

(a) MLIF was a Start-up Company: Chau misled investors that MLIF was an established company and/or part of a group of established companies by indicating that MLIF's "investment arm" or the Maple Leaf Group had successfully completed many projects around the world in the last twenty years when, in fact, MLIF was a start-up company in 2007 directly owned by Chau personally which could not obtain even modest loans from the banks without fully securing them with GICs in amounts equal to the amounts of the requested loans.

(b) MLIF's Entire Indirect Interest in the West-End Property was at Risk: Chau misled potential 402 series of bond investors about the risks of investing in the 402 series of bonds by failing to disclose that MLIF had:

  (i) repeatedly defaulted on its loan obligations;

  (ii) been threatened with auction proceedings by creditors which held mortgages on the West-End Property for part of the Project; and

  (iii) in order to obtain a further extension of time to pay its obligations, put all of its shares of a related holding company in escrow and agreed that it would forfeit all of them (and thereby its interest in the West-End Property) if it failed to make any further required payments to its creditors.

(c) The University had Financial Problems: Chau misled potential 402 series of bond investors about the value of the "guarantee" by the University by failing to disclose that the University had suffered shortfalls of operating cash since September 2008 and had inadequate resources to pay rent. There was also no evidence that any legal documentation had ever been prepared to give effect to the purported guarantee.

[334] Chau misled potential 402 series of bond investors about the use of their funds and the consequential risks. Chau told potential 402 series of bond investors that their funds were to be used for the Project and agreed to provide a guarantee by the University, which he allegedly owned, as additional security for the funds advanced. However, without telling those investors, Chau had Tulsiani divert some of the funds from the 402 series of bond investors to other uses so more money was left owing to PEF, thereby increasing the risk that MLIF would default on its obligations to PEF. Chau had Tulsiani:

(a) Instruct Eshuis to pay US$401,000 of the funds designated for PEF to Chau's company MLEF to satisfy obligations that it had to GHEP in connection with the University;

(b) Instruct Eshuis to transfer approximately US$339,000 of the funds to Sookhai; and

(c) Instruct Sookhai to transfer approximately $401,000 of the funds to the MLIF RBC Account which Chau then used in part to pay the expenses of MLEF and the University.

[335] The prejudice and risk of prejudice to the economic interests of MLIF bond investors was considerable. The 100 and 200 series of bond investors were deprived of the protection of having their funds kept secure in a bank GIC as they were assured would be the case. The 401 series of bond investors were deprived of the protection of having all of the funds remain secure in a trust account. The 402 series of bond investors were deprived of a valuable guarantee from a financially established and secure guarantor.

[336] Many of the MLIF bond investors suffered actual losses, including the loss of their entire investment, and many lost promised guaranteed interest payments. Of the $4,475,000 invested in all four series of MLIF bonds, over $3.1 million was never repaid to investors.

[337] Chau induced MLIF bond investors to pay significant sums of money for MLIF bonds, sometimes obtained through lines of credits secured against their homes, through deceit and material omissions. The investors were unaware that their promised returns were not generated in any manner similar to what had been represented to them. They were also unaware that the investments were effectively not guaranteed or secured.

[338] Further, contrary to the 100 and 200 series of bond investors' understanding and expectations, Chau and MLIF used the funds raised from the 100 and 200 series of bond investors to pay the following:

(a) $359,345 to Chau of which $279,305 was transferred on a net basis to his personal TD account and the balance was primarily used for salary, cash or the payment of credit cards;

(b) $420,743 for various business expenses of MLIF, primarily advertising and marketing expenses ($110,154), office rent ($90,218) and salaries ($167,856), not including $66,409 paid in commissions or fees; and

(c) $237,642 to or on behalf of other entities which Chau controlled.

[339] The transfers from the MLIF TD Account to Chau's personal TD account represented the bulk of the funds which were deposited in Chau's personal TD account during the period from March 2007 to May 2009. Chau used the majority of those funds, $189,329, to pay personal expenses including a down payment, mortgage payment and property taxes on his home, personal taxes and Canada Pension Plan payments for the years 2005 and 2006, and $4,905 for a "tub" from Recreational Warehouse.

[340] Contrary to Chau's statements to Staff, MLIF employees assisted in the sale of MLIF bonds and Chau and MLIF paid commissions for MLIF bond sales. Investors Three and Four testified that some employees were involved in the sale of bonds and in some instances commissions were paid for such sales. Tam, who various investors testified helped to promote the MLIF bonds, received a commission on one or more sales of such bonds. One cheque from Tam to MLIF dated January 21, 2008 indicates "commission charge-back" for an investor who cancelled his MLIF bond and obtained his money back on November 2, 2007. Investor Three, an investor herself, who acknowledged working at MLIF, introduced Investor Four to the MLIF bond investments and also received small commission payments.

[341] Almost all of the $237,642 paid to or on behalf of Chau controlled entities was paid to: (a) Maple Leaf Property Investments Inc.; and (b) LFFW Attorneys in Curacao. Chau and MLIF transferred $110,200 on a net basis to Maple Leaf Property Investments Inc., a private company Chau owned which had no involvement in the Project.

[342] Chau and MLIF transferred:

(a) $102,060 on March 27, 2008 to LFFW Attorneys; and

(b) $10,414 on April 9, 2008 to HBN Law.

[343] Chau indicated that the amount paid to LFFW Attorneys was paid to the seller for "work done" (Testimony of Dhillon in Hearing Transcript dated January 19, 2011 at p. 78). MLIF did not purchase any interest in any land in connection with the Project until the end of May 2008. However, on March 27, 2008, Chau announced the acquisition of the University. MLEF, a private company owned by Chau, acquired 40% of the shares in GHEP, which owned the University. Chau indicated that MLIF had nothing to do with MLEF but admitted that some of the funds used for the acquisition of the interest in the University came from MLIF and the sale of the MLIF bonds.

[344] Chau and MLIF cashed the TD GICs so quickly that, in all but three cases, no interest was earned on the TD GICs and the total amount of interest earned on the GICs was less than that paid to 100 and 200 series of bond investors.

[345] Chau knew that he was acting fraudulently. He was at the centre of the fraud, was primarily responsible for the creation, marketing and sales of the MLIF bonds, communicated directly and indirectly with MLIF bond investors and actively misled them. He also had direct and total control of the funds received from the 100, 200 and 300 series of bond investors. The totality of the evidence establishes acts from which the Panel can readily infer subjective intent.

[346] Chau was the directing mind of MLIF. As a result, MLIF shared Chau's state of mind and, accordingly, was also aware of the fraudulent conduct.

iv. Findings

[347] We find that Chau and MLIF engaged or participated in acts, practices or courses of conduct relating to MLIF securities that Chau and MLIF knew would perpetrate a fraud on persons or companies, contrary to subsection 126.1(b) of the Act.

[348] In our view, MLIF's course of conduct was fraudulent whether or not its original intention to develop the Project was legitimate. The MLIF website included false information which was used to induce investors to invest. Through the use of classic high pressure sales tactics, members of the public were effectively stampeded into signing documents without the benefit of reviewing them carefully or obtaining independent financial or legal advice and notwithstanding the natural prudence of some of the investors. In addition, it was quite evident from the documentation submitted in evidence that the security purportedly provided to the investors was non-existent and the documentation was largely inconsistent with the oral representations made to the investors by the Respondents.

[349] Once received, the funds provided by investors were transferred to bank accounts controlled by Chau and frequently used in a manner that was contrary to the representations made to the investors by the Respondents.

[350] Once investors had made their investments, they had an increasingly difficult time obtaining reliable information or verifying the status of their investments.

[351] MLIF's sales tactics were aided and abetted by Tulsiani and Tulsiani Investments. In this regard, Tulsiani made extensive reference to his prior career as an OPP officer both on the PIC website and orally with the clear intention and expectation that prospective investors would thereby view him as trustworthy and his assurances as to his expertise, diligence and monetary success as entirely credible. We have no doubt whatsoever that Tulsiani's constant references to his prior experience with the OPP induced investors to take risks which they otherwise would likely not have assumed.

[352] It was also clear from the evidence that the concerns of at least some of the investors were also assuaged by assurances from Chau and Tulsiani that the proceeds of their investments would be held in the trust account of Sookhai. Sookhai was introduced to prospective investors at a PIC meeting on at least one occasion as the lawyer for the investors. The implicit, if not clear, inference that Sookhai was representing the interests of the investors was not challenged or refuted by him, thereby further encouraging prospective investors to rely on the misrepresentations of the Respondents and to sign documents without the benefit of independent legal advice or a legitimate opportunity to read the documents. We believe that we are justified in being concerned about seeing and hearing repeated references to Sookhai's involvement in certain transactions in the documentation and oral evidence given the conduct of the Respondents described in these Reasons and Decision.

G. Are the Individual Respondents responsible for the breaches of the Act by the Corporate Respondents pursuant to section 129.2 of the Act?

i. Submissions

[353] Staff submits that Chau, being a director and officer of MLIF, authorized, permitted or acquiesced in the commission of the violations of subsections 25(1)(a), 53(1), 38(3) and 126.1(b) of the Act by MLIF.

[354] Staff also submits that Tulsiani, being a director of Tulsiani Investments, authorized, permitted or acquiesced in the commission of the violations of subsections 25(1)(a) and 25(1)(c) of the Act by Tulsiani Investments.

[355] Chau admitted in his submissions to indirectly controlling most of the corporations involved in the ownership and development of the Project.

[356] Tulsiani admitted, through his counsel, to being a director of Tulsiani Investments who authorized, permitted or acquiesced in the actions of Tulsiani Investments.

ii. The Law

[357] Pursuant to section 129.2 of the Act, a director or officer is deemed to be liable for a breach of securities law by a company where the director or officer authorized, permitted or acquiesced in the company's non-compliance with the Act. Specifically, section 129.2 states:

> For the purposes of this Act, if a company or a person other than an individual has not complied with Ontario securities law, a director or officer of the company or person who authorized, permitted or acquiesced in the non-compliance shall be deemed to also have not complied with Ontario securities law, whether or not any proceeding has been commenced against the company or person under Ontario securities law or any order has been made against the company or person under section 127.

[358] In essence, the director or officer is held liable as the directing mind behind the company's actions.

[359] In subsection 1(1) of the Act, a "director" is defined as "a director of a company or an individual performing a similar function or occupying a similar position for any person" and an "officer" is defined as:

> (a) a chair or vice-chair of the board of directors, a chief executive officer, a chief operating officer, a chief financial officer, a president, a vice-president, a secretary, an assistant secretary, a treasurer, an assistant treasurer and a general manager,
>
> (b) every individual who is designated as an officer under a by-law or similar authority of the registrant or issuer, and
>
> (c) every individual who performs functions similar to those normally performed by an individual referred to in clause (a) or (b).

[360] The language of section 129.2 also uses the terms "authorize", "permit" and "acquiesce". "Acquiesce" means to agree or consent quietly without protest. "Authorize" means to give official approval or permission, to give power or authority or to give justification. "Permit" means to allow, consent, tolerate, give permission or authorize permission, particularly in writing (*Momentas*, *supra*, at para. 118).

[361] Section 129.2 of the Act attaches liability to directors and officers who authorize, permit or acquiesce in the non-compliance of a company, whether or not any proceedings have been commenced against the company itself.

[362] The threshold for a finding of liability against a director or officer under section 129.2 of the Act is low. Indeed, merely acquiescing in the conduct or activity in question will satisfy the requirement of liability. As stated in *Momentas*:

> Although these terms have been interpreted to include some form of knowledge or intention, the threshold for liability under section 122 and 129.2 is a low one, as merely acquiescing the conduct or activity in question will satisfy the requirement of liability. The degree of knowledge of intention found in each of the terms "authorize", "permit" and "acquiesce" varies significantly. "Acquiesce" means to agree or consent quietly without protest. "Permit" means to allow, consent, tolerate, give permission, particularly in writing. "Authorize" means to give official approval or permission, to give power or authority or to give justification.
>
> (*Momentas*, *supra*, at para. 118)

iii. Analysis

[363] Chau was the sole director of MLIF in 2008 and 2009. He was also the primary person directing MLIF's conduct in 2007. Tulsiani was a director of Tulsiani Investments in late 2008. Staff submits that there is ample evidence for the Commission to find that Chau authorized, permitted or acquiesced in the non-compliance of MLIF with subsections 25(1)(a), 38(3), 53(1) and 126.1(b) of the Act and that Tulsiani authorized, permitted or acquiesced in the non-compliance of Tulsiani Investments with subsections 25(1)(a) and 25(1)(c) of the Act.

[364] As stated above, Chau admitted to indirectly controlling most, if not all, of the corporations involved in the ownership and development of the Project. Tulsiani admitted, through his counsel, to being a director of Tulsiani Investments who authorized, permitted or acquiesced in the actions of Tulsiani Investments.

iv. Findings

[365] In light of the evidence and admissions referred to above, we find that Tulsiani authorized, permitted or acquiesced in the commission of the violations of subsections 25(1)(a) and 25(1)(c) of the Act by Tulsiani Investments.

[366] We also find that Chau, being a director and officer of MLIF, authorized, permitted or acquiesced in the commission of the violations of subsections 25(1)(a), 38(3), 53(1) and 126.1(b) of the Act, by MLIF.

H. Was the Conduct of the Respondents Contrary to the Public Interest?

i. Submissions

[367] In addition to the breaches of the Act in this matter, Staff alleges that the conduct of the Respondents was contrary to the public interest.

ii. The Law

[368] As set out in section 1.1 of the Act, it is the Commission's mandate to:

(a) Provide protection to investors from unfair, improper or fraudulent practices; and

(b) Foster fair and efficient capital markets and confidence in capital markets.

[369] The primary means for achieving the purposes of the Act are listed as follows in paragraph 2 of section 2.1:

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.

iii. Analysis

[370] The Commission's public interest jurisdiction is animated by the purposes of the Act. The legislature chose not to define the "public interest" in the Act and instead to leave the Commission with a wide discretion to determine what is in the public interest in a particular case.

[371] "It is the function and duty of the OSC to form an opinion, according to the exigencies of the individual cases that come before it, as to the public interest and, in so doing, the OSC is given wide powers of discretion" (*Marchment & MacKay Ltd. v. Ontario (Securities Commission)* (1997), 34 O.R. (3d) 284 at p. 290, citing with approval in the judgment of Craig J. in *Gordon Capital Corp. v. Ontario (Securities Commission)* (1991), 50 O.A.C. 258).

[372] We find that there is ample evidence as set out above that the conduct of the Respondents was contrary to the public interest.

[373] The Respondents breached a number of key provisions of the Act. The Respondents traded securities of MLIF without registration, contrary to subsection 25(1)(a) of the Act. Chau and MLIF were also found to have engaged in a distribution without satisfying the distribution requirements, contrary to subsection 53(1) of the Act. Further, the Respondents encouraged or counseled prospective investors to misstate their entitlement to be treated as accredited investors.

[374] Tulsiani and Tulsiani Investments were found to have engaged in advising with respect to investing in securities of MLIF without being registered to advise in securities, contrary to subsection 25(1)(c) of the Act.

[375] The conduct of the Respondents was contrary to the public interest because registration and distribution requirements are essential to protect investors and to ensure the integrity of the capital markets.

[376] In the course of their promotional activities relating to the MLIF bonds and other securities, Chau and MLIF also made prohibited representations to potential investors about the future listing on the stock market of certain shares, contrary to subsection 38(3) of the Act.

[377] When Chau and MLIF promoted the MLIF bonds, they misled potential investors by providing false and incomplete information regarding the various series of MLIF bonds (including the location and/or use of the funds, guaranteed minimum

interest and return of the principal at maturity and overall safety of the investments), MLIF and the Project. Chau also caused MLIF to divert some of the funds received from MLIF bond investors to pay his personal expenses, interest to existing MLIF bond investors, MLIF's further capital raising activities and to finance his other projects. In doing so, Chau and MLIF knowingly placed the MLIF bond investors' funds at risk of significant losses, which occurred. We found that Chau and MLIF knowingly engaged in fraud in breach of subsection 126.1(b) of the Act.

[378] These breaches of the Act caused harm to investors and to the integrity of Ontario's capital markets, and were clearly contrary to the public interest.

[379] The conduct of the Respondents was egregious and dishonest. They preyed on vulnerable investors, many of whom clearly did not understand the purported investments, and did not qualify for any exemptions. In the case of Chau and MLIF, they applied the proceeds of the investments in a manner that was contrary to their written and oral representations without regard to the consequences. In addition to contravening the Act in a number of material respects, the behaviour of the Respondents was reprehensible and contrary to the public interest.

iv. Findings

[380] We conclude that all of the Respondents engaged in conduct contrary to the public interest.

VIII. DECISION

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

(a) Chau, MLIF, Tulsiani and Tulsiani Investments traded in securities of MLIF without being registered to trade in securities and without an exemption being available, contrary to subsection 25(1)(a) of the Act;

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

(c) Chau and MLIF traded in securities of MLIF when a preliminary prospectus and a prospectus had not been filed and receipts had not been issued for them by the Director and without an exemption being available, contrary to subsection 53(1) of the Act;

(d) Chau and MLIF were market intermediaries and, accordingly, were not entitled to rely on the accredited investor exemption from the registration requirements under the Act;

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

(f) Chau and MLIF engaged or participated in acts, practices or courses of conduct relating to MLIF securities that Chau and MLIF knew would perpetrate a fraud on persons or companies, contrary to subsection 126.1(b) of the Act;

(g) Tulsiani, being a director of Tulsiani Investments, authorized, permitted or acquiesced in the commission of the violations of subsections 25(1)(a) and 25(1)(c) of the Act, set out above, by Tulsiani Investments;

(h) Chau, being a director and officer of MLIF, authorized, permitted or acquiesced in the commission of the violations of subsections 25(1)(a), 53(1), 38(3) and 126.1(b) of the Act, set out above, by MLIF; and

(i) Chau, MLIF, Tulsiani and Tulsiani Investments acted contrary to the public interest.

[382] The parties are directed to contact the Office of the Secretary within the next 10 days to set a date for a sanctions hearing, failing which a date will be set by the Office of the Secretary.

Dated at Toronto this 9th day of November, 2011.

"Christopher Portner"
Christopher Portner

"Paulette L. Kennedy"
Paulette L. Kennedy

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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
GBO Inc.	03 Nov 11	15 Nov 11	15 Nov 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

THERE ARE NO ITEMS FOR THIS WEEK.

4.2.2 Outstanding Management & Insider Cease Trading Orders

Company Name	Date of Order or Temporary Order	Date of Hearing	Date of Permanent Order	Date of Lapse/ Expire	Date of Issuer Temporary Order

THERE ARE NO ITEMS FOR THIS WEEK.

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Chapter 5

Rules and Policies

5.1.1 Amendments to NP 11-201 Delivery of Documents by Electronic Means

CSA NOTICE

AMENDMENTS TO
NATIONAL POLICY 11-201 *DELIVERY OF DOCUMENTS BY ELECTRONIC MEANS*

November 18, 2011

Introduction

The Canadian Securities Administrators (the CSA or we) are adopting amendments (the Amendments) to National Policy 11-201 *Delivery of Documents by Electronic Means*. On the effective date, this policy will be renamed National Policy 11-201 *Electronic Delivery of Documents* (NP 11-201 or the Policy).

The Policy will replace the current version of NP 11-201. In Québec, NP 11-201 will replace *Notice 11-201 related to the Delivery of Documents by Electronic Means*.

The Policy will come into force on November 18, 2011.

Text

Annex A sets out the text of the Policy.

Substance and Purpose of the Amendments

NP 11-201 states the views of the CSA on how the obligations imposed under Canadian securities legislation to deliver documents can be satisfied by electronic means. The original version of NP 11-201 *Delivery of Documents by Electronic Means* came into effect on January 1, 2000. The Policy was amended on February 14, 2003 to include guidance on proxy solicitation.

Since the implementation of NP 11-201 in 2000, there have been changes to legislation affecting electronic commerce and transactions, including amendments to corporate legislation and the introduction of legislation governing electronic transactions and protection of personal information. Electronic communications have also become much more common than when the Policy was first drafted.

The Amendments will recognize these changes by:

- Alerting stakeholders to other legislation that addresses the electronic delivery of documents.
- Simplifying guidance on the form and substance of securityholder consents
- Reducing technology-related language to avoid references that may become obsolete.

Written Comments

We published a draft of the Amendments for comment on April 29, 2011 for a 60-day comment period (the April 2011 Materials). The comment period expired on June 29, 2011 and we received submissions from eight commenters. We have considered these comments and we thank all the commenters. A list of the eight commenters and a summary of their comments, together with our responses, are contained in Annexes B and C.

Summary of the Changes to the April 2011 Materials

We have made some revisions to the April 2011 Materials, including drafting changes made only for the purposes of clarification or in response to comments received. As the revisions are not material, we are not republishing the Amendments for a further comment period.

Unpublished Materials

In proposing the amendments to NP 11-201, we have not relied on any significant unpublished study, report, or other written materials.

Questions

Please refer your questions to any of the following:

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ANNEX A

NATIONAL POLICY 11-201
ELECTRONIC DELIVERY OF DOCUMENTS

Table of Contents

NATIONAL POLICY 11-201
ELECTRONIC DELIVERY OF DOCUMENTS

PART 1 – GENERAL

1.1 Definitions – In this Policy

"delivered" means transmitted, sent, delivered or otherwise communicated, and "deliver", "delivery" and similar words have corresponding meanings;

"electronic commerce legislation" means the statutes listed in Appendix A and any other federal, provincial or territorial statute of Canada concerning the regulation of electronic commerce, and the regulations, rules, forms and schedules under those statutes, as amended from time to time;

"electronic delivery" includes the delivery of documents by facsimile, e-mail, optical disk, the Internet or other electronic means;

"electronic signature" means electronic information that a person creates or adopts in order to execute or sign a document and that is in, attached to or associated with the document;

"proxy document" means a document relating to a meeting of a reporting issuer, and includes an information circular, a form of proxy, a request for voting instructions, and voting instructions.

1.1.1 Further Definitions – Terms used in this policy that are defined in National Instrument 14-101 *Definitions* have the same meaning as in that instrument.

1.2 Purpose of this Policy

(1) The purpose of this Policy is to provide guidance to securities industry participants who want to use electronic delivery to fulfill delivery requirements in securities legislation.

(2) The Canadian Securities Administrators (the CSA or we) recognize that information technology is an important and useful tool in improving communications to investors. We want provisions of securities legislation that impose delivery requirements to be applied in a manner that accommodates technological developments without undermining investor protection.

1.3 Other Legislation and Rules

(1) Electronic commerce legislation generally prescribes a legal framework for electronic delivery and addresses consent to electronic delivery. The provisions of electronic commerce legislation may vary from jurisdiction to jurisdiction and may not be equally in force in all jurisdictions.

(2) Electronic delivery of documents may also be subject to corporate legislation, SRO rules or stock exchange rules that either directly impose requirements for electronic delivery or incorporate by reference requirements for electronic delivery from electronic commerce legislation. An issuer's constating documents, such as its articles of incorporation, may also limit electronic delivery.

(3) Documents required to be delivered under securities laws, including documents sent electronically, may be subject to the protections of privacy legislation. Securities industry participants may need to take additional steps to preserve the confidentiality of personal information under that legislation.

1.4 Application of this Policy

(1) Parts 2 and 3 of this Policy apply to documents required to be delivered under securities legislation. These include prospectuses, financial statements, trade confirmations, account statements and proxy-related materials that are delivered by securities industry participants or those acting on their behalf, such as transfer agents. Part 4 of this Policy provides additional guidance that only applies to the use of proxy documents in electronic format.

(2) This Policy does not apply to deliveries where the method of delivery prescribed by securities legislation does not permit electronic delivery.

(3) This Policy does not apply to documents filed with or delivered by or to a securities regulatory authority or regulator.

(4) For guidance on using electronic communication to trade securities, refer to National Policy 47-201 *Trading Securities Using the Internet and Other Electronic Means* and, in Québec, *Notice 47-201 relating to Trading Securities Using the Internet and Other Electronic Means*.

PART 2 – ELECTRONIC DELIVERY OF DOCUMENTS

2.1 Basic Components of Electronic Delivery of Documents

(1) Subject to applicable electronic commerce or other legislation, we believe that the delivery requirements of securities legislation can generally be satisfied through electronic delivery if each of the following elements is met:

1. The recipient of the document receives notice that the document has been, or will be, delivered electronically as described in section 2.3.

2. The recipient of the document has easy access to the document, as described in section 2.4.

3. The document that is received by the recipient is the same as the document delivered by the deliverer, as described in section 2.5.

4. The deliverer of the document has evidence that the document has been delivered, as described in section 2.6.

If any one of these components is absent, however, the effectiveness of the delivery may be uncertain.

(2) The components of electronic delivery listed above are compatible with the legal framework for electronic delivery under electronic commerce legislation.

2.2 Consent to Electronic Delivery

(1) Electronic commerce legislation may require the consent of a recipient to electronic delivery. Securities legislation does not require a deliverer to obtain the consent of the intended recipient nor does it prescribe the form or content of any consent. However, the process of obtaining express consent, and then delivering the document in accordance with that consent, may enable the deliverer to achieve some of the basic components of electronic delivery set out in section 2.1. An express consent may give rise to the inferences that, if a document is sent by electronic delivery in accordance with the terms of a consent:

(a) the recipient will receive notice of the electronic delivery of the document;

(b) the recipient has the necessary technical ability and resources to access the document; and

(c) the recipient will actually receive the document.

(2) A deliverer may effect electronic delivery without the benefit of an express consent. However, if a deliverer does not obtain an express consent, it may be more difficult to demonstrate that the intended recipient had notice of, and access to, the document, and that the intended recipient actually received the document.

2.3 Notice

(1) An intended recipient should have notice of the electronic delivery. Notice can be given in any manner, electronic or non-electronic, that advises the recipient of the proposed electronic delivery.

(2) A deliverer intending to effect electronic delivery by permitting intended recipients to access a document posted to a website should not assume that the availability of the document will be known to recipients without separate notice of its availability.

2.4 Access

(1) A recipient of an electronically delivered document should have easy access to the document.

(2) Deliverers should take reasonable steps to ensure that electronic access to documents is not burdensome or overly complicated for recipients. The electronic systems employed by deliverers should be sufficiently powerful to ensure quick downloading, appropriate formatting and general availability.

(3) A document should remain available to recipients for whatever period of time is appropriate and relevant, given the nature of the document.

(4) A document delivered electronically should be delivered using appropriate electronic formats and methods of electronic delivery that enable the recipient to store and retain a permanent record of it which may be used for subsequent reference, and print it, as is the case with paper delivery.

2.5 Delivery of an Unaltered Document – A deliverer should take reasonable steps to prevent alteration or corruption of a document during electronic delivery. This may include adopting security measures to protect against third-party tampering with the document. Deficiencies in the completeness or integrity of a document delivered electronically may raise questions as to whether the document has in fact been delivered.

2.6 Effecting Delivery

(1) A deliverer should have internal processes to show that a document delivery has been attempted.

(2) A deliverer of a document should not conclude that electronic delivery has been effected if the deliverer has any reason to believe that a document has not been received, such as receiving a notification of delivery failure. If electronic delivery is attempted but cannot be accomplished for any reason, delivery should be attempted by an alternative method, such as by paper delivery.

PART 3 – MISCELLANEOUS ELECTRONIC DELIVERY MATTERS

3.1 Form and Content of Documents

(1) For the sake of consistency, documents delivered electronically may follow the formatting requirements set out in the SEDAR Filer Manual. This includes altering the document to be delivered electronically from the paper version in accordance with these formatting requirements.

(2) As with documents filed under SEDAR, documents proposed to be delivered electronically should be recreated in electronic format, rather than scanned into electronic format. This is recommended because scanned documents can be difficult to transmit, store and retrieve on a cost-efficient basis and may be difficult to view upon retrieval.

3.2 Confidentiality of Documents – Some documents that may be sent by electronic delivery, such as trade confirmations, are confidential to the recipients. Deliverers should take all reasonably necessary steps to ensure that the confidentiality of those documents is preserved in the electronic delivery process.

3.3 Hyperlinks

(1) The hyperlink function can provide the ability to access information instantly, in the same document or in a different document on the same or another website.

(2) The use of hyperlinks within a document may not be appropriate for the reasons described in subsection (3), unless the hyperlink is to another point in that same document.

(3) A deliverer that provides a hyperlink in a document to information outside the document risks incorporating that hyperlinked information into the document and thereby becoming legally responsible for the accuracy of that hyperlinked information. Also, the existence of hyperlinks in a document delivered electronically to a separate document raises the question of which documents are being delivered - only the base document, or the base document and documents to which the base document is linked.

(4) For documents delivered electronically that contain hyperlinks to other documents, deliverers are encouraged to clearly distinguish which documents are governed by statutory disclosure requirements and which are not. This may be effected, for example, by the use of appropriate headings on each page of the documents.

(5) Paragraph 7.2(e) of the SEDAR Filer Manual prohibits hyperlinks between documents.

(6) An attempt to deliver documents by referring an intended recipient to a third party provider of the document, such as SEDAR, will alone likely not constitute valid delivery of the document.

3.4 Multimedia Communications

(1) Multimedia communications are sometimes used to present information in varied combinations of text, graphics, video, animation and sound.

We recommend that no information presented through multimedia communications be included in disclosure documents required by statute unless it can be reproduced identically in non-electronic form. This will ensure that all recipients receive the same statutorily required information, regardless of their multimedia capabilities.

(2) Securities industry participants may use multimedia communications to compile and disseminate publicly available information.

(3) Multimedia communications are subject to provisions in securities legislation regarding misleading or untrue statements and promotional or advertising restrictions. These provisions may be relevant, for example, when the multimedia communications appear on a deliverer's website or are hyperlinked to a deliverer's website.

3.5 Timing of Electronic Delivery – Electronic delivery of materials to recipients should be made in accordance with the timing specified in securities legislation.

PART 4 – PROXY DOCUMENTS

4.1 Proxy Delivery Requirements

(1) Securities legislation and securities directions contain provisions relating to the proxy solicitation process that have raised questions as to whether the electronic delivery of proxy documents is permitted, and whether proxy documents can be in electronic format. We have identified two types of requirements in securities law that affect the use of proxy documents in electronic format:

1. Requirements in certain securities directions or securities legislation that

   (a) a form of proxy or proxy be in written or printed form (the “written proxy requirements”); and

(b) a registered holder of voting securities vote or give a proxy in respect of such voting securities in accordance with any written voting instructions provided by the beneficial owner of such voting securities (the "written voting instructions requirements") (collectively with the written proxy requirements, the "in writing requirements").

2. Requirements in securities legislation that a proxy be executed (the "proxy execution requirements").

(2) Securities industry participants who are required by securities legislation to deliver proxy documents and wish to use an electronic delivery method should refer to Part 2 of this Policy, which sets out the principles for delivering documents electronically.

(3) Merely making proxy documents available for access on a website will not constitute delivery of these documents in accordance with the four components of effective delivery that are set out in Part 2 of this Policy.

4.2 The In Writing Requirements

(1) Forms of proxy, proxies and voting instructions in electronic format (including an electronic format that makes use of the telephone) will generally satisfy the in writing requirements if the electronic format used

(a) ensures the integrity of the information contained in the forms of proxy and proxies; and

(b) enables the recipient to maintain a permanent record of this information for subsequent reference.

(2) In order to ensure the integrity of information, the electronic format of the form of proxy, proxy or voting instructions should not permit the information in the document to be easily corrupted or changed. For example, the written proxy requirements generally would not be satisfied by sending an e-mail with a form of proxy in Word format attached, as this format could be easily tampered with.

(3) In order to assist a recipient to retain a permanent record of the information so as to be usable for subsequent reference, appropriate electronic formats and methods of electronic delivery should be used that include the ability to store and print the record.

4.3 Proxy Execution Requirements

(1) The proxy execution requirements are normally satisfied by a security holder's signature. The use of a signature indicates adoption of the information in the completed proxy, and permits authentication of the security holder's identity. We are of the view that the use of a manual signature is one method, but not the only method, of executing a proxy.

(2) The proxy execution requirements may be satisfied through the security holder using an electronic signature to execute a proxy, including a proxy in electronic format that satisfies the in writing requirements (see section 4.2). Any technology or process adopted for executing a proxy should create a reliable means of identifying the person using the signature and establishing that the person incorporated, attached or associated it to the proxy. The security holder's electronic signature should result from the security holder's use of a technology or process that permits the following to be verified or proven:

1. a security holder used the technology or process to incorporate, attach or associate the security holder's signature to the proxy;

2. the identity of the specific security holder using the technology or process; and

3. the electronic signature resulting from a security holder's use of the technology or process is unique to the security holder.

PART 5 –EFFECTIVE DATE

5.1 Prior policy – National Policy 11-201 *Delivery of Documents by Electronic Means* is replaced by the Policy.

5.2 Effective Date – The Policy comes into effect on November 18, 2011.

Appendix A

Electronic Commerce Legislation

Alberta
Electronic Transactions Act, S.A. 2001, c. E-55

British Columbia
Electronic Transactions Act, S.B.C. 2001, c.10

Manitoba
The Electronic Commerce and Information Act, S.M. 2000, c. E55

New Brunswick
Electronic Transactions Act, S.N.B. 2001, c. E-55

Newfoundland and Labrador
Electronic Commerce Act, S.N.L. 2001, c. E-52

Northwest Territories
Electronic Transactions Act, S.N.W.T. 2011, c. 13

Nova Scotia
Electronic Commerce Act, S.N.S. 2000 c. 26

Nunavut
Electronic Commerce Act, S.Nu. 2004, c. 7

Ontario
Electronic Commerce Act, S.O. 2000, c. 17

Prince Edward Island
Electronic Commerce Act, S.P.E.I. 2001, c. E-41

Quebec
An Act to establish a legal framework for information technology, R.S.Q. 2001, c. C-1.1

Saskatchewan
The Electronic Information and Documents Act, S.S. 2000, c. E-7.22

Yukon
Electronic Commerce Act, S.Y. 2000, c. 10

ANNEX B

NATIONAL POLICY 11-201
ELECTRONIC DELIVERY OF DOCUMENTS

List of Commenters

The CSA received comments from the following commenters:

- BMO Private Client Group
- Broadridge Financial Solutions, Inc.
- Computershare Trust Company of Canada
- Investment Industry Association of Canada (IIAC)
- Jason Slattery, Investment Advisor, Equity Associates Inc.
- Osler, Hoskin & Harcourt LLP
- RBC Dominion Securities Inc.
- VAULT Solutions Inc.

ANNEX C

NATIONAL POLICY 11-201
ELECTRONIC DELIVERY OF DOCUMENTS

Summary of Comments

	Theme	Comments	Outcome of Discussion and Response
	GENERAL COMMENTS		
1.	General support for the proposal	Seven commenters expressed support for the initiative. They thought it would increase the number of issuers offering electronic delivery and number of shareholders using electronic delivery. The other commenter did not address the proposal generally.	
2.	Definition of "delivered"	One commenter questioned the meaning of "delivered". They thought that many of the methods of e-delivery do not involve the documents being sent to the individual investors, but rather having the documents made available to an investor through a link to a website or by logging into a secure site to pick up a document. They suggested that the wording of the proposed definition of "delivered" suggests active sending, rather than making the document available for investors to receive or to access by taking steps to retrieve it.	"Delivered" refers to the obligation under securities legislation to deliver documents. We do not intend to be prescriptive because this is a policy and is intended for guidance. Notice and access legislation is being considered by the CSA committee reviewing NI 54-101 *Communication with Beneficial Owners of Securities of a Reporting Issuer*.
3.	Definition of "electronic delivery"	One commenter did not think it was appropriate to replace the word "means" with "includes" in order to limit what constitutes electronic delivery. They also wanted to clarify that the definition included the physical delivery of a document on a storage medium such as optical disk or memory stick. Another commenter thought we should consider removing "e-mail" and "the Internet or other electronic means" from this definition and establishing a separate definition for these terms. They thought that the processes for "e-mail" and "Internet and other electronic means" are significantly different in their operation and technology, including how it is used for the purposes of document delivery. They thought that the use of a secure website, which requires the recipient to log into the site using security credentials to gain access to the documents, should be contemplated in the definition.	The definition of "electronic delivery" was drafted in a manner that allows for the inclusion of other methods of delivery that may evolve with technology. The definition of "electronic delivery" includes delivery by optical disk and delivery by other electronic means, which would include a memory stick. The definition of "electronic delivery" is consistent with the provincial electronic commerce legislation. Notice and access legislation is being considered by the CSA committee reviewing NI 54-101 *Communication with Beneficial Owners of Securities of a Reporting Issuer*.
4.	Definition of "electronic signature"	One commenter thought that the definition may not be sufficiently flexible to address all the potential ways that an individual may evidence the execution of signing of a document; it also appears to be slightly inconsistent with the broad language contemplated in section 4.3(2). Another commenter thought that the definition of electronic signature should instead be a digital signature (i.e. mathematical algorithm and not include real signatures that have been digitized).	The definition of "electronic signature" is consistent with provincial electronic commerce legislation. We disagree that is not a flexible definition and that it is inconsistent with 4.3(2). The definition of "electronic signature" is consistent with provincial electronic commerce legislation and intentionally broad to include digital signatures and other types of electronic signatures (for example, a written signature on a facsimiled or emailed document).

	Theme	Comments	Outcome of Discussion and Response
5.	"Sent" vs. "Delivered"; "Transmitted"	One commenter noted that the word "sent" has been replaced by the word "delivered" throughout the document, and that the word "transmitted" has been added to the definition of "delivery" and that the Internet remains one of the means of delivery under the definition of "electronic delivery". They are not clear what the effect of these changes is.	We have used the word "delivered" to be consistent throughout the document and it is defined to include "sent". "Transmitted" has been added to the definition to reflect Quebec legislation (*An act to establish a legal framework for information technology)*.
6.	Other Additional Definitions	One commenter asked that CSA provide definitions for the following terms: "deliverer" – they thought that it is not clear if "deliverer" means the issuer or intermediary with the delivery obligation under securities legislation, or the party/agent actually carrying out the delivery functions, and that this, coupled with the proposed deletion of the language in the current section 2.1(7) regarding delivery by third party agents, creates some ambiguity. "securities industry participants" – This term is used in several sections of the document but has no definition associated with it.	 "deliverer" refers to the entity with an obligation to deliver documents under securities legislation; we think this term is clear and does not require a definition. The expression "securities industry participants" is meant to be broad and include all entities that have to comply with securities legislation.
7.	Adding to the Scope of Privacy Legislation in s. 1.3(3)	One commenter thought that the CSA should expand the scope of this section to include investors' personal information with the wording in section 1.3(3).	The Policy provides guidance on the electronic delivery of documents. We think that it is beyond the scope of this initiative to provide guidance on privacy issues.
8.	List of documents in s. 1.4(1)	One commenter thought that the list of documents is not clear. For instance, it does not include the new NI 81-101 mutual fund "fund facts documents", and the definition of "prospectuses" is silent on whether this includes preliminary and short form prospectuses. Two other commenters thought that the definitions were not flexible enough to deal with future changes to legislation and that a reference to specific documents should be removed.	NP 11-201 applies to documents that are required to be delivered under securities legislation. We have provided a sample list of some of these types of documents, and the list is not intended to be comprehensive. We think that the sample list is flexible enough to deal with other documents that may be required to be delivered in future (such as the fund facts document, which is not currently required to be delivered by securities legislation). We would refer the commenter to the definition of "Prospectus" in the relevant rule that has to be complied with.
9.	"Otherwise electronically available" in Part 2 and Delivery through a Website; Notice and Access in NI 54-101	One commenter noted that under proposed section 2.1(1), three out of the four elements of electronic delivery that previously referred to documents being "otherwise electronically made available" (elements 1, 2 and 4), have had these references removed. However, in section 2.6(1), a "deliverer should retain records to demonstrate that a document has been delivered or otherwise made available to the recipient", so it is not clear to the commenter what the intended effect of these changes is. The commenter also thought that the removal of the language from proposed section 2.1(1) has caused confusion about whether or not a document can be delivered electronically by way of the recipient accessing	We will delete this instance of "otherwise electronically made available" in section 2.6(1) to be consistent. Notice and access legislation is being considered by the CSA committee reviewing NI 54-101 *Communication with Beneficial Owners of Securities of a Reporting Issuer*. Ultimately, the

	Theme	Comments	Outcome of Discussion and Response
		a website under the proposed Policy. Combined with the issue about the proposed changes to section 2.2 (consent), they are unclear as to whether the CSA is effectively withdrawing its endorsement of delivery by access to a website, a result that seems inconsistent with the general push towards Notice-and-Access with respect to proxy materials under proposed changes to NI 54-101. The commenter seeks clarification that the CSA continues to endorse electronic delivery of a document by accessing it on a website. They acknowledge that merely putting a document onto a website is not enough to satisfy the delivery requirements in the absence of consent from the recipient to retrieve the document.	requirement is that the document be delivered to the securityholder; we do not mandate in legislation the method for how this is accomplished.
10.	Meaning of "Notice" and whether notice be given that advises the recipient of proposed electronic delivery (s. 2.3(1))	Two commenters thought that the amendments appear to recommend the sending of a notice email that provides notice of a future email (in other words, that a deliverer could not send both a notice and the document in one email) and that this situation was excessive.	We do not agree with this interpretation.
11.	Questioning necessity of written notice when certain documents are posted online (s. 2.3(2))	One commenter thought that the separate notice of availability of a document online, such as a monthly account statement, was "paternalistic", especially in the context of monthly account statements. Another wanted guidance on a situation where a recipient has agreed to monitor a site for documents.	An important component to effective electronic delivery is notice to the intended recipient of the proposed electronic delivery. In this section, we indicate that securities industry participants should not assume a one-time notification to access a website is sufficient evidence of notice to the intended recipient. The determination of sufficient notice will depend on the requirements in securities law and other legislation, and the facts of each case. Since this is a policy, we are providing guidance and do not wish to provide an interpretation of the law.
12.	Concept of "electronic systems" in s. 2.4(2)	One commenter thought that that "electronic systems" focuses on hardware issues even though the principle should be applied more broadly. They also thought that the term "general availability" was not appropriate because it should be permissible to use different forms of electronic delivery of the same document to different persons.	We disagree with the commenter's interpretation. The considerations in 2.4(2) are software, hardware and networking. General availability refers to the general accessibility of documents from a website, in an email or some other medium of electronic delivery; it does not suggest using only one form of delivery.
13.	Interplay of NI 54-101 and s. 2.4	One commenter noted that there is inconsistency on the posting of meeting materials between section 2.4(3) of the proposed Policy and the proposed amendments to National Instrument 54-101 (NI 54-101) in section 2.7.1(1)(d)(ii) regarding Notice and Access. The commenter also noted that section 2.4(4) of the proposed Policy, regarding the ability to keep a permanent copy of the document, uses different language from section 4.2(3), but that the objective of the	The example of the posting of meeting material is not necessary and too specific. We will delete the second line in 2.4(3). We have used the 4.2(3) wording in 2.4(4) to be consistent.

	Theme	Comments	Outcome of Discussion and Response
		two sections appears to be the same.	
14.	Reasonable Steps to Prevent Alteration or Corruption s. 2.5	Several commenters thought that draft section 2.5 is drafted in a manner that imposes an unrealistic standard on deliverers. They thought that a deliverer should only be obliged to take "reasonable" steps to prevent alteration or corruption and a deliverer's security measures cannot ensure there will be no tampering, such measures can only "protect against third party tampering". They noted that section 8 of the *Electronic Commerce Act* (Ontario) only requires "reliable assurance as to the integrity of the information" as opposed to our proposal which suggests that deliverers "take steps to prevent alteration or corruption of a document".	We have added the word "reasonable", as in "take reasonable steps", and changed the phasing from "to ensure that third party cannot tamper" to "to protect against third-party tampering".
15.	Clarification on failure of delivery s. 2.6	One commenter thought that guidelines in s. 2.6(1) and (2) for retaining records of delivery and for concluding that delivery has not been effected are more onerous than the electronic commerce legislation in Ontario. They also noted that there is no evidentiary burden on the deliverer to prove delivery under paper delivery. Securities firms are required to be in compliance with SRO rules on returned mail and have policies and procedures in place to manage returned mail rather than confirm that the recipient actually receives it. One commenter asked for our guidance under s. 2.6(2) in the case of a deliverer that receives notice that the electronic delivery has failed. If they intended to electronically deliver only a notice that documents were available on a website; would they be required to deliver all the documents in paper form or may another method be used?	In s. 2.6(1), we have deleted "retain records that a document has been delivered" and added "have internal processes to show that a document delivery has been attempted". In s. 2.6(2), we have changed "should be accomplished" to "should be attempted". Note that we will also delete "or otherwise made available" from s. 2.6(1). S. 2.6(2) advises a deliverer that if they have any reason to believe that a document has not been received (e.g. the deliverer receives notice that electronic delivery has failed), they should attempt delivery by an alternative method. This alternative method could include, but is not limited to, paper delivery.
16.	Concerns about Protection of Privacy s. 3.2	One commenter expressed concerns that personal privacy would not be sufficiently protected under the proposal because the word "reasonably" is too vague.	Deliverers must still comply with applicable privacy legislation. Nothing in this policy takes away from these obligations.
17.	Hyperlinks s. 3.3(3)	One commenter thought that to provide more meaningful guidance, section 3.3(3) should clearly state whether in the view of the Canadian Securities Administrators if a document contains a hyperlink to information located outside the document such hyperlinked information is thereby incorporated into and forms part of the document. Commenters also asked whether sending an e-mail with a hyperlink to the specific document on the SEDAR webpage in accordance with the recipient's consent would constitute valid delivery.	We consider this question to be beyond the scope of our mandate. We do advise, however, that the use of hyperlinks can lead to "dead links" to documents that no longer exist or links to addresses where the content of the document of the address may change.
18.	"Third party provider" in s. 3.3(6)	One commenter wanted clarification on what the term "third party provider" means.	"Third party provider" in this context is a party that is not the issuer that hosts a document.

	Theme	Comments	Outcome of Discussion and Response
19.	Further Guidance on Multimedia s. 3.4	Two commenters requested that the CSA encourage greater adoption of multimedia communications.	We do not discourage the use of multimedia. We recommend that any information presented in a multimedia format also be reproduceable in paper form.
20.	Contemporaneous Mailing and Electronic Delivery s. 3.5	Three commenters recommended that draft section 3.5 be deleted because it was impractical or conflicted with current securities legislation, including section 4.6 of NI 51-102 and the proposed changes to NI 51-104.	We have deleted section 3.5. The timing of electronic delivery of documents must comply with the requirements in securities legislation.
21.	Notice and Access Generally in Part 4	One commenter noted that there is no reference to requirements for notice and access as contemplated under the amendments to NI 54-101 and it is not entirely clear how these amendments and those considered under NP 11-201 align.	The NI 54-101 consequential amendments to NP 11-201 may address this issue.
22.	Changes to electronic form of proxy under 4.2(2)	One commenter thought that the requirement in section 4.2(2) that the electronic form of the proxy or voting instruction not permit the information to be changed is unduly restrictive and that a person giving voting instructions should be able to make changes to designate someone other than management to represent them at the meeting and to make changes with respect to the authority to be given to that representative.	The purpose of this subsection is not to forbid amending the document as the commenter suggests; rather, it is to ensure that the document is not tampered with in sending.
23.	Signatures "by a security holder" in s. 4.3	One commenter argued that in section 4.3, the policy references signatures "by a security holder" and this was incorrect because securities legislation permits proxies to be signed "by or on behalf of a security holder" – which would include signing of a proxy by someone other than a security holder pursuant to a power of attorney, for example.	We think that this change is unnecessary.
24.	Signature verification in 4.3(2)	One commenter thought that the second sentence in section 4.3(2) is somewhat inconsistent with the rest of section 4.3(2) and is redundant in light of the list of items that the technology or process should permit to be verified or proven. They suggest that the second sentence in section 4.3(2) be deleted or that the words "signature and establishing that the person incorporated, attached or associated it to" be replaced with "technology or process to sign".	We have not retained this suggestion because the language used is consistent with the definition of electronic signature found in electronic commerce legislation.
25.	"Default Option" of Electronic Delivery	One commenter thought that deliverers should be granted the flexibility to implement a "default option" of electronic delivery. They believe that this is consistent with the *Electronic Commerce Act* (Ontario) which permits implied consent. They believe that this would be less onerous than having signed consents. Another commenter thought that preserving investor choice was important and that some investors do not have easy access to computers and should not be compelled to access documents over the Internet.	We do not recommend a "default option" of electronic delivery.
	RESPONSES TO SPECIFIC QUESTIONS		
26.	Do you believe the draft Policy presents any impediments to electronic	Most commenters generally either did not respond to the question directly or did not believe that the Policy presented any impediments. Specific concerns about particular sections of the Policy are summarized above.	

	Theme	Comments	Outcome of Discussion and Response
	delivery?	One commenter thought that the proposed amendments do not reflect current best practices nor does it envision the future state of electronic communication between issuers, intermediaries, and investors.	The Policy is drafted to be broad and flexible to address other legislation and to accommodate future technologies. Some amendments will be addressed directly in the notice and access project.
27.	Do the requirements of other legislation impact your ability to satisfy the four basic components to electronic delivery?	One commenter stated that they did not. One commenter thought that the CSA should make available to industry participants the interplay of "other legislation" in order to provide a clear understanding of how one may impact the other. One commenter thought that provincial electronic commerce/transactions acts (ECAs) appear to provide for greater flexibility regarding the electronic delivery of documents than the four components and that there may be a conflict between the ECAs and the Policy. Another commenter was concerned about the requirements of the *Business Corporations Act* (Canada) (CBCA) that may impact their industry's ability to satisfy the components for electronic delivery described in the Policy and whether the CBCA conflicted with the proposed Notice and Access provisions of NI 54-101.	The purpose of the Policy is to provide electronic delivery guidance for securities industry participants. The CSA does not propose to provide guidance on the interpretation or application of non-securities legislation in relation to electronic delivery. This legislation may change over time. Where other legislation is more prescriptive, securities industry participants should follow that legislation. With respect to notice and access, these comments are beyond the scope of this project.
28.	Comments on removing guidance on the form and substance of a consent to electronic delivery.	Two commenters agreed strongly with its removal. One commenter was concerned that language has also been removed from the Policy that provides guidance about consent and notice where electronic delivery is effected by placing a document on a website. They indicated that many deliverers receive consent from clients to deliver documents electronically by placing documents on their website. They believe that the consent and notice evidences the agreement of the client to monitor the website.	Adequate notice is a matter of fact and would depend on the circumstances. The one-time consent would not necessarily meet the requirement for notice in all cases. We also refer the commenter to the account activity reporting provisions under NI 31-103 and the Client Relationship Management 2 amendments to NI 31-103 that are out for comment. Section 1.1 of the 31-103 Companion Policy requires registrants to provide clients with disclosure information in a clear and meaningful manner, which is consistent with the obligation to deal fairly, honestly and in good faith with clients.
	COMMENTS UNRELATED TO PROPOSAL		
29.	Expansion of privacy to cover all communi-cations relating to a client	One commenter suggested additional privacy guidance on communications "behind the scenes" including: • Communications between the investment advisor and head office • Communications between advisors and compliance departments • Communications with approved investment lenders He had a particular concern about identity theft.	This suggestion is beyond the scope of this Policy.

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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 SecuritiesSource (see www.carswell.com).

This chapter contains a weekly summary of insider transactions of Ontario reporting issuers in the System for Electronic Disclosure by Insiders (SEDI). The weekly summary contains insider transactions reported during the seven days ending Sunday at 11:59 pm.

To obtain Insider Reporting information, please visit the SEDI website (www.sedi.ca).

Chapter 8

Notice of Exempt Financings

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

Transaction Date	No of Purchasers	Issuer/Security	Total Purchase Price ($)	No of Securities Distributed
09/27/2011	3	2183 Lakeshore Blvd. - Units	10,200,000.00	10,200,000.00
10/20/2011	105	ADR Capital Energy Corp. - Common Shares	1,753,582.00	17,535,820.00
10/26/2011	14	Alexandria Minerals Corporation - Units	3,000,000.02	21,876,093.00
10/31/2011	8	Alta Pacific Mortgage Investment Corp. - Common Shares	318,300.00	3,183.00
11/01/2011	9	Angoss Software Corporation - Common Shares	380,099.70	1,266,999.00
11/01/2011	26	Angoss Software Corporation - Units	1,345,000.00	1,345,000.00
10/18/2011	5	Argex Mining Inc. - Common Shares	910,000.46	2,000,001.00
10/31/2011	1	Armistice Resources Corp. - Common Shares	6,000,000.00	25,200,000.00
10/27/2011	5	Astral Media Inc. - Flow-Through Unit	300,000.00	1,200,000.00
10/14/2011	1	Bank of Montreal - Note	1,000,000.00	1.00
08/30/2011	1	Bison Income Trust II - Trust Unit	7,500.00	750.00
09/23/2011 to 09/30/2011	10	Bison Income Trust II - Trust Units	8,183,500.00	818,350.00
08/19/2011	6	Brazil Potash Corp. - Common Shares	2,799,334.00	1,399,667.00
10/26/2011	1	C-Pool Minerals Inc. - Common Shares	150,000.00	100.00
10/04/2011	25	Canadian International Minerals Inc. - Units	672,060.00	2,527,000.00
10/19/2011	10	Castle Resources Inc. - Flow-Through Shares	5,999,994.00	9,523,800.00
09/18/2011	1	Cenit Corporation - Common Shares	0.00	600,000.00
10/25/2011	3	Chesapeake Oilfield Operating, L.L.C./ Chesapeake Oilfield Services, L.L.C. - Notes	7,608,000.00	7,500.00
10/14/2011	10	Cline Mining Corporation - Warrants	5,250,000.00	3,000,000.00
10/20/2011 to 10/21/2011	4	Colwood City Centre Limited Partnership - Note	355,000.00	1.00
07/05/2011 to 07/08/2011	8	CommuintyLend Inc. - Loan Agreement	22,500.00	1.00
10/17/2011	6	Cuervo Resources Inc. - Units	405,000.00	1,350,000.00
09/20/2011	1	Dixie Crossing Inc. - Units	3,300,000.00	3,300,000.00
10/17/2011 to 10/21/2011	8	Eloro Resources Ltd. - Units	925,000.00	4,625,000.00
10/26/2011	11	Empower Technologies Corporation - Common Shares	154,500.00	1,236,000.00
10/03/2011	2	Everett Resources Ltd. - Units	349,000.00	6,345,453.00

Transaction Date	No of Purchasers	Issuer/Security	Total Purchase Price ($)	No of Securities Distributed
10/24/2011	1	Exam Works Group, Inc. - Common Shares	700,000.00	49,020.00
10/01/2010 to 09/30/2011	2	Fidelity ClearPath Institutional 2010 Portfolio - Trust Units	20,994,021.52	1,820,905.41
10/01/2010 to 09/30/2011	2	Fidelity ClearPath Institutional 2015 Portfolio - Trust Units	18,821,274.29	1,604,817.51
10/01/2010 to 09/30/2011	2	Fidelity ClearPath Institutional 2020 Portfolio - Trust Units	30,346,214.35	2,613,498.97
10/01/2010 to 09/30/2011	2	Fidelity ClearPath Institutional 2025 Portfolio - Trust Units	26,326,841.13	2,253,797.50
10/01/2010 to 09/30/2011	2	Fidelity ClearPath Institutional 2030 Portfolio - Trust Units	29,144,588.31	2,531,037.40
10/01/2010 to 09/30/2011	2	Fidelity ClearPath Institutional 2035 Portfolio - Trust Units	12,811,690.55	1,109,064.89
10/01/2010 to 09/30/2011	2	Fidelity ClearPath Institutional 2040 Portfolio - Trust Units	16,265,703.47	1,416,163.09
10/01/2010 to 09/30/2011	2	Fidelity ClearPath Institutional 2045 Portfolio - Trust Units	10,280,138.99	891,233.54
10/01/2010 to 09/30/2011	1	Fidelity ClearPath Institutional 2050 Portfolio - Trust Units	10,000.00	1,000.00
10/01/2010 to 09/30/2011	2	Fidelity ClearPath Institutional Income Portfolio - Trust Units	5,088,712.13	442,925.98
10/17/2011	12	First Leaside Expansion Limited Partnership - Units	1,703,831.00	1,703,831.00
10/17/2011 to 10/18/2011	5	First Leaside Venture Limited Partnership - Units	407,115.00	407,115.00
10/25/2011	1	First Leaside Venture Limited Partnership - Units	150,000.00	150,000.00
10/21/2011	1	First Leaside Wealth Management Fund - Limited Partnership Interest	100,000.00	100,000.00
10/17/2011	4	First Leaside Wealth Management Fund - Units	292,389.00	292,389.00
10/01/2011	1	Flatiron Market Neutral LP - Limited Partnership Units	9,300,000.00	6,271.75
10/01/2011	3	Flatiron Trust - Trust Units	3,000.00	102.90
10/14/2011 to 10/17/2011	2	FLEX Fund - Trust Units	74,112.00	74,112.00
10/24/2011 to 10/26/2011	14	FLEX Fund - Trust Units	202,846.00	202,486.00
10/21/2011 to 10/25/2011	4	FLEX Fund - Trust Units	77,812.00	77,812.00
10/24/2011	2	Ford Auto Securitization Trust - Notes	745,168,000.00	2.00
10/17/2011	1	Fuel Transfer Technologies Inc. - Common Shares	250,000.00	250,000.00
10/17/2011	1	Garda World Security Corporation - Common Shares	3,000,000.00	250,000.00

Transaction Date	No of Purchasers	Issuer/Security	Total Purchase Price ($)	No of Securities Distributed
10/18/2011	3	Globex Mining Enterprises Inc. - Common Shares	530,000.00	200,000.00
10/24/2011	19	Golden Dawn Minerals Inc. - Units	470,500.00	5,881,250.00
10/12/2011 to 10/17/2011	37	Goldstream Exploration Ltd. - Common Shares	5,177,998.28	11,227,500.00
10/13/2011	1	Gondwana Gold Inc. - Common Shares	11,250.00	25,000.00
10/10/2011	2	Goodman Fielder Limited - Common Shares	23,439,567.90	50,743,233.00
10/24/2011	1	Greenock Resources Inc. - Common Shares	100,000.00	1,000,000.00
10/03/2011	1	GTA Resources and Mining Inc. - Common Shares	205,000.00	1,000,000.00
09/30/2011	8	Hamilton Thorne Ltd. - Common Shares	1,996,142.80	9,730,708.00
10/06/2011	6	High Desert Gold Corporation - Common Share Purchase Warrant	320,000.00	640,000.00
01/01/2008 to 03/31/2009	10	Howson Tattersall Canadian Bond Pool - Units	14,658,023.55	1,404,321.00
04/01/2009 to 03/31/2010	12	Howson Tattersall Canadian Bond Pool - Units	25,870,857.08	2,434,833.25
01/01/2008 to 03/31/2009	7	Howson Tattersall Canadian Value Equity Pool - Units	33,489,943.66	3,422,379.00
04/01/2009 to 03/31/2010	7	Howson Tattersall Canadian Value Equity Pool - Units	7,049,896.37	579,174.87
01/01/2008 to 03/24/2009	8	Howson Tattersall Global Value Equity Pool - Units	12,579,577.80	11,227,245.79
04/01/2009 to 03/31/2010	7	Howson Tattersall Global Value Equity Pool - Units	4,296,731.66	3,065,664.78
01/01/2008 to 03/31/2009	6	Howson Tattersall Short Term Pool - Units	1,677,502.33	167,750.19
04/01/2009 to 03/31/2010	7	Howson Tattersall Short Term Pool - Units	2,783,993.55	278,399.36
05/14/2011	1	ICN Resources Ltd. - Debentures	525,000.00	1,750,000.00
10/19/2011 to 10/21/2011	3	IGW Real Estate Investment Trust - Investment Trust Interests	55,963.77	55,963.77
10/17/2011 to 10/21/2011	3	IGW Real Estate Investment Trust - Notes	140,000.00	142,131.98
05/04/2011 to 09/30/2011	4	Institutional Cash Series plc - Special Shares	20,109,428.62	20,109,428.62
10/21/2011	1	Interface Biologics Inc. - Note	1,000,000.00	1.00
10/21/2011	46	Kaiyue International Inc. - Common Shares	1,500,000.00	10,000,000.00
08/04/2011 to 08/09/2011	18	Kent Exploration Inc. - Units	344,625.00	5,787,000.00
10/13/2011	1	KIK Polymers Inc. - Common Shares	8,750,000.00	35,000,000.00
10/13/2011	11	Knick Exploration Inc. - Common Shares	98,000.00	392,000.00
09/26/2011	1	Koffman Enterprises Limited (London) - Units	201,233.00	201,233.00

Transaction Date	No of Purchasers	Issuer/Security	Total Purchase Price ($)	No of Securities Distributed
10/11/2011	13	Mag Copper Limited - Flow-Through Shares	1,160,850.00	3,374,255.00
09/23/2011	1	MAG Copper Limited - Common Shares	0.00	40,000.00
10/21/2011	12	Marchwell Ventures Ltd. - Receipts	1,012,500.00	18,000,000.00
10/17/2011 to 10/21/2011	7	Member-Partners Solar Energy Capital Inc. - Bonds	115,100.00	1,151.00
10/18/2011 to 10/20/2011	9	Member-Partners Solar Energy Limited Partnership - Units	478,000.00	478,000.00
10/05/2011	271	MineralFields 2011 Super Flow-Through Limited Partnership - Limited Partnership Units	9,599,000.00	N/A
10/13/2011	10	Mistango River Resources Inc. - Units	1,700,000.00	6,800,000.00
10/19/2011	3	Mukuba Resources Limited - Common Shares	893,250.00	5,955,000.00
06/22/2011	3	Nakina Systems Inc. - Notes	160,479.00	3.00
10/03/2011	6	Newton Gold Corp. - Units	171,400.00	838,600.00
10/04/2011	7	North American Palladium Ltd. - Units	68,880,000.00	68,880.00
10/24/2011	3	Nuance Communications, Inc. - Notes	2,007,800.00	3.00
10/25/2011	1	NWM Mining Corporation - Common Shares	950,000.00	9,500,000.00
10/26/2011	1	NWM Mining Corporation - Note	21,601,050.00	1.00
10/26/2011	16	Pacific North West Capital Corp. - Flow-Through Units	1,776,600.00	8,075,452.00
10/05/2011	1	Paladin Energy Ltd. - Common Shares	241,320.00	200,000.00
10/21/2011	65	Petrocapita Income Trust - Units	1,433,624.00	1,433,624.00
10/27/2011	3	ProMetic Life Sciences Inc. - Common Shares	494,999.93	4,586,363.00
08/09/2011	1	Providence Equity Partners VII-A L.P. - Limited Partnership Interest	128,525,000.00	N/A
10/01/2010 to 09/30/2011	11	Pyramis Canadian Focused Equity Trust - Trust Units	86,717,641.08	9,069,727.24
10/01/2010 to 09/30/2011	1	Pyramis Currency Hedged Emerging Markets Debt Trust - Trust Units	150,000.00	10,784.07
10/01/2010 to 09/01/2011	2	Pyramis Currency Hedged Global Bond Trust - Trust Units	8,407,760.03	707,602.87
10/01/2010 to 09/30/2011	2	Pyramis Currency Hedged International Growth Trust - Trust Units	16,269,435.30	1,279,357.61
10/01/2010 to 09/30/2011	1	Pyramis Currency Hedged Select Global Equity Trust - Trust Units	161,039.33	12,027.24
10/01/2010 to 09/30/2011	2	Pyramis Currency Hedged U.S. Large Cap Core Non-Registered Trust - Trust Units	29,130,510.92	2,043,185.99
10/01/2010 to 09/30/2011	1	Pyramis Global Bond Trust - Trust Units	4,843,106.21	422,538.00
10/01/2010 to 09/30/2011	20	Pyramis International Growth Trust - Trust Units	53,903,367.90	2,739,937.54

Transaction Date	No of Purchasers	Issuer/Security	Total Purchase Price ($)	No of Securities Distributed
10/01/2010 to 09/30/2011	14	Pyramis Select Emerging Markets Equity Trust - Trust Units	92,013,995.97	6,293,653.81
10/01/2010 to 09/30/2011	14	Pyramis Select Global Equity Trust - Trust Units	89,663,165.17	4,741,046.74
10/01/2010 to 09/30/2011	5	Pyramis Select Global Plus Trust - Trust Units	43,948,017.89	37,636.07
10/01/2010 to 09/30/2011	28	Pyramis Select International Equity Trust - Trust Units	321,975,111.21	20,343,756.28
10/01/2010 to 09/30/2011	2	Pyramis Strategic Balanced Trust - Trust Units	9,862,556.07	849,936.31
10/01/2010 to 09/30/2011	4	Pyramis Tactical Asset Allocation Trust - Trust Units	136,844,139.17	9,531,423.49
10/01/2010 to 09/30/2011	13	Pyramis U.S. Large Cap Core Non-Registered Trust - Trust Units	35,169,939.74	3,878,696.12
10/01/2010 to 09/30/2011	11	Pyramis U.S. Large Cap Core Trust - Trust Units	5,445,868.92	386,880.89
10/01/2010 to 09/30/2011	10	Pyramis U.S. Small/Mid Cap Core Trust - Trust Units	17,582,312.06	1,775,028.55
04/18/2011	30	QSOLAR Limited - Common Shares	1,500,000.00	15,000,000.00
10/24/2011	2	Rainy River Resources Ltd. - Common Shares	193,500.00	30,000.00
10/25/2011 to 10/26/2011	9	RDX Minerals Inc. - Common Shares	179,000.00	3,580,000.00
10/31/2011	29	Relentless Resources Ltd. - Common Shares	1,000,000.00	2,500,000.00
10/27/2011	1	Rencore Resources Ltd. - Warrants	0.00	100,000.00
10/18/2011	4	Revolution Resources Corp. - Units	4,500,000.00	9,000,000.00
09/22/2011	2	Richard Gianchetti - Units	5,000,000.00	5,000,000.00
10/06/2011	1	Ring of Fire Resources Inc. - Common Shares	0.00	3,000,000.00
10/06/2011	1	Ring of Fire Resources Inc. - Debenture	2,000,000.00	1.00
10/14/2011	1	RMP Energy Inc. - Flow-Through Shares	178,400.40	74,049.00
10/19/2011	13	Rockwell Diamonds Inc. - Common Shares	7,756,476.35	10,341,969.00
10/14/2011	1	Romios Gold Resources Inc. - Common Shares	2,000,000.00	4,282,655.00
10/27/2011	1	Royal Bank of Canada - Notes	2,800,000.00	28,000.00
10/19/2011	4	Royal Bank of Canada - Notes	4,016,000.00	4,016.00
09/28/2011	2	Sarup Enterprises Incorporated - Units	841,005.00	841,005.00
09/21/2011	7	Seprotech Systems Incorporated - Common Shares	600,000.00	12,000,000.00
09/12/2011	14	Seprotech Systems Incorporated - Debentures	705,000.00	N/A
10/14/2011 to 10/24/2011	22	Shoal Point Energy Ltd. - Units	2,565,004.98	15,023,291.00

Transaction Date	No of Purchasers	Issuer/Security	Total Purchase Price ($)	No of Securities Distributed
10/17/2011	51	Skyline Apartment Real Estate Investment Trust - Trust Units	5,839,790.63	530,890.06
10/11/2011	16	Southeast Asia Mining Corp. - Common Shares	600,979.94	24,039,197.00
10/14/2011 to 10/18/2011	3	Special Notes Limited Partnership - Units	172,743.00	172,743.00
10/25/2011	1	Special Notes Limited Partnership - Units	50,000.00	50,000.00
10/24/2011	1	Special U.S. Notes Limited Partnership - Units	20,078.00	20,000.00
10/20/2011	2	Taranis Resources Inc. - Units	35,000.00	175,000.00
10/13/2011	7	Temex Resources Corp. - Units	2,660,034.00	12,254,700.00
10/24/2011	1	TheraVitae Inc. - Units	100,000.00	10,000,000.00
10/20/2011	3	UBS AG, London Branch - Notes	1,500,000.00	1,500.00
10/14/2011	2	UBS AG, London Branch - Notes	850,000.00	850.00
10/21/2011	16	Walton Fletcher Mills Investment Corporation - Common Shares	280,450.00	28,045.00
10/21/2011	15	Walton Fletcher Mills L.P. - Units	865,450.00	86,545.00
10/21/2011	14	Walton GA Crossroads LP. - Units	342,093.20	34,520.00
09/27/2011	1	Zoommed Inc. - Debenture	1,500,000.00	1.00

Chapter 11

IPOs, New Issues and Secondary Financings

Issuer Name:
BlueBay Emerging Markets Corporate Bond Fund
RBC U.S. Mid-Cap Value Equity Fund
RBC U.S. Small-Cap Core Equity Fund
Principal Regulator - Ontario
Type and Date:
Preliminary Simplified Prospectuses dated November 9, 2011
NP 11-202 Receipt dated November 10, 2011
Offering Price and Description:
Series A, Advisor Series, Series D, Series F and Series O Units
Underwriter(s) or Distributor(s):
Royal Mutual Funds Inc.
RBC Direct Investing Inc.
RBC Global Asset Management Inc.
Promoter(s):
RBC Global Asset Management Inc.
Project #1821812

Issuer Name:
Border Petroleum Corp.
Principal Regulator - Alberta
Type and Date:
Preliminary Short Form Prospectus dated November 14, 2011
NP 11-202 Receipt dated November 15, 2011
Offering Price and Description:
$17,010,000.00 - 81,000,000.00 Common Shares and $6,000,000.00 - 24,000,000 Flow-Through Shares
Price: $0.21 Per Common Share and $0.25 Per Flow-Through Share
Underwriter(s) or Distributor(s):
CANACCORD GENUITY CORP.
MACQUARIE CAPITALMARKETS CANADA LTD.
NATIONAL BANK FINANCIAL INC.
DUNDEE SECURITIES LTD.
HAYWOOD SECURITIES INC.
FRASERMACKENZIE LIMITED
Promoter(s):
-
Project #1825090

Issuer Name:
Cambridge Monthly Income Corporate Class
Cambridge Monthly Income Fund
Principal Regulator - Ontario
Type and Date:
Preliminary Simplified Prospectuses dated November 8, 2011
NP 11-202 Receipt dated November 9, 2011
Offering Price and Description:
Class A, AT5, AT8, E, ET5, ET8, F, FT5, FT8, O, OT5 and OT8 shares and
Class A, E, F and O units
Underwriter(s) or Distributor(s):
-
Promoter(s):
CI Investments Inc.
Project #1820898

Issuer Name:
CANMARC Real Estate Investment Trust
Principal Regulator - Quebec
Type and Date:
Preliminary Base Shelf Prospectus dated November 10, 2011
NP 11-202 Receipt dated November 11, 2011
Offering Price and Description:
$500,000,000.00:
Trust Units
Debt Securities
Subscription Receipts
Warrants
Units
Underwriter(s) or Distributor(s):
-
Promoter(s):
-
Project #1823452

Issuer Name:
First Asset REIT Income Fund
Principal Regulator - Ontario
Type and Date:
Preliminary Short Form Prospectus dated November 9, 2011
NP 11-202 Receipt dated November 9, 2011
Offering Price and Description:
* Rights to Subscribe for up to * Units at a Subscription Price of $* per Unit
Underwriter(s) or Distributor(s):
CIBC WORLD MARKETS INC.
Promoter(s):
-
Project #1821489

Issuer Name:
Friedberg Asset Allocation Fund
Principal Regulator - Ontario
Type and Date:
Preliminary Long Form Prospectus dated November 7, 2011
NP 11-202 Receipt dated November 11, 2011
Offering Price and Description:
Units
Underwriter(s) or Distributor(s):
FRIEDBERG MERCANTILE GROUP LTD.
Friedberg Mercantile Group Ltd.
Promoter(s):
TORONTO TRUST MANAGEMENT LTD.
FRIEDBERG MERCANTILE GROUP LTD.
Project #1823031

Issuer Name:
Friedberg Global-Macro Hedge Fund
Principal Regulator - Ontario
Type and Date:
Preliminary Long Form Prospectus dated November 7, 2011
NP 11-202 Receipt dated November 11, 2011
Offering Price and Description:
Units
Underwriter(s) or Distributor(s):
FRIEDBERG MERCANTILE GROUP LTD.
Friedberg Mercantile Group Ltd.
Promoter(s):
TORONTO TRUST MANAGEMENT LTD.
FRIEDBERG MERCANTILE GROUP LTD.
Project #1823033

Issuer Name:
Front Street Strategic Yield Fund Ltd.
Principal Regulator - Ontario
Type and Date:
Preliminary Short Form Prospectus dated November 11, 2011
NP 11-202 Receipt dated November 11, 2011
Offering Price and Description:
Maximum Offering: $* (* Equity Shares) Price: $* per Offered Share
Underwriter(s) or Distributor(s):
RBC DOMINION SECURITIES INC.
CIBC WORLD MARKETS INC.
GMP SECURITIES L.P.
NATIONAL BANK FINANCIAL INC.
TD SECURITIES INC.
BMO NESBITT BURNS INC.
CANACCORD GENUITY CORP.
MACQUARIE CAPITAL MARKETS CANADA LTD.
RAYMOND JAMES LTD.
MANULIFE SECURITIES INCORPORATED
SHERBROOKE STREET CAPITAL (SSC) INC.
TUSCARORA CAPITAL INC.
Promoter(s):
FRONT STREET CAPITAL 2004
Project #1823622

Issuer Name:
Gideon Capital Corp.
Principal Regulator - Ontario
Type and Date:
Preliminary CPC Prospectus dated November 7, 2011
NP 11-202 Receipt dated November 9, 2011
Offering Price and Description:
$250,000.00 -2, 500,000 Common Shares Price: $0.10 per Common Share
Underwriter(s) or Distributor(s):
Raymond James Ltd.
Promoter(s):
Martin J. Doane
Project #1821056

Issuer Name:
Guide Exploration Ltd.
Principal Regulator - Alberta
Type and Date:
Preliminary Short Form Prospectus dated November 10, 2011
NP 11-202 Receipt dated November 10, 2011
Offering Price and Description:
$20,000,700.00 - 5,634,000 Flow-Through Shares Price: $3.55 per Flow-Through Share
Underwriter(s) or Distributor(s):
National Bank Financial Inc.
Cormark Securities Inc.
FirstEnergy Capital Corp.
Peters & Co. Limited
Scotia Capital Inc.
Promoter(s):
-
Project #1822853

Issuer Name:
Horizons BetaPro S&P 500 VIX Short-Term Futures Inverse ETF
Principal Regulator - Ontario
Type and Date:
Preliminary Long Form Prospectus dated November 9, 2011
NP 11-202 Receipt dated November 10, 2011
Offering Price and Description:
Class A units
Underwriter(s) or Distributor(s):
-
Promoter(s):
HORIZONS ETFs MANAGEMENT (CANADA) INC.
Project #1822006

Issuer Name:
Infrastructure Materials Corp.
Principal Regulator - Alberta
Type and Date:
Amended and Restated Preliminary Long Prospectus dated November 10, 2011
NP 11-202 Receipt dated November 11, 2011
Offering Price and Description:
Minimum $2,600,000.00; Maximum $3,400,000.00 - Up to 34,000,000 Common Shares
Price: $0.10 per Common Share
Underwriter(s) or Distributor(s):
PI Financial Corp.
Promoter(s):
Todd Montgomery
Project #1786611

Issuer Name:
Klondex Mines Ltd.
Principal Regulator - British Columbia
Type and Date:
Preliminary Short Form Prospectus dated November 14, 2011
NP 11-202 Receipt dated November 14, 2011
Offering Price and Description:
$ * - * Units Price $* per Unit
Underwriter(s) or Distributor(s):
GMP SECURITIES L.P.
MACKIE RESEARCH CAPITAL CORPORATION
JONES, GABLE & COMPANY LIMITED
FRASER MACKENZIE LIMITED
Promoter(s):
-
Project #1824397

Issuer Name:
Klondex Mines Ltd.
Principal Regulator - British Columbia
Type and Date:
Amended and Restated Preliminary Short Form Prospectus dated November 15, 2011
NP 11-202 Receipt dated November 15, 2011
Offering Price and Description:
$21,000,000.00 - 8,400,000 Units Price: $2.50 Per Unit
Underwriter(s) or Distributor(s):
GMP SECURITIES L.P.
MACKIE RESEARCH CAPITAL CORPORATION
JONES, GABLE & COMPANY LIMITED
FRASER MACKENZIE LIMITED
Promoter(s):
-
Project #1824397

Issuer Name:
Mackenzie Cundill Recovery Fund
Mackenzie Founders Global Equity Class
Mackenzie Ivy Canadian Fund
Mackenzie Maxxum All-Canadian Equity Class
Mackenzie Saxon Balanced Class
Mackenzie Saxon Dividend Income Class
Mackenzie Saxon Small Cap Class
Mackenzie Saxon Stock Class
Mackenzie Sentinel Bond Fund
Mackenzie Sentinel Canadian Short-Term Yield Class
Mackenzie Sentinel Cash Management Fund
Mackenzie Sentinel Corporate Bond Fund
Mackenzie Sentinel Income Fund
Mackenzie Sentinel Money Market Fund
Mackenzie Sentinel Real Return Bond Fund
Mackenzie Sentinel Registered Strategic Income Fund
Mackenzie Sentinel Short-Term Income Fund
Mackenzie Sentinel Strategic Income Class
Mackenzie Universal American Growth Class
Mackenzie Universal Canadian Resource Fund
Mackenzie Universal Global Growth Class
Symmetry Equity Class
Symmetry Fixed Income Class
Symmetry One Balanced Portfolio Class
Symmetry One Conservative Portfolio Class
Symmetry One Growth Portfolio Class
Symmetry One Moderate Growth Portfolio Class
Symmetry One Registered Balanced Portfolio Fund
Symmetry One Registered Conservative Portfolio Fund
Symmetry One Registered Growth Portfolio Fund
Symmetry One Registered Moderate Growth Portfolio Fund
Symmetry One Registered Ultra Conservative Portfolio Fund
Symmetry One Ultra Conservative Portfolio Class
Symmetry Registered Fixed Income Fund
Principal Regulator - Ontario
Type and Date:
Preliminary Simplified Prospectuses dated November 14, 2011
NP 11-202 Receipt dated November 15, 2011
Offering Price and Description:
Series LB, LM, LP and LX securities
Underwriter(s) or Distributor(s):
LBC Financial Services Inc.
Promoter(s):
Mackenzie Financial Corporation
Project #1825561

Issuer Name:
Marathon Gold Corporation
Principal Regulator - Ontario
Type and Date:
Preliminary Short Form Prospectus dated November 14, 2011
NP 11-202 Receipt dated November 14, 2011
Offering Price and Description:
$ * - * Common Shares and $ * - * Flow-Through Shares
Price: $ * per Common Share and
$ * per Flow-Through Share
Underwriter(s) or Distributor(s):
Canaccord Genuity Corp.
Promoter(s):
-
Project #1824217

Issuer Name:
O'Leary Canadian Diversified Income Fund
Principal Regulator - Quebec
Type and Date:
Preliminary Long Form Prospectus dated November 9, 2011
NP 11-202 Receipt dated November 10, 2011
Offering Price and Description:
$* (* Units) Maximum Price: $12.00 per Unit Minimum Purchase: 100 Units
Underwriter(s) or Distributor(s):
CIBC World Markets Inc.
RBC Dominion Securities Inc.
National Bank Financial Inc.
BMO Nesbitt Burns Inc.
Scotia Capital Inc.
TD Securities Inc.
MacQuarie Capital Markets Canada Ltd.
Raymond James Ltd.
Canaccord Genuity Corp.
GMP Securities L.P.
Desjardins Securities Inc.
Dundee Secruities Ltd.
Mackie Research Capital Corporation
Manulife Securities Incorporated
MGI Securities Inc.
Promoter(s):
O'Leary Funds Management LP
Project #1821841

Issuer Name:
Phillips, Hager & North Total Return Bond LP
RBC High Yield Bond LP
Principal Regulator - Ontario
Type and Date:
Preliminary Simplified Prospectus dated November 10, 2011
NP 11-202 Receipt dated November 10, 2011
Offering Price and Description:
Series O units
Underwriter(s) or Distributor(s):
RBC Global Asset Management Inc.
Promoter(s):
RBC Global Asset Management Inc.
Project #1822942

Issuer Name:
PowerShares FTSE RAFI Canadian Fundamental Index ETF
PowerShares FTSE RAFI Emerging Markets Fundamental Index ETF
PowerShares FTSE RAFI US Fundamental (CAD Hedged) Index ETF
PowerShares S&P 500 Low Volatility (CAD Hedged) Index ETF
PowerShares Senior Loan (CAD Hedged) Index ETF
Principal Regulator - Ontario
Type and Date:
Preliminary Long Form Prospectus dated November 11, 2011
NP 11-202 Receipt dated November 11, 2011
Offering Price and Description:
Units
Underwriter(s) or Distributor(s):
-
Promoter(s):
INVESCO CANADA LTD.
Project #1823582

Issuer Name:
Response Biomedical Corp
Principal Regulator - British Columbia
Type and Date:
Preliminary Short Form Prospectus dated November 14, 2011
NP 11-202 Receipt dated November 14, 2011
Offering Price and Description:
$8,000,000.00 - Rights to purchase * Units at a purchase price of $* per Unit
Underwriter(s) or Distributor(s):
-
Promoter(s):
-
Project #1824411

Issuer Name:
Signature High Yield Bond Corporate Class
Signature High Yield Bond Fund
Principal Regulator - Ontario
Type and Date:
Preliminary Simplified Prospectuses dated November 8, 2011
NP 11-202 Receipt dated November 9, 2011
Offering Price and Description:
Class A, F and I units and Class A, AT5, AT8, F, FT5 and FT8 shares and
Class A, F, and I units
Underwriter(s) or Distributor(s):
-
Promoter(s):
CI Investments Inc.
Project #1820904

Issuer Name:
Silver Bull Resources, Inc.
Principal Regulator - British Columbia
Type and Date:
Preliminary MJDS Prospectus dated November 9, 2011
NP 11-202 Receipt dated November 10, 2011
Offering Price and Description:
US$125,000,000.00:
Senior Debt Securities
Subordinated Debt Securities
Common Stock
Warrants
Rights
Units
Underwriter(s) or Distributor(s):
-
Promoter(s):
-
Project #1822056

Issuer Name:
Sprott Physical Silver Trust
Principal Regulator - Ontario
Type and Date:
Preliminary Base Shelf Prospectus dated November 11, 2011
NP 11-202 Receipt dated November 14, 2011
Offering Price and Description:
U.S.$1,500,000,000.00 - Trust Units
Underwriter(s) or Distributor(s):
-
Promoter(s):
SPROTT ASSET MANAGEMENT LP
Project #1823728

Issuer Name:
Stratton Capital Corp.
Principal Regulator - Ontario
Type and Date:
Preliminary CPC Prospectus dated November 9, 2011
NP 11-202 Receipt dated November 10, 2011
Offering Price and Description:
Minimum Offering: $250,000.00 or 2,500,000 Common Shares; Maximum Offering: $2,000,000.00 or 20,000,000 Common Shares Price: $0.10 per Common Share
Underwriter(s) or Distributor(s):
Haywood Securities Inc.
Promoter(s):
David Subotic
John Zorbas
Project #1822016

Issuer Name:
Sulliden Gold Corporation Ltd.
Principal Regulator - Quebec
Type and Date:
Preliminary Short Form Prospectus dated November 9, 2011
NP 11-202 Receipt dated November 9, 2011
Offering Price and Description:
$50,014,300.00 - 28,910,000 Common Shares Price: $1.73 per Offered Share
Underwriter(s) or Distributor(s):
NATIONAL BANK FINANCIAL INC.
CORMARK SECURITIES INC.
RAYMOND JAMES LTD.
BMO NESBITT BURNS INC.
GMP SECURITIES L.P.
FRASER MACKENZIE LIMITED
DESJARDINS SECURITIES INC.
JENNINGS CAPITAL INC.
HAYWOOD SECURITIES INC.
PI FINANCIAL CORP.
Promoter(s):
-
Project #1821551

Issuer Name:
Trelawney Mining and Exploration Inc.
Principal Regulator - Ontario
Type and Date:
Preliminary Short Form Prospectus dated November 14, 2011
NP 11-202 Receipt dated November 14, 2011
Offering Price and Description:
$25,944,0000.00 -5,520,000 Flow-Through Common Shares Price: $4.70 per Flow-Through Share
Underwriter(s) or Distributor(s):
RBC DOMINION SECURITIES INC.
JENNINGS CAPITAL INC.
CIBC WORLD MARKETS INC.
RAYMOND JAMES LTD.
STIFEL NICOLAUS CANADA INC.
BMO NESBITT BURNS INC.
Promoter(s):
-
Project #1824277

Issuer Name:
Vermilion Energy Inc.
Principal Regulator - Alberta
Type and Date:
Preliminary Short Form Prospectus dated November 14, 2011
NP 11-202 Receipt dated November 14, 2011
Offering Price and Description:
$250,145,000.00 - 5,105,000 Common Shares Price: $49.00 per Common Share
Underwriter(s) or Distributor(s):
BMO NESBITT BURNS INC.
CIBC WORLD MARKETS INC.
SCOTIA CAPITAL INC.
TD SECURITIES INC.
NATIONAL BANK FINANCIAL INC.
RBC DOMINION SECURITIES INC.
MACQUARIE CAPITAL MARKETS CANADA LTD.
FIRSTENERGY CAPITAL CORP.
DESJARDINS SECURITIES INC.
PETERS & CO. LIMITED
RAYMOND JAMES LTD.
Promoter(s):
-
Project #1824520

Issuer Name:
Zuri Capital Corp.
Principal Regulator - British Columbia
Type and Date:
Preliminary CPC Prospectus dated November 14, 2011
NP 11-202 Receipt dated November 15, 2011
Offering Price and Description:
$200,000.00 -2,000,000 Common Shares Price: $0.10 per Share
Underwriter(s) or Distributor(s):
Foster & Associates Financial Services Inc.
Promoter(s):
Mike Gillis
Iqbal Boga
Project #1825005

Issuer Name:
407 International Inc.
Principal Regulator - Ontario
Type and Date:
Final Base Shelf Prospectus dated November 9, 2011
NP 11-202 Receipt dated November 9, 2011
Offering Price and Description:
$800,000,000.00 - Medium-Term Notes (Secured)
Underwriter(s) or Distributor(s):
BMO NESBITT BURNS INC.
RBC DOMINION SECURITIES INC.
TD SECURITIES INC.
SCOTIA CAPITAL INC.
NATIONAL BANK FINANCIAL INC.
CASGRAIN &COMPANY LIMITED
CIBCWORLDMARKETS INC.
MERRILL LYNCH CANADA INC.
Promoter(s):
-
Project #1818899

Issuer Name:
AGF Elements Balanced Portfolio
(Mutual Fund Series, Series D, Series F, Series O, Series T, Series V and Series J Securities)
AGF Elements Conservative Portfolio
(Mutual Fund Series, Series D, Series F, Series O and Series J Securities)
AGF Elements Global Portfolio
(Mutual Fund Series, Series D, Series F, Series O and Series J Securities)
AGF Elements Growth Portfolio
(Mutual Fund Series, Series D, Series F, Series O, Series T, Series V and Series J Securities)
AGF Elements Yield Portfolio
(Mutual Fund Series, Series F, Series G, Series H, Series O and Series J Securities)
Principal Regulator - Ontario
Type and Date:
Amendment #3 dated October 28, 2011 to the Simplified Prospectuses and Annual Information Form dated April 19, 2011
NP 11-202 Receipt dated November 9, 2011
Offering Price and Description:
Mutual Fund Series, Series D, Series F, Series O, Series T, Series V and Series J Securities @ Net Asset Value
Underwriter(s) or Distributor(s):
AGF Funds Inc.
Promoter(s):
-
Project #1711344

Issuer Name:
Azure Dynamics Corporation
Principal Regulator - Ontario
Type and Date:
Final Short Form Prospectus dated November 11, 2011
NP 11-202 Receipt dated November 11, 2011
Offering Price and Description:
$5,000,000.00 (Minimum Offering); $6,050,000.00 (Maximum Offering) A Minimum of 45,454,546 Units and a Maximum of 55,000,000 Units $0.11 per Unit
Underwriter(s) or Distributor(s):
Raymond James Ltd.
Cormark Securities Inc.
National Bank Financial Inc.
Promoter(s):
-
Project #1814643

Issuer Name:
BOOST CAPITAL CORP.
Principal Regulator - Ontario
Type and Date:
Final CPC Prospectus dated November 14, 2011
NP 11-202 Receipt dated November 15, 2011
Offering Price and Description:
$200,000.00 or 2,000,000 Common Shares Price: $0.10 per Common Share
Underwriter(s) or Distributor(s):
Jordan Capital Markets Inc.
Promoter(s):
Martin J. Doane
Project #1814906

Issuer Name:
Covington Fund II Inc.
Type and Date:
Amended and Restated Long Form Prospectus dated September 29, 2011
Receipted on November 9, 2011
Offering Price and Description:
Class A, Series I Shares @ Net Asset Value
Underwriter(s) or Distributor(s):
-
Promoter(s):
Covington Capital Corporation
Project #1667183

Issuer Name:
Dynamic Strategic Resource Class
Principal Regulator - Ontario
Type and Date:
Final Simplified Prospectus dated November 11, 2011
NP 11-202 Receipt dated November 14, 2011
Offering Price and Description:
Series A, F, IP and OP Shares
Underwriter(s) or Distributor(s):
Goodman & Company, Investment Counsel Ltd.
Promoter(s):
Goodman & Company, Investment Counsel Ltd.
Project #1778571

Issuer Name:
Embedded Series, Series F, Series T, Series V and Wrap Series Securities of:
Harmony Balanced Growth Portfolio
Harmony Balanced Growth Portfolio Class*
Harmony Balanced Portfolio
Harmony Conservative Portfolio
Harmony Growth Plus Portfolio
Harmony Growth Plus Portfolio Class*
Harmony Growth Portfolio
Harmony Growth Portfolio Class*
Harmony Maximum Growth Portfolio
Harmony Maximum Growth Portfolio Class*
Harmony Yield Portfolio (formerly Harmony Balanced and Income Portfolio)
Harmony Canadian Equity Pool
Harmony U.S. Equity Pool
Harmony Canadian Fixed Income Pool
Harmony Overseas Equity Pool
*(Class of Harmony Tax Advantage Group Limited)
Principal Regulator - Ontario
Type and Date:
Amendment #1 dated October 28, 2011 to the Simplified Prospectuses and Annual Information Form dated July 6, 2011
NP 11-202 Receipt dated November 10, 2011
Offering Price and Description:
-
Underwriter(s) or Distributor(s):
AGF Fund Inc.
AGF Funds Inc.
Promoter(s):
AGF Investments Inc.
Project #1757771

Issuer Name:
iShares Alternatives Completion Portfolio Builder Fund
iShares Conservative Core Portfolio Builder Fund
iShares Global Completion Portfolio Builder Fund
iShares Growth Core Portfolio Builder Fund
Principal Regulator - Ontario
Type and Date:
Final Long Form Prospectus dated November 11, 2011
NP 11-202 Receipt dated November 15, 2011
Offering Price and Description:
-
Underwriter(s) or Distributor(s):
Blackrock Asset Management Canada Limited
Promoter(s):
-
Project #1809865

Issuer Name:
Man Canada AHL DP Investment Fund
Principal Regulator - Ontario
Type and Date:
Final Long Form Prospectus dated November 9, 2011
NP 11-202 Receipt dated November 10, 2011
Offering Price and Description:
Class A Units, Class B Units, Class C Units, Class D Units, Class F Units, Class G Units, Class I Units, Class J Units, Class K Units,
Class O Units, Class P Units, Class Q Units, Class R Units, Class S Units and Class T Units @ Net Asset Value
Underwriter(s) or Distributor(s):
-
Promoter(s):
Man Investments Canada Corp.
Project #1810171

Issuer Name:
Matrix Covered Call Canadian Banks Plus Fund (Corporate Class)
(Series A, F, and I Shares)
Matrix Dow Jones Canada High Dividend 50 Fund (Corporate Class)
Matrix S&P/TSX Canadian Dividend Aristocrats Fund (Corporate Class)
(Series A, F, T, and I Shares)
Principal Regulator - British Columbia
Type and Date:
Final Simplified Prospectuses dated November 10, 2011
NP 11-202 Receipt dated November 14, 2011
Offering Price and Description:
-
Underwriter(s) or Distributor(s):
-
Promoter(s):
Growth Works Capital Ltd.
Project #1807805

Issuer Name:
Class A Units, Class C Units, Class D Units, Class F Units and Class O Units of:
McLean Budden Balanced Growth Fund
McLean Budden Balanced Value Fund
McLean Budden Canadian Equity Growth Fund
McLean Budden Canadian Equity Fund
McLean Budden Canadian Equity Value Fund
McLean Budden Dividend Income Fund
McLean Budden American Equity Fund
McLean Budden Global Equity Fund
McLean Budden International Equity Fund
McLean Budden Fixed Income Fund
McLean Budden Real Return Bond Fund
McLean Budden Global Bond Fund
McLean Budden Money Market Fund
and
Class A Units, Class F Units, Class O Units and Class VMD Units of:
McLean Budden LifePlan 2020 Fund
McLean Budden LifePlan 2030 Fund
McLean Budden LifePlan Retirement Fund
Principal Regulator - Ontario
Type and Date:
Amendment #1 dated October 7, 2011 to the Simplified Prospectuses and Annual Information Form dated April 4, 2011
NP 11-202 Receipt dated November 15, 2011
Offering Price and Description:
Class A Units, Class C Units, Class D Units, Class F Units, Class O Units and Class VMD Units @ Net Asset Value
Underwriter(s) or Distributor(s):
-
Promoter(s):
McLean Budden Limited
Project #1700830

Issuer Name:
Mincom Capital Inc.
Principal Regulator - Ontario
Type and Date:
Final CPC Prospectus dated November 8, 2011
NP 11-202 Receipt dated November 9, 2011
Offering Price and Description:
MINIMUM OFFERING: $500,000.00 (5,000,000 COMMON SHARES); MAXIMUM OFFERING: $2,000,000.00 (20,000,000 COMMON SHARES)
Price: $0.10 per Common Share
Underwriter(s) or Distributor(s):
Jones, Gable & Company Limited
Promoter(s):
Gary Economo
Project #1807629

Issuer Name:
Offering Series A and Series F Shares (unless otherwise indicated) of:
Northwest Short Term Corporate Class (Series A Only)
Northwest Canadian Dividend Corporate Class
Northwest Canadian Equity Corporate Class
Northwest U.S. Equity Corporate Class
Northwest EAFE Corporate Class
Northwest Global Equity Corporate Class
Northwest Specialty Equity Corporate Class
Northwest Specialty Innovations Corporate Class
Northwest Select Canadian Growth Corporate Class Portfolio
Northwest Select Global Growth Corporate Class Portfolio
Northwest Select Global Maximum Growth Corporate Class Portfolio
Offering Series A, Series F and Series T Shares of:
NEI Income Corporate Class
Northwest Tactical Yield Corporate Class
Northwest Specialty Global High Yield Bond Corporate Class
Northwest Select Conservative Corporate Class Portfolio
Northwest Select Canadian Balanced Corporate Class Portfolio
Northwest Select Global Balanced Corporate Class Portfolio
Northwest Growth and Income Corporate Class
Principal Regulator - Ontario
Type and Date:
Final Simplified Prospectuses dated November 8, 2011
NP 11-202 Receipt dated November 9, 2011
Offering Price and Description:
Series A, F and T Shares
Underwriter(s) or Distributor(s):
Credential Asset Management Inc.
Promoter(s):
Northwest & Ethical Investments L.P.
Project #1807928

Issuer Name:
Paramount Resources Ltd.
Principal Regulator - Alberta
Type and Date:
Final Short Form Prospectus dated November 9, 2011
NP 11-202 Receipt dated November 9, 2011
Offering Price and Description:
$156,375,000.00 - 4,500,000 Class A Common Shares
$34.75 per Share
Underwriter(s) or Distributor(s):
BMO Nesbitt Burns Inc.
Peters & Co. Limited
Stifel Nicolaus Canada Inc.
Cormark Securities Inc.
FirstEnergy Capital Corp.
RBC Dominion Securities Inc.
Scotia Capital Inc.
Canaccord Genuity Corp.
CIBC World Markets Inc.
GMP Securities L.P.
TD Securities Inc.
Promoter(s):
-
Project #1817246

Issuer Name:
Solimar Energy Limited
Principal Regulator - Alberta
Type and Date:
Final Long Form Prospectus dated November 14, 2011
NP 11-202 Receipt dated November 14, 2011
Offering Price and Description:
C$5,951,934.00 - 82,665,748 ORDINARY SHARES AND 41,332,874 WARRANTS ISSUABLE ON EXERCISE OF OUTSTANDING SPECIAL WARRANTS
Underwriter(s) or Distributor(s):
Canaccord Genuity Corp.
Promoter(s):
-
Project #1814372

Issuer Name:
Stria Capital Inc.
Principal Regulator - Ontario
Type and Date:
Final CPC Prospectus dated November 8, 2011
NP 11-202 Receipt dated November 9, 2011
Offering Price and Description:
MINIMUM OFFERING: $500,000.00 (5,000,000 COMMON SHARES); MAXIMUM OFFERING: $2,000,000.00 (20,000,000 COMMON SHARES) Price: $0.10 per Common Share
Underwriter(s) or Distributor(s):
JONES GABLE & COMPANY LIMITED
Promoter(s):
Gary Economo
Project #1807637

Issuer Name:
Temple Real Estate Investment Trust
Principal Regulator - Manitoba
Type and Date:
Final Short Form Prospectus dated November 9, 2011
NP 11-202 Receipt dated November 9, 2011
Offering Price and Description:
$20,000,000.00 - 5 YEAR 8.00% SERIES C CONVERTIBLE REDEEMABLE UNSECURED SUBORDINATED DEBENTURES
Underwriter(s) or Distributor(s):
NATIONAL BANK FINANCIAL INC.
HSBC SECURITIES (CANADA) Inc.
MACKIE RESEARCH CAPITAL CORPORATION.
RAYMOND JAMESLIMITED
DUNDEE SECURITIES LTD.
DESJARDINS SECURITIES INC.
LIGHTYEAR CAPITAL INC.
Promoter(s):
-
Project #1815127

Issuer Name:
Tempus Capital Inc.
Principal Regulator - Ontario
Type and Date:
Final CPC Prospectus dated November 9, 2011
NP 11-202 Receipt dated November 11, 2011
Offering Price and Description:
(1) Minimum Offering: $400,000.00 or 2,666,667 common shares Maximum Offering: $600,000 or 4,000,000 common shares Price: $0.15 per Common Share;
(2) Broker Warrants to acquire 266,667 Common Shares assuming the Minimum Offering is sold or 400,000 Common Shares assuming the Maximum Offering is sold, at a price of $0.15 per Common Share; and
(3) Incentive Stock Options to acquire 440,000 Common Shares assuming the Minimum Offering is sold or 550,000 Common Shares assuming the Maximum Offering is sold, at a price of $0.15 per Common Share
Underwriter(s) or Distributor(s):
Northern Securities Inc.
Promoter(s):
Peter M. Clausi
Brian Crawford
Project #1802163

Issuer Name:
The Manufacturers Life Insurance Company
Principal Regulator - Ontario
Type and Date:
Final Base Shelf Prospectus dated November 11, 2011
NP 11-202 Receipt dated November 11, 2011
Offering Price and Description:
$2,000,000,000.00 - Debt Securities
Underwriter(s) or Distributor(s):
-
Promoter(s):
-
Project #1819724

Issuer Name:
Toronto Hydro Corporation
Principal Regulator - Ontario
Type and Date:
Amendment #1 dated November 10, 2011 to the Base Shelf Prospectus dated December 9, 2010
NP 11-202 Receipt dated November 14, 2011
Offering Price and Description:
$1,000,000,000.00 - DEBENTURES (unsecured)
Underwriter(s) or Distributor(s):
-
Promoter(s):
-
Project #1672031

Issuer Name:
TransAlta Corporation
Principal Regulator - Alberta
Type and Date:
Final Shelf Prospectus dated November 15, 2011
NP 11-202 Receipt dated November 15, 2011
Offering Price and Description:
$2,000,000,000.00:
Common Shares
First Preferred Shares
Warrants
Subscription Receipts
Debt Securities
Underwriter(s) or Distributor(s):
-
Promoter(s):
-
Project #1820387

Issuer Name:
TransCanada Corporation
Principal Regulator - Alberta
Type and Date:
Final Base Shelf Prospectus dated November 14, 2011
NP 11-202 Receipt dated November 14, 2011
Offering Price and Description:
$2,000,000,000.00:
Common Shares
First Preferred Shares
Second Preferred Shares
Subscription Receipts
Underwriter(s) or Distributor(s):
-
Promoter(s):
-
Project #1820239

Issuer Name:
United Silver Corp. (formerly United Mining Group, Inc.)
Principal Jurisdiction - British Columbia
Type and Date:
Preliminary Short Form Prospectus dated August 30, 2011
Withdrawn on November 10, 2011
Offering Price and Description:
Up to $6,000,000.00 - (* Units) Price: $ * per Unit
Underwriter(s) or Distributor(s):
UNION SECURITIES LTD.
Promoter(s):
-
Project #1798524

Chapter 12

Registrations

12.1.1 Registrants

Type	Company	Category of Registration	Effective Date
New Registration	Canso Fund Management Ltd.	Investment Fund Manager	November 9, 2011
Change in Registration Category	Counsel Portfolio Services Inc.	From: Portfolio Manager To: Portfolio Manager and Investment Fund Manager	November 10, 2011
Consent to Suspension (Pending Surrender)	Patica Securities Limited	Exempt Market Dealer	November 14, 2011
New Registration	Liquidity Source Inc.	Exempt Market Dealer	November 15, 2011

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Chapter 25

Other Information

25.1 Approvals

25.1.1 Sky Investment Counsel Inc. – 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).

November 4, 2011

McMillan LLP
Brookfield Place
181 Bay Street, Suite 4400
Toronto, ON M5J 2T3

Attention: Michael Burns

Dear Sirs/Medames:

Re: Sky Investment Counsel Inc. (the "Applicant")

Application pursuant to clause 213(3)(b) of the Loan and Trust Corporations Act (Ontario) for approval to act as trustee

Application No. 2011/0652

Further to your application dated August 16, 2011 (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 Sky Small Cap Fund, Sky International Equity Fund, Sky International Equity Fund Non-Taxable and Sky Emerging Markets Fund and any other future mutual fund trusts that the Applicant may establish and manage 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 Sky Small Cap Fund, Sky International Equity Fund, Sky International Equity Fund Non-Taxable and Sky Emerging Markets Fund and any other future mutual fund trusts which may be established and managed by the Applicant from time to time, the securities of which will be offered pursuant to prospectus exemptions.

Yours truly,

"Wes M. Scott"

"Judith Robertson"

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